



**WOMEN'S LEGAL CONSCIOUSNESS IN A
POOR URBAN COMMUNITY: FINDING ORDER IN AND AROUND THE LAW**

By

JOANNE HARDING

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SUPERVISOR: PROFESSOR DEE SMYTHE

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ABSTRACT

This thesis is a qualitative empirical study aimed at understanding the legal consciousness of women in a poor urban community. Through the narratives of women who were interviewed for this study, articles in the media, social media, and film, it explores the predominant problems experienced by women, and their experiences of engaging systems ‘in and around the law’. I argue that localities like Lavender Hill cannot be seen as homogenous and one cannot assume that all people approach problem solving from a similar perspective. Using a feminist lens, with literature on legal consciousness, legal cynicism, and legal pluralism as a backdrop, I describe the legal consciousness of poor urban women; what Ewick and Silbey refer to as ‘tracing the law in everyday life’. I interviewed 52 women, of which eight are women who live and work with other women in the community. Using an open ended questionnaire, I captured these narratives and analysed them, describing the themes and trends which surfaced. Poor urban women in this context not only navigate the daily threat of gang violence. They live in a place that is neglected, and seek positive solutions, despite high levels of patriarchy and systems that are inaccessible and unfair in response to their problems and disputes. A key finding of relevance to legal consciousness theory is the existence of different typologies of women – despite the relatively small geographic locality – with diverse norms and values. Of value is the description of varied attitudes towards systems ‘in and around the law’, and different problem solving approaches. This makes a significant contribution to legal consciousness scholarship, in that it brings into view the seminal role of norms and values in social control, and how this shapes women’s expectations of the law, as well as their approaches to the law, and other systems that assist with problem solving. This finding has value for practitioners and policy makers seeking to make a contribution to social justice and improve the lives of women in poor urban neighbourhoods like Lavender Hill.

Keywords: Legal consciousness, poor urban women, legal cynicism, traditionalists, survivalists, indifferents, outlaws, patriarchy, social control.

DECLARATION

I, Joanne Harding, hereby declare that the work on which this thesis is based is my original work (except where acknowledgements indicate otherwise) and that neither the whole work nor any part of it has been, is being, or is to be submitted for another degree in this or any other university. I authorise the University to reproduce for research either the whole or any portion of the contents in any manner whatsoever.

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Elton Harding, my husband and partner, tolerated endless days and nights of my absence, while I sat at my computer pondering the literature and data. In doing so he demonstrated to me and our children an understanding of the value of this process for my development as a woman. Our children, Erin, Leo and Tegan, you make me want to be a better person, and most importantly a role model to you of what can be achieved if you set your mind to it.

The Social Change Assistance Trust (SCAT) – the organisation I have worked for on and off for eighteen years – which I led while doing this study, supported and encouraged me through this journey, for which I will be forever grateful. SCAT's commitment to learning and staff development shines through, in the time and financial resources that are set aside to make the growth of each person possible.

As is demonstrated by this study, friends and neighbours play an important role in our lives. Thank you Linda Diedericks for your unwavering support as a colleague and a friend. Your encouragement on this seemingly never-ending journey was invaluable.

GLOSSARY OF TERMS

<i>Blesser</i>	A form of transactional sex in which older men entice young women with money and expensive gifts in exchange for sexual favours – a phenomenon which is prominent in South Africa.
<i>Boere</i>	Boer is the Afrikaans word for ‘farmer’. It is also used in reference to white police, often of Afrikaans descent. The terminology dates back to the years of apartheid, when white and mostly Afrikaans police enforced apartheid laws.
<i>Lekker</i>	Afrikaans for ‘nice’.
<i>Piemper</i>	A colloquialism that refers to people who inform the police of others’ criminal activities.
<i>Skel</i>	Afrikaans for ‘to scold’.
<i>Soema</i>	A colloquialism for ‘just’. The word ‘mos’ is also used and has the same meaning.
<i>Stash</i>	Drugs or alcohol kept in storage.
<i>Turf</i>	Territory under the control of gangs or a particular street gang.

GLOSSARY OF ACRONYMS

CAFDA	Cape Flats Development Association
CPF	Community Police Forum
DSD	Department of Social Development
DV	Domestic Violence
EPWP	Expanded Public Works Programme
EWN	Eye Witness News
GBV	Gender-Based Violence
IOL	Independent Online
MEC	Member of the Executive Committee
NGO	Non-Governmental Organisation
NPO	Non-Profit Organisation
SANDF	South African National Defence Force
SAPS	South African Police Service
THRR	Theoretical Human Resource Requirement

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CHAPTER ONE: THE TAPESTRY OF LIFE IN LAVENDER HILL

'I took nothing with. And I remember coming back the Monday with a train from my sister. And I sat on Cape Town station and I called X¹, like he said I must call him the Monday, because the Tuesday the schools are opening. Then X told me he hasn't spoken to Y yet. All those things and so on. And I remember sitting on the Retreat station, Joanne, thinking to myself, I'm actually homeless now with my children.

I remember sitting and thinking I have nothing, I have nowhere to go, I am actually homeless now. And I called a friend of mine in Steenberg and she said no come there, my mommy has a room. I remember staying in there for about two weeks in the room with my three children.

And just friends, not family so much but friends started buying clothing, my children's school clothes and bags and things. I remember that Tuesday the school said they open. I went to go speak to the teacher and things and told them my situation and then that. The following Monday, Joanne, each child of mine had a school bag, their school clothes, school shoes. From their top of their heads to the tippys of their toes.

So they went to school on the Monday and I came back to work, because I took off three days extra leave. So I came back to work on the Monday. And the Monday when I came X said - within in two weeks, I think - I just have to wait and be patient, because they have a safe house over here Within two weeks after that I moved into the safe house. So for only three months I could live there and that was fine and everything went well. And then time came now for me, I need to move out. So...'²

1.1 INTRODUCTION

This dissertation addresses the question of how poor urban women, who are vulnerable as a result of spatial inequality, poverty, patriarchy and daily exposure to violence, find order in, around, and outside of the law. Through empirical data I observe the passage of life in this particular neighbourhood, and the multi-layered approaches, as demonstrated in the story above, that are employed by women, to resolve and address problems they experience. Through interviews with women and my own observations I seek to understand the types of women that live in this community and show how these typologies determine problem solving behaviour. Exploring predominant problems identified by women exposes the interconnectedness and

¹ Names removed from the text to protect the person's identity are represented by a single letter.

² Extract from an interview with Marla sharing how she left her husband who had been abusive and the myriad of decisions she had to make in dealing with this problem.

compounded nature of problems. This draws attention to the choices women make to resolve problems, partly developed through instinct and embedded through generations of survival. Emerging from this empirical picture is a deeper theoretical understanding of legal consciousness of poor urban women in South Africa, and multiple lessons for those who advocate for a just and fair society. This study highlights the value of observing and appreciating the heterogeneous and multifaceted nature of these neighbourhoods.

Through semi-structured interviews with 46 women who live in Lavender Hill and eight women who work for NGOs or in women's support groups in Lavender Hill, a theory emerges identifying that legal consciousness is in part determined by shared norms and values that can be understood in terms of different typologies of people. Empirical data provides a rich depiction of what life is like for the women interviewed. Using media reports, film, and social media, I build a multi-layered image that enriches this exposure of the dexterity required to live under the conditions described. Crucial to answering the research question, the data analysis reflects the approaches women use to navigate forces exerted on them and their problem solving capacity.

My research shows that violence is omnipresent. In Chapter Five, through the voices of the women, in their vernacular, I depict the different elements of this violence, as it emerged from the interviews with women and in the media. Gangsterism and related violence and violence against women were identified as the most inescapable forms of violence, affecting the daily lives of people. In the latter part of this chapter, I discuss the impact this violence has had on quality of life, and the interconnected nature of these forms of violence. Also demonstrated in this chapter is the role of patriarchy in determining high levels of violence against women, and how women constantly navigate men's power.

Social problems – such as substance abuse, poverty and unemployment, lack of male role models, parent abuse, community conflict, poor service delivery, and a lack of leaderships – were commonly identified by women interviewed as other predominant problems. In Chapter Six, I explore these in depth and elucidate the complex dynamics women constantly navigate – in a context where violence is pervasive and patriarchy determines the relations between men and women, both at intimate, familial and systemic levels.

Preconceived ideas drawn from prior experiences, shared anecdotally and reinforced by what is gleaned on social and other media, contribute to anticipated levels of success or challenge when engaging formal systems. These factors affect the choices women make in dealing with problems. In Chapters Seven and Eight, I identify and analyse the most prevalent problem solving mechanisms used in and around the law, as they were explained by women

interviewed. It is in the nuanced narratives of women that the most complex thought processes involved in problem solving were identified. My analysis reflects that women not only act instinctively, they have been socialised to act in a particular way and often have to think strategically taking many factors into account to ensure they achieve the best possible outcome. This is not surprising, considering the many factors impacting on their decision-making processes. In this complex, resource-constrained environment, these chapters demonstrate that there is little homogeneity. Women's responses to problems vary, depending on their norms and values, rather than the problem itself.

1.2 'WE NEED TO TELL WOMEN THEY ARE WORTH SOMETHING'³: WHY A STUDY OF WOMEN IN LAVENDER HILL?

Lavender Hill, in contrast to the images of beauty inspired by its name, is fraught with neglect, violence, substance abuse, and the dominance of patriarchy. This depiction is discussed in detail in Chapter Three, showing that, both in statistics and the media, the overriding thread is of a neighbourhood ravaged by apartheid and poverty, and being overlooked by the post-1994 political order. Black women living in urban townships⁴ like Lavender Hill are still among the poorest in South Africa.⁵ The description of women in this thesis provides a vignette from which to develop a clearer grasp of what it means to be a vulnerable, marginalised woman, making sense of the context in which she lives.

Since 1994, South Africa has struggled to transform the position of women through socio-economic development. The major focus of the transformation process has largely eluded black women, whose access to resources and opportunities is determined by intersecting race, class and gender-based constraints.⁶ Black women's access to education opportunities and resources, which contribute to improved quality of life, are limited.⁷ Despite the advancement

³ Quote from an interview with Nellie.

⁴ In South Africa, townships refer to neighbourhoods set up during apartheid. These are usually located in urban areas.

⁵ Michael Rogan 'Poverty may have declined but women and female headed households still suffer most' *Econ 3x3* 6 May 2014, available at <http://www.econ3x3.org/article/poverty-may-have-declined-women-and-female-headed-households-still-suffer-most#ENREF>, accessed on 20 May 2020.

⁶ Risenga Maluleke *Inequality Trends in South Africa: A multidimensional diagnostic of inequality* (2019) Statistics South Africa Report No. 03-10-19.

⁷ Johanna Kehler 'Women and Poverty: The South African Experience' (2001) 3 *Journal of International Women's Studies* 41-53; Mhlele Karabo & Ayiga Natal 'Factors influencing high dropout rates of girl child from education: A case study of black women in North West Province, South Africa' (2013) 28 *Journal of Social Development in Africa* 113.

of progressive legislation addressing gender and gender based violence since 1994,⁸ women still struggle with day-to-day problems. South Africa's laws may be progressive, but the implementation of these laws is a challenge.⁹ Compounding this challenge is the failure of the criminal justice system to address violence against women in South Africa.¹⁰ As is demonstrated in so many aspects of this research, law and life do not always intersect in a way that is empowering for victims.

1.3 OF LEGAL CONSCIOUSNESS AND LEGAL CYNICISM

This dissertation contributes to scholarship on legal consciousness and legal cynicism, by describing and analysing the interactions of poor women in and around the legal system. Understanding the strategies women use for navigating their problems is important in legal consciousness theory, because it helps to build a philosophy of what 'people do and say about law'.¹¹ This dissertation describes the meaning that is ascribed to life in Lavender Hill and how the patterns that emerge become part of the 'material and discursive systems that limit and constrain future meaning making'.¹² It describes the complexities of accessing justice in a locality where people – especially women – are not prioritised, and where patriarchy, underpinned by systems of violence, pervade everyday life. This thesis demonstrates how women have a set of sanctions for behaviours they deem unacceptable (which are often not criminal), but in contrast, are willing to overlook or not report more serious crimes. I show how gossip is used as a form of social control, and how the fear of being ostracised as a result of gossip influences problem solving, because cohesion is key to survival.

Chapter Two expands in greater depth on this theoretical discourse, which I contend affords a basis for discursively exploring how women's legal consciousness is shaped, and provides a critical orientation to understanding the gendered nature of creating order in and around the law. In this context, I work with Ewick and Silbey's contention that legal

⁸ Progressive gender legislation includes: Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000; Employment Equity Act 55 of 1998; Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2006; Domestic Violence Act 116 of 1998; among others.

⁹ Writing about sexual violence, Dee Smythe describes the South African state's response as '(p)aper rich and policy prolific'. See in Dee Smythe *Rape Unresolved: Policing Sexual Offences in South Africa* (2015) 28.

¹⁰ Jonisayi Maromo 'Justice system blamed for failing gender-based violence victims' *IOL* 19 November 2019, available at <https://www.iol.co.za/news/south-africa/justice-system-blamed-for-failing-gender-based-violence-victims-37569942>, accessed on 25 July 2021; For more on the gaps in the Domestic Violence Act 116 of 1998 and the Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007 see in Ramadimetja S. Mogale, Kathy Kovacs Burns and Solina Richter 'Violence against Women in South Africa: Policy Position and Recommendations' (2012) 18 *Violence Against Women* 580-594.

¹¹ Patricia Ewick & Susan Silbey *The Common Place of Law: Stories from Everyday Life* (1998) 35.

¹² *Ibid.*

consciousness is the ‘ideas and attitudes which, when taken together, determine the form and texture of social life’.¹³ Using a ‘law-in-action approach’¹⁴ in applying the theory of legal consciousness to this research, I focus on the ‘social realities of legal implementation’.¹⁵

In the analysis, the individual narratives of women are woven together to expose the gaps between official law, the law as it is applied in practice, and how these experiences shape women’s engagement with the legal system. The management of problems proves to be an illuminating source of information when applying legal consciousness theory. Women’s own words are the looms holding together the threads which make up the tapestry that is this study.

Reflecting on ‘commonplace events that form the web of legality’,¹⁶ this dissertation elucidates local interactions and how these shape the norms that develop to manage relations in communities. It seeks to achieve what is described by Ewick and Silbey as ‘tracing the presence of law in society’.¹⁷ This is most pertinent, as I seek to understand how women navigate high levels of lawlessness, and how women’s perceptions and observations of inadequacies within the legal system contribute to legal cynicism. Using Ewick and Silbey’s framework of describing the law as ‘a social structure, which is actively and constantly produced in what people say and in what they do’,¹⁸ this dissertation exposes law as it emerges, and how it is shaped by everyday life.

This dissertation reveals how formal law has become increasingly remote from people, as indicated by Ewick and Silbey, who describe how the ‘different experiences of law become synthesized into a set of circulating, often taken for granted undertakings and habits’.¹⁹ This research reveals the degree of women’s alienation from law and unearths factors that contribute to this, and the consequences of this estrangement. In order to better understand the alienation²⁰, this study explores challenges women experience when engaging the legal system. Understanding that legal systems cannot and should not solve all problems, this study

¹³ Ibid.

¹⁴ Roscoe Pound ‘Law in books and law in action’ (1910) 44 *American Law Review* 12-36. Roscoe Pound originally distinguished between law in books and law in action; Simon Halliday ‘After Hegemony: The Varieties of Legal Consciousness Research’ (2019) 28 *Social & Legal Studies*. Simon Halliday (at pg 867) speaks about the ‘impetus of law in action approaches coming from a desire to understand the social reality of law – law as it is implemented rather than law as it was written’.

¹⁵ Stergios Aidinlis ‘Defining the legal: two conceptions of legal consciousness and legal alienation in administrative justice research’ (2019) 41 *Journal of Social Welfare and Family Law* 495.

¹⁶ Ewick & Silbey op cit note 11 at 35.

¹⁷ Ibid.

¹⁸ Ibid 228.

¹⁹ Ibid.

²⁰ Marc Hertogh *Nobody’s Law: Legal Consciousness and Legal Alienation in Everyday Life* (2018) 7.

demonstrates the value of alternatives to the legal system, giving meaning to finding legitimacy around the law.

Macaulay says we ‘cannot divide the world between private and public, formal or informal legal systems’.²¹ Demonstrating the extent to which ‘public legal systems are not always in control of private legal systems’,²² the context of this thesis indicates that these systems ‘are not neatly harmonized’.²³ Through this dissertation, I address the dearth of empirical research that exposes this ambiguity, as it emerges for different types of women. The legal system is one element of dispute resolution, and this dissertation explores the role of formal and informal systems in problem solving, and effectiveness of these. Some of what is uncovered can be explained by legal consciousness theory; however, this analysis is strengthened through legal cynicism and legal alienation theory, as it clarifies the reasons ‘why people are estranged from the law’.²⁴ Legal consciousness, it can be argued, is a ‘broad church theory’,²⁵ with legal cynicism as a sub-category, providing more specific insight into a particular subject matter.

Legal cynicism’s significance is where it speaks to the ‘cultural orientation in which the law and the agents of its enforcement are viewed as illegitimate, unresponsive and ill-equipped to ensure public safety’.²⁶ According to Hertogh, these conditions then allow crime to flourish, because the people who see the legal system as illegitimate are less likely to cooperate.²⁷ This study exposes the varying levels of legal cynicism, and in so doing, adds to an understanding of its contribution to flourishing crime.

It also illuminates the challenges women face in terms of access to justice, ‘framed in terms of people’s timely and affordable judicial processes and improving the accessibility and readability of legislation’²⁸, guaranteed in the South African Constitution.²⁹ Heywood and Hassim aptly point out that, ‘(w)hether in relation to health, housing, education, food or access to social assistance, access to legal services is often the lever that enables the realisation of

²¹ Stewart Macaulay ‘Crime and Custom in Business Society’ (1995) 22 *J.L & Society* 255.

²² *Ibid.*

²³ *Ibid.*

²⁴ Aidinlis op cit note 15 at 496.

²⁵ *Ibid.*

²⁶ David S Kirk & Mauri Matsuda ‘Legal Cynicism, Collective Efficacy, and the Ecology of Arrest’ (2011) 49 *Criminology* 443.

²⁷ Hertogh op cit note 20 at 181.

²⁸ Naomi Nichols ‘The Social Organization of Access to Justice for Youth in “Unsafe” Urban Neighbourhoods’ (2018) 27 *Social & Legal Studies* 81.

²⁹ Constitution of the Republic of South Africa 1996 s 34, provides that ‘everyone has the right to have any dispute that can be resolved by the application of the law, decided on in a fair public hearing before court or where appropriate, another independent and impartial tribunal or forum’.

rights'.³⁰ However, only the rich who can afford exorbitant legal fees, and those who are poor or middle class and can, for a select sub-set of cases, access legal assistance through the legal aid system, have some degree of access to justice.³¹

Nichols argues that 'exclusionary relations with the justice system can exacerbate and entrench [a person's], for example black women's already marginal position in the political, social and economic structures of society ...'.³² This is discussed by Ewick and Silbey, when they point out that 'despite aspirations towards due process and equality before the law the haves often come out ahead'.³³ Grounded by the responses of women to interview questions, my analysis exposes the extent to which women perceive their marginalisation from the formal legal system, and as a result rely on their own resources and informal systems to find order, or at least manage the chaos.

1.4. OVERVIEW OF THE CHAPTERS

Chapter One introduces the research question, and the purpose and rationale for the study. In this chapter, I locate this dissertation within legal consciousness theory and legal cynicism and identify the unique contribution this study will make to law and society scholarship. I point out that the context of women living in poverty intersects with and impacts on legal cynicism. I also identify the value of this framework in understanding legal consciousness.

Chapter Two positions the study in the theoretical framework of legal consciousness, legal cynicism and access to justice. Legal pluralism is explored in relation to theories of legal consciousness. In this chapter, I demonstrate the importance of this study to feminist research and its relevance in examining legal consciousness. Through the literature I explain how this study in its nature exposes power relations which affect women's legal consciousness. This chapter helps to make sense of women's navigation of their situation and how they find organisation amid the chaos of life.

Chapter Three contextualises the study in the physical location of Lavender Hill, the demographics, socio-economic profile, infrastructure, and existing NGOs. Exploring existing literature, studies of Lavender Hill, and media articles, I expose the fraught history and complex dynamics of this neighbourhood.

³⁰ Mark Heywood & Adila Hassim 'Remedying the Maladies of Lesser Men or Women: The Personal, Political and Constitutional Imperatives for Improved Access to Justice' (2008) 24 *South African Journal on Human Rights* 275.

³¹ Ibid.

³² Nichols op cit note 28.

³³ Patricia Ewick & Susan Silbey 'Common Knowledge and Ideological Critique' in Herbert M Krtizer & Susan Silbey (eds) *Litigation: Do the 'Have's' Still Come Out Ahead?* (2003) 284.

Chapter Four describes the methodological approach adopted in this study, and the methods of collecting data and analysis. The chapter explains the data collection process, and data analysis methods. Here, I justify my philosophical assumptions about research in the context of a socio-legal study, and motivate why this study is important. Locating myself within the study, I explore my own preconceived ideas, socialisation and beliefs, and how these affect the study. The ethical challenges of this research are explained in this chapter, as well as my efforts to mitigate these.

Chapter Five uses the data collected through the interviews, and the voices of women interviewed, to explore violence as the predominant problem in the community. In this chapter, I explore in depth the impact of gangsterism on women in Lavender Hill, as a key contributor to high levels of violence. I then uncover the impact of violence against women and children, which is also identified as a predominant problem. Lastly, in this chapter, I expose the impact of violence on the daily lives of women, and how this contributes to determining the choices they make in navigating life.

Chapter Six discusses other social problems identified by women as predominant. The most important of these are substance abuse, poverty and unemployment, and other social problems which are less significant, but often intersect with the more predominant issues, compounding them.

Chapter Seven discloses women's experiences of engaging with formal systems. This chapter exposes the extent to which women have satisfactory experiences with formal systems and lose faith in them, due to inefficiencies and perceptions of corruption – which in turn impacts on their efficacy to respond to disputes and problems. In addition to police and the courts, this chapter explores the experiences of women with social workers, as another formal system.

Chapter Eight demonstrates the strategies women use to resolve disputes outside of the law. In addition to structured systems, like religious institutions, the non-profit sector and street and court committees, this chapter establishes the importance of philanthropy, and support and advice from family friends and neighbours. God and the role of religion are discussed in relation to problem solving. In this chapter, I identify different strategies employed by different women in seeking help with problems outside of the law. Lastly, leadership is explored as a challenge for dispute resolution.

Chapter Nine is the closing chapter of this dissertation. In this chapter I identify four typologies of women which reflect and influence problem solving. These are traditionalists, survivalists, indifferents and outlaws. I explain how these lattice with the elements of context;

and expectations and understanding of systems in and around the law. Finally, I summarise the key findings and identify the theoretical and practical implications of the study.

1.5 CONCLUSION

Navigating life in a neighbourhood like Cape Town's Lavender Hill, as a black woman, requires dexterity and durability. I love yarn, its texture, beauty and strength, and the creations that emerge when woven. Conducting this study brought to mind the timeless analogy of a tapestry – a weave of different colours and threads – out of which a complex image emerges. Tapestries, made up of many different strands of thread – thick, thin, coarse and smooth – represent different individuals and groups of people, interconnected to make up a unique reflection of the meaning of life. Through this thesis, I explore the back of the tapestry, exposing hanging threads and tangled stitches, allowing me to delve beneath the surface and experience multiple layers, building an image. The image is one of resilience in a context of adversity. Tapestry weaving is a craft and an art form, and the expertise required to produce an image through weaving is comparable to the skill required to navigate daily life.

Through unearthing the image of this thesis, I make a valuable contribution to theories of women's legal consciousness in localities like Lavender Hill. Using this knowledge, I intend to influence policy makers and interventions in neighbourhoods of a similar nature. Tapestries were valued in history for their portability. Similarly, this thesis, although focused on one locality, is transferable, sharing similarities with other comparable neighbourhoods with histories and challenges that are alike.

CHAPTER TWO: IN AND AROUND THE LAW

2.1 INTRODUCTION

In this chapter, seeking to understand women's legal consciousness in a poor urban community, I pursue an explanation for the ways in which women organise themselves in relation to the problems they experience, and what this says about the 'law in action'.³⁴ By 'law in action', I refer to the way in which people interact 'in and around the law', rather than in relation to the law in books.³⁵ I explore existing scholarship on legal consciousness, to demonstrate the contribution a study of women in Lavender Hill will make to scholarship on legal consciousness, as it 'illuminates questions around the organisation of social life'.³⁶

First, I explore legal consciousness theory, as it aims to 'trace the presence of law in society'.³⁷ Legal consciousness is interested in the subjective experiences of women and the law in its broadest sense, and how it influences their daily lives. As a theory, legal consciousness offers insights into the 'subjective experiences of the law',³⁸ which unfold through these women's narratives. Hertogh argues that it is rapidly becoming one of the most valuable subjects in socio-legal research, because of its contribution to understanding the 'subtle ways that the law affects the everyday lives of individuals'.³⁹

Following on from an exploration of the contribution legal consciousness makes to law and society scholarship, I discuss the intersection between legal consciousness and legal cynicism, and the value of these theories for explaining why, in some communities, people avoid seeking criminal justice for certain crimes, and how this shapes legal consciousness. While examining legal cynicism, I describe the role of 'social control', which as societies became more civilised replaced 'instinctive controls in regulating conduct and assuring to the individual, safety and to the society order and continuity'.⁴⁰ Social control posits that people are not only controlled by the laws, police and the courts, they are also 'controlled by the units

³⁴ Pound op cit note 14. Roscoe Pound (at pg 12) refers to the distinction between 'law in books and law in action'. Pound writes that 'legal theory yields to the pressure of lay ideas and lay conduct' and in doing so 'makes an early contribution to legal consciousness theory'. Pound points out (at pg 12) that 'what happens in life is not always what happens in the statutes'.

³⁵ Ewick & Silbey op cit note 11 at 35.

³⁶ Robert C Elickson *Order Without Law: How Neighbours Settle Disputes* (1991) 1.

³⁷ Ewick & Silbey op cit note 11 at 35.

³⁸ David Cowan 'Legal Consciousness: Some Observations (2004) 67 *The Modern Law Review* 929.

³⁹ Marc Hertogh 'A European Conception of Legal Consciousness: Rediscovering Eugen Ehrlich' (2004) 31 *Journal of Law and Society* 457.

⁴⁰ Edward Alsworth Ross *Social Control: A Survey of the Foundations of Order* (1901) with a new introduction by Matthias Gross (2017) 19–20.

they live in, which define norms and sanctions for failure to comply with them'.⁴¹ This is of value in a study of a particular locality as in this study of Lavender Hill.

This dissertation also contributes to understanding the development of legal pluralism, and the contribution of legal consciousness to the emergence of ways outside legal systems to address disputes and sanction behaviour.⁴² Legal pluralism is important where numerous systems of ordering society have developed, and is of particular relevance in a context like Lavender Hill, where multiple systems of social control have emerged.⁴³ Pospisil makes the claim that sub-groups in society have different legal systems,⁴⁴ and Merry points out that legal systems include 'non legal systems of normative ordering'.⁴⁵ Abel's contribution is to identify that 'informal justice is unofficial, non-coercive, non-bureaucratic, decentralised, relatively undifferentiated and non-professional'⁴⁶ and includes processes of 'establishing rules, and ensuring compliance with these rules as well as punishment for rule breakers'.⁴⁷ As Sally Merry says, 'mechanism for resolving disputes are formal (coercive) and informal (rooted in local institutions).'⁴⁸ This section positions this study in a context where multiple systems of ordering exist with different rules in multiple contexts.

Social groups develop rules over time that shape their behaviour in response to each other and to society at large.⁴⁹ Of relevance to this study is the view that groups like women in Lavender Hill are influenced by social norms that determine behaviours deemed desirable by the collective, and social sanctions imposed by the group ensure people adhere to these norms.⁵⁰ Embedded in this argument is the perspective that normative systems interface with

⁴¹ Derica Lambrechts 'The Impact of Organised Crime on State Social Control: Organised Criminal Groups and Local Governance on the Cape Flats, Cape Town, South Africa' (2012) 38 *Journal of Southern African Studies*. In Lambrechts study (at pg 792) it was found that compliance was measured by the 'following actions: the payment of taxes to the state or tariffs paid to a rival organisation; the payment of protection money to an organised criminal gang; the reliance on organised criminal groups to solve community related or personal problems; the use of public transport and the control of public transport routes; the effectiveness of law enforcement (especially the police), police visibility and police response; the interaction (if any) between the police and organised criminal groups; and illegal activities in the community especially the drug trade'.

⁴² Sally Engle Merry 'Legal Pluralism' (1988) 22 *Law & Society Review* 871.

⁴³ Lambrechts op cit note 41. Lambrechts' study (at pg 795) found that particular gangs control specific areas acting as guardians and gatekeepers.

⁴⁴ Leopold Pospisil *The Anthropology of Law: A Comparative Theory of Law* (1971) 107.

⁴⁵ Merry op cit note 42 at 870.

⁴⁶ Richard L Abel 'Introduction' in Richard L Abel (ed) *The Politics of Informal Justice* (1982) 2.

⁴⁷ Sally Engle Merry 'The Social Organisation of Mediation in Nonindustrial Societies: Implications for Informal Community Justice in America' in Richard L Abel *The Politics of Informal Justice* (1982) 20.

⁴⁸ Merry op cit note 42 at 870.

⁴⁹ Gunnar F Schuppert & Rhodes Barrett *The Plurality of Normative Orders: An Exploration. In The World of Rules: A Somewhat Different Measurement of the World* (2017) 63.

⁵⁰ Amir N Licht 'Social Norms and the Law: Why Peoples Obey the Law' (2008) 4 *Review of Law and Economics* 717.

legal consciousness; behaviours that emerge in relation to, and around, the law, are shaped by the normative systems of sub-groups in a society.

Further in this chapter, I frame this study in relation to feminist theory and unpack the contribution legal consciousness theory makes to feminist thinking, in that it explores the impact of patriarchy, race and class on decisions made in relation to problem solving. McCann identifies that ‘law is understood to consist of a complex repertoire of discursive strategies and symbolic frameworks that structure on going social intercourse, and meaning making activities among citizens’.⁵¹ Ewick and Silbey similarly argue ‘there are limits to the power of narrative to subvert the existing social order because all stories are developed in a social context’.⁵² This brings to the fore the value of empirical data from this study in understanding legal consciousness. Seron and Munger also highlight the importance of class, along with race and gender, in socio-legal studies.⁵³ These are all critical factors in this study, intersecting with the choices women make when resolving problems.

Lastly, and because of the importance of deviant gang elements on the lives of women, and the impact this has on legal consciousness, I briefly explore gangs as a subculture and the impact of this phenomenon on the socialisation and behaviour of women. Durkheim makes a valuable contribution to an empirical study where deviance and normlessness are ever present. He focuses on the impact of social regulation, defined as ‘the degree to which society places limits on individual’s desires and aspirations through normative or emotional definitions’.⁵⁴ Durkheim introduces the concept of imitation as a ‘social process contributing to the spread of unstable and transitory social facts or social currents’,⁵⁵ and explains the ‘transmittal of deviant behaviours, attitudes and definitions because of modelling of people of higher standing’.⁵⁶

2.2 LEGAL CONSCIOUSNESS: WOMEN NAVIGATING EVERYDAY LIFE AND ITS COMPLEXITIES

Sarat, quoting Spencer – a man interviewed for Sarat’s study – says: ‘For me the law is all over. I am caught, you know; there is always some rule that I am supposed to follow, some rule I don’t even know about that they say. It’s just different and you cannot really

⁵¹Michael McCann *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization* (1994) 282.

⁵² Patricia Ewick & Susan Silbey ‘Subversive stories and hegemonic tales: toward a sociology narrative’ (1995) 29 *Law Soc Rev* 211.

⁵³ Carrol Seron & Frank W Munger ‘Law and Inequality: Race, Gender...and of course, Class’ (1996) 22 *Annual Review of Sociology* 187–212.

⁵⁴ Thorolfur Thorlindsson & Jón Gunnar Bernburg ‘Durkheim’s Theory of Social Order and Deviance: a Multi-Level Test’ (2004) 20 *European Sociological Review* 272.

⁵⁵ Ibid.

⁵⁶ Gabriel Tarde *The Laws of Imitation* (1903) 194.

understand'.⁵⁷ This quote demonstrates the value of legal consciousness theory in providing an explanation for the complex development of rules in social life, which is shaped to some extent by the law in books, the legal system, and other systems in society. It is shaped through formal and informal channels and people's everyday activities.

Cowan argues that legal consciousness opens up a whole new approach to analysing the subjective experience of law.⁵⁸ In so far as legal consciousness theory supports the interpretation of everyday life narratives and contributes significant value to law and society scholarship, its value is in helping scholars to understand the the gap between the 'law in books and the law in action'.⁵⁹ Similarly, it provides a framework for 'understand[ing] people's experiences of law in everyday life'.⁶⁰ Focusing on people's subjective experiences, rather than the law and its effects on people, helps shape an understanding of the collective view of law and of legal institutions.⁶¹ Of immense value is that it not only assists with the analysis of people's awareness of the law, it assists with identifying trends from narratives of how women have shaped their interactions in and around the law.

Sarat takes this position further and explains that law has an 'inescapable presence'⁶² and legal rules 'infuse meaning and constrain social action'.⁶³ Important to this study is an analysis of the development of informal legal systems, and how they live alongside or outside of the formal legal systems. This involves the development of normative systems that are founded on beliefs of what is good or bad, right or wrong, and have a particular cultural context. They are shaped by what works and by the experience people have of the law. Abel's work shows how 'each neighbourhood develops its own normative systems that works in a particular context',⁶⁴ in order for people to 'achieve order without law'.⁶⁵ Hertogh pushes back on this view, when he argues that the 'power of the law has become so common that we hardly notice it'.⁶⁶ Ewick and Silbey argue that 'despite the gap between the law in books and the law in

⁵⁷ Austin Sarat 'The Law is All Over: Power, Resistance and the Legal Consciousness of the Welfare Poor' (1990) 2 *Yale J.L. & Human* 343.

⁵⁸ Cowan op cit note 38 at 929.

⁵⁹ Susan Silbey 'After Legal Consciousness' (2004) 1 *Annual Review of Law and Social Science* 360.

⁶⁰ Ibid 346.

⁶¹ Tom R Tyler 'Procedural Justice, Legitimacy, and the Effective Rule of Law' (2003) 30 *Crime & Justice: A Rev of Research* 284.

⁶² Sarat op cit note 57 at 345.

⁶³ Ibid 346.

⁶⁴ Merry op cit note 42 at 35.

⁶⁵ Robert C Ellickson *Order Without Law: How Neighbours Settle Disputes* (1991) 123. Robert Ellickson (at pg 123) explores the concept of order without law, demonstrating that 'law is less important than we think, and that people govern themselves with informal rules and social norms'.

⁶⁶ Hertogh cit op note 20 at 8.

action, law retains its unrecognised and uncontested power'.⁶⁷ They go on to say that it is precisely because the law 'is what it is' and 'is what it is not' that it is hegemonic.⁶⁸

Silbey argues that legality is a broader notion than 'law', in that it 'operates as an interpretive framework and set of resources with which, and through which, the social world, including that part known as the law, is constituted'.⁶⁹ In doing so, she positions 'law' as a 'subset of legality to be confined to its institutionalised forms and expressions associated with formal legal actors and institutions'.⁷⁰ Cowan adds that 'legal consciousness research consciously de-centres law as a social phenomenon'.⁷¹ People are not just passive recipients of laws and rules that emerge in society.⁷² According to theories of legal consciousness, they are actors who are responding 'strategically, and who are manoeuvring and resisting the rules imposed on them by bureaucracies'.⁷³ There are aspects of the law that people do not think about and there are assumptions that are taken for granted. Legal consciousness theory provides some explanation for the factors that contribute to people having 'legitimised their own defeat'.⁷⁴

Ewick and Silbey propose a three-pronged categorisation system: before the law, with the law and against the law, that situates individual components of actors' legal consciousness.⁷⁵ Fritsvold argues that it is unlikely that the legal consciousness of any individual will be bound within one of these categories and that contradictory forms are often embraced simultaneously.⁷⁶ Hertogh contends, 'when people criticise the negative effects of the legal system in everyday practice, law emphasises the transcendent character'.⁷⁷

The legal consciousness of the poor, according to Sarat, is different from other groups in society.⁷⁸ Poor people, he says, experience the law daily because they are dealing with how

⁶⁷ Ewick & Silbey op cit note 11 at 231.

⁶⁸ Ibid 233.

⁶⁹ Susan Silbey 'Studying legal consciousness: building institutional theory from micro data' (2018) 100 *Droit et Société* 725.

⁷⁰ Ibid.

⁷¹ Cowan op cit note 38 at 929.

⁷² Ibid 932.

⁷³ Silbey op cit note 66 at 725.

⁷⁴ Ewick & Silbey op cit note 11 at 29.

⁷⁵ Ibid 47–8.

⁷⁶ Erik D Fritsvold 'Under the Law: Legal Consciousness and Radical Environmental Activist' (2009) 34 *Law and Social Inquiry* 805; Ewick & Silbey op cit note 11 at 53, write that categorisations of legal consciousness includes 'before the law', which refers to the 'consciousness which conceptualises the law as an abstract entity, removed from the everyday experiences of life'. 'With the law consciousness' they write, 'is somewhat cynical, with the legal system being accepted as an arena of contest with legal victory depending on an individual's legal proficiency'. The authors indicate that 'against the law' consciousness 'is evident when the law is perceived as a commodity of power unable to effectively resolve disputes, recognise truth or respond to injustice'.

⁷⁷ Hertogh op cit note 20 at 8.

⁷⁸ Sarat op cit note 57 at 344.

to meet their most basic needs. The law is something they are caught in, like a ‘web’.⁷⁹ Silbey says that ‘researchers from a structuralist perspective ... suggest that the legal order develops in response to conflicts and inconsistencies, generated by the capitalist mode of production, rather than as a direct product of class interest’.⁸⁰ Silbey critiques recent studies of legal consciousness for their inability to explain how people’s experience of law becomes ‘synthesised into a set of circulating, often taken for granted understandings and habits’, and how they instead focus on what individuals think and do.⁸¹

2.2.1 Legal alienation: When people move away from the law

Hertogh explores in depth the concept of legal alienation, which he says is a gradual process that leads to the erosion of legal compliance.⁸² For Hertogh, ‘legal alienation’ is the ‘cognitive state of psychological disconnection from official state law and the justice system’.⁸³ He explains that the ‘perceived distance to the law and the justice system gradually increases from situations of “legal meaninglessness” at one end, to feelings of “legal powerlessness”, then “legal cynicism” and ultimately, “legal value isolation” at the other end’.⁸⁴ For him, the disconnection between law in the books and law in society reflects the movement of people away from the law, suggesting a process of legal alienation. Halliday, in an online conversation with Hertogh, suggests that he takes the argument too far and that in fact ‘faith in state law sits alongside a sense of alienation as uncomfortable bedfellows’.⁸⁵

The concept of legal alienation has similarly been critiqued by scholars including Aidinlis, who argues that while it does not ‘refute claims about law’s hegemonic power, it partly explains resistance to it’.⁸⁶ He highlights the importance of defining law in making this argument, and identifies two ends of the spectrum in scholarship: ‘constitutive definitions of legality as ‘ongoing social structure’,⁸⁷ and the narrower instrumental definitions of law as

⁷⁹ Ibid. Here Sarat refers to poor people receiving welfare.

⁸⁰ Susan Silbey ‘Legal Culture and Legal Consciousness’ in Neil J Smelser & Paul Baltes (eds) *International Encyclopaedia of the Social and Behavioural Sciences* (2001) 8626.

⁸¹ Silbey op cit note 56 at 324.

⁸² Hertogh op cit note 20 at 150. Hertogh explores case studies where ‘accumulated and remedied little injustices erode citizens’ faith in law and the legal system’. He also says that in all three case studies he found that there was a ‘growing distance between the demands of the formal law and what people themselves experience as law’.

⁸³ Hertogh op cit note 20 at 151.

⁸⁴ Ibid.

⁸⁵ Marc Hertogh & Simon Halliday ‘On Legal Consciousness, Legal Alienation and Friendship’, available at <https://socialandlegalstudies.wordpress.com/2020/05/15/legal-consciousness-alienation-friendship/>, accessed on 30 May 2020.

⁸⁶ Aidinlis op cit note 15 at 495.

⁸⁷ Ibid.

'official state law acting upon society'.⁸⁸ Aidinlis argues that it is this confusion around the definitions of what is legal that results in confusion around the role of 'law' in legal consciousness research designs.⁸⁹

Silbey critiques this scholarship, suggesting that 'legal consciousness as a theoretical concept has become compromised in law and society scholarship'.⁹⁰ This is because of 'critical shifts in the theoretical arsenal of socio-legal research'.⁹¹ She argues, however, for its value as a theoretical perspective that helps to explain 'the gap between the law in action and the law in our books'.⁹² She stresses the incomplete power of the law, when she says that people 'do not always stay within the boundaries of the law nor do they express an indestructible belief in the legal system'. This position is an important consideration in Lavender Hill, where it appears that the systems of 'law', emboldened by gang lords, influence legal consciousness of women, with violence and fear as a form of sanction, and gang lords as controllers of the system of order.

2.3 LEGAL CYNICISM: LOSING FAITH IN THE LEGAL SYSTEM

Sampson and Bartusch argue that there is 'a tendency in the literature to confuse tolerance of deviance with normlessness or a state of anomie'.⁹³ Kirk and Papachristos project a narrower view of legal cynicism. They focus on the causes and consequences of the 'legal aspects of legal cynicism defining legal as a cultural frame in which people perceive the law, police specifically as illegitimate, unresponsive, and ill equipped to ensure public safety'.⁹⁴ Ewick and Silbey's category of 'against the law' incorporates legal cynicism, in viewing the law as mostly unable to resolve disputes, recognise truth, or respond to injustice. 'Against the law' observes that the law often fails as an asset to achieve justice'.⁹⁵

⁸⁸ Robert A Kagan 'What Socio-Legal Scholars Should Do When There is Too Much Law to Study' (1995) 22 *Journal of Law and Society* 140-8; Simon D Halliday *Judicial review and compliance with administrative law* (2004) 140.

⁸⁹ Ibid.

⁹⁰ Silbey op cit note 56 at 323.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Robert J Sampson & Dawn Jeglum Bartusch 'Legal Cynicism and (Subcultural) Tolerance of Deviance: The Neighbourhood Context of Racial Difference' (1998) 32 *Law & Society Review* 778.

⁹⁴ David S Kirk & Andrew V Papachristos 'Cultural Mechanisms and the persistence of neighbourhood violence.' (2011) 116 *American Journal of Sociology* 1190. Kirk & Papachristos (at pg 1190) project a narrower view of legal cynicism and focus on the causes and consequences of the 'legal aspects of legal cynicism defining legal as a cultural frame in which people perceive the law, police specifically as illegitimate, unresponsive, and ill equipped to ensure public safety'.

⁹⁵ Fritsvold op cit note 76 at 807.

Although legal cynicism, as a theory, stands on its own, it intersects with legal consciousness theory, as is demonstrated in the following section.⁹⁶ Hagan et al say that people in high-crime communities report negative experiences of the police, and yet have an expectation that the police will ensure crime prevention and protect them from crime.⁹⁷ According to Hagan et al, this process is historically cumulative at the conscious and non-conscious levels.⁹⁸ Procedural justice theory used by Carr et al explains the ‘paradox between people who are abused by the police and are exposed to unfair processes, but are still in favour of criminal justice solutions to crime’.⁹⁹ Studies have shown that black people have a higher degree of legal cynicism than white people, because of lived experiences and attitudes.¹⁰⁰ As a result, black people do not trust the legal system to protect their safety and fairly uphold the law.¹⁰¹ Similarly, Hitchens et al found ‘significant variation in the quality of interactions between police and Black, White and Latina young women, along with the amount of vicarious experiences with police among women’.¹⁰²

Unprofessionalism and corruption, according to Kochel, have been shown to have an impact on ‘legal institution legitimacy and collective efficacy in some neighbourhoods’.¹⁰³ As Tanbeke reports, there are instances where policing is characterised by ‘abuse violence and intimidation and widespread corruption’, but people obey out of fear of the consequences of not obeying, rather than because they trust the police.¹⁰⁴ People trust the police with some crimes, but not all crimes. Bell explains that poor African American mothers in high-crime neighbourhoods in Washington, D.C. generally distrust the police, but call them for help with some crimes.¹⁰⁵ Vaisey’s dual process theory expands on the perspective that thought involves

⁹⁶ Ewick & Silbey op cit note 11 at 196.

⁹⁷ John Hagan, Bill McCarthy, Daniel Herda & Andrea Cann Chandrasekher ‘A Dual Process Theory of Racial Isolation, Legal Cynicism, and Reported Crime’ (2018) 115 *Proceedings of the National Academy of Sciences of the United States of America* 7190.

⁹⁸ Ibid.

⁹⁹ Patrick J Carr, Laura Napolitano & Jessica Keating ‘We never call the cops and here is why: a qualitative examination of legal cynicism in three Philadelphia neighbourhoods’ (2007) 45 *Criminology* 469.

¹⁰⁰ Andrea S Boyles *Race, Place and Suburban Policing: Too Close for Comfort* (2015) 48; Joe R Faegin ‘The continuing significance of race: antiblack discrimination in public places’ (1991) 56 *American Sociological Review* 101-16; Ronald Weitzer & Steven A Tuch ‘Perceptions of racial profiling: race, class and personal experience’ (2002) 4 *Criminology* 435–56.

¹⁰¹ Ibid.

¹⁰² Brooklynn K Hitchens, Patrick J Carr & Susan Clampet-Lundquist ‘The Context for Legal Cynicism: Urban Young Women’s Experiences with Policing in Low-Income, High-Crime Neighborhoods’ (2018) 8 *Race and Justice* 34.

¹⁰³ Tammy Rinehart Kochel ‘Can Police Legitimacy Promote Collective Efficacy?’ (2012) 29 *Justice Quarterly* 413.

¹⁰⁴ Justice Tanbeke ‘Public Cooperation with the Police in Ghana: Does Procedural Fairness Matter?’ (2009) 47 *Criminology* 1271.

¹⁰⁵ Monica C Bell ‘Situational Trust: How Disadvantaged Mothers Reconcieve Legal Cynicism.’ (2016) 50 *Law Soc Rev* 321.

two processes: the unconscious and the conscious, that are often contradictory.¹⁰⁶ Building on this theory, Hagan et al argue that the conscious and unconscious ‘forms of cognition embody and contribute to what have been variously called cultural frames, *schemas* and *narratives*’.¹⁰⁷ This suggests that people are more likely to be influenced by narratives that resonate with those close to them, like family, friends and neighbours.¹⁰⁸

2.3.1 Consequences of legal cynicism

When agents of the law are viewed negatively, they lose their legitimacy, contributing to ongoing crime and violence in some neighbourhoods, even when the socio-economic conditions improve.¹⁰⁹ According to Tyler, empirical research on legitimacy and authority has convincingly shown that people are more likely to obey the law when they see lawmakers as legitimate.¹¹⁰ People do not report crime, because they do not believe the police will do anything if they call them. Crime increases as a result. Non-reporting contributes to inaccurate crime statistics, which affects resourcing decisions that are determined by case statistics.¹¹¹ This deepens legal cynicism. People no longer expect the police to respond, and because of poor resourcing, police lack the capacity to respond.

Kirk and Matsuda argue there are several reasons why legal cynicism and the conditions that feed it hinder collective efficacy. First, residents assume efforts to rid the neighbourhood of crime are fruitless if criminals return to the streets in little or no time.¹¹² Secondly, if residents do not trust the capacity of police to remove criminals from their neighbourhood, they are less likely to put their own safety at risk to contribute to ‘the collective control of crime’.¹¹³ Thirdly, residents may turn to criminals for protection and for basic necessities.¹¹⁴

¹⁰⁶ Stephen Vaisey ‘Motivation and Justification: A Dual-Process Model of Culture in Action 1’ (2009) 114 *American Journal of Sociology* 1690.

¹⁰⁷ Hagan et al op cit note 97 at 4.

¹⁰⁸ Ibid; Kirk & Papachristos op cit note 94. They write (at pg 1191) that legal consciousness ‘is a cultural frame in which the law and the agents of its enforcement are viewed as illegitimate, unresponsive, and ill equipped to ensure public safety’.

¹⁰⁹ Hagan et al op cit note 97 at 7191.

¹¹⁰ Tom R Tyler *Why People Obey the Law* (2006) 310.

¹¹¹ Kirk & Matsuda op cit note 26 at 466 indicate that ‘South Africa uses the Theoretical Human Resource Requirement (THRR) as a guide. However, the authors indicate there are challenges with police stations’ understanding of the importance of this document input sheet and its link back to resource allocation to the police station’.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid.

2.4. LEGAL PLURALISM AND LEGAL CONSCIOUSNESS: WHEN SYSTEMS OUTSIDE THE LAW DETERMINE THE RULES

Legal consciousness has close links with theories of social control, pluralism and normative legal theory. Young posits that ‘at the most universal level legal pluralism acknowledges that if we define law as the normative order within social groups manifold types of law exist and state law is only one variety’.¹¹⁵ Similarly, von Benda-Beckman opines that ‘the most visible kind of plural legal constellation is the co-existence of two or more legal systems’.¹¹⁶ Normative legal systems that emerge in communities like Lavender Hill react to the need to protect individuals, groups and subgroups, and are ‘law’ in the sense that they shape, dominate and impact on the decisions people make. The test of whether a plural legal system exists would therefore be whether people face or avoid sanctions for disobeying the ‘law’.¹¹⁷ Others argue against ‘embracing the centrist views that privilege state law over indigenous normative ordering’.¹¹⁸ Informal normative legal systems, that are more flexible than formal legal systems, impact on legal consciousness.

Legal pluralism, according to Merry, offers three critical insights about law: 1) It shows that law affects social life in many ways, both inside and outside formal legal institutions; 2) These myriad instantiations of law are fragmented, inconsistent and contradictory; and 3) These systems constantly interact with one another and redefine each other.¹¹⁹ Young argues that ‘considering legal pluralism from a legal consciousness point of view takes us further in defining law and is fundamentally endogenous’ to the system.¹²⁰ According to Trubek, ‘classical legal consciousness like Confucianism in Imperial China legitimated a structure of hierarchy and domination in part by justifying it and in part by deflecting attention from its nature and operation’.¹²¹

Referring to a study of prison gangs, Skarbek identifies ‘members as rational, self-interested actors that make decisions that seem reasonably likely to advance their interests’.¹²²

¹¹⁵ Kathryn M Young ‘Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight’ (2014) 48 *Law and Society Review* 520.

¹¹⁶ Franz von Benda-Beckmann & Keebet von Benda-Beckmann. ‘The Dynamics of Change and Continuity in Plural Legal Orders’ (2006) 53–4 *The Journal of Legal Pluralism and Unofficial Law* 18.

¹¹⁷ Young op cit note 115 at 520.

¹¹⁸ Ibid 521.

¹¹⁹ Sally Engle Merry ‘McGill Convocation Address: Legal Pluralism in Practice’ (2013) 59 *McGill Law Journal /Revue De Droit De McGill* 1–8.

¹²⁰ Young op cit note 115 at 521.

¹²¹ David Trubek ‘Where the Action is: Critical Legal Studies and Empiricism’ (1984) 36 *Stanford Law Review* 591.

¹²² David Skarbek *The Social Order of the Underworld: How Prison Gangs Govern the American Penal System* (2014) 157.

Prison gangs have a governance system that defines and enforces property rights, assists people to capture the benefit of trade and helps coordinate collective action.¹²³ Gangs outside of prison have governance systems and rules, and live in parallel with the formal legal system. Of relevance for this dissertation is the way in which this plural system impacts on and shapes the daily lives of women. Wing and Willis identify different categories of women's association with gangs and assert that within these categories there are multiple roles, which they argue, 'represent the multiple identities of black women and often occur simultaneously'.¹²⁴

Pospisil claims that 'every functioning sub-group in society has its own legal system, which is necessarily different in some respects from those of other sub-groupings'.¹²⁵ Merry, building on this, explains that 'each sub-group means family, lineage, community and political confederation that are integral parts of homogenous society, hierarchically ranked and similar in rules and procedure'.¹²⁶ These sub-groups and their rules of engagement impact and shape the legal consciousness of women.

Gangs have made life difficult for people living on the Cape Flats.¹²⁷ Wourji argues that informal justice systems, although not uniform in all places, have certain characteristics.¹²⁸ These include: being accessible; employing local languages and (as is the case on the Cape Flats) colloquialisms; having simple procedures; and doing away with the need for a lawyer. They emphasise reconciliation, compensation, restoration and rehabilitation. He acknowledges that a culturally-driven plural legal system can be discriminatory against women, children and

¹²³ Ibid.

¹²⁴ Adrien K Wing & Christine A Willis 'From Theory to Praxis: Black Women, Gangs, and Critical Race Feminism' (1998) 11 *La Raza Law Journal*. Wing & Willis (at pg 4) identify that 'American women's association with gangs falls into two categories: 1) women as gang members and; 2) women that affect gang members. In the first category they identify four roles: 1) females who are members of female gangs; 2) females who are auxiliaries to male gangs; 3) females in sexually integrated gangs; and 4) females who are not actual gang members, but want to be. In the second category there are also four roles: 1) girlfriends and wives of gang members; 2) mothers of gang member's children; 3) blood relatives of gang members; and 4) concerned women in a gang-affected community'.

¹²⁵ Leopold Pospisil 'Modern and Traditional Administration of Justice in New Guinea' (1981) 19 *Journal of Legal Pluralism* 93.

¹²⁶ Ibid.

¹²⁷ Wilfried Schärf 'Non-State Justice Systems in Southern Africa: How should Governments Respond?' *Paper delivered at workshop on working with Non State Justice Systems held at the Overseas Development Institute 6-7 March 2003*. Schärf (on pg 36) discusses 'the impact of gangs on the lives of people in Cape Town, especially those who lost lives or were injured in crossfire'. He further explains that 'many police became corrupted by the money gang lords could pay. Police also lacked the capacity to investigate the many cases of drug dealing. This contributed to the emergence of non-state actors in crime control, including vigilante groups like PAGAD (People Against Gangsterism and Drugs)'.

¹²⁸ Tsehai W Wourji 'Coexistence Between the Formal and Informal Justice Systems in Ethiopia: Challenges and Prospects' (2012) 5 *African Journal of Legal Studies* 273.

minorities, and that important constitutional rights, such as presumption of innocence, are put in jeopardy.¹²⁹

2.4.1 Norms and social control: Determining right from wrong

In his study of cattlemen in Shasta County, Ellickson points to the role of informal norms, rather than formal legal rules, in resolving disputes.¹³⁰ He says that a ‘norm denotes behaviour that is normal and behaviour that people should mimic to avoid being punished’.¹³¹ Marshall posits that legal culture emerges from ‘the interactive process between meaning and the social and cultural aspects of everyday life’.¹³² Ellickson argues that urban neighbours are less likely to share norms than rural neighbours, because urbanisation weakens neighbourhood gossip channels.¹³³ Urban neighbours are therefore more likely to look to formal rules that apply to dealing with disputes between neighbours.¹³⁴ Ellickson disaggregates the ‘social control system into five principle subsystems: self-enforced personal ethics, two party contracts, informally endorsed norms, organisation controls, and law’.¹³⁵

Nielsen argues that ‘because legal consciousness is contingent, it may change according to ... the subject’s knowledge about the law and legal norms’.¹³⁶ While understanding the legal consciousness of a group of women is not about understanding what they know about the law, some elements of this consciousness will be shaped by what they think the law is or what they think it ought to be. According to McBreen et al, normative behaviour displays a wide range of variability from culture to culture.¹³⁷ Culture affects people’s interpretation of laws and policies and their reasoning and ultimately their behaviour.¹³⁸ It is therefore important when analysing people’s observations and experiences that we understand their culture. I argue for the importance of this awareness in empirical studies where we seek to understand legal consciousness.

¹²⁹ Ibid.

¹³⁰ Ellickson op cit note 65 at 267.

¹³¹ Ibid 126.

¹³² Anna Maria Marshall ‘Communities and Culture: Enriching Legal Consciousness and Legal Culture: Communities and Law: Politics and Cultures of Legal Identities’ (2006) 31 *Law & Social Inquiry: Journal of the American Bar Foundation* 237.

¹³³ Ibid 270.

¹³⁴ Ibid.

¹³⁵ Ibid 282.

¹³⁶ Laura Beth Nielsen ‘Situating Legal Consciousness: Experience and Attitudes of Ordinary Citizens about Law and Street Harassment’ (2000) 34 *Law and Society Review* 1061.

¹³⁷ John McBreen, Gennaro Tosto, Frank Dignun & Gert Jan Hofstede. ‘Linking Norms and Culture’ (2011) *Proceedings 2nd International Conference on Culture and Computing*, available at DOI: 10.1109/Culture-Computing.2011.11 9, accessed on 20 September 2019.

¹³⁸ Ibid.

Ellickson identifies controllers that are sources of rules of behaviour and sanctions. These are actors who impose rules and sanctions (personal ethics and values) on themselves.¹³⁹ He also identifies the second-party controller (contracts in his example), and third-party controllers, who are either non-hierarchical organised social forces, organisations (non-governmental as organisational rules) or government (laws).¹⁴⁰ Tyler suggests that the idea of exercising authority through social control is simple.¹⁴¹ The legal system cannot function if it is only influencing people because of rewards and costs.¹⁴² This model is too costly, because it requires the government to produce benefits or exercise coercion every time it wants to influence citizens' behaviour.

Similarly, Ellickson explains that rewards and punishments are part of systems of social control.¹⁴³ These are used to influence behaviour. Tyler argues that social theorists have identified other bases for securing compliance, with social relations and normative values being the most commonly cited.¹⁴⁴ Social groups reward and punish members, either through financial rewards or through status and respect earned. Although these do not come from authorities, they have the same influence on behaviour. People look to their social group for information about appropriate conduct.¹⁴⁵ In communities where there is a high level of criminality, these rewards often come in the form of protection from gangsterism or assistance with financial problems in reward for protecting gangsters. This has become the norm and it is an accepted form of behaviour, even if it is illegal.¹⁴⁶

Individual behaviour is influenced by a person's own set of normative values. These are not always linked to personal gain or loss, but to an assessment of what behaviour is appropriate. Psychologists refer to these as 'internalised obligations'.¹⁴⁷ For authorities to rely on the internal moral compass of a community and the people within it, there has to be a high level of support for the laws that exist, and the authorities' views of what is right and what is wrong must be consistent with the views of the inhabitants. Confidence in the legal system is an important precursor to public acceptance of rules and decisions. Kochel found that 'explanations for negative assessments of police contacts suggest that the problem was

¹³⁹ Ellickson op cit note 65 at 126.

¹⁴⁰ Ibid.

¹⁴¹ Tyler op cit note 110 at 22.

¹⁴² Ibid.

¹⁴³ Ellickson op cit note 65 at 124.

¹⁴⁴ Tyler op cit note 110 at 36.

¹⁴⁵ Ibid 24.

¹⁴⁶ John Stedman, Deborah Lamm Weisel, Robert P McNamara, Hugh Nugent, William Spelman, Marilyn B Ayres & George E Capowich *Addressing Community Gang Problems: A Practical Guide* (1999) 110.

¹⁴⁷ Ibid 476.

systemic and related to the failure of police to take action when citizens contacted them'.¹⁴⁸ Tyler says 'that if the public fails to support the law, obedience is less likely'.¹⁴⁹ This is of particular relevance when studying the legal consciousness of women in a locality like Lavender Hill, where there are several factors that contribute to the shaping of legal consciousness, of which police legitimacy and gangsterism are but a few.¹⁵⁰

Ellickson defines a system of social control as consisting of rules of normatively appropriate behaviour.¹⁵¹ He identifies five types of rules that apply to human behaviour: 1) substantive rules that define primary conduct to be punished, rewarded or left alone; 2) remedial rules that include legal rules on remedies; 3) procedural rules that govern how controllers are to obtain and weigh information, before deciding whether to administer sanctions in particular instances; 4) constitutive rules that govern the internal structures of controllers; and 5) controller-selecting rules that perform the function of deciding the domain of human activity coordinating the social control domains of a) the sovereigns that make the laws and b) the invisible social forces that make and enforce norms.¹⁵² In a study of legal consciousness, it is necessary to understand the rules that impact on the decisions that are made by women when addressing problems or disputes. Ellickson says that in most social contexts, people employ tripartite systems, which include rewards, punishments, and no sanctions at all.¹⁵³

The theory of social control seeks to highlight the contexts in which informal norms emerge to help people find order.¹⁵⁴ Sarat says for people on welfare, the legal rules are all around, but the law itself is a 'shadowy presence'.¹⁵⁵ The poor, because of their status in society, struggle to challenge the laws or contribute to their formulation. Instead, the law is imposed.¹⁵⁶ Sarat argues that 'resistance exists side by side with power and domination'.¹⁵⁷ He contends that 'the poor find ways to interpret the laws, finding the cracks and mobilising officials to protect themselves and to gain recognition'.¹⁵⁸ Poor people resist laws through

¹⁴⁸ Kochel op cit note 103 at 414.

¹⁴⁹ Tyler op cit note 110 at 62.

¹⁵⁰ Delano Cole van der Linde 'Why a law designed to fight gang violence in South Africa can't do the job' The Conversation 8 July 2019 at 4.35pm, available at <https://theconversation.com/why-a-law-designed-to-fight-gang-violence-in-south-africa-cant-do-the-job-111568>, accessed on 11 February 2021.

¹⁵¹ Ellickson op cit note 65 at 124.

¹⁵² Ibid 132–134.

¹⁵³ Ibid 125.

¹⁵⁴ Ibid 123.

¹⁵⁵ Sarat op cit note 57 at 345.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid 346.

¹⁵⁸ Ibid.

finding the gaps and the opportunities.¹⁵⁹ ‘The law that the welfare poor confront is neither a law of reason and justification, nor of sacred texts and shared normative commitments’¹⁶⁰ Sarat says that poor people ‘stand in contradictory, paradoxical and ambivalent relationship to legal authority, mobilising one set of legal officials against another, moving from one arena of rules to another, seeking recognition and help while being dubious about the treatment they receive and seeking to establish spaces for or moments of resistance’.¹⁶¹ In attempting to understand why people trust police despite their ambivalence, ‘social capital theory, performance theory and procedural justice theory provide elements of an explanation’.¹⁶²

2.5 LEGAL CONSCIOUSNESS: A FEMINIST PERSPECTIVE

In a study that focuses on women, a feminist lens is necessary to understand their experience, and how they make sense of and are shaped by it in relation to patriarchy, which impacts on their daily lives. This study elucidates the contribution of patriarchy to shaping women’s experience of legality. According to Willford, feminist theory argues that female development is situated in a socio-cultural environment that promotes rigid adherence to patriarchal society and cultural norms.¹⁶³ Studies of the justice system in the United Kingdom and the Netherlands demonstrate that women have less trust in the legal system than men.¹⁶⁴ Genn similarly finds that women have less confidence in the legal system than men.¹⁶⁵ Scholars have established that age, ethnic group, education and social class impact on legal cynicism.¹⁶⁶

Race, gender and class are all relevant in a study that focuses on women and legal consciousness.¹⁶⁷ From a feminist developmental framework, women’s development ‘is

¹⁵⁹ Ibid.

¹⁶⁰ Ibid 345.

¹⁶¹ Ibid 347.

¹⁶² Maarten Van Craen & Wesley G Skogan ‘Differences and similarities in the explanation of ethnic minority groups’ trust in the police’ (2015) 12 *European Journal of Criminology* 302–304. According to Van Craen & Skogan social capital theory (at pg 302) ‘generates social control, which ensures that norms concerning acceptable behaviour are respected and maintained’; performance theory (at pg 303) ‘relates trust to and distrust respectively to good and bad performance by government; and procedural justice (at pg 304) theory ‘indicates that people’s reactions to authorities are shaped by how fairly authorities deal with people over whom they exercise authority’.

¹⁶³ Anne Willford ‘Assessing a Measure of Femininity Ideology for Low-Income, Latina Adolescent Girls’ (2011) 4 *Affilia* 396; Patricia H Miller & Ellin K Scholnick ‘Introduction: Beyond gender as a variable’ in Patricia H Miller & Ellin Kofsky (eds) *Towards a Feminist Developmental Psychology* (2000) 3–10. Miller and Scholnick in this article discuss the value of feminist theories ‘in focusing on the power differentials that underlie gender organised societies and the implications of being non-white and non-male’. They also write about the value of ‘feminist theory in demonstrating that gender roles overlay all human endeavours’.

¹⁶⁴ Marc Hertogh ‘Loyalists, Cynics and Outsiders: Who Are the Critics of the Justice System in the UK and the Netherlands?’ (2011) 7 *International Journal of Law in Context* 34.

¹⁶⁵ Hazel Genn *Paths to Justice: What People Do and Think About Going to Law* (1999) 229.

¹⁶⁶ Hertogh op cit note 164 at 35.

¹⁶⁷ For more on the intersectionality between gender, race and class, see Kimberlé Crenshaw, Neil Gotanda, Gary Peller and Kendall Thomas (eds) *Critical Race Theory* (1995).

affected by and responds to patriarchal societal cultural norms'.¹⁶⁸ Women are, however, not one universal form, with context, culture, race, class and sexuality all influencing how women's experience of daily life is shaped.¹⁶⁹ Indeed, '(w)omen of colour have shown how the lack of acknowledgment of difference has resulted in the marginalisation and oppression of certain communities'.¹⁷⁰

Coomaraswamy points out that the 'rights of women among oppressed people present feminists with their most important challenge'.¹⁷¹ She posits that 'difference is not about tolerance within a liberal democratic order, but the acceptance of completely different world views'.¹⁷² Nielsen finds in her study that the social location of subjects is a vital part of understanding legal consciousness, and that being a member of a traditionally disadvantaged group has a significant effect on an individual's orientation to the law.¹⁷³

Jensen, in his study of women in leadership on the Cape Flats, argues that women are able to use their gender to transcend spaces that are not available to men.¹⁷⁴ He says most Cape Flats residents subscribe ideologically to notions of respectable womanhood, where women are expected to be meek, accommodating and unselfish.¹⁷⁵ The typical gender hierarchy that he describes is men in positions of chairpersons and vice-chairpersons, and women doing the work, which he says is 'arguably a performance of ideological notions of true respectable gender hierarchies'.¹⁷⁶ In his article, he admires the ability of women leaders on the Cape Flats to be respectable and at the same time 'raucous, courageous and formidable'.¹⁷⁷

2.6 THE PRESENCE OF GANGS AND HOW IT SHAPES WOMEN'S LEGAL CONSCIOUSNESS

Gangs are a key factor in a place like Lavender Hill. They have been credited with disrupting lives in the areas where they gather, causing problems for communities and for themselves.¹⁷⁸

¹⁶⁸ Emily A Impett, Deborah Schooler & Deborah L Tolman 'To Be Seen and Not Heard: Femininity Ideology and Adolescent Girls' Sexual Health' (2006) 35 *Archives of Sexual Behaviour* 131–44.

¹⁶⁹ Radhika Coomaraswamy 'Are Women's Rights Universal?: Re-Engaging the Local.' (2002) 3 *Meridians: Feminism, Race, Transnationalism* 6.

¹⁷⁰ *Ibid* 5.

¹⁷¹ *Ibid*.

¹⁷² *Ibid*.

¹⁷³ Nielsen *op cit* note 136 at 1087.

¹⁷⁴ Stefen Jensen. 'The Security and Development Nexus in Cape Town: War on Gangs, Counterinsurgency and Citizenship' (2010) 41 *Security Dialogue* 61.

¹⁷⁵ *Ibid* 60–3.

¹⁷⁶ *Ibid* 62.

¹⁷⁷ *Ibid*.

¹⁷⁸ James C Howell 'Gang Prevention: An Overview of Research and Programs' 2010 *Juvenile Justice Bulletin* 1–24. In this article Howell discusses the disruptive nature of gangs and the importance of addressing delinquency at the onset. Strategies are shared to prevent and address delinquency and disruption.

Variations exist among gangs in terms of membership, organisation, involvement in crime, and the social contexts in which they thrive.¹⁷⁹ Spindler and Bouchard found in their study that higher levels of organisation are often accompanied by high levels of delinquency involvement.¹⁸⁰ According to Hartnagel, a subculture of violence may be more prevalent among certain demographic groups, but not characteristic of them.¹⁸¹ He argues that the hypothesis that violence is more likely among certain subcultures has limited applicability, and cannot necessarily predict behaviour.¹⁸²

Conditions such as mediocre education, job scarcity and poor service delivery all create the environment for gangs to flourish as viable alternatives for young people. Durkheim explains that one of the reasons people engage in deviant behaviour is ‘anomie’.¹⁸³ Strain theorists attribute normlessness among poor people to a lack of opportunity to gain vertical mobility and the alienation felt by strained individuals who become estranged from others and self, with crime becoming an expression of this alienation.¹⁸⁴ Merton’s strain theory is particularly useful for this study, in that he identifies the different ways that people adapt to strain, including conformity, innovation, ritualism, retreatism and rebellion.¹⁸⁵ He posits that ‘people move between responses as they engage in different social activities’.¹⁸⁶ This approach is valuable in a study of women living under immense stress, due to the conditions of the locality where they live.

Jensen points out that gangs invoke a sense of community, especially when they refer to brotherhoods with moral codes and rituals.¹⁸⁷ Gangs are transgenerational and young people are often lured into gangs, with the promise of climbing the ladder of power, and attaining prosperity and access to drugs.¹⁸⁸ He argues that gangs are ‘products of history, identity and necessity’.¹⁸⁹ Conly et al argue that research strongly suggests ‘that gangs emerge in communities where residents are excluded from traditional institutions of social support and

¹⁷⁹ Ibid.

¹⁸⁰ Andrea Spindler & Martin Bouchard ‘Structure or Behavior? Revisiting Gang Typologies’ (2011) 21 *International Criminal Justice Review* 276.

¹⁸¹ Timothy F Hartnagel ‘Subculture of Violence: Further Evidence’ (1980) 23 *The Pacific Sociological Review* 217.

¹⁸² Ibid.

¹⁸³ For more on anomie and alienation see: Emile Durkheim *The Division of Labour in Society* (2nd ed) with an introduction by Steven Lukes (1893/2013).

¹⁸⁴ Hayden P Smith & Robert M Bohm ‘Beyond Anomie: Alienation and Crime’ (2008) 16 *Critical Criminology* 5.

¹⁸⁵ Robert K Merton ‘Social Structure and Anomie’ (1938) 3 *American Sociological Review* 676.

¹⁸⁶ Ibid.

¹⁸⁷ Stefen C Jensen ‘Claiming Community: Local Politics on the Cape Flats, South Africa’ (2004) 24 *Critique of Anthropology* 180.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid 81.

where young people have limited opportunities for successful participation in the economy'.¹⁹⁰ Gangs fulfill members' needs for 'identity, recognition, protection, love and understanding, status, money and opportunity.'¹⁹¹

Gangs impact on the lives of women, and women have a history of being involved in gangs – though not usually in the frontlines, as shooters.¹⁹² Women's roles are usually as spies, informants, or to lure opposing gang members with the promise of sex, for them to be ambushed and killed in turf wars.¹⁹³ Participating in gangs and violent street culture for young women is often a way of surviving marginality.¹⁹⁴ Dziewanski writes that 'involvement in gangs for women is a way to contest patriarchal structures', in addition to 'connection and solidarity and the feeling of personal empowerment'.¹⁹⁵

2.7 CONCLUSION

In this chapter, I have explored legal consciousness theory and intersecting theoretical perspectives, such as legal cynicism, legal pluralism, and for the purpose of this research, feminist theory – and how these shape the legal consciousness of women. Ewick and Silbey have made a significant contribution to the theory of legal consciousness, and I have examined other theorists who both validate and challenge or critique some of their thinking. I argue that theories such as legal cynicism and legal pluralism have a lot to offer this dissertation, as it seeks to explore the legal consciousness of women in a context like Lavender Hill.

This chapter identifies the need for a study that provides insight and helps scholars to understand the elements that shape legal consciousness of women, such as those who live in a fraught context like the neighbourhood of Lavender Hill. In the next chapter, I embed this study in the context of Lavender Hill, explaining its history, demographics, socio-economic conditions, and the social organising of NGOs.

¹⁹⁰ Catherine H Conly, Patricia Kelly, Paul Mahanna & Lynn Warner *Street Gangs: Current Knowledge and Strategies* (1993) 8.

¹⁹¹ *Ibid* 18.

¹⁹² 'Unusual suspects – women and gangs in South Africa' *The New Humanitarian* (2014), available at <https://www.thenewhumanitarian.org/fr/node/254665>, accessed on 3 November 2020.

¹⁹³ *Ibid*.

¹⁹⁴ Dariusz Dziewanski 'Femme Fatales: Girl Gangsters and Violent Street Culture in Cape Town' (2020) 15 *Feminist Criminology* 445.

¹⁹⁵ *Ibid*.

CHAPTER THREE: 'THERE ARE NO LAVENDERS IN LAVENDER HILL'¹⁹⁶: A DESCRIPTION

3.1 INTRODUCTION

Lavender Hill, 25 kilometres from Cape Town central business district, is located on a dusty sheet of aeolian sand of marine origin, and was created as a dumping ground for people forcefully displaced by the apartheid regime in the 1970s. Accommodating around 32 598 people,¹⁹⁷ mostly living in overcrowded flats, backyard dwellings and shacks, this township was named after one of the notorious streets in District Six.¹⁹⁸ It carries in its DNA the memories of a place that was destroyed by bulldozers and apartheid government policies. More than just the lack of lavender in a place named after this hardy, fragrant, violet flower, is the obvious neglect. The only efforts to beautify the area are paintings on the walls of apartments and the boundary wall of the township, which speak about hope and youth aspirations, and shares messages related to HIV prevention.¹⁹⁹ These are juxtaposed with the names of different gangs²⁰⁰ and graffiti. Lavender Hill is a constant reminder of the pain of being ripped from the bosom of a place 'called home',²⁰¹ and sent to live far from everything that represents home.

This chapter situates the study in the locality where the sample group of women live, putting into perspective the history against which the legal consciousness of women is shaped, and the factors which affect their daily lives. In this chapter, I describe the physical location,

¹⁹⁶ Informal interview. Statement by a person who works in Lavender Hill, doing drama work with youth.

¹⁹⁷ Statistics South Africa 'City of Cape Town Census Suburb Lavender Hill' *South African Census 2011* (2012) 2.

¹⁹⁸ District Six was an inner-city residential area from which about 60 000 people were forcibly removed in the 1970s by the apartheid regime. See in: Christiaan Beyers 'Land Restitution's rights Communities': The District Six Cases' (2007) 33 *Journal of Southern Africa Studies* 267. According to John Western the last coloured people and Indian people were expelled from District Six in 1982. See in: John Western *Outcast Cape Town* (1996) University of California Press, Berkeley xxvi. In 1989 the area that was District Six was declared exempt from the Group Areas Act of 1950 (Ibid). District Six had its roots in the settlement of freed urban slaves after emancipation. It was a racially integrated community until apartheid policies became effective in the late 1960s (Ibid). The area of District Six remained vacant for many years, with only churches and mosques remaining. The area is now made up of the suburbs of Zonnebloem, Lower Vrede and Walmer Estate. Some of the vacant land is being developed to accommodate people who successfully reclaimed their land after the demise of apartheid. See in: Beyers at pg 267.

¹⁹⁹ Walls in Lavender Hill are painted by the youth and volunteers who work in Lavender Hill. Words such as 'love' and 'happiness' appear, as well as anti-drug and alcohol messages. Other images include graffiti by local artists and the names of local gangs. Researcher's own observations.

²⁰⁰ Gangs in Lavender Hill include: The Hard Livings Kids; Sexy Boys; Dixie Boys; Yuru Cats; Laughing Boys; the Born Free Kids; Scorpions; Cisco Yakkies; Sicilians; Cape Town Scorpions; Naughty Boys; Nice Time Kids; Junky Funky Kids; and Corner Boys. There are also the numbers gangs – the 26s, 27s and 28s – which require prison sentences for membership. Gang members usually have a tattoo of the name of the gang to which they belong. For more on the gangs Cape Town see: Don Pinnock *Gang Town* (2016).

²⁰¹ 'Home' for people from Lavender Hill includes District Six, Wynberg, Claremont, and other communities that were deemed 'white only' by the apartheid regime.

the history, the socio-economic situation, religious institutions, policing, sports and recreation, and NGO resources that are available.

3.2 PHYSICAL LOCATION

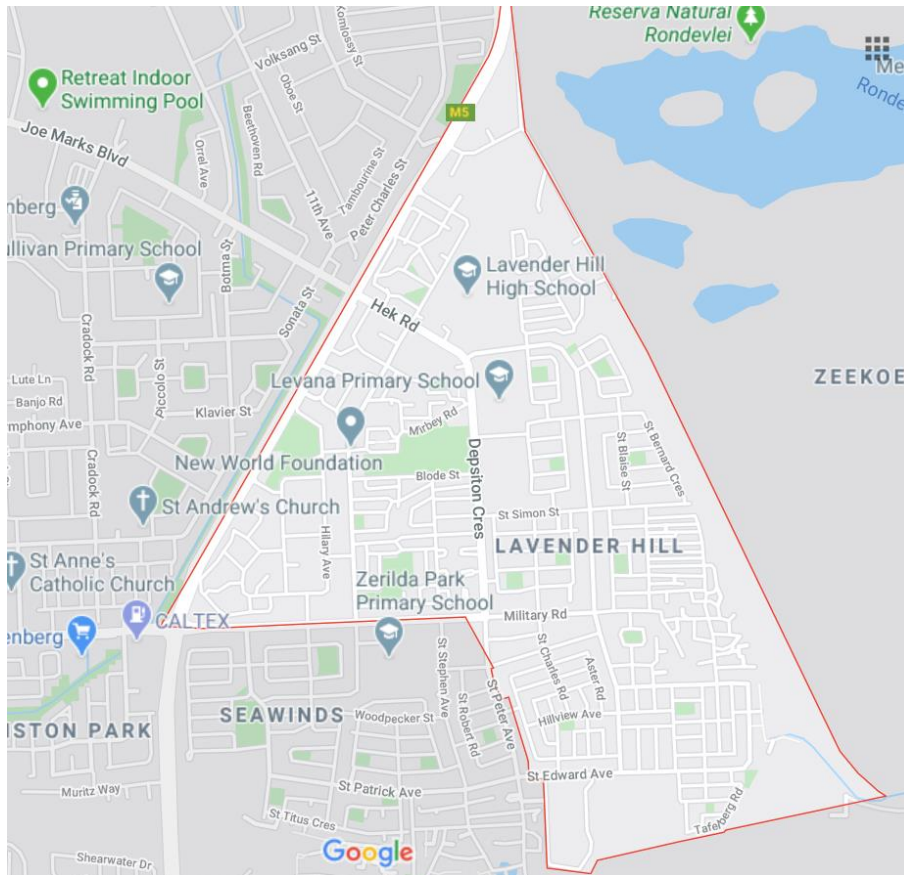


Figure 1: Map of Lavender Hill. Source: Google Maps

Lavender Hill is flat and, although residents have a distant view of Table Mountain, the horizon is not visible above the council flats, low-cost council housing and backyard shacks. It forms part of the Cape Flats and is located on Prince George Drive, the M5 expressway, connecting the northern suburbs of Milnerton to Muizenberg on the coast. Behind Lavender Hill is Rondevlei, a bird sanctuary and popular bird watching zone, and Zeekoevlei, a local authority-managed nature reserve, both of which are wetlands.

Lavender Hill occupies 1,63 square kilometres.²⁰² The dunes, blown up from the beaches over hundreds of years, and dune vegetation, have been destabilised because of

²⁰² Peter W Hodkinson, Jennifer Lee Pigoga & Lee Wallis 'Emergency healthcare needs in the Lavender Hill suburb of Cape Town, South Africa: a cross sectional, community-based household survey' (2020) 10, 1 *BMJ Open*.

woodcutters collecting the few indigenous shrubs for fuel.²⁰³ The result has been an infestation of alien vegetation, which makes it difficult to grow trees and plant flowers. Although the weather is the same as that of Cape Town – dry in summer and wet in winter – the area is prone to flooding. Neighbouring suburbs and townships include Steenberg and Retreat, across the M5, and Seawinds, Lotus River, Grassy Park, Vrygrond, Overcome Heights and Capricorn.

3.3 DEMOGRAPHIC INFORMATION

According to the 2011 census, there are 32 598 people living in Lavender Hill, of which 51,7 per cent are women and 48,4 per cent are men.²⁰⁴ The majority of the population is coloured²⁰⁵ (95 per cent)²⁰⁶. Of the population, 47 per cent are between the ages of 24 and 64²⁰⁷, and 55 per cent of the households are headed by women.²⁰⁸

3.4 HISTORICAL DEVELOPMENT OF LAVENDER HILL

Lavender Hill is one of the economically and culturally deprived communities in the Western Cape. It comes close, with other townships such as Nyanga, to being one of the most violent locations in the province.²⁰⁹ Criminality and violence are entrenched, attributed to the forced removal of entire communities during apartheid, and the continued alienation felt by communities on the Cape Flats.²¹⁰ Lavender Hill, previously a farming area named Hardevlei and Rondevlei, existed for many generations before forced removals.²¹¹ Prior to 1967 when people were moved to Lavender Hill, and the prior occupants were moved out of Lavender Hill, the people living on the land, although poor, were proud owners of 2,000 square metre

²⁰³ *Draft Cape Flats District Baseline and Analysis Report 2019 - State of the Environment* City of Cape Town, available at https://resource.capetown.gov.za/documentcentre/Documents/City%20research%20reports%20and%20review/Draft-CapeFlats-BaAR2019_Environment.pdf, accessed on 29 July 2021.

²⁰⁴ Statistics South Africa op cit note 197 at 3.

²⁰⁵ 'Coloured' refers to a 'phenotypically varied social group of highly diverse social and geographical origins'. See in: Mohamed Adhikari 'Contending Approaches to Coloured Identity and the History of the Coloured People of South Africa: Contending Approaches to Coloured Identity in South Africa and their History' (2005) 3 *History Compass* 1.

²⁰⁶ Statistics South Africa op cit note 197 at 3.

²⁰⁷ Ibid.

²⁰⁸ Faseegah Ahmed *Baseline study* New World Foundation, Cape Town, available at <http://newworldfoundation.org.za/whats-new/baseline-study/>, accessed on 1 March 2019.

²⁰⁹ Ian Edelstein, Robert Arnott & Andrew Faull 'Hotspot policing for murder and robbery. A Cape Town case study' (2020) 34 *Institute for Security Studies* 8.

²¹⁰ Nadine Bowers Du Toit *Development as Transformation: The local Church in Lavender Hill as Agent of Change in Post-Carnegie II Context* (unpublished Doctor of Theology thesis, University of Stellenbosch, 2005) 4. Bowers (at pg 4) indicates that residents trace their roots back to District Six, Lower Claremont, Windermere, Newlands, Plumstead, Simon's Town and Tramway Road, with their families being moved to Lavender Hill in the late 1960s.

²¹¹ Ibid.

piece of land. Those occupants practised subsistence farming with pigs, goats, sheep and poultry, and produced fruit, vegetables and flowers.²¹²

In 1967, in order to open up the space for people who were being forcibly moved to Lavender Hill, the farmers at Hardevlei and Rondevlei were offered paltry amounts of money.²¹³ The government of the day had plans to inhabit the area with people moved from District Six, Claremont and Wynberg, which had been designated whites-only suburbs.²¹⁴ In these close-knit communities of Hardevlei and Rondevlei – which became Lavender Hill – people knew each other, and cases of rape, grievous bodily assaults, murders and robberies were not daily occurrences like they are today.²¹⁵ People reportedly respected one another and treated each other with affection.²¹⁶ Because of subsistence farming, milk, cheese, butter, meat and eggs were plentiful, with residents saying that they were almost self-sufficient.²¹⁷

According to Appelt, some people who were forced to move to Lavender Hill were happy to make the change, having been promised new houses with modern amenities.²¹⁸ Women interviewed by Appelt explained that the District Six houses in which they lived were old and had wooden floors and no toilets, which meant they were excited to move into new homes with baths, toilets and running water inside.²¹⁹ When they moved to the area, they found the buildings were ice-cold with just sand around them. They were much further from work and had the double expense of travelling by taxi and train.²²⁰

Some families were torn apart, when family members with lighter skins used the opportunity of moving to take on a different ethnic identity from their darker-skinned family members, through ethnic reclassification.²²¹ Many South Africans today still have the scars of

²¹² W Dreyer & W Naidoo 'Area Study of Cape Town Vrygrond and Lavender Hill' (1984) 10b *Carnegie Conference Paper 9*.

²¹³ Ibid.

²¹⁴ Ibid 7. Dreyer & Naidoo (at pg 7) reports that the residents of Hardevlei and Rondevlei resisted the removals, but started to back down when they concluded that they may not get anything for their properties if they continued. Promises were made and reneged on, and rangers arrived telling the people still living in the area now known as Lavender Hill that their houses would be bulldozed if they did not move to Vrygrond the next day. Some of the people used the money paid for their homes and land and bought property in the Southern Hills estate. After council flats were built in the area, the properties were devalued and equity was lost.

²¹⁵ Ibid.

²¹⁶ Ibid 8.

²¹⁷ Ibid.

²¹⁸ Ilse Appelt *Narratives of Hope: Trauma and Resilience in a Low Income South African Community* (unpublished PhD thesis, University of Stellenbosch, 2006) 64.

²¹⁹ Ibid.

²²⁰ Ibid 64–5.

²²¹ Geoffrey C Bowker & Susan Leigh Star *Sorting Things Out: Classification and Its Consequences* (1999) 377. The authors (at pg 377) explain how people, 'mostly those classified coloured, could apply for reclassification to another racial category. Most of these applications were to be classified as white, although some were for reclassification to Indian or Chinese. Criteria were developed for determining a person's race'.

living through forced removals with stories passed on through generations.²²² The violence, intimidation, economic pressure, and other threats of the apartheid government, remain as deep wounds in their psyche.²²³ Forced removals contributed to animosity between ethnic groups, with some groups being favoured over others, contributing to the structural inequalities of today.²²⁴

3.5 SOCIO-ECONOMIC PROFILE

As one enters Lavender Hill, poverty and neglect is visible in the poorly maintained blocks of council flats and informal backyard dwellings. Social evidence of poverty includes children playing on the streets during the hours they should be at school, young teenage girls on street corners with babies on their hips, and other young people sitting around smoking and drinking early in the day.²²⁵ According to the latest census data, Lavender Hill has one of the highest unemployment rates (44 per cent) in the metropolitan area of Cape Town.²²⁶ The majority of households (58 per cent) have incomes of less than US\$198 per month.²²⁷

Unemployment, family dysfunction, alcohol and drug abuse²²⁸ are all interconnected and flourish in Lavender Hill. Poverty and unemployment, and the lack of positive adult role models, contribute to the attraction of joining gangs.²²⁹ According to Howell and Egley, ‘self-reported reasons for gang membership include social reasons, protection and instrumental or financial reasons’²³⁰ Family factors include poor parental management, familial criminality, and family members who are involved in gangs.²³¹ Having delinquent peers increases the likelihood of antisocial behaviour.²³²

²²² Ibid.

²²³ Ibid.

²²⁴ Ibid.

²²⁵ Researcher’s own observations.

²²⁶ Statistics South Africa op cit note 197 at 4.

²²⁷ Ibid.

²²⁸ Methamphetamine, commonly known as ‘tik’, is a popular drug on the Cape Flats. It is cheap, generational, and easy to access. Carin-Lee Masters ‘This is your brain on Tik’ *IOL* 20 June 2017 at 2:38pm, available at <https://www.iol.co.za/news/opinion/this-is-your-brain-on-tik-9883996>, accessed on 15 September 2018.

²²⁹ Marianne Brittijn ‘We’re not boys anymore, we need to be courageous: towards an understanding of what it means to be a man in Lavender Hill’ (2013) 27 *Agenda* 49–60.

²³⁰ James C Howell & Arlen Egley Jr ‘Moving Risk Factors into Developmental Theories of Gang Membership’ (2005) 3 *Youth Violence and Juvenile Justice* 336.

²³¹ Clare Sharp, Judith Aldridge & Juanjo Medina ‘Delinquent youth groups and offending behaviour: findings from the 2004 Offending, Crime and Justice Survey’ (2006) 14 *Home Office Online Report* 16–17, available at <https://www.escholar.manchester.ac.uk/uk-ac-man-scw:5b51>, accessed on 15 September 2019.

²³² Thomas J Dishion, Gerald R Patterson & Pamela C Griesler ‘Peer Adaptations in the Development of Antisocial Behavior. A Confluence Model’ in L R Huesmann (ed) *Plenum Series in Social/Clinical Psychology. Aggressive Behavior: Current Perspectives* (1994) 61–5.

3.5.1 Housing and amenities

There are 6 501 houses in Lavender Hill.²³³ Of the population, 82 per cent live in formal dwellings and around 24 per cent of people own their houses and owe no money on them.²³⁴ Housing is characterised by dilapidated council flats, referred to as courts, that were built during the apartheid period. Built from inferior materials, these buildings have not stood the test of time. Neglect by the local council has contributed to the dilapidation of these buildings. People claim these apartments have not been upgraded in twenty years by the council, which is the landlord.²³⁵ Tenants lack the funds to maintain their homes, which become run down and derelict.²³⁶ A mayoral committee member for assets and facilities management has said that only 36 per cent of tenants paid rent in June 2018, impacting on resources for upgrades.²³⁷

Usually three stories high, the courts are named after streets from District Six.²³⁸ Children of the courts entertain themselves on concrete and sand. There are few walls to keep the children from wandering onto the streets and falling prey to stray bullets or speeding vehicles.²³⁹ Some slabs or whole panels are missing from concrete walls, providing little security from criminals.²⁴⁰ In addition to the courts, there are semi-detached and stand-alone privately owned and council houses. The property website, Property24, indicates that houses in the area fetch between R200 000 and R1 million,²⁴¹ depending on the size, area and condition of the homes. Houses seldom open onto the streets, with many surrounded by high walls, some with spikes to protect the occupants from the crime of Lavender Hill.²⁴²

Of the population, 7.3 per cent live in backyard dwellings.²⁴³ Backyard dwellers generate an income for the primary tenant or landlord, often covering the expenses of the

²³³ Statistics South Africa op cit note 197 at 5.

²³⁴ Ibid.

²³⁵ Mary-Anne Gontsana & Thembela Ntongana 'Cape Towns Neglected Council Flats' *GroundUp* 24 July 2018, available at <https://www.groundup.org.za/article/life-council-flat/>, accessed on 21 October 2019. Gontsana writes in this article that a tenant in Lavender Hill who pays R300 per month, reports that it took nine years of her complaining to the City for them to come and fix the door frame which was broken and meant the door could not be closed. Another tenant has had a leaking tap which had not been fixed. She would like to leave the community because her daughter was caught in crossfire, but she can't because of the cost.

²³⁶ Ibid.

²³⁷ Ibid.

²³⁸ Names such as Drury Court, Dover Court, Fawley Court, Frere Court.

²³⁹ For an example of how children become collateral damage in gang warfare due to a lack of walls to keep them safe, see: Genevieve Serra 'Eight shot in one week in Lavender Hill' *IOL* 4 June 2021, available at <https://www.iol.co.za/weekend-argus/news/eight-shot-in-one-week-in-lavender-hill-Oded3410-9812-4fcf-9152-f4a3aea06a41>, accessed on 25 July 2021.

²⁴⁰ Researcher's own observations.

²⁴¹ Between US\$ 12 345 and US\$ 61 728.

²⁴² Researcher's own observations.

²⁴³ Statistics South Africa op sit note 197 at 5.

household, with the primary tenant being unemployed and relying on social grants.²⁴⁴ Tenants contribute to overcrowding and the subsequent social problems.²⁴⁵ Efforts are being made by the City of Cape Town to build free-standing houses, and semi-detached and walk-up apartment blocks in the area.²⁴⁶ There are constant fears expressed of evictions when people default on payments²⁴⁷. According to the 2011 census, 9.4 per cent of people live in informal houses, not in backyards.²⁴⁸ The neighbouring communities of Vrygrond and Capricorn Park are rapidly expanding and include a high-density area of informal houses and shacks.²⁴⁹ These overcrowded areas provide an escape route for criminals.

With less than 50 per cent of people not having ownership of their houses, they are unable to leverage capital and ensure security of tenure. They are therefore more vulnerable to various forms of criminality.²⁵⁰ In most instances, the council is the landlord, but there is little to no relationship between the landlord and the tenant. Evidently, there is little effort to ensure that people live with dignity, which would help create a sense of duty to care for the housing provided.²⁵¹ With regard to amenities, 91 per cent of households have access to piped water in their dwelling or inside their yard; 83 per cent of households have access to a flush toilet, connected to the public sewer system; 94 per cent of households have their household refuse/garbage removed at least once a week; and 99 per cent of households use electricity for lighting in their dwelling.²⁵²

3.6 ROADS AND TRANSPORT

There are two main through-roads into Lavender Hill from the M5 freeway, namely Hek Road and Military Road. These roads are tarred, but many of the roads in the housing estate are cast concrete roads which have not been maintained and are full of potholes. With little drainage, there is flooding in winter. Roads serve as a playground for the children, because of the lack

²⁴⁴ Charlotte Lemanski 'Augmented informality: South Africa's backyard dwellings as a by-product of formal housing policies' (2009) 33 *Habitat International* 473.

²⁴⁵ Alison Tshangana *Local Government Position on Municipal Responses to Backyarders and Backyard Dwellings* (2014) 27.

²⁴⁶ Barbara Maregele 'More than half the plots identified for backyarders in Cape Town's Southern Suburbs are on Wetlands' *Groundup* 12 December 2018, available at <https://www.groundup.org.za/article/more-half-plots-earmarked-backyarders-cape-towns-southern-suburbs-are-wetlands/>, accessed on 15 May 2019.

²⁴⁷ *Ibid.*

²⁴⁸ Statistics South Africa op cit note 197 at 5.

²⁴⁹ Marco Andolfi *Corporate Social Responsibility: a contribution to development* (unpublished MPhil in Development Studies, University of Cape Town, 2011)

²⁵⁰ Sarah Watson & Colleen Ryan 'Building Resilience Through Social Cohesion: A Case Study in Lavender Hill' *Community Resilience and Vulnerability in South Africa: Perspectives from Civil Society on Local Governance in South Africa* (2014) 77.

²⁵¹ Researcher's own observations.

²⁵² Statistics South Africa op cit note 197 at 7.

of safety on fields and few secure playgrounds, which means that children are at risk of being in accidents with motor vehicles or caught in gun shot cross-fire.²⁵³ Small children as young as two walk the streets of Lavender Hill.²⁵⁴ Many of the roads are named after religious saints, such as St Christopher Avenue, St Agatha Crescent and St Thomas Road, a nod to the connection to the church.

Lavender Hill is relatively far from industry or work opportunities in Cape Town. Taxis are an expensive form of transport and provide easy access to transport routes, but are prone to violence and turf wars. Private buses provide transport, but often fall victim to taxi violence. Lavender Hill is relatively far from the Metrorail, but this has in any case become a defunct transport option for Capetonians. Cable theft, arson attacks on trains,²⁵⁵ and the threat of violent crimes, coupled with increasing demand for the limited service, has made rail an unreliable transport option.²⁵⁶

3.7 EDUCATION

The 2011 census indicates that three-and-a-half per cent of the population of Lavender Hill have never received any education; thirteen per cent went to, but did not complete, primary school; eight per cent attended and finished primary school; and 51 per cent went to high school, but did not finish.²⁵⁷ One in five residents have matriculated²⁵⁸ and three per cent of the population of Lavender Hill have some form of tertiary education.²⁵⁹ Schools include: Lavender Hill High, Hillwood Primary, Levana Primary, and Prince George Primary. Schools are reportedly often closed due to gang shootings, with one article referring to ‘schools in a warzone’.²⁶⁰

²⁵³ Children are encouraged by youth workers to go straight home after being given a meal to avoid being victims of violence, but this caution is often ignored and children continue to play on the field known as ‘the battlefield’. See: Brenton Geach ‘Cape Flats families bury their children on Youth Day’ *GroundUp* 18 June, available at <https://www.groundup.org.za/article/victims-gang-violence-buried-youth-day/>, accessed on 25 July 2021.

²⁵⁴ Researcher’s own observations.

²⁵⁵ Tammy Petersen ‘Cape Town’s burning trains: Here’s what could be behind the destruction’ *News24* 3 August 2018, available at <https://www.news24.com/news24/SouthAfrica/News/cape-towns-burning-trains-heres-what-could-be-behind-the-destruction-20180803>, accessed on 20 November 2019. It is alleged in this article that the arson attacks on trains is a form of economic sabotage with a political motivation to destabilise the Passenger Rail Agency of South Africa (PRASA), while it tries to ‘clean up’ its board.

²⁵⁶ Aron Hyman & Farren Collins ‘Criminals have won: chamber as Cape Town’s busiest train line suspended’ *Times Live* 11 December 2017 at 4.35 pm, available at <https://www.timeslive.co.za/news/south-africa/2017-12-11-criminals-have-won-chamber-as-cape-towns-busiest-train-line-suspended/>, accessed on 20 August 2019.

²⁵⁷ Statistics South Africa op cit note 197 at 3.

²⁵⁸ The 2011 census revealed that 28,4% of the general population had matric as compared to 28,6% in the Western Cape. See in Statistics South Africa op cit note 197 at 33: Statistics South Africa ‘City of Cape Town Census Suburb Lavender Hill’ *South African Census 2011* (2012) 2.

²⁵⁹ Ibid.

²⁶⁰ Bronwyn Davids ‘Lavender Hill teachers cry for help’ *IOL* 30 May 2017 at 1.23 am, available at <https://www.iol.co.za/capeargus/news/lavender-hill-teachers-cry-for-help-9422631>, accessed on 20 May 2020.

New World Foundation (NWF) has the biggest educare²⁶¹ facility in the community. The NWF educare outreach programme gave birth to many other pre-schools in the area, but no longer has an educare outreach or support programme.²⁶² There are many home-based educare facilities providing a safe place for children and a source of income for the women running these facilities. These home-based educare facilities seldom qualify for funding from the state and so have limited resources.²⁶³

Schools remain under-resourced, with state schools relying on a government subsidy and fees from parents, the latter of which cover the costs of running or improving the school.²⁶⁴ State subsidies do not cover these costs. In a place like Lavender Hill, where unemployment is high, it is impossible to ask for school fees. Schools in the previously white suburbs can ask much higher fees and can expect a decent payment rate, whereas pupils attending schools in Lavender Hill often pay no school fees.²⁶⁵

The principal of Lavender Hill High School won a prestigious award at the National Teacher Awards in 2016 for the after-school programme run by his school.²⁶⁶ The school offers athletics, softball, rugby, cycling, singing, and dancing. Grades 10 and 11 receive homework support. The school employs a social worker to help with psychosocial needs. They have partnered with Virgin Active Gym and offer a gym programme during life orientation.²⁶⁷

3.8 POLICING IN LAVENDER HILL

According to 2020 crime statistics from the South African Police Service (SAPS) for Steenberg Police Station (the closest police station to Lavender Hill), there were 55 murders, 49 sexual offence crimes, 54 attempted murders, 79 assaults with intent to inflict grievous bodily harm,

Dauids explains how gangsters intimidate school-going children and children who drop out of schools are easy prey for gangsters. According to Dauids in 2017, a teacher wrote to the Cape Argus that the trauma was intense, with shooting taking place outside the school's offices. Teachers were reporting to the Department of Education in Ottery, rather than going to the schools. They feared for their lives (ibid).

²⁶¹ Educare refers to educational facilities for children below school-going age. Some of these facilities offer childcare, rather than education.

²⁶² Informal discussions with staff from New World Foundation (NWF).

²⁶³ Informal educare centres do not meet the requirements for registration or a subsidy, and if they do, there is a tight budget and not enough funding. They are an income generating opportunity for some women, who take care of other people's children to earn money, but most informal crèches do not meet the fire and safety requirements. Cecelia Johnson 'Raising South Africa: informal creches are desperate for aid' GroundUp 13 January 2017, available at <https://www.groundup.org.za/article/raising-south-africa-informal-creches-are-desperate-aid/>, accessed on 11 February 2021.

²⁶⁴ Samuel Nkosi *The implications of being declared a no fee school* (Master's thesis in Education, University of Pretoria, 2011).

²⁶⁵ Ibid.

²⁶⁶ This demonstrates that there are good schools and efforts to ensure that children are occupied after school.

²⁶⁷ Tiyese Jeranji 'After-school is cool here' *People's Post* on 15 November 2016, available at <https://www.news24.com/SouthAfrica/Local/Peoples-Post/after-school-is-cool-here-20161114>, accessed on 3 March 2019.

310 common assaults, 81 cases of robbery, 141 cases of robbery with aggravated circumstances, and 2,444 drug related cases in that year.²⁶⁸ Murder statistics increased from 53 in 2019, sexual offences decreased from 68 in 2019, and attempted murder decreased from 108 in 2019. The national average of murders is 30 to 40 per 100 000 and in Cape Town it is 69 per 100 000.²⁶⁹

Steenberg Police Station has the greatest responsibility for policing in the area, with Muizenberg Police Station and Grassy Park Police Station covering parts of Lavender Hill. Policing areas are designated by roads. Although within walking distance,²⁷⁰ Steenberg Police Station is not close enough for an area that is constantly under the siege of crime and violence. The Prince George Drive (M5) expressway stands between the people and the police station.

Redpath and Nagia-Luddy argue that the model for allocating resources to police stations is flawed, with more police being allocated to wealthier communities than to poorer communities, even though there is more crime and a higher density of people in the latter.²⁷¹ Redpath and Nagia-Luddy calculate that the Steenberg Police Station has 215 police per 100 000 people, as compared to upmarket Camps Bay with 959 police per 100 000.²⁷²

Operation Thunder was announced by national Minister of Police, Bheki Cele, in his 2018 budget speech. It is a mechanism through which police members from specialised units in other provinces are brought in to deal with crime in the Western Cape.²⁷³ Under Operation Thunder, Lavender Hill is one of the communities with a movable police ‘base camp’, set up

²⁶⁸ Crime Stats SA ‘Police Precinct Crime Profile’ 2011/2020’, available at, <http://www.crimestatssa.com/provinceselect.php?sortorder=&ShowProvince=Western+Cape&go=1&Precincts%5B%5D>, accessed on 25 January 2020.

²⁶⁹ Barbara Maregele ‘Where do the children play? Lavender Hill’s Derelict Facilities’ *Sunday Times* 22 April 2016 at 11.57 pm, available at <https://www.timeslive.co.za/sunday-times/news/2016-04-22-where-do-the-children-play-lavender-hills-derelict-facilities/>, accessed on 28 February 2019; Marvin Charles ‘Cape Town has SA’s highest murder rate’ IOL 12 April 2019, available at <https://www.iol.co.za/capeargus/news/cape-town-has-sas-highest-murder-rate-21018353>, accessed on 15 February 2021.

²⁷⁰ Steenberg Police Station is 1.2 kilometres from the local clinic.

²⁷¹ Jean Redpath and Fairouz Nagia-Luddy ‘Unconscionable and irrational’: SAPS human resource allocation’ (2015) 53 *SA Crime Quarterly* 18.

²⁷² Ibid. According to Redpath & Nagia-Luddy (at pg 18) the South African Police Service (SAPS) allocation is based on a theoretical requirement, calculated on the total time taken for all tasks done at a particular police station, as affected by factors such as presence of gangs or influx of daily commuters. Time is converted into numbers of people and this is called the Theoretical Human Resource Requirement (THRR). From the THRR, the number of police and rank levels per police station are determined. However, the THRR number is larger than the budget permits and on average only 68 per cent of the calculated THRR is available for each police station. According to the police calculations, this means that police stations are perennially understaffed. Other flaws in the allocation of resources include counting some factors twice, which contributes to the higher number of police in wealthier areas than in poorer communities. Redpath & Nagia-Luddy (at pg 19–20) point out that some factors should carry a heavier weight, such as number of gang-related crimes and the size of informal settlements.

²⁷³ Kaylynn Palm ‘WC govt calls for more police in gang-stricken areas’ *EWN* 8 September 2018, available at <https://ewn.co.za/2018/09/08/wc-govt-calls-for-more-police-in-gang-stricken-areas>, accessed on 3 March 2019.

to address gang violence.²⁷⁴ Operation Thunder has led to over 11 000 arrests, 3 000 rounds of ammunition and 130 illegal firearms being confiscated, and a decrease in murder rates in the Cape Flats.²⁷⁵

3.9 HEALTH AND WELFARE FACILITIES

The Lavender Hill Clinic is a primary health care facility providing HIV, AIDS and TB-related treatment, care and support services.²⁷⁶ The clinic monitors and proactively works towards the improved health and wellbeing of families in the area. It provides HIV counselling and testing and does further tests when necessary to determine CD4 counts.²⁷⁷ Patients are referred to the Retreat Community Health Centre for antiretroviral (ARV) treatment initiation and on-going treatment.²⁷⁸ The centre also provides porridge and nutritional milkshakes to underweight patients and those on TB and HIV treatments, and performs medical male circumcisions.²⁷⁹ In 2017, the Lavender Hill Clinic was temporarily closed, because its employees were caught in gunshot crossfire.²⁸⁰ Staff were moved to other clinics and counselling was offered to those who remained at the clinic. The clinic now has bulletproof windows.²⁸¹

The NWF is the largest non-government organisation (NGO) in the area, offering a range of services and housing other organisations.²⁸² Founded in the 1980s, the organisation has more than 30 years' experience of serving the people of Lavender Hill.²⁸³ The organisation's vision is to build a new world of hope, justice and peace through mobilisation, training and networking, and cooperating with partner organisations.²⁸⁴ The key focus is on broad life education, life skills training and awareness programmes²⁸⁵. The current programmes of the organisation include an early childhood development centre, a women's programme, a youth after-care programme and an advice office.²⁸⁶ NWF runs an advice office to deal with paralegal cases. An auxiliary social worker acts as a first responder to many people dealing

²⁷⁴ Ibid.

²⁷⁵ Thembela Ntongana 'Police claim success for Operation Thunder' *Groundup* 22 August 2018, available at <https://www.groundup.org.za/article/police-claim-successes-operation-thunder/>, accessed on 25 January 2020.

²⁷⁶ 'Lavender Hill Clinic', available at search.info4africa.org.za, accessed on 10 February 2019.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ Ibid.

²⁸⁰ Maregele op cit note 269.

²⁸¹ Ibid.

²⁸² Researcher's knowledge of the area.

²⁸³ From <http://newworldfoundation.org.za/>, accessed on 20 March 2018.

²⁸⁴ Ibid.

²⁸⁵ New World Foundation *Mission Statement*, available at <http://newworldfoundation.org.za/what-we-do/mission-statement/>, accessed on 3 March 2019.

²⁸⁶ New World Foundation *Publications*, available at <http://media.withtank.com/7cca7f4c5d.pdf>, accessed on 3 March 2019.

with problems, from where people are referred to appropriate services. The organisation also coordinates support groups for women.²⁸⁷

The street and court committees play a role in identifying families at risk. Initially, the committees were established for residents to identify and resolve local problems.²⁸⁸ They now organise social events to build spirit, clean up the area, and maintain buildings. Aware that a collective voice is more powerful than individual complaints, the committees appeal to their local councillors to improve buildings.²⁸⁹

Cape Flats Development Association (CAFDA) used to offer social work services for children and families from the offices of the NWF, but these services recently closed and are now being offered by the Department of Social Development (DSD), from its Retreat local office.²⁹⁰ The DSD website says that the challenging environment is having an adverse effect on many of its social partners and NGOs. Rape Crisis, which had a satellite office in the same building, had to close down.²⁹¹

The NGO, Philisa Abafazi Bethu,²⁹² is run by Lucinda Evans and a group of volunteers.²⁹³ Faced with constant threats of crime against the organisation, it continues to offer women empowerment programmes, child protection, and a family strengthening centre. Starting from her garage ten years ago, the organisation recently signed a 99-year lease with Lavender Hill High and operates from five converted shipping containers.²⁹⁴ Lucinda Evans is regularly in the media, championing the rights of women; as a social justice activist she has won several awards, including being named on the BBC's list of 100 women of 2019.²⁹⁵

Where Rainbows Meet is an NGO often cited as playing a role in challenging the authorities on their treatment of Lavender Hill. It also focuses on Vrygrond. Founded in 2008,

²⁸⁷ Ibid.

²⁸⁸ Watson & Ryan op cit note 250 at 82.

²⁸⁹ Ibid.

²⁹⁰ Western Cape Government 'DSD to expand own services in Lavender Hill area and surrounds', available at <https://www.westerncape.gov.za/news/dsd-expand-own-services-lavender-hill-area-and-surrounds>, accessed on 20 September 2019.

²⁹¹ This was established during the process of conducting the research interviews.

²⁹² Philisa Abafazi Bethu means 'Heal our Women'.

²⁹³ Chevon Booyesen 'Healing Our Women NPO on a mission to uplift Lavender Hill' *Cape Times* 13 April 2018 available at <https://www.iol.co.za/capetimes/news/healing-our-women-npo-on-a-mission-to-uplift-lavender-hill-14416296>, accessed on 03 March 2019. In this article Booyesen reports that Lucinda Evans has been acknowledged through awards for helping women in Lavender Hill who are victims of domestic and sexual violence. According to Booyesen, Evans is well-known for saying 'I will bring lavender back to the hill'. Booyesen reports Evans bravely went to every drug lord's house in the area and told them she will not tolerate the violation of her organisation.

²⁹⁴ Ibid.

²⁹⁵ Coloured South Africa 'Lucinda Evans is one of BBC's 100 Most Influential Women in the World', available at <https://www.colouredsa.co.za/ck/lucinda-evans-is-one-of-bbcs-100-most-influential-women-in-the-world>, accessed on 24 May 2020.

it aims to improve the lives of people, and help them gain knowledge and experience from working in the organisation. It is mostly staffed by volunteers who are local and international. Mymoena Scholtz, the director of the organisation, champions women's rights and focuses on Vrygrond and Lavender Hill.²⁹⁶

Music Works is an NGO in Lavender Hill, which uses music to heal and divert young people away from the attraction of gangs, drugs and alcohol. It runs music therapy sessions, marimba bands and gum boot dancing groups.²⁹⁷

Smart Kingdom Kids Academy, run by Heather Adonis, is working to ensure that children are equipped and are successful in their futures. Using her personal experiences, Heather Adonis leads an organisation that tries to mitigate the local conditions, and does this through music, art and movement. Children are fed, assisted with their homework, and given opportunities to play sport.²⁹⁸

There are several youth programmes, with a particular focus on diverting children and youth away from gangs and keeping them occupied in the afternoons – while their parents are at work, immersed in alcohol and drugs, or physically present yet absent. These include youth clubs for doing homework, soccer clubs, and youth groups that focus on developing leadership skills. There are also holiday programmes to keep young people busy and off the streets during the holidays. One of these, called Guardians of the National Treasure, is run by Ralph Bouwers, who grew up in Lavender Hill.²⁹⁹

Staff in NGOs can become victims of gang violence if they interfere with the economic activities of gangs. One known example is Soraya Nordien, who was shot dead in 2012 in her boyfriend's shack, because of her work with Women Hope 4 the Nation, an organisation offering counselling services to victims of domestic violence and child abuse.³⁰⁰ She was threatened prior to her killing by a known gangster and her colleague was told that she is next on the list.³⁰¹

²⁹⁶ Where Rainbows Meet, available at <http://www.whererainbowsmeet.org/>, accessed on 20 May 2019.

²⁹⁷ Music Works, available at <http://musicworks.org.za/>, accessed on 20 May 2019.

²⁹⁸ Smart Kingdom Kids Academy, <http://www.skacademy.co.za>, accessed on 03 March 2019; Cape Talk 'Lead SA: Lavender Hill Healing from addiction Podcast with Heather Adonis' 17 February 2019, available at <http://www.capetalk.co.za/podcasts/121/weekend-breakfast-with-africa-melane/185761/lead-sa-lavender-hill-healing-from-addiction>, accessed on 3 March 2019.

²⁹⁹ The Guardians of the National Treasure <https://www.guardiansofthenationaltreasure.org/team>, accessed on 20 May 2019.

³⁰⁰ Watson & Ryan op cit note 250 at 77.

³⁰¹ Ibid.

3.10 RELIGIOUS INSTITUTIONS

Religion plays an important role in Lavender Hill.³⁰² Boucher found that even though role players in Lavender Hill whom she interviewed believed that the church should play an important role in addressing socio-economic challenges, the church was often more of a hindrance than a help. Contributions that were noted include value formation, counselling, and preventative life skills among the youth.³⁰³ The role of the church congregation in healing people and communities affected by violence and crime was seen as essential, although there was more focus on the ‘heavenly and the spiritual’.³⁰⁴ For this reason, the churches appear to be reluctant to partner with structures outside of the church. However, the church is seen as bringing the message of hope and love to wounded people.³⁰⁵ Mosques similarly are valued institutions in the community, with a smaller percentage of the population identifying as Muslim.³⁰⁶

3.11 SPORTS AND RECREATION

Lavender Hill has 13 parks, a sports complex that includes four soccer fields, two netball and two basketball courts, as well as a cricket and a rugby field. These parks and sportsgrounds are in a poor state. Parks and sports fields are dangerous places for young children to play. The field in Blode Street is often referred to in the media as ‘the battlefield’ or the ‘killing field’.³⁰⁷

According to Daniels, the chairperson of the Lavender Hill Civic Association, the city spent R2 million on the sports complex. However, it is difficult for people who live in one part of Lavender Hill to get to the sports field for fear of being attacked by gangsters. He says that even if people are not gang members, the gangsters on the other side will not allow people from one side to walk through their turf to the field.³⁰⁸ Goliath, a community member, says that gangsters use the park to watch people walk to the shops so they can rob them.³⁰⁹ The parks are used as a getaway, because they are easy to run across and the police vans often lose the

³⁰² There are about 11 Churches in Lavender Hill: St Paul’s Church of England in South Africa; St Mark’s Anglican Church; Lavender Hill New Apostolic Church; Old Apostolic Church; Lavender Hill Metropolitan Evangelistic Church; Pentecostal Holiness Church; Southern Hills Baptist Church; Rondevlei Methodist Church; Hillview Faith Assembly; St Anne’s Catholic Church; and Universal Church of the Kingdom of God.

³⁰³ For more on the role of the church in Lavender Hill, see: Nadine Bowers Du Toit ‘Action or apathy? Theological perspectives and their influence on the church’s engagement with poverty – A case study from the Cape Flats’ in Ignatius Swart et al (eds) *Religion and Social Development in Post-Apartheid South Africa* (2010) 436.

³⁰⁴ Ibid.

³⁰⁵ Ibid 441.

³⁰⁶ Mosques include the Masjied Darur Rahmaan Mosque and Seawinds Mosque.

³⁰⁷ Carl Collison ‘Drag queen’s push against gangs’ *Mail and Guardian* 21 June 2019.

³⁰⁸ Maregele op cit note 252.

³⁰⁹ Ibid.

gangsters through the parks. People feel that parks and fields should be fenced to prevent the use of these spaces by gangsters.³¹⁰

3.12 CONCLUSION

This chapter contextualises the history of forced removals and the impact of this strategy by the apartheid government on the people of Lavender Hill. The consequence is that people have been driven into a spiral of poverty compounded by the breakdown of social norms, enforced by a system that had developed over generations in the areas of District Six, Claremont and others. This created ideal conditions for gangsterism and violent crime to thrive.

The complex effects of apartheid segregation, and the damage it has done to the psyche and social fabric of people that were subjected to suppression and economic exclusion, remain deeply entrenched. In fact, negative effects appear to have escalated, despite the change to a democratic government in 1994. Thirty-five years after The Second Carnegie Report on poverty in South Africa,³¹¹ unemployment remains relatively unchanged. Violence is indiscriminate and affects the most basic of services. Services that have managed to remain open now face closure, as professionals refuse to risk their lives to render a service. Health and welfare services offer a safety net, but the need is so great that it is impossible to alleviate the grinding effects of poverty and neglect.

³¹⁰ Ibid.

³¹¹ Francis Wilson & Mamphela Ramphela 'Uprooting Poverty: The South African Challenge' *Report for the Second Carnegie Inquiry into Poverty and Development in Southern Africa* (1989).

CHAPTER FOUR: RESEARCH DESIGN AND METHODOLOGY

4.1 INTRODUCTION

While conceptualising this research, it was important for me to ensure that the voices of women were heard. Having explored scholarship on legal consciousness and legal cynicism, I established that legal consciousness is shaped by the experiences people have engaging with systems in and around the law. From the literature review I determined that legal cynicism, a sub-set of legal consciousness, clarifies the factors that contribute to people's resistance to engaging the legal system, and the impact this has on responses to crime and crime prevention. This understanding provided the foundation for determining the choices I made when conducting this study. Similarly, the literature review I conducted of Lavender Hill ensured that I had a good understanding of the locality where I conducted my study. The first three chapters identified that scholarship is remiss in providing answers to my research question: how do women in a poor urban community, like Lavender Hill, resolve disputes and problems in and around the law?

As a socio-legal study, I am aware that this research is influenced by my feminist perspective and experiences as a humanities scholar, with extensive experience in the access to justice sector.³¹² With this in mind, this chapter focuses on the decisions I made with regard to the design and methodology of the study. I start by explaining my reasons for embarking on an empirical study, and the value of interviewing women in their context. It is important to emphasise the value of a qualitative study of this nature, in contributing to the development of theory and providing a deeper understanding of the context and people being studied.

After explaining the empirical research process, I also describe the sampling methods, the method of data collection and data analysis, as well as my reasons for selecting these. This chapter will indicate that I carefully considered the data sources and research tools to answer the research question. In making these decisions, I cautiously considered the context and the potential challenges. I have not taken lightly the opportunity I was afforded to hear from women their experiences of problems in the community and how they resolve these. The women interviewed for the most part share generously. Lastly, this chapter explores the ethical considerations important in a study of this nature.

³¹² Reza Banakar & Max Travers 'Introduction to Theory and Method in Socio-Legal Research' in Reza Banakar & Max Travers (eds) *Theory and Method in Social-Legal Research* (2005) x. Reza Banakar & Max Travers (at pg x) argue that we should not 'underestimate the achievements of socio-legal researchers in using various empirical methods to study what is legal about legal processes, legal institutions and legal behaviour'.

This dissertation starts from the premise that in all communities' legal entitlements are not starting points for resolving disputes, and most people will try alternatives to solve problems before engaging the legal system. For this reason, when conducting the interviews and gathering data, I explore the factors that influence women's decisions, seeking to understand the predominant problems and processes of problem solving and dispute resolution. I started this research with the assumption that women living with high levels of poverty and patriarchy, where violence is rife and resources are inaccessible, will be driven to solve problems outside of the law.

4.2 APPROACHING RESEARCH DESIGN AND METHODOLOGY IN THIS STUDY

I conceptualised this study against the background of my experience of working with women in rural communities over the past 20 years³¹³, and prior to that with urban women. Legal consciousness is complex to trace, and in this instance I determined that an empirical approach would generate the most useful data.³¹⁴ I therefore focused on the collection of data using qualitative research methods. The value of qualitative studies in a thesis of this nature 'is their powerful ability to study significant problems and situations, often shaping and advancing useful questions of policy and practice'.³¹⁵ Qualitative research is also able to answer questions about the meaning, perspective and standpoint of the participants.³¹⁶

My bachelor's degree in social work has entrenched in me an appreciation for the immense value of field work and spending time with the people one seeks to understand. The literature study of Lavender Hill, which is documented in chapter three, provides context for the choices I made when conducting this research. I did not set out to test a hypothesis, although I did start with assumptions based on the literature review and my own work experience, which informed some of the choices I made in my approach to the study. I purposely intended through this study and the use of interviews to produce thick anecdotal accounts that describe the

³¹³ I have worked for the Social Change Assistance Trust (SCAT) for 20 years. The organisation has a strategy that promotes gender equality. Prior to that I worked at the Black Sash which at the time was a woman's human rights organisation, in London as a child protection social worker, and at the SANCA Alcohol and Drug Centre as a community worker.

³¹⁴ For information on empirical research I consulted: Hazel Genn, Martin Partington & Sally Wheeler *Law in the Real World: Improving Our Understanding of How Law Works. Final Report and Recommendations* (2006); Joseph A Maxwell 'Designing a qualitative study' in Leonard Bickman & Debra J Rog (eds) *The SAGE handbook of applied social research methods* (2009) 214–253; Paddy Hillyard 'Law's Empire: Socio-Legal Empirical Research in the Twenty-First Century' (2007) 34 *Journal of Law and Society* 266–79.

³¹⁵ Elizabeth B Kozleski 'The Uses of Qualitative Research: Powerful Methods to Inform Evidence-Based Practice in Education' (2017) 42 *Research and Practice for Persons with Severe Disabilities* 21.

³¹⁶ Karin Hammarberg, Maggie Kirkman & Sheryl de Lacey 'Qualitative research methods: when to use them and how to judge them' (2016) 31 *Human Reproduction* 499.

experience and knowledge of the women interviewed and their life in Lavender Hill, as well as their views of the place where they live.

Using inductive reasoning, I drew conclusions from my observations, which are interspersed in the analysis of data and interwoven, adding to the rich tapestry which is the story of women's legal consciousness in Lavender Hill. Through data collected, categories of meaning were progressively identified and developed. Media, social media and film helped me traverse the physical dangers of moving around in Lavender Hill, and the inadequacy of not having the local knowledge which would make it possible to some extent ensure my safety in the community – while conducting research and making observations.

4.3 REFLEXIVITY

Qualitative research, especially when engaging directly with participants of the research, requires a continuous process of reflexivity.³¹⁷ As the interview questions were developed, I considered the assumptions I was making about the potential respondents and examined my belief systems, and how these affected the types of questions I wanted to ask. The research tool was one of the most important elements of the study, and I remained aware that to ensure I would generate useful data, I would have to pay particular attention to this part of the process. With this in mind, I remained conscious of my own biases, which during the data analysis phase could affect my reading of the data. I recognised that my knowledge claims are conditioned and partial.³¹⁸ This includes reflecting on my personal theoretical standpoints, such as feminism and social justice activism, and how these have shaped my identity as a researcher. I therefore made every effort to remain impartial when women expressed views contrary to my own political and social beliefs. As I commenced this journey, I continuously reflected on my own judgements of the choices women make to survive their circumstances.

Aware of my race and privilege as an educated white woman conducting research in a predominantly poor, coloured community, deeply scarred by apartheid, I was conscious that the participants' responses to the questions may not reflect their true situation. I was cognisant that in a short interview it is difficult to build up trust, and for this reason women may fear judgement from me as an unknown person and possibly withhold useful information. I was

³¹⁷ Mariam Attia & Julian Edge 'Be(com)ing a reflexive researcher: a developmental approach to research methodology' (2017) 4 *Open Review of Educational Research* 38; Paul Lichterman 'Interpretive reflexivity in ethnography' (2017) 18 *Ethnography* 36–8. According to Attia & Edge (at pg 38) 'reflexivity involves making the research process part of the focus of the enquiry and understanding that the researcher and the interviewee are jointly involved in knowledge production'.

³¹⁸ Ibid.

also mindful that women interviewed might fear sharing information about involvement in actions that are illegal or perceived to be immoral, out of fear that I would expose them. For this reason, I anticipated that the respondents may shape their stories to fit perceptions of what they think I would view reasonable or acceptable.

When women spoke about disputes and problems, it was difficult to remain silent, especially when they did not ask for solutions. The choices women make when faced with the challenges of daily life in Lavender Hill cannot be compared with any other. On reflection, I remained cognisant of the uniqueness of this community and that although there are similarities to other localities on the Cape Flats, each neighbourhood has its own defining features. The data generated by the interviews was gruelling to analyse and I often had to take emotional breaks to be able to continue with the process, and remain true to the integrity of what I was trying to achieve. It often took encouragement from my supervisor, colleagues and friends to continue the process, and value their reminders that I owed it to the women I had interviewed to share their stories through my thesis.

It was hard to go unnoticed in the community, and even when I tried to sit in the waiting room while waiting to meet one of the people working at NWF, the free flow of conversation between people quietened due to their awareness of me, this stranger in their midst. Often a greeting in Afrikaans with a quick joke or acknowledgement of a small child relaxed the atmosphere and would ease the conversation. Women spoke fast and in the vernacular often referred to as Kaaps,³¹⁹ which is challenging to understand for a predominantly English-speaking person, whose Afrikaans language ability is mostly academic³²⁰ rather than colloquial. Transcripts helped to ensure that the stories could be analysed and I could take the time to understand the vernacular in context.

³¹⁹ Adam Cooper 'You can't write in Kaapse Afrikaans in your question paper ... The terms must be right: race and class-infused language ideologies in educational places on the Cape Flats' (2018) 7 *Educational Research for Social Change* 32. According to Cooper (at pg 32) 'Kaaps is a vernacular that emerged as a language of the enslaved, who wanted their own language that was different from the Afrikaans of their 'masters'. Today, it is spoken by academics, the working class and gangsters alike, and has received more recognition for being a language in its own right since the 1970s. The language is imbued with class and race-based associations, linked to the history of apartheid and its policies. Afrikaans was seen as a pure language and Kaaps a mix of Dutch, English, indigenous Khoi and San languages, and the words of African and Asian slaves, as well as the creole Portuguese people. It was seen as a mixed language for a mixed race'.

³²⁰ I studied my Social Work degree in Afrikaans at the then University of Port Elizabeth, now known as the Nelson Mandela University which was a bi-lingual campus in the 1980s. This meant that at that time half the courses were offered in Afrikaans and the other half in English. Social Work was designated an Afrikaans course, as was Anthropology, Sociology and Political Science – all subjects I took as part of my course.

4.4 DATA COLLECTION

I chose five main sources for data collection: literature; print media and social media in the form of *YouTube* videos; film; interviews with women that live in the community and women who work in the community; and observations while conducting interviews. The use of diverse methods of data collection ensured triangulation.³²¹ The biggest challenge with having various sources of data is analysing the vast amount of information. The interviews were the most valuable source of data and provided the rich anecdotes which can be found in chapters five to eight.

4.4.1 Literature: Primary and secondary sources

I reviewed literature to find data which either validated or challenged an observation or conclusion from other data such as the interviews, media and my observations. For the literature, I used mostly secondary data sources, and some primary sources where they were of value to the study – such as police statistics. A valuable primary source of literature was a book called *Women Surviving Lavender Hill*,³²² written by women from Lavender Hill about their experiences of surviving abuse and violence. This source, written in the first person, provided perspectives and insights. One of the women I interviewed happened to have been a contributor to the book, and spoke proudly of the experience of writing her story and sharing it publicly.

4.4.2 Media sources

I primarily used print media and news articles on the internet. This data set included articles of violence and crime, as well as reports of poor service delivery and challenges with policing. I ran an electronic search of articles related to Lavender Hill, and after determining which were useful for this study, used these to validate data and themes that emerged through interviews. I used a wide variety of news sources, including GroundUp,³²³ amaBhungane,³²⁴ Independent Online (IOL)³²⁵ and Eye Witness News (EWN).³²⁶

³²¹ Roberta Heale & Dorothy Forbes 'Understanding triangulation in research' (2013) 16 *Evidence-Based Nursing* 98. According to Heale & Forbes (at pg 98) 'triangulation is the use of more than one approach to researching a question to increase confidence in findings. The method was introduced in qualitative research to avoid biases arising from a single methodology'.

³²² Kimendhri Pillay-Constant (ed) (2017) *Women Surviving Lavender Hill: Seven Women Write Their Stories of Surviving Abuse and Violence*.

³²³ amaBhungane and GroundUp are news agencies that make articles available for re-publication, under a creative commons licence, to news publications. See: www.groundup.org.za.

³²⁴ See: <https://amabhungane.org/>.

³²⁵ IOL is an independent news source, see: www.iol.co.za.

³²⁶ EWN is a Cape Town-focused news agency, see: <https://ewn.co.za/>.

Social media is a contemporary source of up-to-date information often captured by people experiencing the news.³²⁷ It was not possible to immerse myself in Lavender Hill due to the dangers and randomness of gangster violence and shootings, and my own lack of knowledge of safe zones and different turfs. I therefore watched *YouTube* videos which depicted different situations and scenarios indicative of particularly violent times in Lavender Hill. These videos have been uploaded by people from the community, and helped to validate some of the findings from my interviews with women. The videos were often hard to watch, because they demonstrate the high levels of violence in Lavender Hill. They also showed me the extent to which violent outbreaks are seen by children as entertainment, rather than something to fear.

4.4.3 Film

The film *Ellen: The Ellen Pakkies Story* is a harrowing account of a woman in Lavender Hill who killed her adult son after years of his addiction to drugs, operating as a mule for gangsters, and abusing and stealing from Ms Pakkies and her husband. The movie provides a valuable insight into the lives of ordinary women living with the scourge of drugs, alcohol and associated violence and crime. I have used this film to help me understand the experience of life in Lavender Hill. Ellen strangled her son to death in his shack at the back of her home, while he was sleeping. She knew she could not take any more of his abuse and alleges that on that day she feared he would rape her. The magistrate Amanda van Leeve found that the legal and social system had failed Ms Pakkies. Growing up, Ms Pakkies had been raped, gang raped, sodomised and kidnapped so many times, she says it was part of her everyday life.³²⁸ She says that she did not even realise it was wrong.

Ms Pakkies contributed to writing the script and recreating scenes for the movie, filmed in her home where she still lives.³²⁹ A review of the film by J Brooks Spector and Ruth Spector describes it as authentically South African and textured:

³²⁷ Hiroko Minami *Newspaper Work in a Time of Digital Change: A Comparative Study of US and Japanese Journalists* (unpublished PhD thesis, University of Oregon, 2011) 201. Hiroko writes (at pg 201) that ‘social media has challenged the domination of traditional media as the only platform for news to channel to various platforms with the integration of digital versions of newspapers’.

³²⁸ Eveline de Klerk ‘Ellen Pakkies; I am more than the woman that killed her own child’ *New Era Live* 5 July 2019 at 9.30 am, available at <https://neweralive.na/posts/ellen-pakkies-i-am-more-than-the-woman-that-killed-her-own-child>, accessed on 10 July 2020.

³²⁹ Venecia Valentine ‘Ellen Pakkies cried as movie about her life premiered’ *Cape Argus* 27 August 2018 at 3.15 pm, available at <https://www.iol.co.za/capeargus/news/pics-ellen-pakkies-cried-as-movie-about-her-life-premiered-16721521>, accessed on 15 March 2018. The film was directed by Daryne Joshua and the script is written by Amy Jeptha, both South Africans. The actors in the film are also South Africans, contributing to the

‘Ellen being based on factual events, and acted on location at the real site of this true family tragedy could well have sensationalised and over dramatized as a traumatic, soul distancing movie. Yet the team of television actors and the movie’s director thankfully did not fall prey to stereotyping the *forced removal* Mitchells Plain community which encases the life drama’.³³⁰

A number of other reviews also confirm the authenticity of the film, as well as Pakkies’ own experience of watching it. This validated the usefulness of this film as a source of data for this research.³³¹

4.5. FIELDWORK

4.5.1 Interviews

The primary research method used was face-to-face interviews, which provided access to people and their perspectives, and allowed for a certain amount of participant observation – especially because the interview location (the local crèche) was a natural setting for the women. As the interviewer, I was able to observe the interactions between people. Dropping children off at school is a busy time of day, and despite having three children of my own, I underestimated the distraction of children and their needs so early in the morning. I chose the crèche – part of the NWF – as the site for the interviews, because I knew this is where women were likely to gather on a daily basis. The crèche helped to ensure easier access to women to be interviewed. The staff at the crèche invited me to do a presentation at a parent-teacher meeting, where I explained to the parents the purpose of my study and what I would be doing. There were many nods in the audience and no questions or challenges.

The interview questions were developed with my research question and research objectives in mind. I tried to ensure the questions were easy to understand and that women were not put off by my questioning approach. The reason for this is that many of the women speak Afrikaans and Kaaps, which would have made it difficult for me to understand their answers, if my questions were too complex.

feeling of authenticity. Ellen Pakkies is played by Jill Levenberg, Abie the son by Jarrid Geduld, and Ellen’s husband Odneal Pakkies, by Elton Landrew.

³³⁰ For more see in the film review: J Brooks Spector and Ruth Jacobs Spector ‘Ellen: The Ellen Pakkies Story: a cinematic event that deserves wide audiences in South Africa and abroad’ *Daily Maverick* 22 March 2019, available at <https://www.dailymaverick.co.za/article/2018-09-27-a-cinematic-event-that-deserves-wide-audiences-in-south-africa-and-abroad/>, accessed on 24 March 2019.

³³¹ I conducted extensive searches and enlisted the assistance of the librarian, but was not able to gain access to a copy of the judgement.

I was assisted by a research assistant, a person of colour and a qualified social worker who grew up in Grassy Park, only a few kilometres away from Lavender Hill. On the days when we were both at the crèche to conduct interviews, it was evident that women were more relaxed being approached by my research assistant. At one point she said, ‘stand back, I think they are feeling intimidated,’ when no women were making themselves available to be interviewed. My research assistant is young, female, and a person of colour. For this reason, I determined women found her more accessible. Also, I was dressed to go to the office, whereas she could be in relaxed attire.

Although it was difficult to get women to agree to be interviewed, there were at least one or two women each morning who agreed. I did not keep statistics on how many of the women who were approached agreed to be interviewed. I found that the women I interviewed settled quickly and opened up fairly easily. Similarly, my research assistant said she did not find it hard to get women to open up and answer the questions. We were both using our social work interview skills, which also assisted in making women more comfortable. There were the odd occasions when women were reluctant to open up, usually because they had previously endured bad experiences of retaliation from gangsters or were afraid of the possible reprisals. I was concerned that asking participants to sign a consent form would be intimidating, but none of the women objected. These were read to the women before the start of the interviews.

After the interview, some of the women expressed gratitude at having the opportunity to tell their story, and acknowledged that they had opened up more than they had expected. A few of the women gave me a hug at the end of the interview and some shed tears, saying that they had never shared their story to an outsider. They expressed the feeling of appreciation for being listened to. Both my research assistant and I dealt with some emotional women, deeply traumatised by their experiences. This gratefulness usually happened after the recording had stopped and was not always reflected in the transcripts. The faces of the different women remain imprinted on my memory, and I felt deeply affected and touched by their openness and having been allowed in to share a fragment of their lives. Our interviews were a quick intervention, and many of the women interviewed displayed deep scars of trauma and would benefit from counselling. On a few occasions we recommended that the interviewees make use of social workers for counselling. It should be noted that although there is an auxiliary social worker employed by NWF, the CAFDA social workers have moved from the offices of NWF and the nearest social workers are in the nearby suburb of Retreat.

4.5.2 Sampling

I used availability sampling – also known as convenience sampling – as the approach to reach women.³³² Although my plan was to only interview women arriving at the crèche to drop off their children this limited the availability of women due to drop off being only between 7.30 am and 8.00am. I therefore adapted my strategy to include women who participate in the Extended Public Works Programme. I also interviewed women working in the community some of whom were staff at NWF and others worked in NGOs in the area. Since this is a multidimensional community, any opportunity to interview women was more valuable than a more precise sampling method, which could lead to the exclusion of valuable interactions. Considering that the purpose of the research was to understand how women resolve problems, it was justified that women were accessed in a place where they are in regular attendance.

My reason for deciding to interview women dropping children off at the crèche at NWF was because of ease of accessibility and from observation I had determined that I would reach a wide range of women from different age groups. From previous interactions at the NWF crèche I had observed that teenagers, young and middle-aged mothers, as well as grandmothers, dropped off children. I made a gendered assumption that women were most likely to be the ones dropping off children. However, there were the occasional men who brought their children to the crèche. The focus of the study was not on a particular age group, so interviewing women of all ages was useful for the study.

Accessing women at the crèche created the opportunity for meeting the same women regularly and building trust, as they became used to our presence and the ease of interaction between us as the researchers and the crèche teachers. I assumed, based on my social work knowledge, that trust would contribute to women opening up, and the more familiar they became with seeing us the more they would be willing to share. Women were, however, cynical when approached and many said they were either not interested or too busy, or that they would be available if we came back in the afternoons.

When I shared my challenges with the crèche staff, they suggested that I interview women in the EPWP,³³³ which was meeting on a daily basis and would also provide access to a random sample of women. I took this up, as it would still allow the opportunity to interview

³³²Allen Rubin & Earl R Babbie *Research Methods for Social Work* (1997) 268. According to Rubin & Babbie ‘availability sampling is justified when standard probability sampling methods are not appropriate’.

³³³ South African Government ‘Expanded Public Works Programme’ available at <https://www.gov.za/about-government/government-programmes/expanded-public-works-programme>, accessed on 13 January 2020. The Expanded Public Works Programme (EPWP) is a government programme providing employment opportunities for people on a short-term basis, with the view that they will gain skills to enter the labour market.

women randomly and did not affect the availability sampling method. These women were more willing to be interviewed, probably because there was more time to explain the purpose of the study. A total of 44 women were interviewed.

The other sample group was women who work for NGOs in the community. This group was easier to interview, as I was able to set up appointments. Most of the people interviewed in this sample group also lived in Lavender Hill and so were able to give a dual perspective. This group helped with triangulation. I interviewed one woman who works in the crèche, and three who work at NWF in different roles; two women from the street and court committee; and two women from other NGOs in the area. Some women interviewed from the first group were also involved informally in philanthropic work or voluntarily in women's support groups. One key informant, who is well known in the community for doing excellent work to help women, said she was not available for an interview because (as she said in a text message), 'we share information and we hear nothing from researchers ever again.'

4.5.3 Data collection interviews

Face-to-face interviews were used as the tool for gathering information from women. I first sought agreement from NWF Director Marius Bluemel, and Programme Manager Kimendhri Constant-Pillay, to conduct research at the crèche. They introduced me to Vanessa Meyer, the Administration Manager who oversees the crèche. She arranged for me to meet with crèche staff and tell them about the study and seek their assistance. The crèche arranged a presentation to the parents at the parent-teacher meeting before I started the interviews. At the meeting with the parents, I told them about the purpose of the study and that participation in the study was voluntary, would be anonymous, and that there would be no remuneration.

The interviews were semi-structured, with some of the questions focused on demographic information such as housing, employment and number of dependents.³³⁴ I only asked a few of these questions, because I did not want to tire the participants before asking the questions which were most relevant to the study. Demographic questions served as an ice breaker and also triggered some useful responses and provided interesting insights, before moving on to the more intense questions exploring the types of problems women experience and how they solve problems and manage disputes.

The interview schedules were piloted to ensure that the questions were easy to understand, generated open-ended responses, and were culturally sensitive and appropriate.

³³⁴ See Appendix 2: Interview Questions.

The pilot interviews were conducted with six of the sample group. Once these were concluded, my research assistant and I reflected on the success of the interviews. We agreed that some of the questions should be moved around and that the consent form was too long and therefore distracted from the process. We reduced the wording in the consent form without changing the purpose of the form. This worked well for further interviews. We sought agreement from every participant to allow us to record interviews for the purpose of transcribing.

My research assistant and I met during the process to ensure that the objectives of the interviews were being achieved, and to debrief. The interviews were gruelling and often left us feeling depleted and desperate for the lives of the women we were interviewing. The process of collecting data was hindered by gang violence and at one stage we had to stop going into the community because of a violent outbreak. A gangster was shot on Prince George Drive across the main expressway from Lavender Hill on one of the days. I arrived on the scene not long after the shooting and found that there was police tape across the road. On further investigation, I found that a man had been shot and that there were bullets flying across Prince George Drive just before I had driven down the same road. We suspended interviews for a few weeks until the gang violence subsided. That day was a reminder for me of the level of volatility in a place that had seemed calm just the day before.

4.5.4 Observation

Time in the location of the research provides the best opportunity for observation. Without the knowledge to avoid being caught in turf wars between gangs and the possibility of gangsters taking offence at my presence, I moved around cautiously. Most of my observation took place while conducting interviews. Driving into and out of the community also provided some opportunity for observation. I used YouTube videos as a source of observational information, although not being in the community when incidents happen restricts the value of the data. An important part of observation is what is seen and the camera lens points to a single, often sensational, perspective.³³⁵

4.5.5 Data analysis

Qualitative analysis was ongoing and reached full swing once the interviews were completed and transcribed. The data from field notes covered conversations, observations and

³³⁵ Using the word ‘sensational’, I am referring to the fact that the videos on YouTube were often of violent outbreaks. They did not depict the daily lives of people, especially women. They did, however, give me insight into moments to which I would not normally have been privy.

impressions, and I found my insight deepened as the process moved on.³³⁶ I found analysing qualitative data required being immersed in the data in order to discover its significance. This process of coding, recoding and writing analytical memos, asking questions of the data, consulting the literature, writing and rewriting, helped to uncover and describe the phenomenon I was studying and what this means.

While the interviews were being done, they were also being transcribed. Once these were all completed, they were put into a folder on Microsoft OneDrive for safe keeping. These files were also copied to a folder in NVivo, from which it is possible to code data. While reading the interviews, I started to develop conceptual categories, which gave some structure to the data. I grouped the data into that which described the problems in the community and that which described the way in which women deal with problems. Under the category of problems in the community I further broke down the coding into units which looked at problems that involved violence, such as gangsterism and violence against women and children – and then into other social problems such as substance abuse, poverty and unemployment, lack of positive role models, parent abuse and parenting, conflict resolution skills, and leadership. Under the responses of women to problems in the community I identified categories falling in the law and around the law. In the law examined formal systems such as policing, community police forums, magistrate’s courts and social workers. The systems around the law examined the role of NGOs, family, friends and neighbours, God and religion, self-reliance, and leadership in the community.

In an effort not to jump to conclusions too early in the process, I tried hard not to theorise while doing the analysis. Using a notebook, I wrote down thoughts on recurring themes, subtle patterns and contradictions that emerged while analysing the data. Coming back to this at a later stage, I was able to start theorising to determine the contribution this study was making to scholarship. This dissertation reminded me that empirical research is full of surprises. It is about interpretation, not causal analysis.

Through the process of data analysis, I sought to bring meaning, structure and order to the data I had gathered.³³⁷ New categories and sub-categories kept emerging and I had to ask myself whether these were answering my research question. I had to be brutal because of the volume of the data and my tendency to want to keep every piece of what was said and put it

³³⁶ Sally E Thorne ‘Data analysis in qualitative research’ (2000) 3 *Evidence-Based Nursing* 68–70. According to Thorne, data analysis is the most complex and mysterious of all the phases of a qualitative report.

³³⁷ For more about this process, see: Vincent A Anfara Jr, Kathleen M Brown & Terri L Mangione ‘Qualitative Analysis on Stage: Making the Research Process More Public’ (2002) 31 *Educational Researcher* 7.

somewhere in the thesis, thereby acknowledging every woman's voice and story. With 52 interviews of over half an hour each, this was not possible. In writing up the data analysis, I have renamed all the women interviewed to ensure their anonymity is protected. It is possible that some of the stories that women conveyed would be recognised, because they are in the media or are known by others in the community, but I tried as far as possible to record the analysis in such a way that the respondents would be difficult to recognise. In doing so, I was trying to avoid the possibility of negative consequences for women who were interviewed.

4.6 LIMITATIONS OF THE STUDY

Since this was a qualitative study, it could be critiqued for being affected by my subjective paradigm as the researcher. No scholar is value-free, and I found it difficult to be detached from the women I was studying in order to ensure that the study was objective. I am aware that it is difficult for studies of this nature to be neutral. Therefore, I have as far as possible expounded my value position while writing up this research.

As the researcher, I played an important role in connecting the experience of women who were the subjects of this study to creating an understanding of their perceptions and views of the problems in the community and how they resolve these. Through the thick anecdotal accounts from women, I believe I have obtained 'holistically valid results'.³³⁸ Conducting this qualitative study, I sought to find a workable definition of validity that is flexible, and in so doing, find the balance between ensuring research substance and variety offered by qualitative methods.³³⁹

Using interviews as the main source of data has its limitations. Although interviews are a good source of data for qualitative studies, they are time consuming and intense. For these reasons, I was limited by the number of interviews that I could conduct, which restricts the validity of making generalisations from the data gathered through the interviews. Interviews are, however, valuable in that they offer the opportunity to uncover information that is not accessible through questionnaires or observations.³⁴⁰ The intensity of the subject matter also affected the personal energy my research assistant and I had for further interviews. The open-ended nature of the interviews also meant that I gathered a lot of data, some of which did not

³³⁸ Jeasik Cho & Allen Trent 'Validity in qualitative research revisited' (2006) 6 *Qualitative Research* 336.

³³⁹ Laurel Richardson *Fields of Play: Constructing an Academic Life* (1997) 146.

³⁴⁰ Alshenqeeti Hamza 'Interviewing as a Data Collection Method: A Critical Review' (2014) 3 *English Linguistics Research* 42.

respond to my research questions, and I had to read through every piece of information to determine its validity. This was time consuming and extended the data analysis process.

The validity of interviews is a challenge for this thesis, as women may have been inclined to respond to interview questions with answers which they felt the interviewer would find more acceptable than their truthful answer. In order for respondents to provide answers that were honest, it is necessary for there to be a high level of trust. This was difficult to attain in a short space of time. Compounding this was my race as a white woman interviewing women of colour. This was mitigated by my research assistant being a woman of colour. I found however that women quickly relaxed in my company and opened up. With my experience of having worked with mostly women of colour and black women I believe I was able to be authentic and that this created a safe space for the women. My research assistant and I discussed at length how to ensure that we presented as honest and straightforward, creating a safe environment for the women interviewed to be relaxed and not feel judged for the answers they gave. I found it valuable to conduct some of the interviews as I was able to visualise the women as I was analysing the data and intersperse my analysis with observations.

One of the limitations of the study was that it was conducted at NWF, and so it is natural that there would be a bias towards the value of the organisation in the minds of women in relation to problem solving. Women may have also felt that since NWF made it possible for the study to take place at the organisation, I would be inclined to want positive answers about the role NWF plays in the community. Although women were dropping children off at the crèche or involved in the EPWP run from NWF, and not help seekers, they were in some way receiving assistance from the organisation. With this awareness in mind, I have been conscious in my analysis to be aware of this bias, both from the perspective of the interviewees and from my own perspective as a researcher who was given the opportunity to use this organisations as a base for my study. It provided a safe, accessible environment, for which I am grateful.

In a qualitative study of this nature, it was important to be aware of the rights of the women interviewed and ensure that we, as the interviewers, showed concern for their vulnerability and ensured their confidentiality. I was aware that a study of this nature was an intrusion in the lives of women and that I had to show concern for the dynamics in the community. For this reason, I ensured that I chose a research assistant with the skills to conduct interviews and, as already mentioned, I am a trained and skilled interviewer.

4.7 ETHICAL CONSIDERATIONS

Since this research involved collecting data about living people, it was important to ensure that the research was conducted with integrity, sensitivity and responsibility. I sought to ensure that the research was conducted in a manner that displays respect for the dignity and self-esteem of individuals and for basic human rights.³⁴¹

The greatest ethical concerns in this research arose out of the interviews with individual women. Many of these women are heads of households, responsible for children who are not their own or are grandchildren, and are vulnerable due to the high levels of violence against women. I was concerned that women would fear participation in this research, because of possible retribution by men and other women if the stories of violence are told, or by gangsters who may respond violently to women exposing their activities. It was therefore of utmost importance that I assured participants of their anonymity. This was a difficult concept to explain to women with little exposure to research outcomes. I followed the ethics application process at UCT and was awarded ethics clearance.

Since I was interviewing women with limited prior experience of participating in research, I was aware of their vulnerability in exposing stories of their lives and others who have been affected by problems. Many of the women interviewed had been victims of violence and abuse in different and in some cases multiple spheres of their lives.³⁴² As this unfolded, I reminded myself to be empathetic and show care and concern throughout the interview process.

The purpose of the research was carefully explained to the women interviewed. We also explained the possible value of this research in changing perceptions of life for women in Lavender Hill and on the Cape Flats. The more the story is told, the more likely that the powers that be will change their approach in order to make a difference. A study of this nature could also help to make community workers, social workers, religious leaders and others wanting to make a difference in this and similar communities more sensitive to the nuances that exist. Participants were asked to sign a consent form saying that they agreed to participate in the research before starting the interview. They were also asked if they were happy to have the interviews recorded. None of the participants objected and most said that we could keep their names on the consent forms, even though they were offered the option of signing with a pseudonym.

³⁴¹ *UCT Research Ethics Code for research involving human participants*, 2012 available at http://www.uct.ac.za/sites/default/files/image_tool/images/328/about/policies/Human_Research_Ethics_Code_2012.pdf, accessed on 20 June 2017.

³⁴² Ethics clearance was granted. See reference number L0049–2017.

Seldom did any of the women ask for advice on how to deal with a problem or where to go to get help. However, both my research assistant and I advised seeking assistance from the social workers located at the NWF, when a problem seemed too complex. It did help to know what resources were available, even though they seemed limited.

I had fewer ethical concerns interviewing people working at NGOs. A number of people interviewed who work in Lavender Hill also live in the community and had personal stories of problems they have had to deal with that were of interest to the study.

4.8 CONCLUSION

The design and method of the research is a critical element of ensuring the study answers the research question. In this chapter, I have discussed the approach to this thesis and how, as an exploratory study, this research lends itself towards generating new ideas for further research.³⁴³ I have explained in detail the sources of data, which include literature, both fiction and academic, new media and print media, film, observations, and interviews. All of these helped to build a rich image, contributing to a theory of understanding how women in a poor, urban community organise themselves in and around the law. The sources of data have been carefully considered to ensure the most useful information was collected. As can be seen from the section on reflexivity, I engaged in an iterative action-reflection cycle. This helped to bed down my thinking and with the formulation of theory. The limitations of the study explored some of the contextual challenges of conducting research in a locality with high degrees of violence. A study of this nature has ethical implications and I have explained how these were mitigated through careful planning and explanation of the purpose of the study. I have further mitigated the vulnerability of the women interviewed, by changing their names in the following chapters, which reflect an analysis of the data.

³⁴³ The questions that were asked have generated volumes of data, some of which will not be captured in this dissertation, but may be used for further articles or the basis of another study.

CHAPTER FIVE: LIVING IN LAVENDER HILL: PERVERSIVE VIOLENCE

5.1 INTRODUCTION

This chapter illuminates a community beset with violence and interrogates the impact this has on the people, their quality of life, and the decisions they make when resolving problems. Violence was identified through interviews as the most pervasive problem, either because of gangsterism or due to patriarchal attitudes towards women and children. In this chapter I explore in greater depth violence as it affects different facets of life in Lavender Hill. I also examine the influence this has on the levels of fear with which women live, and how this impacts their daily lives, which is shared through their own accounts of their situation. The descriptions by women give cadence to the factors that shape their legal consciousness and legal cynicism. The rawness with which women express their frustrations with ongoing violence provides a perspective from which to understand their approaches to problem solving ‘in and around the law’.

None of the women I interviewed identified as gang members, but they did have opinions on why gangs are so prevalent in their neighbourhood. They demonstrated a useful understanding of gang violence and how to navigate it in order to remain relatively safe. Although gangsterism is recognised as a deviation from normal society, women appear to tolerate involvement in gangs as a means of economic and social survival, particularly because of the lack of alternatives for young people. As Elaine Salo explains, ‘gangsters are not just that, they also have other identities ... woven into the richly textured social expanse of communal relationships and networks within the township’.³⁴⁴ Even though women would prefer a community free of gang elements and related crime, they understand why people have turned to gangs as an alternative to being destitute and powerless. Salo opines that gangs offer young men and women an escape from the ‘socioeconomic and physical constraints of the township providing access to branded clothes and cosmopolitan hybrid spaces’.³⁴⁵ For women in particular, gangsters expose them to ‘new gendered and economic relations of power ... that free them from local generational and gendered constraints’.³⁴⁶

³⁴⁴ Elaine R Salo ‘Mans is ma soe: Ganging Practices in Manenberg, South Africa, and the Ideologies of Masculinity, Gender, and Generational Relations’ in E G Bay and D L Donham (eds) *State of Violence: Politics, Youth, and Memory in Contemporary Africa* (2007) 148–78.

³⁴⁵ Elaine R Salo ‘Negotiating Gender and Personhood in the New South Africa: Adolescent Women and Gagsters in Manenberg Township on the Cape Flats’ (2003) 6 *European Journal of Cultural Studies* 360.

³⁴⁶ *Ibid* 361.

In addition to the violence experienced as a result of gangs and the level of lawlessness, women identified violence against women and children as another predominant problem in the community. The interviews revealed endless stories of women who were still suffering violence at the hands of a partner, or a family member, or who had escaped such situations through assistance from the courts, family members, NGOs and friends. The high levels of violence against women and children are linked to deeply entrenched patriarchal and conservative values held by some people in the community. This section will demonstrate the extent to which these values are held and underpin high levels of violence.

Lastly, in this chapter I discuss the impact that normalised – yet intense – levels of violence have had on women who were interviewed for this study. Fear of violence is a thread connecting many of the interviews, and contributes to the choices that are made when navigating daily life. These include how and when to move around in the community; which relationships are seen as safe; which systems are effective and safe to engage with; and expectations of what might happen in the future.

5.2 ‘THE GANGSTERISM – PEOPLE IS FEARING FOR THEIR LIVES’³⁴⁷: GANGSTERISM AND ITS IMPACT ON THE COMMUNITY.

Some women’s lives are impacted more by gangsterism, either because they have family members or friends who are involved in gangs, or because of what is happening in their court or street. Ashleigh explains that *‘gangsterism affects your youth, going out, you don’t have friends, you can’t have people coming in or going out’*. Of the impact that gangs have on the community, she says, *‘They robbing people, they shooting people, it’s dangerous, it’s a dangerous area’*. The community is suffocated by gang culture and yet it also provides an economic cushion against poverty and unemployment, by providing financial rewards for hiding gang activity.

Linda opines that people join gangs for economic reasons: *‘It’s a job thingie’*. Expanding on the relationship between gangsterism and economic survival, she says, *‘There’s no work and now everybody runs to merchants and stuff. There they get something that can feed them, that can dress them, and that stage that is where they fall into gangsterism’*. Clarifying the economic connection between gangs and people in the community, Letitia says, *‘they [gangsters] pay them to keep their stuff’*. Similarly, Isabel, who informally tries to help

³⁴⁷ Quote from an interview with Rifkah.

young people leave the gangs, explains that they say to her, *'Ja, Isabel, but there is no work out there, there is only this'*. A life of crime, which is linked to being associated with gangs, is often the only solution to high levels of poverty.

Gangs play an important role in determining norms and influencing problem-solving behaviour. The interview narratives describe how gangsterism has affected every facet of life, including freedom of movement, access to education, culture, economy, relationships, parenting, and youth development. According to the women interviewed and the media, gangsterism is on the increase and is worse than it has ever been. Letitia points out the change she has observed in her years of living in Lavender Hill: *'This place was never so. Lavender Hill was never like this. Lavender Hill was a place where you could walk everywhere, but now this gangsterism is here you can't walk anywhere'*.

5.2.1 Background and role of the gangs

Marla, demonstrating her awareness of the gangs and how their turfs work, says, *'up to Seawinds, right up to Capricorn it is the Funky's which is the most ruthless gang ... in Shepherds Court that area it's the Fast Guns ... Folley Court you will have the Corner Boys, and to the front section it's the Mongrels'*. It is this inherent awareness of where and how the gangs operate that is useful for women to ensure their own safety. The women who were interviewed were generally comfortable using the names of different gangs. They mentioned the Hard Livings Kids; Sexy Boys; Dixie Boys; Yuru Cats; Laughing Boys; the Born Free Kids; Scorpions; Cisco Yakkies; Sicilians; Cape Town Scorpions; Naughty Boys; Nice Time Kids; Junky Funky Kids; and Corner Boys, which are mostly names born out of gangs from District Six.³⁴⁸

Prison gangs have spilled over into street gangs, with the leaders of street gangs buying their way into the Number once incarcerated, ensuring 'safety' in prison.³⁴⁹ The impact of

³⁴⁸ Llewellyn L M MacMaster *In Search of a Family: the Challenge of Gangsterism to Faith Communities on the Cape Flats* (unpublished PhD in Theology, Stellenbosch University, 2019) 278.

³⁴⁹ Ibid. According to Macmaster, gang culture on the Cape Flats is unique and is not found elsewhere in South Africa. According to Haysom the prison gangs – the '26s', '27s' and '28s' better known as the 'Numbers Gang' – can be traced back to 1836, having developed in response to police brutality on the mines in South Africa. The move of this gang from the mines to the prisons was aided by the South African pass laws, which ensured that a high number of black men were exposed to the criminal system. See in Jean Redpath 'The Bigger Picture. The Gang Landscape in the Western Cape' (2001) 18 *Indicator*. Until the 1980s, prison sentences were requirements for memberships. These have been modified to enable drug operations outside of the prisons. See in Nicholas Haysom *Towards an understanding of prison gangs* (1981) 341; See also in Thomas Maree 'Meet the 28s General who left the Number and lived to tell the tale through film' *Daily Maverick* 13 March 2018 available at <https://www.dailymaverick.co.za/article/2018-03-13-meet-the-28s-general-who-left-the-number-and-lived-to-tell-the-tale-through-film/> accessed on 28 August 2020.

prison gangs on Lavender Hill was demonstrated recently during the COVID-19 lockdown, when the media indicated there was no gang violence until the government released several thousand prisoners on parole.³⁵⁰ At that point gang wars sprang back to life, with Lavender Hill being the hardest hit and many killings reported.³⁵¹

Despite the obvious negative effects of gangs, the women seldom mentioned the economic power of gangs. The question which often came to mind while conducting this research was, 'why do gangs thrive in the way they do?' Watson and Ryan are of the view that gangs hold economic power, offering financial support in exchange for hiding parcels.³⁵² Gangs appear to have replaced government authority, providing security and claiming a governance role through their coercive behaviours.³⁵³ It is a complex relationship because gangs provide an economic safety net and physical protection for those who are loyal, but also bring the constant threat of violence and crime.³⁵⁴

Gangs also address issues of identity in a place like Lavender Hill where a sense of belonging was broken before it even started.³⁵⁵ The lure of a gang addresses the need that young boys have to fit in.³⁵⁶ This is demonstrated by the prevalence of gangs and the eagerness with which young people join gangs.³⁵⁷ Young people see gang bosses who carry guns and drive smart cars, and the only way to have these demonstrations of power is through illegal activities.³⁵⁸ Astrid, referring to this, says her 10-year-old son's '*role model is a gangster*'. Gang activity also counters boredom, placing value on rituals, such as initiations, dares and improbable tasks.³⁵⁹ Of her brother and his need for belonging through gangs she says, '*He's not in a gang, but you can associate him with a gang. You know why? Because they sit together, they drink together, they smoke together, they do drugs together*'. In the following statement

³⁵⁰ Brenton Geach 'Clinging to hope that 'The Battlefield' becomes a 'Field of Dreams' in Lavender Hill' *Daily Maverick* 12 June 2020, available at <https://www.dailymaverick.co.za/article/2020-06-12-clinging-to-hope-that-the-battlefield-becomes-a-field-of-dreams-in-lavender-hill/>, accessed on 21 August 2020.

³⁵¹ Ibid.

³⁵² Watson & Ryan op cit note 250 at 77.

³⁵³ Francesco Colona & Rivke Jaffe 'Hybrid Governance Arrangements' (2016) 28 *European Journal of Development Research* 179.

³⁵⁴ Ibid.

³⁵⁵ Derrick C Marco *The Role of the Minister in a Context of Poverty. A Charism of Facilitation: Teaching – Enabling – Pastoring* (unpublished Master's thesis, University of the Western Cape, 1992).

³⁵⁶ Ibid.

³⁵⁷ Warda Meyer 'The kids who have to join a gang or die' *IOL* 22 September 2014, available at <https://www.iol.co.za/news/the-kids-who-have-to-join-a-gang-or-die-1754378>, accessed on 18 January 2021.

³⁵⁸ Pinnock op cit note 200 at 10.

³⁵⁹ Ibid.

she points out that he has limited options for fitting in: *'Who is he going to do it with ... He's going to do it with somebody that belongs to a gang or something like that'*.

Gangs offer the potential of escaping a life of unemployment, poverty and overcrowding. As a result, criminality and violence, as described by women interviewed, emerge in response to a heartless system.³⁶⁰ They cite the lack of positive role models for young boys as a contributor to gang attraction.³⁶¹ Gangsters, according to these women, are seen as strong people who will take no nonsense.³⁶² Women interviewed shared their stories of losing a family member to the gangs and the deep concerns they have for those people.³⁶³ 'Losing' refers not only to the loss of life, but also losing a son to the gang. This is because once you join a gang, although it is not impossible, it is a struggle to leave.³⁶⁴ Of course, there is always the threat that once part of the gang, time will be spent in prison or life will be lost. At least 80 per cent of women interviewed know a person involved in the gangs, have a family member who is connected to the gangs, or have knowledge of a person who has died due to gang involvement.

5.2.2 'That woman had to find a way to support her family'³⁶⁵: Women and gangs

According to Vetten, very little South African research has been conducted on women in gangs, although there are increasing numbers of women in gangs.³⁶⁶ Women in gangs are often victims, having been sexually abused, exploited through rape or other forms of sexual assault, or coerced into violent relationships by male gang members.³⁶⁷ Vetten refers to the status-seeking or showpiece girlfriend, who tries to gain prestige from being a gangster's girlfriend and, through that, gain a better standard of living.³⁶⁸ Ashleigh is of the opinion there are women who only think about *'the next hottest guy who is going to be attracted to them and he's the biggest drug lord in the area so he will be able to maintain me'*. Beautiful women who are

³⁶⁰ Irvin Kinnes 'The struggle for the Cape Flats' in Wilmot James, Daria Caliguire & Kerry Cullinan (eds) *Now that we are free. Coloured communities in a democratic South Africa* (1996) 18.

³⁶¹ Interview Trudy, Joyce, Janine.

³⁶² Ibid.

³⁶³ Talita, Shanda, Julie.

³⁶⁴ Dariusz Dziewanski *Beyond the Street: Gang Entry and Exit on the Cape Flats* (unpublished PhD thesis, SOAS, University of London, 2018) 220.

³⁶⁵ From an interview with Isabel.

³⁶⁶ Lisa Vetten 'Invisible Girls and Violent Boys: Gender and Gangs in South Africa' (2000) 3 *Development Update* 1.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

sought after by a number of men reinforce their boyfriend's success.³⁶⁹ Elaine Salo points out the negative consequences of being involved with gangs, which can lead to 'young people being publicly renounced by their peers and forced out of networks which they have to rely on for their material and social well-being'.³⁷⁰

Women are often used as couriers of drugs and firearms because they are less likely to be searched by police.³⁷¹ Women gang members shoplift, use fraudulent cheques, and sell stolen goods.³⁷² 'Female gang involvement is more in the economic realm than with violent crime which seem to correspond with patterns of female offending generally in South Africa'.³⁷³ From the interviews I conducted there were only occasional references to women working formally as merchants for alcohol and drugs or being used to hide drugs. Isabel's friend resorted to being a drug merchant in order to survive economically, '*because there was no income in that house, her husband was in jail, she had to do everything on her own. So now she had to start a business, what business? To become a merchant, sell drugs and whatever, just for a living*'. Isabel was of the opinion that this '*was so sad*'.

Women who are involved with gangs are unlikely to tell a relative stranger, such as myself, about their involvement in gangs or other criminal activity. A fear of being ostracised and a fear of retaliation is more evident in chapters seven and eight, justifying this assumption. Based on this analysis, I assume that women would probably only divulge information about gang involvement when there is a high degree of trust and certainty that their stories will not be divulged to authorities. Robyn puts this into context when she says, '*they maybe see a shooting but they scared to testify ... because they fearing for their lives*'.

In an interview with Leonora I was told how her brother was shot at close range by gang members. When I asked if he was a gang member, she quickly pointed out that he was not, and that '*he was a good boy, not a gangster*'.³⁷⁴ I assumed that he must have crossed paths with the gangs because of the way he was killed. Leonora told me how he was sitting in the car and the gangsters shot through the window at him. Based on the view that was put forward by

³⁶⁹ Lauren Segal, Joy Pelo & Pule Rampa 'Into the Heart of Darkness: Journeys of the Amagents in Crime, Violence and Death' in Jonny Steinberg (ed) *Crime Wave: The South African Underworld and its Foes* (2001) 88.

³⁷⁰ Salo op cit note 335 at 361.

³⁷¹ Lisa Vetten op cit note 366 at 2.

³⁷² Ibid.

³⁷³ Erica Munnik & Bianca Naude 'Female felons: profile of white female prisoners in South Africa' (1996) 6 *Crime and Conflict* 12–15.

³⁷⁴ Interview: Leonora.

Elaine Salo – that association with gangs can lead to people being ostracised – I assume Leonora denied her brother’s involvement with gangs to avoid possible judgement by me or exclusion from her own necessary networks, should I happen to speak to one of them.

From the interviews, women said that people protect gang members if they have a close connection to the gangster or if there is a symbiotic relationship. Dziejanski says that despite their destructive activities, ‘gangs often still have community support’.³⁷⁵ Illustrating this relationship between gangs and community, Letitia says, ‘*people in our community they stand with the people [gangsters]; they keep the people’s stuff; they keep the drugs; they keep the guns; they keep the bullets; they keep whatever they can keep*’.

5.2.3 ‘There’s nice cars, there’s money. Mummy can’t give that. Mummy don’t have a big house like the merchant do’³⁷⁶: Impact of gangsterism on families and children in the community.

A high percentage of women interviewed indicated that they were single parents and received little or no support from the father(s) of their children.³⁷⁷ Raising children who are growing up without fathers was raised as a concern by women. However, the men that are the absent fathers of their children were mostly cited as being poor role models and described as abusive partners. Despite suffering abuse from their partners, women who hold traditional values would rather keep fathers in the picture at the expense of their own safety. Janine describes the difficulty she has with her son being abandoned by his father: ‘*His daddy also doesn’t support and for me it’s like I wanted to get out but I also didn’t want to get out because why? I don’t want to raise my son alone*’. For her, an additional concern is that as a result of this estrangement from the father of her child, her son ‘*doesn’t know his grandparents. His grandmother walked past him and doesn’t greet him.*’

The vacuum created by absent fathers leaves an opportunity for gangsters to become the role models that boy children look up to. Fearing the impact of gangs on their lives, Marla

³⁷⁵ Dziejanski op cit note 364 at 28.

³⁷⁶ Interview: Astrid.

³⁷⁷ Pinnock op cit note 200 at 4. Pinnock argues one of the biggest indicators for male delinquency is absent fathers; Jennifer Schwartz *The Effect of Father Absence and Father Alternatives on Female and Male Rates of Violence* (unpublished PhD thesis, Pennsylvania State University, 2004) 154-5. Schwartz concludes that father absence has an impact on male and female crime rates across communities. Her argument is that communities are complex structures with institutional and normative dimensions that are partially rooted in the family structure. Fathers play a supervision role in families and are also linked to the economy of the family and protection. While Schwartz found that absent fathers can be replaced by other role-players, fathers have an impact on the resistance of communities to violence.

says, *'I walk around here and there. And I will notice it's that one and this one [referring to children she works with] ... So I'm afraid for them, because I would rush them come let's walk because of the violence and so on'*. Similarly, Abigail expresses fear for her children: *'Because you always feel when my son goes to school then the shooting starts. Then you always think did he get safe to school and straight home'*. Explaining the impact her fear of violence has on her son's freedom to move around, she says, *'He stays in the house'*.

Gangs offer an alternative to boredom. According to Abigail, one of the factors that contributes to gang recruitment is that children who misbehave, and are more likely to show an interest in gangs, are punished at school for poor behaviour by being suspended. Elucidating this perspective, she says, *'because he have friends that's not on school that is not attending school. And there's where they become gangsters and there's where the naughtiness come in'*. Astrid, discussing the attractiveness of gangs for her son, says, *'There's nice cars, there's money. Mummy can't give that. Mummy don't have a big house like the merchant do'*. It is a struggle for parents to draw their children away from the allure of gangs, who influence the way they speak³⁷⁸ and act, and offer a life that is an alternative to the daily grind of life in Lavender Hill.

Describing children's desensitisation to the gangs, Barbara, who works in the crèche, says, *'even the small children that is attending this crèche has become so use to the lifestyle that they even at crèche they play it out ... it's horrible, horrible!'* Tamsyn echoes this: *'It's the gang rivalry, the shootings and it affects us and our children. Our grandchildren especially'*. Illustrating the impact of gang violence on children, she says that when gang violence breaks out, children miss school and fall behind in their schoolwork: *'The teachers had to struggle to get the children's work up to date again you see'*.

Isabel relates that her friend, who was a merchant, now has to deal with the legacy of her previous occupation: *'her children are experiencing doing drugs. It's almost like a generation thing. You sell to other people drugs, the wheel turns'*. She explains that the consequence of the friend's children's involvement in gangs is that they are vulnerable to being shot at or being caught by the police: *'last night they shoot and they're close, they're in the yard with their flat. I'm upstairs I can see everything at night'*. Of the impact this is having on her friend and neighbour she says, *'At the moment she's facing fear because her son is out there, he's on drugs and he's a gangster'*.

³⁷⁸ Don Pinnock *Gangs, Rituals and Rites of Passage* (1997) 33.

Guns have become a norm in households and as Valerie says, '*guns are like coming into Lavender Hill like hotcakes, they selling like hotcakes*'. Of the presence of guns Valerie says, '*Some of the children they come and tell us. They say my daddy has a gun or this one has a gun and my uncle has a gun*'. As a result, she describes how it permeates the culture and spills over into play time at the crèche: '*the majority of them, when it's time to build the puzzles, creative play, you know, with these Legos, the first thing they make or build, it's a gun*'.³⁷⁹

Gang involvement and often associated drug addiction has a high economic impact on families. It is difficult to estimate the economic impact of gang crime on communities generally because they are seldom recorded as such by most law enforcement agencies.³⁸⁰ The medical and financial consequences of gangs on families are often overlooked.³⁸¹ There are economic costs for the families of gangsters, especially when lives are lost. Even though the women did not choose the lifestyle, they have to cover the costs of a funeral when a family member is shot or killed. Expressing concern for her friend whose son is a gangster and the potential cost of a funeral, Shanda says she asked her friend '*how do you deal with this issue?*' She reports that in response her friend said, '*whatever must happen, must happen because he doesn't want to listen*'. Shanda says her friend realises the possibility exists that '*tomorrow they shoot him dead then it also costs money*'. Pondering how her friend will '*get the money to put him in a funeral and stuff is a lot of money?*' she says that her friend says, '*she's coping*'.

Drug addiction also has a high economic impact on families. Drug addicted children, like Shanda's other son, steal from their mothers. Expressing her frustration with her son stealing from the family, she states, '*Every night when [her daughter] come out of work then I must hear "Mummy that is gone". Her brother did steal that from her. He took my money and so I can't handle it anymore*'. Similarly, in the movie 'Ellen' it is depicted that her son regularly stole from his mother and father. Sheila's son also stole from her before she had him arrested and he turned his life around.³⁸²

³⁷⁹AJ+ 'War in the Valley of Plenty' YouTube 14 April 2016, available at <https://www.youtube.com/watch?v=Rj2UWcTSRwU>, accessed on 30 August 2020. YouTube videos show gangsters flagrantly showing off their guns, with little concern for police and possible incarceration.

³⁸⁰ James C Howell 'Impact of Gangs on Communities' (2006) 2 *National Youth Gang Centre* 5.

³⁸¹ Ibid.

³⁸² Sheila Jacobs 'Woman leap of faith' in Kimendhri Pillay-Constant (ed) *Women Surviving Lavender Hill* (2017) 79.

5.2.4 ‘It’s the violence that really gets me’³⁸³: Randomness of violence and shooting.

Violence is random and shooting happens in arbitrary places, like at the bus stop or the local shop, without much warning. There are few safe areas, although there are known hot spots. Karen said in her interview, *‘You won’t believe it but I still have a bullet in my hip ... it’s from when I was standing on a street talking to a friend and the gangsters were shooting each other. I was just a victim’*. Even though evenings seem to be the most dangerous times, keeping indoors after dark does not provide protection from being shot or stabbed: *‘It can flare up any minute. It can even flare up now. It’s uncertain you see. Ja, and it’s like small little issues they have, but it affects the whole community’*.³⁸⁴

Violence in Lavender Hill is linked to a network of gang violence on the Cape Flats.³⁸⁵ Talita explains how women keep each other informed of violent outbreaks, despite living in different neighbourhoods: *‘In Manenberg as well, because three of my sisters that stay there ... so I’m on the group chat during the day, and at night they will tell me “listen this is what happened. They shooting here and blah blah blah”’*. There are regular reports of gang shootings in Lavender Hill, documented in the print media and actual footage of shootings on *YouTube*.³⁸⁶ Most of the women interviewed stated that shootings and murders were a regular occurrence.

For periods of time, shootings are a daily occurrence. Letitia reports candidly on the constancy of shootings: *‘Yes like there by us they shot now last night. They shot two last nights ... and then the night before they also wanted to shoot and the police they came just in time’*. Abigail, who runs a feeding scheme for children, shares how children use her home as a refuge from gang violence: *‘Most of the times when there is shooting the children will run in there*

³⁸³ Interview: Moira.

³⁸⁴ Interview: Julie.

³⁸⁵ Tammy Petersen ‘Gang Wars MAP/Who is fighting who in Cape Town’s gang lands’ *News24* 29 July 2019, available at <https://www.news24.com/news24/SouthAfrica/News/gang-wars-map-who-is-fighting-who-in-cape-towns-gang-lands-20190729>, accessed on 18 January 2021.

³⁸⁶ See videos on *YouTube* of gang shootings in Lavender Hill: Devon Delcarme ‘Shooting Life in Lavender Hill ... Lavender Hill Shooting’ *YouTube* 26 June 2019, available at https://www.youtube.com/watch?v=2b_YY_SY2X8, accessed on 20 January 2020; InPlaceofWar ‘Lavender Hill - in Place of War’ *YouTube* 14 March 2018, available at <https://www.youtube.com/watch?v=TMhGfwd4zvY>, accessed on 19 January 2020; Lauren Isaacs ‘Lavender Hill community shattered after shooting claims 3-year old’s life’ *EWN* 17 June 2020, available at <https://ewn.co.za/2020/06/17/lavender-hill-community-shattered-after-shooting-claims-3-year-old-s-life>, accessed on 18 January 2021; Kevin Brandt ‘Cele joins Cape Community as child killed in gang crossfire laid to rest’ *EWN* 28 December 2019, available at <https://ewn.co.za/2019/12/28/cele-joins-cape-community-as-child-killed-in-gang-crossfire-laid-to-rest>, accessed on 20 January 2020; Regan Thaw ‘4 Arrested after Lavender Hill girl (6) killed in shooting’ *EWN* 26 August 2019, available at <https://ewn.co.za/2019/08/26/4-arrested-after-lavender-hill-girl-6-killed-in-shooting>, accessed on 18 January 2020.

because they know my gate is open. They will run in there and I will assist them'. Beatrice says it was a shock when there was a shooting outside the crèche: *'They were shooting outside here ... yes here by the window. Because I saw the smoke and the gun ... and then we had to take the children out'*. Even schools are not able to provide a safe refuge for children.

Three of the women interviewed shared traumatic experiences of having their sons shot by gangsters. Talita described how her son who was shot whilst she was going about her normal daily activities: *'I was just in the house and I wanted to drink a cup of tea when somebody came up and said "they shot him"'*. She said that as a result of the shock, she *'didn't know what to do. I don't know if I must run, or if I must walk, or what'*. Exploring the scene of the crime, she explained the horror: *'Because it was a shock. So when I got to the place where they shot him. I just saw blood. They shot him six times'*.

Shanda's son was killed brutally on Christmas day: *'It was a shock for me when I opened the door and see my son is laying there dead. They were shooting there from another gang ... I can't believe it is my son is laying there. So I go to my husband and I told him [son's name] is laying full of blood here on the stoep³⁸⁷ ... We don't know what to do at that moment'*. Julie's son was shot away from home and she was called to the hospital: *'My son had to drag himself to [a friend] and then they had to phone the police and the police had to take him to the hospital. When I got there his arms were hanging like this [demonstrates how arms were hanging down] because the bullet was in his spine and he was dead already'*. Although his involvement in gangs had many distressing effects on her family, Shanda was devastated by the loss of her son and says, *'I love him very much. Because that was not the way he was growing up. He made a decision for his own life. For me ... a mother, to lose someone who you love, for me was it very hurtful'*.

Describing their shock at the murder of their sons, these women expressed helplessness. Knowing that their sons were involved in gangs does not remove the blow of having a child shot or killed. Life is cheap when living in 'gangland' and emotionally women live with the frightening possibility that they will lose their children to gang violence. The death of Shanda's son had an overwhelming impact on her other children, who saw their brother lying on the front porch in a pool of blood. Being a religious person, she says she wants God to forgive her and so she has to forgive the person who shot her son: *'The Lord did see all my tears; in the*

³⁸⁷ 'Stoep' translate from Afrikaans is porch.

morning, in the night, during the day'. Shanda has suffered her share of loss. In addition to losing her son, she has also lost two brothers who were murdered.

In addition to the loss of children to gang violence, women reported other children, family members, partners and friends who were also victims of gang shootings. Julie shared how, *'my son was involved in three incidents that was gun related'*. In one instance, *'it was his friend opposite, it was his 21st birthday'*. Her son had gone with his friend to the hairdresser. Her son came home and said, *'He's [the friend] just been shot. They shot him in the cheek and it travelled to his spine'*. The friend, *'was for months and months in the hospital'*. In another incident, her son and a friend were watching movies at home when the friend went to smoke a cigarette outside and, *'Guys just came and they shot him'*. Katrina reports that her sister's child who was only 15 years old had also been shot: *'He was standing in front of the door [of his mother's house] waiting for a taxi to go somewhere and three guys came around the corner and they shot him'*.

Likewise, the women expressed fear for their friends and family who are also involved in gangs. Inga describes the scenario where her brother who was a gang member was shot and killed while the family went to church. They returned home to find that he had been killed. She says they did not even know that he had been shot. They thought that he had died from a heart attack: *'They soema try to revive in die huis en toe het hy nou nie bygekome, want hulle het nog gesoek en als van die merke, maar hulle het niks gekry nie. En toe het ons uitken die Maandag. En toe sê die speurder hulle het 'n bullet gekry. Hy was geskiet, raak geskiet'*.³⁸⁸

It is a regular occurrence that people are caught in the crossfire. Marjorie referring to people being affected by gang violence says, *'Hulle skiet die mense wat innocent is, hulle skiet nooit die gangsters'*³⁸⁹. Anna told the story of her daughter who was shot in the leg at Kenilworth Shopping Centre. She said she thought her daughter was *'in the wrong place at the wrong time'* and there was no indication that the shooting was intentional. In the media there are a number of reports of women being affected by random gunfire. In one instance, a woman's leg was grazed by a bullet while she was walking down Prince George Drive. In

³⁸⁸ Translation from Afrikaans: *'They tried to revive him in the house but he didn't come around, they searched for marks but they did not find anything. And then we went to identify him on Monday. The detective said they found a bullet. He was shot, the bullet hit him'*.

³⁸⁹ Translation from Afrikaans: *'They shoot the people who are innocent, they never shoot the gangsters'*.

another, children at Prince George Drive Primary School had to lie on the floor as bullets were shot through the windows of their school.³⁹⁰

Children were described in the interviews as running towards and being attracted to the excitement of gunfire. Julie said, *'it's because they stupid ... when the shooting starts they would just run in there [to the sports field known as 'the battlefield']'*. YouTube videos show children narrowly escaping being shot or running out of their homes when there is gunfire and shouting encouragement to the gangsters.³⁹¹ Random shootings often result in children being the victims.³⁹² Nicole shared that *'Not too long ago there was a small little girly that was sitting in her pram that was shot outside of her shop, because her mommy went into the shop'*. Liam Petersen is another example of a small child of only three years who was shot dead outside his home when a gunman opened fire. The father too was injured. Of her observation of the impact of shooting on children in the community Marjorie says, *'En is nie groot mense wat dood gaan. Meerste al van twee, drie jaar oud kinders is al dood geskiet'*³⁹³.

5.2.5 Policing gangs

Talita indicated that there is an expectation that the police should respond when there is gang violence: *'When there are shots fired they call the police and then they lie on the floor. If the police don't come, they just keep calling and the police say, "hulle het nog calls ingekry"'*.³⁹⁴ Shanda, with reference to the intensification of policing after a metro police officer and a gang member were killed in Lavender Hill in April 2013,³⁹⁵ says, *'they stopped the violence but*

³⁹⁰ Robin Francke 'Lavender Hill pupils duck as skollies shoot outside' *Daily Voice* 9 March 2019, available at <https://www.dailyvoice.co.za/news/lavender-hill-pupils-duck-as-skollies-shoot-outside-13670719>, accessed on 10 October 2019.

³⁹¹ Jarita Kassen 'Five-year-old shot dead in Lavender Hill' *EWN* 21 December 2019, available at <https://ewn.co.za/2019/12/21/five-year-old-shot-dead-in-lavender-hill>, accessed on 28 August 2020; Monique Duval 'Shocking video of suspected Cape Town gang hit while toddler runs for his life' *IOL* 1 June 2020, available at <https://www.iol.co.za/news/south-africa/western-cape/shocking-video-of-suspected-cape-town-gang-hit-while-toddler-runs-for-his-life-48805843>, accessed on 28 August 2020.

³⁹² Lauren Isaacs 'Lavender Hill community shattered after shooting claims 3-year-old's life' *EWN* 17 June 2020, available at <https://ewn.co.za/2020/06/17/lavender-hill-community-shattered-after-shooting-claims-3-year-old-life>, accessed on 28 August 2020.

³⁹³ Translation from Afrikaans: *'It isn't big people who are shot. It mostly children of two and three who are shot'*.

³⁹⁴ Translation from Afrikaans: *'They say they received more calls'*.

³⁹⁵ Natasha Bezuidenhout 'Cop and motorist he fined shot dead' *IOL* 4 April 2013, available at <https://www.iol.co.za/news/cop-and-motorist-he-fined-shot-dead-1495200>, accessed on 28 August 2020.

when they gone it goes on again'. She aptly says, 'we want peace in our community; we want the law'.³⁹⁶ The media refer to this period as a 'lockdown by police'.³⁹⁷

In July 2019, Bheki Cele announced that he would again be deploying soldiers to crime hotspots in Cape Town.³⁹⁸ He called this an 'extraordinary' measure, while challenging police generals to bring down the high rate of murders or give up their uniforms.³⁹⁹ A month later Minister Cele announced that these efforts had been successful, resulting in the arrest of 806 wanted suspects and 20 gangsters. The crime figures, however, did not reduce to the extent that was anticipated.⁴⁰⁰

According to Rebecca Davis in the *Daily Maverick*, 'nobody knows what has caused gang violence on the Cape Flats to escalate so drastically this year with at least 900 people murdered in the first six months of 2019 alone'.⁴⁰¹ JP Smith, Mayoral Committee Member for Safety and Security for the City of Cape Town, argues that the increased release of parolees in 2019 and a failure to adequately prosecute gangsters contributed to the high levels of gang violence. He also says that crimes are organised from prisons with illegal cellular phones.⁴⁰² Lukas, the acting chair of the Western Cape Community Policing Forum, handed over demands to a representative of Police Minister Bheki Cele, which included: a state of emergency to be declared in gang hotspots, with the army brought in as a force multiplier; mass deployment of

³⁹⁶ This outbreak of violence came after a nine-month period of ceasefire in Lavender Hill, which started in July 2012 and had been negotiated with gangsters by members of the community. The leadership of the community worked together on a project to create jobs for the thousands of unemployed young men who were caught up in the web of gangsterism. The Western Cape government had requested military assistance from the national government, but that was turned down. For more on this see in: Ruben Richards 'Negotiating Grassroots Reconciliation in the Context of Social Disintegration in Post-Apartheid South Africa' in Valerie Rosoux & Mark Anstey (eds) *Negotiating Reconciliation in Peacemaking: Quandaries of Relationship Building* (2017) 307.

³⁹⁷ Daneel Knoetze 'Lavender Hill locked down by police' *IOL* 11 April 2013, available at <https://www.iol.co.za/news/lavender-hill-locked-down-by-police-1498764>, accessed on 19 November 2020. The police patrolled on foot and traffic officials searched cars. Cape Town's Special Investigating Unit (SIU) issued search warrants and searched for contraband. Kevin Southgate, chairperson of the area community police forum, said that there had been a lull in the violence after the police permanently deployed armoured Nyala to the area.

³⁹⁸ Ernest Mabuza 'Bheki Cele deploys army to crime-ridden Western Cape' *Times Live* 11 July 2019 at 10.09 pm, available at <https://www.timeslive.co.za/news/south-africa/2019-07-11-cele-deploys-army-to-crime-ridden-western-cape/>, accessed on 18 January 2020.

³⁹⁹ Chantall Presence 'Bheki Cele announces army will be deployed to Western Cape hotspots' *IOL* 11 July 2019, available at <https://www.iol.co.za/news/south-africa/western-cape/bheki-cele-announces-army-will-be-deployed-to-western-cape-hotspots-29061436>, accessed on 13 September 2020.

⁴⁰⁰ Unathi Nkanjeni 'The army and the Cape Flats one month later: 'Were making inroads', says Bheki Cele' *Times Live* 13 August 2019 at 10.58 am, available at <https://www.timeslive.co.za/news/south-africa/2019-08-13-the-army-the-cape-flats-one-month-later-were-making-inroads-says-bheki-cele/>, accessed on 13 September 2020.

⁴⁰¹ Rebecca Davis 'Army deployed as gang violence escalates to unprecedented levels and residents cry out for help' *Daily Maverick* 12 July 2019, available at <https://www.dailymaverick.co.za/article/2019-07-12-army-deployed-as-gang-violence-escalates-to-unprecedented-levels-and-residents-cry-out-for-help/>, accessed on 1 October 2019.

⁴⁰² *Ibid.*

additional police resources; and specialised courts to deal with gang crime, with no bail for gangsters.⁴⁰³ The danger of bringing the military in to deal with gang violence is that the community becomes militarised, with social ramifications, such as the potential for increased vigilantism.⁴⁰⁴

5.3 VIOLENCE AGAINST WOMEN AND CHILDREN

5.3.1 ‘Once the female builds herself up he becomes jealous, because “I don’t have a hold on you”’⁴⁰⁵: Patriarchy

Gender inequality, the inferior status of women, and a culture of patriarchy are contributors to high levels of gender-based violence.⁴⁰⁶ Research has shown that in South Africa ‘intimate femicide is the leading cause of female homicide and occurs at more than double the global rate’.⁴⁰⁷ Sharing observations of patriarchy, Ashleigh shares a story of a woman who is often late for her support group because ‘*her husband gets her around the corner [on the way to the support group]. He times her and beats her up every morning*’. Expressing the view that men feel jealous when women empower themselves, women I interviewed said that empowerment increases violence in relationships.⁴⁰⁸ From the feminist perspective, violence against women is due to patriarchal values in society, which are entrenched through a culture of male domination over women.⁴⁰⁹ Marla, pointing out how men are idle and depend on women economically, describes how men walk with women to public transport with ‘*coffee in hand, coffee that she made for him while he is lying in bed*’.

⁴⁰³ Ibid.

⁴⁰⁴ Lindy Heinecken ‘The army is being used to fight Cape Town’s gangs. Why it’s a bad idea’ *The Conversation* 17 July 2019 at 3.45 pm, available at <https://theconversation.com/the-army-is-being-used-to-fight-cape-towns-gangs-why-its-a-bad-idea-120455>, accessed on 20 January 2020.

⁴⁰⁵ From an interview with Marla.

⁴⁰⁶ For more on the contributing factors to GBV in South Africa see: Rukia Cornelius, Thea Shahrokh & Elizabeth Mills *Coming Together to End Gender Violence: Report on Deliberative Engagements with Stakeholders on the Issue of Collective Action to Address Sexual and Gender Based Violence, and the Role of Men and Boys* (2015) 8.

⁴⁰⁷ Shanaaz Mathews, Rachel Jewkes & Naeemah Abrahams ‘“So Now I’m the Man”: Intimate Partner Femicide and Its Interconnections with Expressions of Masculinities in South Africa’ (2015) 55 *British Journal of Criminology* 2.

⁴⁰⁸ Research has shown a correlation between GBV and empowerment. However, there are different factors that impact on GBV, including alcohol consumption – a high contributor, compounded by attitudes towards women. The economic and social emancipation of women offers opportunities for rehabilitation of victims of GBV. See: Naomi N Wekwete, Hamfrey Sanhokwe, Wellington Murenjekwa et al ‘The Association Between Spousal Gender Based Violence and Women’s Empowerment among Currently Married Women aged 15-49 in Zimbabwe: Evidence from the 2010-11 Zimbabwe Demographic and Health Survey’ (2014) 28 *African Population Studies* 1413–31.

⁴⁰⁹ David M Lawson ‘Incidence, Explanations, and Treatment of Partner Violence’ (2003) 81 *Journal of Counselling and Development* 20.

Lizelle believes that a lack of self-worth is the reason for women accepting the suffering they experience in relationships where there is violence. She says that women are not appreciated by their partners and *'there is no "you look beautiful today" or "I like the way you smile". It is always hurting and destroying'*. From her perspective this contributes to women feeling *'worthless'*. Her work in the women's support groups is made harder because *'it is difficult to change things when that is the self-image of women in the community'*.⁴¹⁰ Ruth echoes this when she shares that she only regained her self-esteem when she started to work and earn money. But, with high levels of unemployment, most women struggle to become economically empowered.

5.3.2 'It's not nice to see a boyfriend hit his girlfriend. It's not nice'⁴¹¹: Intimate partners and domestic violence.

Violence by intimate partners was reported by many of the women as one of the biggest problems that impacts severely on quality of life.⁴¹² Valerie attributes this to the increasing levels of unemployment, and explains it is a consequence of the disempowerment of men who act out against women in their lives.⁴¹³ She says that the intention of women's support groups is to empower women to leave violent situations and understand that *'the men are the perpetrators'*. Valerie is of the view that this can lead to greater alienation between men and women, as *'women come for help, come to the workshops, come for training'*, and become increasingly empowered. Marla also says that it is the women who seek help and that men seldom attend workshops or support groups to improve their lives. As a result, she says, *'men are losing power and control'*.

Judy is of the view that even when women are aware of their rights, they stay with men who abuse them. She observes her neighbours and how badly the men speak to the women in their households. Despite trying to help them, she says, *'they tolerate it, they say it's okay'*. She also says tolerance is linked to the addiction cycle. Men and women do drugs together and

⁴¹⁰ From an interview with Lizelle.

⁴¹¹ Quote from an interview with Shanda.

⁴¹² This is in keeping with rampant femicide statistics in South Africa, and high levels of intimate partner violence. According to StatsSA, the murder rate for women increased by 117 per cent between 2015 and 2016/17, while the murder rate for men continued to decline. See Risenga Maluleke *'Crime against Women in South Africa: An in-depth analysis of the Victims of Crime Survey data 2018'* (2018) Statistics South Africa 'Report No. 03-04-05' available at <https://www.justice.gov.za/vg/femicide/docs/201806-CrimeStats.pdf>, accessed on 31 August 2020.

⁴¹³ A study in the UK to determine the correlation between unemployment and domestic violence found that an increase in domestic violence correlated more with female unemployment than with male unemployment. This appears to be related to the reduced economic status of women in the family as a result of unemployment. See: Dan Anderberg, Helmut Rainer, Jonathan Wadsworth & Tanya Wilson 'Unemployment and Domestic Violence: Theory and Evidence' (2016) 126 *The Economic Journal (London)* 1949.

the women fear leaving their partners because then they will not have access to drugs: *'they tend to stay with the person or take them back all the time. It has to be a chain. It has to be continuous and then only will they seek help from the police'*.

Economic and social reasons were also cited as making it difficult for a woman like Ruth to leave her abusive husband. Reflecting on her decision to leave him, Ruth says, *'it comes to a point when you have to leave'*. Explaining what made it hard to leave, she says, *'I've know this man half my life ... you know I think it's the scariness of being alone'*. However, her experience of growing up in a home with an abusive father made her make the decision, *'because if I look at my mommy, I don't want to be my mommy you know. She is a strong, independent woman, but she is also ... I feel like she's also bitter and that's not what I want to be'*.

Robyn's mother was abused by her step-father, who she says was more abusive when her mother helped her [Robyn] financially: *'If she give me then she must give it skelmpies'*.⁴¹⁴ Robyn thinks that her mother tolerated the abuse because so many of her family members live in the house which is paid for by her step-father.⁴¹⁵ As a result, she has left the house and is living with her boyfriend to get away from the overcrowding and the abuse her mother is subjected to by her husband.

Angelique left her husband after seventeen years together. She had lived with him in an informal settlement with three children, no running water, crime, flooding, and only portable toilets outside. She says she could handle all of this, but it was the emotional and mental abuse that she could not take. Jannie has also left her long-term partner, but is still considering returning to him, despite having left a few times: *'He's coming right actually, but for me it's like this is the third time'*. She is afraid of returning to him if it means her son grows up in a family where the man abuses the woman. Hopeful that this will change the direction for her son, she says, *'maybe he is going to be a better man than his father'*. Jannie also realises that the consequence of returning to him is that *'he's maybe going to kill me'*. Jannie's boyfriend is a drug addict who abused her even when she was pregnant. When her baby was three weeks

⁴¹⁴ 'Skelmpies' is vernacular for 'on the sly'.

⁴¹⁵ It is believed that economic forces drive women to remain in abusive relationships. According to Lenore E Walker, 'battered women suffer from cognitive motivational deficits that restrict their ability to seek help or information, leading to a sense of a loss of control and the belief that there is nothing they can do to escape from the abusive situation'. See: Lenore E A Walker *The Battered Woman Syndrome* (2017) 11. Similarly, Estrellado & Loh found that women remained in abusive relationships because of their self-esteem. See: Alicia F Estrellado & Jennifer Loh 'To Stay in or Leave an Abusive Relationship: Losses and Gains Experienced by Battered Filipino Women' (2016) 34 *Journal of Interpersonal Violence* 1843–63.

old, he beat her in the face with his fists. She reached out to the police and *'they said I need to go to the day hospital for a J88⁴¹⁶. So I said okay fine'*.

Also abused by her ex-boyfriend, Jessica describes the emotional and physical abuse she experienced: *'He was very aggressive. And then if we argue he smacks me, and then when he's in another mood, then he's like sorry for smacking you'*. The final straw came when *'he pulled out a gun and almost killed me'*. His [the boyfriends] mother finally encouraged her to leave him. She also told Jessica's mother what had been happening.

Ruth is concerned that the abuse in the home is impacting on her daughter and says her daughter will shout at her husband saying, *'why are you doing that to a lady?'* and *'she's my mommy you know!'* She prays that her daughter will not end up in a relationship like hers and tells her children, *'you know why I'm working is to show you that a female's place is not just in the kitchen'*. Isabel tells the story of her aunt who lived with her who was abused. When her boyfriend came out of jail, he threw a petrol bomb into their apartment. Her sister, aged four at the time, died that night. At the age of eight, Isabel had to testify in court against him. They still live in the apartment that was burnt and where her sister died, because there is nowhere else to go.

Of the women interviewed, some are mothers of adult women and are concerned about their daughters who are victims of domestic violence. Julie's daughter's ex-boyfriend is a gangster and has been abusing her for a long time: *'He tried to kill her and it's not the first time. He's a Junky ... he's obsessed with my daughter. So he set my house alight'*. Her daughter has ended the relationship, but the abuse continues. Even if he sees her in the streets, *'he fights with my daughter if he gets her. He hit my daughter with a fist and she had the child with her, so the fist landed in the child's face'*. Cindy shared how her daughter was killed by her boyfriend: *'He first hit her with a spade and when I went forward and told him he can't hit her like that, the next moment I opened my eyes my daughter was lying dead in front of me'*. She said the man only spent six months in jail before his father helped him to get out.

⁴¹⁶ The J88 form is a legal document completed by a medical doctor or a registered nurse, documenting injuries sustained by the victim in any circumstances where a legal investigation is to follow: 'The J88 form is generated by the Department of Justice and is the accepted document in terms of our legislation to be utilised in the South African Courts as the preferred method of adducing evidence in a criminal matter with regard to the injuries a complainant sustained in for example a rape, assault or attempted murder case. It serves as a crucial piece of medical evidence....'. From: Marli Smit 'J88 - Are you allowed to refuse?' (2016) SAMA Insider 4 available at <https://www.samedical.org/images/attachments/Article%20for%20SAMA%20Insider%20-%20J88%20-%20Are%20you%20allowed%20to%20refuse.pdf>, accessed on 20 January 2020.

According to Denecia, men are publicly violent towards their partners. She shared how she and her colleagues defended a woman who was walking outside their offices and was being abused by her partner. They did so despite the man threatening their lives. He had a belt and hurled abuse at them, saying *'Ek sal jou skiet'*.⁴¹⁷ She tells me proudly how she told her colleagues, *'listen here ladies this week we don't allow this to happen to a woman, because this can happen to us as well'*. They chased the man away from the women and said, *'why were you hitting her ... real men don't fight with women'*.

Emotional abuse is also prevalent, although women interviewed did not always recognise it as a form of violence.⁴¹⁸ Alex recognises that her sister's husband abuses her emotionally: *'My sister she's married but her husband abuses her emotionally'*. As a consequence, she says her sister is *'always on the emotional rollercoaster'* and has been *'on medication and is going through depression again'*. Ruth experienced a lot of physical abuse in the past but recognises that what she currently experiences is emotional abuse, when she says, *'physical abuse is something from the past but ... now and then there would be emotional abuse or mental, you know For me that is the worst abuse you can get'*.

5.3.3 'Please don't feel sorry for me and the situation I am in': Abuse is normalised.

Domestic violence is normalised because it has been happening for generations. It is seen as a trade-off for having a man in your life, which is associated with increased status.⁴¹⁹ This speaks to the nuanced nature of gender-based violence, which is complex and exists on a continuum unique to each person.⁴²⁰ Angelique said that she only realised that being abused was wrong when she attended a workshop and heard about other women in the support groups who had left their husbands. It was at this point that she thought, *'if they can do it, so can I'*. She also knew that she would receive support from the women in the group: *'Sitting in workshops, attending things, attending trainings. Why I could get divorced? Because I just thought to myself "I can survive"'*.

⁴¹⁷ Translation from Afrikaans: *'I will shoot you'*.

⁴¹⁸ Psychological violence includes verbal or non-verbal communication used with the intent to harm another person mentally or emotionally, or to exert control over another person. See more in: Jeffrey E Hall, Mikel L Walters, Kathleen C Basile 'Intimate Partner Violence Perpetration by Court-Ordered Men: Distinctions Among Subtypes of Physical Violence, Sexual Violence, Psychological Abuse, and Stalking' (2012) 27 *Journal of Interpersonal Violence* 1380.

⁴¹⁹ Interview with Marla, Nellie and Denecia.

⁴²⁰ Linda Mills *Insult to Injury* (2006) 82.

Maria says she was abused by her husband for nineteen years and they have been separated for thirteen years, although not divorced. He had many other women and abused alcohol and drugs. Her family hated his behaviour and she says, *'ek moet altyd die polisie involve en die and daai'*.⁴²¹ She is proud of herself for having left her husband because it was not an easy decision: *'Hy't 'n hold op my gewees'*.⁴²² She says she met a new man who was also abusive. However, she saw the signs and was able to end it. Jannie realised that being abused by her partner was wrong when she spoke to a social worker. Her partner *'will soema come here and he will soema hit me in front of the people'*. Despite such public beatings, no one intervened or suggested that she should report the beatings to the police.

There is an awareness among women that the cycle of leaving abusive men and returning to them contributes to the cynicism of the police when responding to domestic violence cases. Alex, who has had help from the street and court committee, says they gave her advice and suggested places to go for help, but she is ever hopeful that her ex-partner will change: *'What if we make up? What if this never happens again'*. For Barbara, one of the problems is that there are not enough facilities for women to go to when they experience abuse and they do not have the skills to cope. Expanding on this she says, *'abuse has become a cycle in our community. Now nobody knows how to stop that cycle'*.

Domestic violence impacts on all the people who interact with a situation where women are being abused. Ashleigh suffers the stress and trauma of worrying about women in her support group who are being abused and says, *'you sit and contemplate'*. Marla says that women are starting to realise that *'enough is enough'*.

5.3.4 'She don't want to be hurt again'⁴²³: Rape

There were a number of instances where rape was cited as a problem in the community, with most of the victims being young girls. Ashleigh says, as a result of her community work, she has *'seen people who've been raped, who've been violated, all kinds of things, whose kids have died in the process'*. Abigail told the story of a girl in a group with whom she works. She found her difficult to have in the group, until she heard about the sexual abuse the girl had experienced, and the secondary abuse from people in the courts where she lives. The girl was victimised by mothers in the courts who knew about the rape, which happened when the girl

⁴²¹ Translation from Afrikaans and slang: *'I always had to get the police involved and this and that'*.

⁴²² Translation from Afrikaans and slang: *'He had a hold on me'*.

⁴²³ Quote from an interview with Abigail.

was five.⁴²⁴ This abuse continues now that she is in her teens. Abigail, sharing this girl's story and the impact it has had on her approach to life, says, *'She's now 17. She's still on school and she's at Lavender High ... before anybody can hurt her she will ... she's now just being like this picky girl because she don't want to be hurt again'*. Sharing her own perspective of what happened the night of the rape, she says, *'and you, know what, after this guy ... after he raped her, he probably fell asleep, or whatever, and then that child crawled out or walked out, and she crawled over the field to her house in the middle of the night'*. According to Abigail, the night the child went missing and was raped, the community and police rallied around to find her.

Abigail shares how in an effort to counter this young girl's experience of being victimised, she tries to build up this girl's self-esteem: *'I told her, "You know what, you are a winner. Because other children would have died that night, other children wouldn't have crawled, they would have been raped again maybe the next day; killed the next day when he woke up out of his, whatever, he was drugged or alcohol or whatever. But you are a winner and you made it this far"'*.

Young girls are often the sexual targets of gangsters as a rite of passage into gangs.⁴²⁵ Astrid describes a situation in her neighbourhood where, *'there's a house where all the youngsters go ... his girlfriend is from 14 to 17'*. Having *'made the other one pregnant also 14'*, she goes on to say he targeted a second young girl *'from Lavender Primary, he made pregnant when she was 14, the child is 3 years old already'*. Her frustration is that *'when the community said something about it – they even took him to court – nothing happened to him'*.

Astrid reports that people in the neighbourhood wanted her to take further action, but she did not want to get involved, because she feels her responsibility stops in her road, where she is involved in the street and court committee. She goes on to say that *'he left her, got a new target. The people wanted me to set up a petition and I told them "I can't" ... The community in the road, they must set up a petition and then go forward with it'*. Astrid could be putting her own life and that of her family at risk if she was to take action.

Alex shared her story of being raped and the trauma she experienced: *'About four years ago I was raped'*. As a result of the rape she says, *'I think about two months, not even two months after I found out I was pregnant due to that'*. Not trusting anyone in the community,

⁴²⁴ Abigail reports they would say, *'they should have put their penises in your mouth'*.

⁴²⁵ Julia Dickson-Gomez, Katherine Quinn, Michelle Broaddus & Maria Pacella "Running Trains" and "Sexing-In": The Functions of Sex Within Adolescent Gangs' (2019) 51 *Youth and Society* 152.

she turned to a friend from Bloemfontein *'who helped me through this whole ordeal ... up until the point where I decided to go for the abortion'*. It was a while later that she called on this friend again because she says she *'started suffering from depression ... I was ready to commit suicide'*. Alex then said that her current boyfriend helped her by taking her to FAMSA for counselling: *'I started going for counselling in April. So that was hard for me. I just pushed to the side, but then I don't know what happened that it just came back. But now I'm okay. I'm dealing with it now'*.

5.4 FEAR OF CRIME AND VIOLENCE

Fear of violence has complex and detrimental effects on the quality of life at individual, community and societal levels. Shaped by the violent context, fear determines the way in which women interact with others in the community, and impacts on how they resolve problems.⁴²⁶ Fear is etched into the lines and expressions on the faces of even the youngest women who were interviewed for this study. Young women appeared much older than their years, not surprising considering the intensity of the problems and the levels of violence they encounter daily. Violence, as has emerged in this chapter, is pervasive. Even when the violence abates, people of Lavender Hill wait anxiously for the next time there is an uprising and the possibility of being the next statistic. Letitia, describing a life where fear dominates, says, *'it was very hectic a couple of months back; I was scared'*. Living in a less violent part of Lavender Hill, she says there was an outbreak of gang violence, which, despite it being *'quiet in your house, the TVs off, you lay in bed, you can hear the gunshots and then you say to yourself, "oh my God, it's again. I wonder who got shot now?" Maybe someone you know or whatever'*.

Letitia is of the view that fear of retaliation underlies women's reluctance to report crime in the community because, *'Most of the time in this community here people are scared, because it's like you go to the police – I don't know – from what I've heard some of the police are corrupt. They were informed, or whatever'*. She is of the opinion that if a crime is reported at the police station, they [the police] will say to the criminals or gangsters, *"Listen, that one, Letitia, came to tell me now this is what happened"*. *And so because people fear for their lives they won't [report the crime]'*.

⁴²⁶ Benjamin Roberts & Steven Gordon 'Pulling us apart? The association between fear of crime and social cohesion in South Africa' (2016) 55 *SA Crime Quarterly* 57.

5.4.1 ‘I’m afraid to go out the house’⁴²⁷: Impact of fear on freedom of movement

The randomness of violence contributes to pervasive fear. There are short periods of ceasefire between gangs, but it provides little opportunity for women to gain control and protect themselves or their family. Even during these periods, gender-based violence continues. Women express the view that life would be better, or at least tolerable, if there were not high levels of violence. Moira, when asked what the biggest problem is, explains, *‘it’s just the violence that really gets me, gets on my nerves sometimes. Other than that, it’s fine living here’*. The word ‘nerves’ indicates the rawness of the fear and anxiety it triggers. Barbara explains how people are afraid to move around because of random violence: *‘You can’t walk where you want to, you can’t even sit with who you want to, you can’t even talk to who you want to. It’s become so uncomfortable, especially from different areas’*. She explains that women are unable to move from one area to another out of a fear of being caught up in turf wars: *‘Knowing okay, you going to come safe home out of this area, because there’s nothing that tells you that this is where I know, if anything happens, this is where I can go to’*. This contrasts with the view that women know the safe and danger zones in the community, ensuring some protection. They do, however, have greater knowledge than an outsider with no awareness of where danger lies. Talita says there is a part of the community she has never been to because it is too dangerous. At a conscious and subconscious level, people know and understand these norms and avoid being victims of turf wars. For their survival, children are taught by parents and grandparents, and by observing other adults, which areas to play and move around in to avoid gang violence.

Gangs claim different areas as their turf and then control the movement of the people therein. Even for people who have no connection to the gangs but live in gang-controlled territory, freedom of movement is limited.⁴²⁸ Marla explains that it is about the drug trade and *‘what happens is more about smuggling’*. It is about competition for territories and as she says the gangs question, *‘why you coming to come sell here? And then yours is cheaper than ours;*

⁴²⁷ Interview: Moira.

⁴²⁸ Described in an interview with Marla, who lives in Lavender Hill and works for an NGO situated therein. Numerous media articles refer to violence as a result of turf wars. See : SApeople Contributor ‘Footage of Cape Town Gang Shooting Makes International News’ *SApeople* 2 June 2020, available at <https://www.sapeople.com/2020/06/02/shocking-footage-of-cape-town-gang-shooting-makes-international-news/>, accessed on 27 August 2020; Lester Kiewit ‘Gangs profit though guns are silent’ *Mail and Guardian* 23 April 2020; Petru Saal ‘Schools reopen after bullets fly in gang turf wars’ *Times Live* 1 June 2017 at 4.47 pm, available at <https://www.timeslive.co.za/news/south-africa/2017-06-01-schools-reopen-after-bullets-fly-in-gang-turf-wars/>, accessed on 27 August 2020.

you taking our business away'. Turf ownership is critical to gangsters and even if you are not a gang member, moving from one gang's turf to another could cost you your life.⁴²⁹

According to Moira, moving around after dark is particularly dangerous: *'It makes me afraid to go out of the house, so I keep everybody inside. We lock the doors you know. That is a problem because you have to go outside'*. Nicole, discussing the impact of gang violence, says, *'It's hard for you to lead a normal life if you are restricted to the things that you want to do'*. Katrina, similarly discussing the impact of crime on her family leading a normal life, says, *'we can never go out, spend time at family, because when you come back your place is breaked in'*. Rifka, also discussing the impact of doing something normal like taking her children to crèche, says, *'there was a time when I couldn't send her to crèche because of the gangsterism performance'*.

Of other daily activities, Rifka goes on to say, *'we were even afraid to send the children to the shops or play outside, because you never know when gangsters come and they start shooting'*. Talita, sharing her fears of taking her grandchildren to school, says, *'It's only when they shooting then I stress. Because I must take my grandchildren to school and I must walk over the field and there's the shooting that's going on'*. Nicole, deliberating on the impact of shootings on her freedom of movement, says, *'If they shooting and it's time for you to go fetch your child you must be careful the way you walk'*. Nicole also explains that gangs impact on decisions that other people, who live in safer neighbourhoods, might take for granted: *'Or if you are on your way out and you maybe decide "oh tonight we going to go out to a party" or something, you must be careful the way you are on the roads, because there's always gang violence everywhere and it's a big thing'*.

Describing how dangerous it is for children to move around, Shanda says, *'the kids must go over the field; they must go to school. Sometimes if they shoot, then children must lay down'*. Explaining the impact of shooting and violence, she says, *'some children can't even go to school'*. As a strategy to ensure her children's safety, *'my husband takes them now to school because he is not working now'*. According to Shanda, the night before the interview there was a shooting, *'and so for me when I sit there I've got so a fear for them. I said to my husband he must go early to fetch them and bring them home. Must keep them in the house, but they not children that are playing outside, just in the house'*. Kate had an experience where her son was caught in cross fire when going to the shop: *'Die jongens skiet so oor mekaar en hy is in die*

⁴²⁹ Dziejewski op cit note 364 at 176.

middel'⁴³⁰. She says the consequence is that *'die skok is nog altyd in hom'*.⁴³¹ She also says that as a result even if she asks him, *'hy sal nie weer winkel to gaan nie'*⁴³². Similarly, Abigail keeps her children inside the house to protect them from random violence.

Even when women know their children are not involved in gangs, they worry about their children moving around. Talita, who has another adult son who is not involved in gangs, says of her concern for his wellbeing, *'you must stress when your child is going to work and you must pray every day and ask God to protect him'*. Believing that his faith in God and involvement in the church should protect him, but knowing that dangers in the community are random, she says, *'he's not in the gangsterism, he is also serving the Lord. But you know these youngsters [gangsters] they don't care whether you serving or whatever'*.

Getting to and from work is a challenge. Talita, who works in the local crèche, describes how the gang shootings affect her ability to get to work: *'One morning I took my children to school, then I must come to crèche. We were just at the one corner, we had to run back, because they were shooting like across. So we had to run back and go another way around'*. Jessica describes a terrifying experience with gang shootings. She was pregnant and on her way home from work: *'and as I went over a bullet came past me and then I just stepped back and came inside. I phoned my mother, "please I don't care how long I have to wait, please come fetch me...they shooting and it's going mad and chaotic here"'*. Lynelle describes how she was on a bus going to work and saw a person being shot: *'Then he ran across the road injured, so he just fell down'*. She says she was so shocked: *'You just go blank ... I just go blank I didn't know what to do'*.

Barbara illustrates the situation when she says, *'you can't walk where you want to, you can't even sit with who you want to, you can't even talk to who you want to'*. For Rifkah, violence has made her a prisoner in her own home: *'Normally ... I go outside to the shop, then further I'm just in my house. I don't like going all over. No visitors. It's just like hello and good night and then back in the house'*. Abigail fears going to the shop: *'In the area I stay in if you go to the shop then the fear – are they going to shoot him are they going to shoot the other children?'* As Marla says, ceasefires allow people to let their guard down and interact freely, *'with no violence and stuff its actually nice because you see this one, you can stand still and*

⁴³⁰ Translation from Afrikaans: *'The young ones shoot over each other and he was in the middle'*.

⁴³¹ Translation from Afrikaans: *'The shock is always in him'*.

⁴³² Translation from Afrikaans: *'He won't go to the shops'*.

talk for a few minutes with this one. That child I didn't see for a long time so I will stand and chat with that person and it's ... just ... it's fine'.

Ashleigh points out that people with disabilities are particularly vulnerable. If they have a mental disability it is a challenge to comprehend the situation and make strategic choices to keep safe. People with physical disabilities are vulnerable because it can be difficult to move out of harm's way when necessary. Ashleigh fears for her mentally disabled sister and wishes her parents would leave Lavender Hill with her sister, who cannot even move around her own yard. The family is concerned about what Ashleigh refers to as '*perverted idiots*' taking her sister out of the yard. Ashleigh says, '*She's thirty years old now, but – you know what – she will always be a baby ... and she will always need someone to protect her*'.

5.4.2 'I'm still fearing for my life'⁴³³: Post-traumatic stress

Post-traumatic stress⁴³⁴ impacts on individuals and society and can result in grave functional and emotional impairment.⁴³⁵ Tamsyn talks about the aftermath of witnessing a stranger being shot in the street one morning on her way to work: '*I tell my husband one day "I don't know why I always bring this up". So he told me "you had a big scare that morning, you had a big scare" he told me*'. Tamsyn did not get counselling or any form of post-trauma support, other than from her nearest family and friends. Katrina also witnessed a gang shooting at close proximity: '*He was running through the yard, maybe he thought there was a getaway on the other side but he didn't make it. They just shot him there*'. Leonora is visibly traumatised by her brother and children being shot outside her flat and says that she would seek counselling in future because she relived the experience daily. At the time of the incident she did not receive any formal counselling and was only supported by friends, family and her mosque.⁴³⁶

Talita, of the experience of having seen people who have been shot in gang violence, says, '*dan vrees jy soema die selle tyd vir jou kinders se lewe en ook vir jouself*⁴³⁷'. Robyn has been traumatised by witnessing a drive-by shooting and this has had a lasting impact on her

⁴³³ Quote from interview with Robyn.

⁴³⁴ According to the Mayo Clinic, 'post-traumatic stress disorder' is a mental health condition that is triggered by a terrifying event, either experienced or witnessed. Symptoms may include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event. See: Mayo Clinic Staff 'Post-traumatic stress disorder (PTSD)' available at <https://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967>, accessed on 2 August 2020.

⁴³⁵ Jonathan R T Davidson 'Trauma: The impact of post-traumatic stress disorder' (2000) 14 *Journal of Psychopharmacology* S2.

⁴³⁶ Interview: Leonora.

⁴³⁷ Translation from Afrikaans: '*Then you fear for your own life and at the same time for your children's lives and for yourself*'.

life and her psyche. Describing the immediate impact of this incident, she says, *'When they did shoot him, then I couldn't sleep. I was like paranoid; any movement that I hear then I'm up'*. Explaining the longer-term trauma after the event and the impact it has had on her, she says, *'If I sleep, maybe at night, then I tell my boyfriend put the stuff behind the door just like I can sleep or he must ... If he wants to sleep then I'm going to stay awake a little. If I want to sleep he must stay awake so I was very on my nerves'*.

Of the trauma of seeing people who have been shot during gang violence and the effects, Talita expresses, *'after seeing the person lying there in their own blood struggling for their life, it's not nice. It stays in your mind and affects you. Daars tye wat jy nie kan slaap nie'*.⁴³⁸ Jessica, discussing the effects of being a witness to a drive-by shooting, says, *'Yoh, I never slept for a couple of days and then I felt like I have to look over my shoulder every time'*. Expressing concern that there could be consequences for her as a result of being a witness, she expounds, *'because people saw ... that I saw him shooting a person. I so I was like what is my life going to be in danger ... I never slept'*.

High levels of gender-based violence also result in post-traumatic stress. Lydia, who was abused by her husband for many years, describes how she now lives with the post-traumatic stress of that experience. She says she was taught to *'vergewe and laat gaan'*.⁴³⁹ It is hard, she says, to forgive someone who has treated you the way she was treated, but because of her religious upbringing she is expected to forgive. She beautifully expresses this struggle: *'Dan bly die miere in jou binneste en jy kan nie vorentoe in jou lewe gaan nie. Dis iets wat jou agter hou'*.⁴⁴⁰ Lydia is so traumatised by what happened to her said that if it happened again, *'dink ek ek sal dood gaan'*.⁴⁴¹

Women working to improve living conditions in Lavender Hill also experience the constant threat of violence, which impacts on agency and the willingness of others to participate. Asked what the response has been to her work in the street and court committees, Shelley, who constantly puts her life at risk while moving around to do her work in the local community police forum (CPF), declares, *'well, there is times there's some gangsters and stuff, and they will say "oh there's a piemper coming"'*. Shelley is resilient and utters, *'for me it's just, I look away. I'm not worried what you [the gangster] are doing'*. Of her efforts to assist

⁴³⁸ Translation from Afrikaans: *'There are times when you can't sleep'*.

⁴³⁹ Translation from Afrikaans: *'Forgive and forget'*.

⁴⁴⁰ Translation from Afrikaans: *'Then the ants stay inside you and you can't move forward with your life. It's something that keeps you back'*.

⁴⁴¹ Translation from Afrikaans: *'I think I will die'*.

people to leave the gangs, she says, *'If you need help you can come to me, but I'm not going to go to you and going to talk to you'*.

A feeling of powerlessness is not surprising given the amount of violence to which people are exposed in their everyday lives. Letitia, on the pervasiveness of gangs in the area where she lives, describes *'where I live, just around the corner by me, there's gangsters living opposite. In the other corner, there's gangsters, and all the other gangsters they have an argument and they come and start shooting'*. Explaining the impact of gangs on her life, she articulates, *'for me to live in this community it's not nice, because we don't know what to do about the situation we living in. Then we must run and stuff and it's not nice for us to live in that community, such a community'*.

Fear of retaliatory violence impacts on women's help-seeking behaviour. Women fear that if they give the trauma counsellor information, it will be shared with the police, and they will be required to be a witness in a court case. Similarly, they do not report being witnesses to cases of violence because they fear that the police will not keep their details confidential; that gangsters will be given their information; and that there will be retaliation or murder to prevent them from being witnesses. Beatrice explains, *'people are too scared to talk you see and I don't think things can be solved by phoning the police'*. She does not feel that she will be supported by others in the community if she reports a crime, saying, *'they won't back me up ... then I'm alone'*.

People in Lavender Hill regularly witness gang violence. They live with constant images of events from the past. Maria sums it up, pronouncing, *'in ons community is daar baie violence, baie violence, ja'*⁴⁴². She says that if you think that you have problems, you only have to look at another person's life: *'Dan sien jy hulle het ook probleme'*.⁴⁴³ Robyn, who is a witness in a criminal trial where her brother-in-law was shot by a gang member, says of the consequence of being a witness: *'I'm still fearing for my life, because I don't know if I'm on my way to school I can get shot. You know how the people is here in Lavender Hill. They get out of cars and they shoot you dead'*.

Community initiatives common in the suburbs, like neighbourhood watch, are a challenge for places like Lavender Hill because of the threat of patrollers being exposed to violence. Beatrice says, *'I heard there was people want to do a neighbourhood watch, or something like that they go and walk around ... it never happened because I think people are*

⁴⁴² Translation from Afrikaans and slang: *'In our community there is lots of violence, lots of violence'*.

⁴⁴³ Translation from Afrikaans: *'Then you see that they also have problems'*.

too scared'. There is a CPF and there are a number of civil society organisations that do try to intervene in the levels of crime and violence. These are discussed in more detail in Chapter Three and again in Chapter Eight.

5.5 CONCLUSION

This chapter demonstrates that women not only identify gangsterism and associated violence and crime as the biggest problems in the community, they also exhibit a high level of awareness of gangs, how they operate, and how to avoid areas in the community to ensure their safety. Women have developed strategies to ensure their survival in a place where violence is random. Gangs are both loathed and revered. Despite the associated violence which is feared, gangs provide an economic safety net. There is a symbiotic relationship between people in the community and gangs.

The pervasiveness of gangs has developed over time into an organised system of crime and drug trafficking. It has its roots in District Six and the forced removals of people from there and other neighbourhoods in the Southern Suburbs of Cape Town, to Lavender Hill and other localities on the Cape Flats. As a result, gang violence in Lavender Hill is linked to a network of violence, which spreads rapidly when it erupts, meaning that women have to be aware not only of what is happening in their own area but also of other places on the Cape Flats. People are often inadvertently associated with gangs, through a family member, friend or neighbour. Women are involved in gangs, and although this role is often peripheral, it is significant in ensuring their economic survival, enhancing their social status, and providing protection from rival gangs.

Violence and random shooting have become part of the culture. Children run out of their homes to watch turf wars and are often caught in the crossfire. From pre-school level, children make play guns and talk with pride about guns in their homes. Young children are attracted to gangs because they appear to offer escape from the dullness of life in Lavender Hill. Teenage and adult children are often victims of random and targeted shootings, leaving devastated parents who are traumatised as a result. For some, religion provides a refuge from the pain. Some women get involved in action to change the community and others avoid involvement as a strategy for survival.

High levels of violence against women and girls are underpinned by patriarchy, which is further entrenched by the prevalence of gangs, related violence, as well as disassociation from the value of life. Women have low status, particularly when they are seen to have little economic value in the household. Rape, often of young girls and teens, is another

demonstration of the low value men place on women. Moreover, patriarchy is entrenched by other women, when survivors of rape are victimised and ostracised. Similarly, women who are abused fear being ostracised by people in the community, should the community become aware of abuse.

Women acknowledge that they remain in abusive situations because of low self-esteem and a fear of leaving violent partners because they do not want to be alone. They are also concerned that when men leave the family home, there will be no male role models in the household. From the interviews, acceptance of violence is generational, because women have grown up with men who were violent towards their grandmothers, mothers and children. Women report that support groups bring improved self-image and increased awareness that violence is unacceptable, resulting in lower tolerance of violence in the home.

As a consequence of high levels of violence, women live with post-traumatic stress. There is little support or counselling available for women who have been affected by violence, either because they were a victim, a family member was a victim, or because they unwittingly observed violence. High levels of violence also mean that freedom of movement for women and children is affected. Normal daily activities like going to work, school, visiting family and neighbours, and going to the shops, require careful planning and consideration of what is happening in the community. Parents live with high levels of fear for their adult children when they are moving around, whose freedom and ability to be spontaneous is equally limited.

Lavender Hill is a complex place in which to live. It is shaped by a particular history, which is linked to a network of neighbourhoods on the Cape Flats with similar levels of violence and poverty. There is an intricate relationship between poverty and the existence of gangs. Poverty causes desperation, which means that people are often forced to resort to illicit activities to bring money into the household. People in communities who are not involved in gangs provide protection because of their familial relationships to gangs and the economic cushioning which is provided. Patriarchy is entrenched by the normative values entrenched in the gang system and a history of male domination in the home, the workforce and the politics of the community. This impacts on women's value. As a consequence, women not only fear violence on the streets, they also fear it in the home.

CHAPTER SIX: SOCIAL PROBLEMS

6.1 INTRODUCTION

Given the living conditions, high levels of violence, and crime, it is no surprise that substance abuse was cited as one of the biggest problems.⁴⁴⁴ According to Bellair and McNulty, a high prevalence of substance abuse in South Africa is correlated with anti-social behaviour.⁴⁴⁵ Poverty also provides fertile ground for drug abuse and crime.⁴⁴⁶ Substance abuse permeates all aspects of life, contributing to crime and the breakdown of family relationships. It makes people violent and vulnerable to violence, having to be constantly on the watch for the next possible attack.

In the first section of this chapter, I explore women's views on substance abuse and its impact on the neighbourhood. The data exposes the extent to which substance abuse affects other problems in the community and the choices that women make in relation to problem solving. Women discuss the role that substances play in both providing a source of income for people and draining resources.

Following on from substance abuse, unemployment and poverty were identified as predominant problems. These are interconnected, with respondents identifying that substances play the role of alleviating the circumstances in which people live. However, substances also contribute to these circumstances being perpetuated. Education levels are identified by women as being a big contributor to the inability of people to elevate themselves from poverty. Social grants are identified as the go-to solution for people who have few answers to their financial problems. Unemployment and poverty are identified as factors which impact on people's self-esteem and therefore their ability to find solutions to the problems they encounter.

In the last section of this chapter, I focus on the other social problems that women identified, such as the lack of male role models and the burden this places on women. Additionally, parent abuse is identified as a problem, which is linked to the issue of parenting skills, and approaches to parenting in the community. A lack of communication skills is also identified as a problem, which impacts on people and the community. According to women

⁴⁴⁴ Paul E Bellair & Thomas L McNulty 'Beyond the Bell Curve: Community Disadvantage and the Explanation of Black-White Differences in Adolescent Violence' (2005) 43 *Criminology* 644–69. According to Bellair and McNulty, there is a link between gangsterism and high levels of substance abuse. They also identify a link between neighbourhood disadvantage, gang membership, drug selling, and violent behaviour.

⁴⁴⁵ Rebecca Waller, Frances Gardner & Lucie Cluver 'Shared and Unique Predictors of Antisocial and Substance Use Behavior Among a Nationally Representative Sample of South African Youth' (2014) 19 *Aggression and Violent Behavior* 629–36.

⁴⁴⁶ Ibid.

interviewed, it affects the way in which problems are addressed and the ability of the community to come together. Poor service delivery was also identified as a problem, which is partly associated with the levels of violence in the community and the fear that service delivery agencies have of entering the community. This is also linked to the last issue raised, which is a lack of leadership. Women highlight their awareness that poor leadership makes it difficult to come together and resolve problems.

6.2 ‘THE BIGGEST PROBLEM IN OUR COMMUNITY IS DRUGS’⁴⁴⁷: PROBLEMATIC ALCOHOL AND DRUG USE

Given the living conditions and high levels of violence and crime, it is no surprise that problematic alcohol and drug use was cited – together with gangsterism and violence – as one of the biggest problems.⁴⁴⁸ High prevalence rates of substance use in South Africa is shown by research to correlate with anti-social behaviour.⁴⁴⁹ Poverty also provides fertile ground for drug abuse and crime.⁴⁵⁰ Although women say that problematic substance use is one of the most significant problems, Letitia claims that people resort to substances to ‘*take the edge off*’ the conditions in which they live. Casswell, a social worker in Lavender Hill, says, ‘*Almost 70 to 80 per cent of child protection cases we see would not need a social worker if substance abuse was taken out of the equation*’.⁴⁵¹

Other social problems are linked to problematic substance use. It’s seen as a chicken and egg situation; women know that the prevalence of substance use is because of poverty and unemployment, making young people vulnerable to seek a diversion from their circumstances. However, the prevalence of drugs and alcohol makes the situation worse, and the neighbourhood becomes a rich feeding ground for gangsters and drug lords. According to Letitia, children as young as thirteen are using drugs and ‘*it’s the biggest problem, because the*

⁴⁴⁷ Quote from interview with Letitia.

⁴⁴⁸ Bellair & McNulty op cit note 444. Joining a gang is a crucial life transition.

⁴⁴⁹ Waller, Gardner & Cluver op cit note 445.

⁴⁵⁰ Ibid.

⁴⁵¹ Barbara Maregele ‘Drug epidemic overloads state social workers’ *GroundUp* 17 May 2019, available at <https://www.groundup.org.za/article/drug-epidemic-overloads-state-social-workers/>, accessed on 26 September 2019. According to the Department of Social Development (DSD) in the Western Cape, a total of 35 502 clients have sought help for substance abuse since 2014. The DSD has grown its network of funded services across the province from seven in 2009 to 43 in 2018 and has expanded the adolescent Matrix Outpatient Programme to schools on the Cape Flats, including Lavender Hill, see Western Cape Government ‘Substance Abuse Awareness Week: 35 000 assisted to beat the scourge of drugs’ available at <https://www.westerncape.gov.za/news/substance-abuse-awareness-week-35-000-assisted-beat-scurge-drugs>, accessed on 27 September 2019; Marvin Charles ‘Patients as young as 10 hears old being treated for drug use in SA’ *Cape Argus* 25 June 2018. According to the article by Charles, a total of 38 per cent of patients in treatment were younger than 25 years, and seven per cent were between the ages of ten and fourteen.

drug is not going to let you concentrate on anything'. She attributes problematic drug use to the high level of school dropouts and a lack of ambition: *'They don't care because they don't think of their career going forward'*.

Available money is often spent on drugs and alcohol as a coping mechanism for dealing with living conditions, enriching the drug merchants and continuing the cycle of dependence between the community and the gangsters. Julie, who lives above a drug merchant, says that payday is a *'sad day ... it's so busy downstairs by me. Few mums get their children's money [maintenance money]. It's sad, it's sickening to see how today's the day she [the merchant] makes her money, because people are getting their all pay [social grants]'*. For Ruth, the biggest problem is substance abuse and *'employment, but not being employed leads to the abuse of substances'*. Ruth realises that there is a contradiction in that sentence and says, *'then you think if you unemployed where would get money for substances?'*

Valerie says that people will prioritise drugs over other needs, such as food, because *'that's how people deal with all their challenges, because they would, like, rather buy, you know, some substance or some drug, just to kind of block out all the other challenges they are facing'*. Talita, who managed to get out of the drug scene, is sympathetic towards people who are addicted, because of her personal experiences of addiction and the understanding that it is an outlet to take the edge off life. She says, *'Sometimes I talk to the guys I went to school with. They are on drugs now. They say "Talita there's no work out there"'*.

According to Alex, drug peddling is a norm and one of her biggest concerns is how drugs are being sold on the street corner where children like her nephew play. She says she tries to distract him from the influence of drugs and the risk of being a victim of gang violence by taking him to watch a movie or to church. However, she is also concerned that her brother, *'[H]e is a gangster and he has been using drugs since he was 14 years old and he is now 46 and it's escalated to tik now so it's even worse'* will be a bad influence on her nephew [her brother's child].

6.2.1 'The end of the day you going into that thing, the struggle becomes, and then you see your life on the street': The impact of substances on all aspects of life

Julie points out that problematic substance use drains resources which should be available to sustain the family. Discussing her husband's drug addiction, she says all he does is wait for

*'Allpay'*⁴⁵² and then he spends his money on drugs. She feels powerless to direct her life as a result of her husband's addictions. Crime is driven by a need to feed drug addictions. Relaying her story, Sheila shared how one of her sons resorts to crime to feed his substance use habit. Both her sons finished matric, yet she attributes her one son's path of drug addiction to seeking refuge after the end of a bad relationship. She does not understand how two children can turn out so differently: *'He was just throwing in my windows, he was breaking my stuff, he was demanding money. He was drinking. He was on drugs. I had to get an interdict'*.⁴⁵³

An inconvenience, crime is accepted as a part of life that has to be navigated. Letitia's cousin resorted to crime to feed his habit and this led to him being thrown out of his father's house, his grandmother's house, and his aunt's: *'Young people will sell anything for drugs'*.⁴⁵⁴ Judy also says drugs contribute to crime: *'They come and steal everything they can get their hands on, even the copper pipes at their house'*. She knows who the people are and says it's an *'inconvenience'* that they steal, but it's part of daily life. Drug sales and wars over turf often result in violence, *'when they decide they going to shoot one another over drug turf, because that's what it's all about most of the time, I think'*.⁴⁵⁵

Not only does problematic substance use impact on the financial situation in the family, it also contributes to children feeling neglected. Janine's father was a drug addict and did not take any notice of his children: *'There was never any finance in the house, because my mommy always needed to go out and look for work to put something on the table. I never wanted to experience that ... I don't want a boyfriend like that'*. Similarly, Greta says she grew up with her parents' substance use and even though they provided for her physical needs, she was not happy. As a result, both her brothers are *'drinkers'*, but she has never turned to alcohol. She regards the use of substances as a serious problem for family life.

Letitia expressed concern for her cousin who resorted to drugs after his mother died. His mother was the person who kept the family connected and now there is no one to help him. The burden on Letitia is wanting to find help for her cousin but not being able to get him the help because of his resistance to changing behaviour: *'I want someone to help my cousin get off drugs so he can see okay the drugs is making me different and I'm not the same person. He*

⁴⁵² 'Allpay' is the term used in communities for the day on which people, who receive social grants, are paid. It derives from the name of the service provider appointed by the South African Social Security Agency (SASSA) to disburse social grants up until 2012.

⁴⁵³ The terms 'interdict' and 'protection order' are often used interchangeably. The Domestic Violence Act 116 of 1998 refers to a protection order.

⁴⁵⁴ Interview: Talita.

⁴⁵⁵ Interview: Judy.

can't take his mind off his mother'.

Ashleigh's biggest problem is the impact addiction has had on her brother: *'My brother he was in the army — very well behaved. He came out, got pulled in by the gang and started using drugs and now he's not the same. So he's an adult now and he still can't get rid of this drug addiction'*. Alex also has a brother who is an addict and this has impacted on the family: *'My brother is a gangster and he has been using drugs since he was fourteen years old and he is now 46 and its escalated to tik now so it's even worse'*. Drug and alcohol addiction often result in family member resorting to gang involvement in order to feed their habits. Ashleigh, discussing her brother's addiction to substances and consequential association with gangsters, says, *'they sit together, they drink together, they smoke together and they do drugs together ... he doesn't run with them but I would put him as a part of it'*.

Julie, who expounds *'I'm not a drug addict'*, is of the view that she *'lives with a drug problem'*. Her nuclear family, *'my husband, my son, my daughter ... All three is on drugs'*. She says her son has been *'sleeping for ten years'* and she has put him out and taken him back. She has had to foster her daughter's child from the age of two because the child's mother is on drugs. Her daughter is homeless and lives in what she refers to as the *'gatjie'*. Of her alcoholic husband she says, *'If he gets his pension on the 1st I won't see him until the 7th because he drugs. From the 7th to the 15th he sleeps because he needs to recuperate. So then from the 15th to the end of the month he is the person I know'*. She pronounces that her drug addicted daughter who lives with a drug merchant *'fights with myself and my husband. She physically takes me like this. She will take me by my hair and I will have bruises and stuff like that'*.

Rehabilitation has an economic and emotional impact on the addict and his/her family. Returning home from 'rehab' as a recovering addict means that sobriety is under constant threat because of so many temptations. Carlie's biggest problem is her son who is an addict and has been in 'rehab' for three months. She knows that living in the court is a threat to her son's sobriety and explaining this says, *'they selling drugs there in the courts'*. Tamsyn, speaking of her daughter who has been on drugs for thirteen years, since the age of fourteen, says, *'I got a daughter on drugs and she's still on drugs'*. Her daughter has tried rehabilitation centres but keeps going back to drugs. As a consequence, Tamsyn has to look after her grandchildren and worries that if her daughter does not give up drugs the children will have no one to look after them when she, Tamsyn, is too old. She knows her daughter is not ready for sobriety because

she rebuffs her pleas with *'wag mummy, nie nou nie!'*⁴⁵⁶

Shanda, expressing concern about young children observing drug and alcohol abuse in the home and copying this behaviour, articulates that *'they using the drugs. Some people do it in front of the children. The children see what they are doing and they start doing it too at the age of 9, 10, 11'*. Claudine reiterates this but implies that the courts are a breeding ground for observation of drug use *'because we have children and they see this stuff you see'*. Liezl corroborates this when she says *'like people doing drugs there in the court is a problem because we have children who sees this stuff you see'*.

The availability of substances and carelessness around the storage of these puts children at risk. This is of particular concern, especially for small children, who could lose their lives ingesting only one tablet of Mandrax⁴⁵⁷ or Ecstasy⁴⁵⁸ left lying around. Isabel is concerned about her child of two-and-a-half: *'He plays by the water meters, small drains where they put the drugs and my child is playing there. The child can find a small packet of tik.'*⁴⁵⁹ *My child likes to scratch where he sees someone putting something somewhere'*. In addition to the danger of accessing drugs is the constant threat of violence.

6.2.2 *'I won't piemp you and you won't piemp me'*⁴⁶⁰: Protection of drug merchants

Drug merchants are commonplace and, according to Claudine, work with the community to protect one another: *'So I won't piemp you and you won't piemp me... say for example the police come and they want to look inside your house if they can find drugs. All the people are quiet'*. When people do report their neighbours to the police, Claudine states, *'it's a whole argument, and it's a whole fighting and is a whole thing over it, and at the end of the day it leads up to violence'*. As a result, people keep quiet to keep the peace.

An additional problem is the protection parents provide their children who are involved in drug peddling. Judy says, *'So in a way I see that they are enabling it, okay, because yes it's your child, I understand you love this person'*. Despite the fact that the availability of drugs

⁴⁵⁶ Translation from Afrikaans: *'Wait mommy, not now'*.

⁴⁵⁷ Karl Peltzer, Shandir Ramlagan, Bruce D Johnson & Nancy Phaswana-Mafuya 'Illicit drug use and treatment in South Africa: A review' (2010) 45 *Substance Use and Misuse* 2221–43. According to Peltzer et al Mandrax is the name for Methaqualone. Largely unknown outside of South Africa, it is smoked in a pipe with tobacco and cannabis.

⁴⁵⁸ Michael Morgan 'Ecstasy (MDMA): A Review of its Possible Persistent Psychological Effects' (2000) 152 *Psychopharmacology* 230. According to Morgan, Ecstasy is also known as 'Methylenedioxy-Methamphetamine (MDMA) or Molly and is a synthetic drug that alters mood and perception.

⁴⁵⁹ Peltzer op cit note 457 at 2237. According to Peltzer 'Tik' is the street-name for Crystal Methamphetamine, a popular drug on the Cape Flats.

⁴⁶⁰ Quote from an interview with Claudine.

impacts on quality of life and freedom of movement, people still protect the drug dealers because they fear the consequences for their children who are merchants, and the potential loss of an economic safety net. Judy has a high level of insight into her community and the dynamics related to the drug trade and says, *'So it's just like becomes such a norm that your child is on drugs and he's a gangster, it's like something, it's okay'*. She is also concerned about the impact this is having on young children: *'And now with the little ones, little children, you also see now that they're acting out all of these things because it's their normal and it just freaks me out sometimes'*.

6.3 POVERTY AND UNEMPLOYMENT

I described the community and its history in Chapter Three and relayed in detail the levels of poverty and unemployment in Lavender Hill. These are described by women I interviewed as being contributors to other problems. It is a chicken-and-egg scenario; women find it hard to decide whether gangsterism and problematic substance use are the biggest problems, which contribute to high levels of poverty and unemployment, or if it is the other way around.

Answers to the demographic questions asked in the interviews indicated a high level of unemployment, with many families relying on social grants, odd jobs, or a single income.⁴⁶¹ Some of the women interviewed were participating in the EPWP, intended to develop skills and build their capacity to enter the working world. This employment is on a temporary contract basis.⁴⁶² Many women have little experience of formal work and have not come from families where their parents had regular employment.

Unemployment is seen as a driving force behind many social problems. It is these social problems that contribute to shaping women's legal consciousness. For Letitia, the causes of the problem are *'because the unemployment rate is so high ... you see people sitting on the corner thinking what they going to earn for the day. And you see people with a trolley scratch in the bins to make a living to feed the family'*. Driving around Lavender Hill and on Prince George Drive, the recycling collectors are a regular feature on the streets, helping to keep the community clean and making a paltry living from the recycling industry. For Isabel it is also a

⁴⁶¹ This is verified by the statistics in Chapter Three.

⁴⁶² The EPWP has been critiqued for its inability to ensure work training, further work, education opportunities, and SMME development. See: Parliamentary Monitoring Group 'Analysis and Critique of Expanded Public Works Programme: briefings. Meeting report. Public Works Portfolio Committee' PMG (2005), available at <https://pmg.org.za/committee-meeting/5846/>, accessed on 30 August 2020; see also: Quinton Qengeba Mageza *An exploration of actions to forge public entrepreneurship in the implementation of the expanded public works programme in the Eastern Cape* (unpublished Master's thesis, University of Cape Town, 2015).

problem that people scratch in bins for recycling because they *'make a whole mess in the court. And the problem is that it's not hygienic, they break glass and it makes a lot of germs where the children are playing'*.

Other entrepreneurial schemes include selling sweets and chips to children. Abigail expresses its value in uplifting women economically when she shares the story of a *'woman who was struggling asked her church leader to give her R50 because she wanted to sell something'*. With this small amount she says that this woman was able to buy a *'bag of Nik Naks. And there's 50 packets in that big bag'*. Abigail, with great admiration for what this person has achieved, reports that she was able to change her life *'all because of R50'*. Explaining the material change this has made to this woman's life, she says, *'and today she has a big tuck shop. Today she has her own car. She put her children through school'*.

6.3.1. *'They don't understand why they need an education'*⁴⁶³: Education and skills levels contributing to unemployment

In a community where one-in-five people have a matric and only three percent have some form of tertiary education, low levels of education and training contribute to unemployment.⁴⁶⁴ Ashleigh explains that there is a high level of illiteracy, which limits the ability of women to function in a formal work setting. More than half the women interviewed left school before matric⁴⁶⁵. Ashleigh says when working with the women in the community, *'you have to come down to their level to really speak to them so they understand what you are talking about'*. High levels of unemployment mean there are few role models of working life or the resilience required to keep employment and progress within the workplace for children. Ashleigh, highlighting this, says *'they don't understand why they need education. It's not important ... they grow up with that'*.

Abigail says that a lot of women drop out of school but realise at a later stage that they need an education: *'When you leave school, a few years after that, you realise what a mess you made out of your life'*. Ashleigh, who has a high level of insight, reflects on her own experience of dropping out of education: *'I had the opportunity to make something of myself, but I didn't use it, you see, and now I'm stranded where I am today ... If I could turn back the hands of time I would change things so much and change my life'*. She does not blame anybody else,

⁴⁶³ Quote from interview with Ashleigh.

⁴⁶⁴ Statistics South Africa op cit note 197 at 3.

⁴⁶⁵ Matric in South Africa is the final year of high school.

but as she is responsible for three children and a husband with erratic employment, it is difficult for her to take time out from her current work as an administrator, to upskill herself.

Leaving school is often necessary because of the need to support families or because parents are unable to support children while they complete their education. A high number of women have children as teenagers and leave school to take care of them. In addition, women like Julie, who was one of ten children with a single mother, says her mother could not afford to pay for her to finish matric.⁴⁶⁶ She says her mother, ‘*wanted me to do a teachers course*’ because: ‘*I have a teacher’s instinct*’, but instead she found employment at sixteen and left school. She describes this as ‘*stupidity on my part*’ and reports that she ‘*went back to night school*’ but did not ‘*finish my matric...because there were other things that came into play and my age caught up with me*’. She was retrenched two-and-a-half years ago, but says ‘it came at a time when I needed to be at home’. Ruth is doing a computer course to ensure upward mobility in the workplace. For her, it was worth ‘*making the sacrifice of paying for that computer class because everything is computerised these days*’. She notes that many people are computer illiterate, which limits their opportunities to find employment.

6.3.2 ‘We’ve come to realise 90 per cent of our parents are unemployed and the majority are on social grants’⁴⁶⁷: Reliance on social grants

As indicated in Chapter Three, there is a high degree of reliance on social grants, particularly child support grants. In fact, Letitia says, ‘*social grants are the biggest form of income*’. This was echoed by Valerie, who says of parents at the crèche: ‘*At least 90% of parents are unemployed and the majority are on social grants*’. Nellie says she knows a woman who receives eight grants for her children but ‘*When you come from the shop that money is finished*’.

The perception also exists that teenagers get pregnant so that they can claim the child support grant of R430 per child.⁴⁶⁸ Sharing this view Ashleigh says, ‘*I think that’s why the*

⁴⁶⁶ Education in South Africa is free for those who cannot afford to pay. However, there are costs associated with school attendance such as transport, school uniforms and food. Children may be encouraged to leave school and find work to bring an income into the family.

⁴⁶⁷ Quote from interview with Valerie.

⁴⁶⁸ Research indicates that this is an unsubstantiated position. Studies have found there is little correlation between teenage pregnancies and Child Support Grants. The amount received is little incentive for having a child. No empirical evidence has been produced to prove this assumption. See: Eric O Udjo ‘The Relationship between the Child Support Grant and Teenage Fertility in Post-Apartheid South Africa’ (2014) 13 *Social Policy and Society: a Journal of the Social Policy Association* 505-519; Leila Patel, Tessa Hochfeld, Jaqueline Moodley & Reem Mutwali *The Gender Dynamics and Impact of the Child Support Grant in Doornkop, Soweto* (2012) 37; Marcelo Silva de Medeiros, Tatiana Britto & Fabio Veras Soares ‘Targeted Cash Transfer Programmes in Brazil: BPC and the *Bolsa Familia*’ (2008) 46 *Working Paper International Poverty Centre* available at <https://ipcig.org/pub/IPCWorkingPaper46.pdf>, accessed on 2 September 2020.

youngsters fall pregnant because then they can go draw R400 every month. They think it's enough'. She is concerned that young girls are not using the Child Support Grant on the children because she observes that *'the child's walking with soaked nappies'*. Janine's sister abuses substances, but receives child support for her three children. Janine does not feel the grants are being used to take care of the children. Her mother (the grandmother) receives a disability grant and takes responsibility for the children's needs. She says, *'My sister is 'n probleem. Sy het drie kinders. So sy kry drie kinders' geld.'*⁴⁶⁹

Grandmothers indicated that they receive child support grants in support of their grandchildren because the mothers are not using the grants to take care of the children. In addition, some are receiving disability grants and old age pensions. Foster care grants are received by women who care for children who are not their own. However, a number of women are caring for children who are not their own but do not have a formal foster care agreement in place.⁴⁷⁰

6.3.3 'I think they become lazy because they have lost their self-esteem'⁴⁷¹: Motivation to work.

There is a perspective that there is a lack of motivation to work, which is driven by the low rewards for meagre work and the ease of making money from drugs and alcohol – as opposed to the effort of honest work, which often means leaving home early, coming home late, and working hard for a minimum wage. Abigail expresses her judgement of the perceived lack of motivation, which she says is founded on *'laziness'*. She believes that *'there is work. If you want to work, there is always work'*. She cites this as the reason why people do not finish school, increase their skills or seek work. Her view is that people have lost their self-esteem: *'They grew up know they are nothing. They will never become something and that has gone into their mind'*.

Abigail explains that one of the causes of drug abuse among the youth is, *'most of them come from broken homes'*. She is of the opinion that this leads to drug abuse and as a consequence people are not able to find or keep their employment: *'Now they sit and a day goes by, a month goes by now and a year and they sit still'*. Abigail argues however, that even

⁴⁶⁹ Translation from Afrikaans: *'My sister is the problem. She has three children. She gets money for three children'*.

⁴⁷⁰ Women who informally care for children do not receive funds from any sources other than their own. Occasionally they may receive donations from other people in the community.

⁴⁷¹ Quote from interview with Abigail.

‘when they come from good homes they choose to drugs and not to work’. She tells the story of a single mother who worked hard and gave her children the best, sending them to schools outside Lavender Hill – yet the son *‘only passed grade seven, and now he’s a gangster’*. The daughter, who *‘passed matric and was one of the bright children...hasn’t worked and now she has two children and expecting another child now’*. It is her view that it is up to the individual and she expressed the following: *‘You must know your worth and if your parents teach it they can teach you values but it’s for you to uphold your values’*.

Valerie echoes this when she says that she sees the community as one that is always looking for *‘empathy and pity, not wanting to take responsibility for their challenges’*. Similarly, Nellie says that *‘people tend to stay where they are. They have vision and goals and dreams, but they don’t pursue it’*. She is of the view that people *‘use their circumstances as an excuse’*. She opines that *‘there is a lot of potential in Lavender Hill. But they need a push in the right direction’*.

Respondents argue that resorting to crime is easier than looking for employment and is often more financially rewarding. It is observed by women interviewed that it is easier to rob people who work hard for their money than to do the same yourself. Barbara conveys the view that involvement in crime is aspirational, *‘because unemployment is high, and when they find okay my friend’s got a lekker [nice] pair of takkies [sports shoes] so I’m ma going to try to wiggle it and just operate’*.

6.4 OTHER SOCIAL PROBLEMS

Gangsterism, problematic substance use, violence against women and girls, and unemployment are the main problems identified in the interviews. There are other significant problems that require problem solving by women. This section will discuss the most important of these, which include the lack of positive male role models, parent abuse, parenting, conflict resolution, poor service delivery and poor leadership.

6.4.1 *‘It’s always the women who are coming for help’*⁴⁷²: Lack of positive male role models.

The lack of male role models was identified as a problem for young people. Few of the men in the area are the type of role models that women would like for young people, especially boys and male youths. It is said that men are often absent because they are involved in crime and

⁴⁷² Quote from interview with Valerie.

gangsterism. They are also mostly the perpetrators of violence, often against women and intimate partners. Men are seen loitering on the street corners and occasionally visibly drinking during the day. Jannie shared how her children encouraged her to leave her abusive partner; she realised that *'if I stay in this relationship I'm going to get hurt and at the end of the day I'm going to maybe die'*. Occasionally, women said they did not want to leave their abusive partners because they feared the children would not have role models, even if they were poor role models.

Julie sees that her son has been affected by his father and says that her children *'both have their father's genes'* because both children have ended up following a life of drug addiction and crime. Her daughter almost escaped this life through education, but then met a man she followed into a life of drugs. Her son, she says, followed in his father's footsteps, *'because obviously the father is the role model'*. Similarly, Ruth says she did not leave her abusive husband because she does not want her children to live without a father: *'There's a lot of kids in the community not having a father. The way they turn out is bad, because I don't want my children to have the resentment I have towards my daddy'*.

6.4.2 'They swear their mothers' and parents out.'⁴⁷³: Parent abuse

With drug abuse being such a predominant feature of life, there are dire consequences for family life. Ellen Pakkies' story is an extreme example of the abuse that is suffered by parents at the hands of their drug addicted children; in this instance the consequence was that the mother killed her son. Ruby says that children threaten their parents because they will not give them money. Sheila's drug addicted son abused her for fifteen years. She wrote that her son was fine until the age of eighteen, when he got involved with a woman and drugs. Expressing the rawness of her experience, she says that *'one day he fought her ... and he came back to abuse me for fifteen years'*.⁴⁷⁴

Sheila in response to her son attacking shares how she responded after years of abuse by him: *I stabbed him and he was bleeding out ... I said to one of the ladies just keep him I want to finish him off'*. She called the police and resolutely says, *'I just said SAPS can ma come and fetch me and they came. Oh, sirens and everything they came but I knew I was not going to be locked up. That was my breakthrough, they locked him up for a month'*.

⁴⁷³ Quote from interview with Ruby.

⁴⁷⁴ Interview: Sheila.

Shanda's whose son had been involved with gangs and drugs for many years died on her doorstep on Christmas day. She describes how he would break the crockery in her kitchen and take money from her that was meant for rent. He would threaten her husband with a knife: *'It was like a madhouse'*. Of the day of his funeral she says, *'For me like a mother I told my child not to live like that. For me it was very sore for me ... And we can't handle that morning. And for us the family was broken, that morning'*. His death brought both sadness and (as discussed on pg. 69) relief: *'I can sleep lekker, I can stand up lekker, I can leave my purse there, I can leave my phone there, we can go out in peace and we can come back in peaceful. Nothing is gone'*.

Shanda also tells the story of a close friend whose son is aggressive towards her: *'She wants to kill him; she wants him out the house but now his girlfriend has a child'*. The son and girlfriend are living in her back yard with their child. Although she wants her son to leave she cannot ask them to, because of the child. According to Shanda, this friend says, *'I can't handle the child anymore. I want to burn him with boiling water'*. This is an indication that violence is at times seen as the best or only recourse for resolving problems.

Similarly, Julie's daughter is abusive towards her and her husband and she has had to call the police: *'She fights with me and my husband ... she physically takes me like this, my hairs very long. She will take me by my hair and I will have bruises and stuff like that'*. Julie also took out a protection order against her daughter after calling the police for help. She says her daughter now lives on the streets and goes through bins to find food. Julie's son found his sister and brought her home, and she had to clean her daughter up *'because that is what a mother does'*. She believes her daughter got involved in drugs because they live above a merchant and substances were too freely available.

6.4.3 'We just shout at the child....dis jy, dis jy'⁴⁷⁵: Parenting

Women interviewed reflected on their observations of parenting in the community as well as their own parenting behaviour and how this impacts on children. In this context it is a challenge to parent when there are few positive parenting role models and the pressures of life shape parenting approaches. It is not possible to live in such a violent context and for it not to spill over to daily interactions between parents and children. According to the teachers in the pre-school who were interviewed and other women who work in Lavender Hill, this is compounded by poor parenting skills and few good role models. Nellie says in order to be more effective in

⁴⁷⁵ Quote from interview with Nellie.

improving the behaviour of children, an effort must be made to work with parents. Of parenting styles, she says parents tend to *'skel and solve problems through violence'*. She acknowledges that until she had training and attended awareness workshops, she also used shouting as a way of disciplining her children. Ashleigh, discussing children she works with, says that *'they come from abusive homes'*. Discussing the parenting styles of people in Lavender Hill, she says *'We don't sit with our children and say what is the problem today. There is no affection'*. Nellie opines that children are punished even when *'the child might not have done something wrong'* and that parents *'don't stop to find out. We just shout at the child ... "dis jy, dis jy"'*.⁴⁷⁶ From Nellie's perspective, the consequence is that *'the child distances itself from whoever and whatever'*.

Abigail, who describes herself as being *'very strict'* with her children, says her twenty-two-year-old son moved out of the house because he did not want to live by her rules. She has these rules because she says she wanted to protect him, *'because they shooting in Lavender Hill'*. However, this led to them falling out as he reached adulthood and found her boundaries too rigid. Explaining her reason for being so strict, she says, *'You must tell me you are going, Joanne, and if I call you, you must come back, because they shooting in Lavender Hill'*. She is hopeful that he will return.

Ashleigh claims that there is a high rate of teenage pregnancy which she attributes to role modelling: *'People live by imitation'*. From her perspective, having one child makes it easier to have more. She claims it is hard for mothers to tell their daughters that they should avoid falling pregnant as teenagers because that is what they did themselves. Reinforcing the point that there is a need for role models, she says *'I think role models are important and there are so few around'*. Reflecting on the randomness of the children who make a success of their lives, Judy says of her son's group of friends, some have turned out fine and some have turned into gangsters. Her son, who was killed, was involved with gangs. She believes that parents are permissive, and that *'you can give your child whatever you want to, but you don't need to spoil them and enable them and say whatever you do is fine'*. Judy is of the opinion that there are *'lots of parents like that in the community'*. She says that parents do not want to hear when their child is a problem: *'They can see what is happening ... no, no, no they don't want to hear whatever nothing'*. Katrina similarly says that parents give their children too much freedom and do not support each other. She sees children running around the streets at ten o'clock at

⁴⁷⁶ Translation from Afrikaans: *'it's you, it's you'*.

night. Expressing her frustration, she says, *'where are the parents? It school tomorrow'*. According to Katrina this means that the children are tired for school, and it also makes them vulnerable to gang violence and to being drawn into problematic substance use.

Barbara feels there is a need for parents to work together and help each other with parenting: *'That's why it's called a community'*. She believes that people should get involved if children behave badly, even if they are not the parent. From her perspective there is no protection against gangsterism and even the child of the perfect parent could become a gangster, *'because best of best parents has done it and it just happens'*. Grandparents often step in to take care of their grandchildren. Claudine is raising four grandchildren. Explaining her situation, she says, *'that is the problem I'm facing, and I'm heartbroken'*. She receives child support grants for the children but finds taking care of them a burden because her husband has a kidney problem and is unable to work, and she has to care for him as well.

6.4.4 'People do not communicate. They don't speak to you properly'⁴⁷⁷: Conflict resolution skills

Conflict between people was cited as a barrier to resolving problems. The conflict cited was not always gang-related but was often between ordinary people, struggling to manage their day-to-day lives. A lack of conflict resolution skills seems to be at the root of the high levels of tension between people. This is compounded by the conditions under which people live, and the different types of people with different viewpoints on how to organise life and resolve problems. Stories were regaled by women of their children who had been targets of violence because of unresolved conflict. Greta says, *'you can't say anything because they want to get nasty, fight swear, whatever....'* She keeps her children indoors to avoid conflict. Talita explains that there is a lot of conflict *'when you in stay like in a court. There's always skelling'*. This is not surprising given the intensity of life in the courts and the extent of overcrowding. A religious person, she avoids the fighting: *'I don't involve me in anything like that because I serve the Lord'*.

According to Ashleigh, even when neighbours need something from each other, they will not ask for help because the levels of *'conflict between people stops them from reaching out, because your child did something to my child now I don't want to go to your house'*. It is her perspective that the reason for the conflict is that people neither communicate nor speak properly to one another: *'They have no manners, they have no etiquette, they are vulgar'*. She

⁴⁷⁷ Quote from interview with Ashleigh.

explains that she grew up *'simple'* and so has an understanding of this culture. She feels that *'the biggest challenge of solving problems is the level of understanding, how illiterate people are ... communication levels'*.

Marla, describing conflict between women, says they will argue about *'you smacked my child the other day and the other mothers will say "but you know your child was doing something wrong"'*. She explains that women also fight about the way in which they cover up for their children and will argue about *'why you covering him up? Why you putting him away in the house and why you telling the police he isn't there'*.

Working with the women in the EPWP, Ashleigh says that there are high levels of conflict between women and as a result they cannot work together to address their problems: *'I would think my problems would bring me closer to you and you would understand me and these things, but no'*. She explains that instead women in the EPWP use their knowledge of each other's problems to bring each other down. Ashleigh has, however, benefited from working with women in that she was able to realise that she was not alone with her problems and because of this has empathy for the situation of women in the EPWP: *'I sit and think that that the reason you are the way you are is because your baby die aged two, or you were walking with a friend and were raped by a gang'*. However, her observation is that some women do not have the same experience and often feel unsupported by other women.

According to Judy, poor education and poor life skills contribute to poor communication between people. She says, *'they don't know how to approach one another then everything just escalates and then it becomes bigger than it really should. It could be solved really like nicely in a nice way but no'*.

6.4.5 *'Even when you go to lay a complaint ... they don't come'*⁴⁷⁸: Poor service delivery

Service delivery is an obvious problem to even the most casual observer of the conditions in which people live.⁴⁷⁹ The courts are poorly maintained, the roads have potholes, and there are no safe areas for children to play. Lavender Hill is an obviously neglected community, as are many others on the Cape Flats. There is extreme frustration with the levels of neglect and responsiveness of the council to poor service delivery. Astrid says, *'Even when you go lay a complaint to say my door is falling off ... They don't come even though it's a rental house, they*

⁴⁷⁸ Quote from interview with Astrid.

⁴⁷⁹ See more in Chapter Three.

don't come but they expect you to pay the rent'. She says they can make complaints for months and months and still no one will come.

Isabel says that when they go to the council to report a problem, the council says they do not have money. Explaining how the conditions escalate tensions between neighbours, she says, *'the people also fight over hanging clothing'* because there is so little space. Complaining about basic service delivery, she says *'there are no bins, because they're using the bins to make them trolleys and stuff and they take it to the recycling place'*. This is not the fault of the council, but a creative approach to the people who collect recycling could mean that the municipal bins would not be used by the collectors of recycling material. Competition for resources fuels hostility and issues, which should be easily resolved, can become a source of conflict and tension.

6.4.6 'Nobody is reliable'⁴⁸⁰: Leadership

The lack of leadership is often cited as a barrier to transformation. Leadership is considered apathetic and tolerant of the current conditions. According to Barbara, *'Nobody is reliable — that you can say a community leader will be there to assist you in any crisis that you may have, be it death, or your child that's going in and out of jail. There no one! No one! No one!'* Astrid and Trudy posit that leadership wants something in return for its efforts. Often the people that women go to for help are not the elected leaders: *'Soos Aunty Janie. Ons gat na haar toe met enige probleme end dan kry sy 'n boere, even a social worker'*.⁴⁸¹ Aunty Janie has emerged as a leader because of her social skills and resourcefulness. The reference to 'boere' being a white person indicates that there is an expectation that white people will fix the situation. This perspective dates back to apartheid days when it would have been white people working for the council, who would have been responsible for sorting out problems.

Nicole says that there are times when people have had enough and then they get together in the *'battlefield'* and protest on the field. But she says this is not led by elected ward counsellors: *'Mostly the community has to do it for themselves'*. Mariette similarly says that leadership is one of the biggest problems but she feels that NGOs should be doing more to change the situation.

⁴⁸⁰ Interview: Barbara.

⁴⁸¹ Translation from Afrikaans: *'such as Aunty Janet. We go to her with any problem and then she gets white people or even a social worker'*. Interview: Astrid.

The role of gangs in providing an economic safety net and their connection to members of the community means that people do not come together to address issues such as gangsterism. Letitia argues if there was a greater feeling of dis-ease with the gangsters, people would stand together. Wondering how people can watch their children go into gangsterism, she says *'they have a poverty situation, and they have rapist situations, where they have to do other stuff to get their minds off that'*. For Letitia, the best way to get rid of gangsterism would be to bring *'in someone in who can speak to the gangsters, and tell the children that drops out of school that they don't have to live like big adults. So I want someone to come in and speak to young children about that'*.

6.5 CONCLUSION

In Chapter Six, I identified the role played by problematic substance use and the effect this has on people living in Lavender Hill and their quality of life. Even though women are aware that substances help to numb the situation, they are also conscious of the contribution it makes to perpetuating the current situation, which includes violence, crime, poor parenting, and an inability of the community to work together to resolve problems. Substances are connected to the gang economy, with many of the gangs being associated with drug peddling. Along with gangsterism comes a high availability of drugs and alcohol.

People who live in poverty are easily recruited to a life of addiction, as they seek refuge from their situation. Crime is exacerbated by drugs as people need funds to feed their habits. This has an impact on families who are often victims of their own family member's efforts to find resources to fund their addictions. Problematic substance use is linked to some of the other problems which were identified, including poor parenting and parent abuse. Parents who are substance users often are poor parents, and children who are substance users may abuse their parents. The consequence of addiction is that families use limited funds to access rehabilitation facilities for addicted family members. This exacerbates already stretched funds. Families are reluctant to report drug users, family members who are drug merchants or selling alcohol illegally to the police. They fear seeing their relatives incarcerated and so become enablers in the situation.

One of the factors identified as contributing to the challenges in the community is the lack of male role models. Households are often headed by women who carry the burden of responsibility for caring for the children and the elderly. They also have to ensure there is a source of income and rely heavily on social grants due to few employment opportunities in the area and poor education levels. Women often leave school because they have either had

children while they were teenagers or because they had to support family members. Limited male role models affect the parenting of boys in particular and with a high number of men involved with gangs, young boys are attracted to the gang system as a potential career option.

Collective action to resolve neighbourhood problems requires communication skills and leadership. Both of these were identified as lacking, contributing to the perpetuation of problems. Sporadic efforts to address problems are not sustained and although there is evidence in the media of attempts to achieve a ceasefire and bring about peace, these are not sustained. Gangs, requiring turf for the sale of substances, for criminal activity and to use as a breeding ground for new recruits, are seldom committed to peace and the improvement of conditions. Highly volatile and affected by territorial wars outside of their own turf, they make the neighbourhood ungovernable, ensuring their rules are sustained and there is compliance among their people.

In Chapter Seven, I discuss formal systems and women's perceptions of their role in resolving their problems and problems in the community. Formal systems include police, the CPF, magistrate's courts and protection orders, and social workers who have a statutory responsibility. The chapter exposes the extent to which women perceive these systems to be effective and the challenges they face when engaging these systems. Some women have a positive attitude towards formal systems and acknowledge that they face enormous challenges in executing their roles. Other women demonstrate how they navigate these systems. There is a group of women who have become cynical and see no role for these systems in resolving their problems. This is partly due to their own experiences and because of narratives passed on from other women of their own experiences of inefficiencies.

CHAPTER SEVEN: IN THE LAW

7.1 SEEKING ORDER FROM FORMAL SYSTEMS

Following on from Chapters Five and Six, which analysed the problems that were revealed during the interviews, Chapter Seven describes women's experiences of invoking legal and formal systems, and their observations and perceptions of the effectiveness of these systems. Focusing on the experiences and perceptions women have of the formal legal system, this chapter explores in depth how and when women engage formal systems, and the obstacles they encounter. These include stereotypical attitudes displayed by representatives of the legal system, physical obstacles, and the capacity of the formal system to deal with the types of problems that occur. An often-underestimated obstacle is the inconvenience factor, which includes the time it takes to lodge a case, the effort (including cost) of accessing formal systems, and the amount of information that is required. The social setting and the relationships between people involved in disputes are key elements affecting women's interest in resolving them through formal systems. This chapter demonstrates that women are often forced to ignore or work around formal systems when addressing problems.

Exploring legal cynicism in greater depth, this chapter reveals the paradoxical relationship that exists between women and the law, and in doing so exposes how, despite women's challenging experiences with formal systems, most women indicate a desire and expectation for these systems to prevent and address crime. There are some women who have become so cynical of the ability of formal systems to address problems that they have turned away from these systems and have become self-reliant. This will be demonstrated further in Chapter Eight where I discuss systems outside of the law.

In this chapter, I have included social workers as a formal system because of their role in providing a statutory service: the removal of children at risk; provision of places of safety, foster care and adoption; and statutory interventions in situations of mental health and the misuse of substances. Social workers also offer non-statutory services and so there is some reference to their role in the community in Chapter Eight, where I discuss NGOs as a non-legal system because they are not involved in statutory or legal interventions. Not all NGOs employ social workers; rather, they require specialist skills for their respective areas of focus – for example, education, health, social justice and others.

7.2 ‘WHEN IT’S THE VIOLENCE WITH GANGSTERS THEY SOEMA SHOOT YOU, THEN YOU MUST GO TO THE POLICE FOR THAT’⁴⁸²: POLICING

This section discusses the extent to which women experience police in Lavender Hill as an effective part of the formal justice mechanism. It also describes women’s perceptions of the role of the police in resolving conflicts about laws and determining responsibility for violations of laws.⁴⁸³ Also revealed are the different expectations women have of police, which illuminates the paradox described by Hagan et al, where people, despite having had negative experiences of the police, still expect that police will prevent crime and protect them from it.⁴⁸⁴

7.2.1 ‘When the shooting starts they go; they must stay there’⁴⁸⁵: Expectations of police

Inga holds the view that police should play a greater role in preventing and addressing crime: *‘when it’s the violence with the gangsters then they soema shoot you, then you must go to the police for that’*. Talula on the other hand feels that the *‘police must do their work’*. She is of the view that they are not doing their work and expresses this when she says *‘I mean they get paid to do their work but they don’t do their work’*. Citing an example, she says *‘when we cross the field’⁴⁸⁶ here sometimes there is one van. What can one van do? They standing there then there’s shooting going on this side’*. According to Inga, the police should have a more visible presence: *‘When the shooting starts, they go; they must stay there. Whether they stand on the field or whatever they must stay there’*. Demonstrating the importance of police visibility in preventing crime, she says *‘the moment the police leave the shooting starts again ... they need 24/7 surveillance of that area’*.

Perceptions of what constitutes a crime vary, and have little relation to what is legal. Talula has different expectations of when police should or should not act in relation to criminal activities.⁴⁸⁷ She demonstrates this paradox and her frustration when she says the police do not do anything when *‘they can see someone is lying dead there’*. However, in contrast, she is not happy that they raid the houses of people who sell alcohol illegally because *‘they come and rob people from their living’*. For Talula, the impact of the crime should be a determinant of

⁴⁸² Quote from an interview with Inga.

⁴⁸³ UN Women ‘Formal justice mechanisms’ available at <https://endvawnow.org/en/articles/880-formal-justice-mechanisms.html>, accessed on 15 September 2020.

⁴⁸⁴ Hagan et al op cit note 97 at 7190.

⁴⁸⁵ Quote from interview with Inga.

⁴⁸⁶ Referring to the sports field – also known as the battle field – where there are often outbreaks of gang violence.

⁴⁸⁷ Hagan et al op cit note 97 at 7192. Hagan et al explains a ‘cultural schema of legal cynicism as a key consciously motivational source of discursive insight into reporting of crime’.

when police should act. She is of the view that the police should not act when the crime is economic and *'it's a living, everyone's looking for a living'*.

Perspectives of crime are also shaped by culture and context, which affect expectations of policing. Talula, further explaining her contradictory expectations of the police, described another incident where she feels the police were unreasonable. She says her boyfriend would bring drugs home for his sister so that she did not have to be exposed to the danger of going to the merchant. He was trying to keep her safe, but then the police *'come and pick him up. He have to lay a whole weekend ... here by Steenberg police station'*. She feels that it is prejudicial that her boyfriend spent a weekend in jail for trying to do something good, when other people who commit more serious crimes experience impunity.

7.2.2 'By the time they come out we dead'⁴⁸⁸: Loss of confidence in the police

A lack of urgency by the police in responding to crime is cited as a reason for a loss of confidence in the police. Talita says, *'but you know what, the boere, they make you so mad'*. When her son was murdered Talita says that the police never responded: *'I just saw blood, blood, blood and he was struggling, struggling but eventually it was too much ... they [the police] didn't even take one person'*. Of the police she says, *'they standing there with the cars and they see how the people shoot each other and they do nothing'*. Similarly, Barbara states that in the area of Seawinds the police do not come if called: *'By the time they come out we dead'*. Moira says that *'sometimes you just feel that they don't seem to care about anything'*.

Marla emphasises the effect of the accessibility of police stations and the cost to women of reporting cases: *'If you don't have R7 to get to the police station in the middle of the night you have to call the police and they will take an hour'*. Cynically, she refers to the consequence of opting to phone the police instead of going to the police station, when she adds, *'you are probably dead by the time they do arrive'*. Describing her experience of phoning the police in a situation of domestic violence Janine pronounces, *'ons het ge-try, hulle het 'ie die foon opgetel nie'*.⁴⁸⁹ Nellie says in order to be taken seriously they physically go to the police: *'If you phone the police they don't come. They come three days later'*. In her own domestic situation, where her sister *'goes ballistic'* in her home, she says she called the police and they did not come. She is known by the police because she works closely with them in dealing with other cases,

⁴⁸⁸ Quote from interview with Barbara.

⁴⁸⁹ Translation from Afrikaans: *'We tried calling but they did not pick up the phone'*.

so it is a reflection of the ambivalence of the police when they do not even respond to a call from a person who is known to them and presumably has influence.

Of women who walk to the police station to report crime, Marla says they risk being '*robbed, mugged or raped*'. Steenberg Police Station is about 2.1 kilometres from Lavender Hill, across Prince George Drive. It is often an unsafe route because of the level of crime in that area. Marla mentions that there is a policeman at Steenberg Police Station who is known to be good at dealing with domestic violence and women seek him out when reporting cases.

Moira explains her reason for a loss of confidence in the police when she describes a time that she and a group of residents went up to a police car to point out that a crime was taking place: '*They actually rode the other way*'. At that moment she realised the police were not interested in her input, '*so I thought to myself they not listening to you*'. Anna indicates her perception of the use of discretion by the police when she says, '*they want like there must be something big then they will come*'.

Barbara also perceives the police to be ineffective and says that there are few situations where the police intervene successfully: '*If you lay a charge against someone that literally beat you or that literally broke into your house its 40/60 that you will get your stuff back and that person will be reprimanded*'. She believes people are taking the law into their own hands because '*the service we get from the police is bad honest to God. It's literally bad*'. Explaining under what conditions she would go to the police, Greta declares, '*when I see I can't handle a situation ... when I know it is out of my hands, then I will go to the police*'.

Similarly, Carlie says that she has lost faith in the police at Steenberg Police Station. Her eleven-year-old son was being badly bullied at school and was threatened with a knife by one of the bullies. She reported the matter to a teacher who told her to report the case at the police station because it had happened outside the school property. The police responded by saying they could not help her because it was an educational matter and redirected her to the school. Implying that the police were trying to deter her from using the legal system she says that the police asked her if her son would want to be a witness and if he would be able to stand up in court. She says, '*My child was never in a court, at a court case. So that's why I left it there because they....hulle sit jou net af*'.⁴⁹⁰

⁴⁹⁰ Translation from Afrikaans: '*They put you off*'.

7.2.3 Police corruption and collusion with gangsters

Police capacity is a challenge and Community Safety MEC, Albert Fritz, says there are not enough detectives to investigate criminality and gangsterism.⁴⁹¹ He also says that 48 per cent of detectives in the Western Cape have a caseload of more than 200, which is 333 per cent above the 50 to 60 caseload norm.⁴⁹² There is a shortage of 548 posts in the Western Cape with 142 posts currently vacant.⁴⁹³ Fritz says *'not only are the police insufficiently skilled, but their lives are equally put at risk when they are out in the field as they do not understand the dynamics at play'*. In June 2019, there was another incident where a 34-year-old policeman was shot and killed while on patrol with his partner in Fawley Court. Just before midnight he and his partner spotted and pursued five suspects, but he was shot in Grindel Crescent where NWF is located.⁴⁹⁴

Observations of police corruption were shared by women interviewed, fuelled by their experiences and stories passed on from others, and corroborated by multiple media reports.⁴⁹⁵ Women fear reporting incidents because they do not know whether to trust the police. This fear also motivates their lack of interest in reporting incidents or observations of police corruption. A perception of corruption and collusion between police and gang member's fuels cynicism of the legal system. There is an ostensible view that if they report a crime to the police, the police will tell the gangsters and this will lead to retaliation.

⁴⁹¹ Petersen op cit note 385.

⁴⁹² Ibid.

⁴⁹³ Ibid.

⁴⁹⁴ Duncan Alfreds 'South Africa: Manhunt Launched After Cop Shot Dead in Cape Town' *News 24 WIRE* 25 June 2019, available at <https://allafrica.com/stories/201906250592.html>, accessed on 13 September 2020.

⁴⁹⁵ There are numerous media articles referring to corrupt policemen in Cape Town. See in: Vincent Cruywagen 'More "dirty" police officers face arrest' *IOL* 4 July 2019 at 9.57 am, available at <https://www.iol.co.za/news/south-africa/western-cape/more-dirty-police-officers-face-arrest-28650063>, accessed on 9 October 2019; ANA Reporter 'Cape cops arrested for corruption, soliciting bribe' *IOL* 7 August 2019 at 2.06 pm, available at <https://www.iol.co.za/news/south-africa/western-cape/cape-cops-arrested-for-corruption-soliciting-bribe-30443825>, accessed on 10 October 2019; Jenna Etheridge 'Three Cape Town cops arrested for allegedly demanding R20 000 from man to return his cellphones' *News 24* 21 August 2019 at 6.40 pm, available at <https://www.news24.com/SouthAfrica/News/three-cape-town-cops-arrested-for-allegedly-demanding-r20-000-from-man-to-return-his-cellphones-20190821>, accessed on 9 October 2019; According to Carlo Petersen, there were seventeen cases of corruption in the police ranks in Cape Town in only three months. See in: Carlo Petersen 'Police corruption rife in Western Cape' *IOL* 9 February 2015 at 10.15 am, available at <https://www.iol.co.za/news/police-corruption-rife-in-western-cape-1815049>, accessed on 10 October 2019; Tammy Petersen reports in 2016 that police colonel Prinsloo was arrested for selling guns. A total of 2 400 guns, which were intended for destruction, were stolen. Tammy Petersen 'Ex-cop gets 18 years for stealing, reselling guns to Cape gangsters' *IOL* 21 June 2016 at 3.58 pm, available at <https://www.news24.com/SouthAfrica/News/ex-cop-gets-18-years-for-stealing-reselling-guns-to-cape-gangsters-20160621>, accessed on 9 October 2019; Thembele Ntongana 'Police claim successes for Operation Thunder' *GroundUp* 22 August 2018, available at <https://www.groundup.org.za/article/police-claim-successes-operation-thunder/>, accessed on 8 October 2019.

Letitia describes a reluctance to report crime that is born out of a fear that the police are collaborating with gangsters: *'Because it's like you go to the police ... then they were informed'*. Expressing anxiety about this situation, she says that *'people fear for their lives'*. Janine similarly alleges that the police inform gangsters when crimes are reported: *'Die polisie sal sê iemand het gebel'*.⁴⁹⁶ She says, *'en dan gaan dit erger wees, ja en dit sal aan groter probleme lei'*.⁴⁹⁷ Indicating her fear of being seen to be informing, Anna – when probed to find out if she is of the opinion that police do what is expected when they are called out for assistance – said, *'I don't go there, I don't go there'*.

Nellie says that the police at Steenberg Police Station have a reputation for being in cahoots with the gangs. Letitia corroborates this and says, *'Steenberg's police work with the gangsters. They help the gangsters. They bring the gangsters what they need. They bring like guns and bullets to the gangsters. So I don't trust'*. She says that she has observed the police interacting in a familiar way with gangsters. Referring to police interacting with a known merchant, Ruth says that *'they went in and they came out. What are they doing there at that moment?'* Valerie also says of the police, *'because some of them are also just as corrupt'*, and questions the relationships between gangsters and police, and the impact this has on policing.

Similarly, Julie is cynical of the police and says that she sees how they come to a neighbouring merchant's house regularly and search, but never seem to find anything. She marvels that the merchants always know to hide their *'stash'* when the police come, inferring a belief that the merchants are being tipped off. Katrina has made similar observations: *'There across by me that man used to sell drugs for years. They [the police] just make a turn and the go in and the go out. What are they doing there?'*

Julie, querying the relationship between police and gangsters asks, *'How does this work? Are the police being paid?'* Of her fear of reporting gang activity, she says, *'you can't go to the police station with the gangsters. You can't!'* Justifying her reluctance to report crime, she explains that there is too much to risk when reporting criminal behaviour: *'We've got grandchildren to consider. You've got your home to consider, you've got your car outside to consider'*.

Jannie also alleges that the ineffectiveness of police in dealing with gangsters is due to corruption. Putting this in context, she describes a situation where police demonstrated a lack

⁴⁹⁶ Translation from Afrikaans: *'The police will say that someone phoned'*.

⁴⁹⁷ Translation from Afrikaans: *'Then it will be worse and will lead to bigger problems'*.

of interest in dealing with crime. On an occasion when they called the police to deal with a shooting, she says they found them sitting on the field *'smoking like almost a cigarette thing, almost like a hookah pipe'*. Questioning this behaviour, she says, *'I told myself they are shooting and you guys are still sitting here'*. She says she confronted the police, saying, *'I know it's dangerous, but you wanted to be policemen so how are you going to help the community if you are sitting there doing nothing, smoking'*.

7.2.4 'They on names basis with the people'⁴⁹⁸: Familiarity between gangsters and police

Familiarity between gangsters and police contributes to the view that the police are corrupt. Valerie says *'they [the police] know most of the perpetrators in Lavender Hill'*. She does not understand why crime persists if the police know who the gangsters and criminals are. Katrina contributes: *'Steenberg Police Station you can't count on them. Because, what I see, every day, they talking to gangsters'*. Her disparagement stems from her personal observation of people committing crimes and then walking free without being tried: *'Everybody says that person shot my cousin but they walking free outside, you see what I mean'*. Questioning gangsters' access to weapons, she says, *'where do gangsters get guns? I don't say they getting it from Steenberg Police Station, but where do they get guns and things'*. Adding to her reasoning of police and gang collusion, she says that *'even when I see a police van pass by, the gangsters stop the police van, and they talk to each other like they friends. You know it's not supposed to be like that'*.⁴⁹⁹ Julie contrasts this familiarity with how she felt about the police when she was a child growing up under apartheid: *'When we used to see the police as children we used to run. We used to be scared of the police'*.

7.2.5 'The merchant feeds the road to keep people quiet':⁵⁰⁰ The community protects the gangsters, making policing difficult

As mentioned in Chapter Five, women hold the view that people protect the gangsters and drug merchants because of a symbiotic economic relationship. This makes policing difficult, because the community is reluctant to cut this economic safety net. Katrina says that the community prevent policing from happening by protecting one another: *'When they see a*

⁴⁹⁸ Quote from interview with Julie.

⁴⁹⁹ Other women discuss the interaction between police and gangsters and demonstrate how this contributes to the perceptions people have of the police being corrupt. Familiarity between police and merchants feeds the perception that they are working together. Describing this familiarity, Julie says, *'then the merchant's daughters lying like this by the [car] window like they are on friendly terms ... they [the police] on names basis with the people'*.

⁵⁰⁰ Quote from interview with Ruth.

police van then they shout, “there’s the police, there’s the police!””. This alerts the merchants who, she says, now know they must hide the drugs before the police come.

Merchants keep people quiet by buying their silence. According to Ruth, *‘the merchant feeds the road to keep people quiet’*. Ruth is also of the view that the merchants are *‘feeding’* the police. Ruth demonstrates an understanding of the temptation for the police to be drawn into crime when she says *‘at the end of the day they [the police] are also human and at the end of the day they also need to feed their families’*.

Familial or intimate relationships also affect people’s willingness to report crime. Women fear retaliation from the perpetrator or their associates. For some women, it is their own children who are the perpetrators and they do not want their child to be incarcerated. For others, it is their partner and they fear either his vengeance or that of his gang, or the loss of income if he is incarcerated. Carlie says she did not want to report her son, who was a drug addict, even though he was causing problems for her. She says that people were saying she must report him. When asked why she did not report him she says, *‘no, it was because it was my son man. Every time the people said that’s your son you must do something. Ek sê ma’ net “uh-uh man, los my af”’*.⁵⁰¹

7.2.6 Fear of retaliation when reporting crimes⁵⁰²

Media articles corroborate the perspective that people are scared to speak to the police because *‘they fear retribution from gangsters who are their neighbours’*.⁵⁰³ Talita is of the opinion that people are too scared to involve police because *‘you can’t even mention something and the gangsters know. They will soema come for you’*. Talita, who lost her son to gang violence seventeen years previously, says that she gave the police all the information to assist with making arrests in the case, but nothing was done and the case went ‘cold’. She says that before his assassination she gave the police information that could have saved him. She now believes that this information was passed on by the police to gangsters, saying *‘somebody sent this message up’* and that this contributed to her son’s assassination. She alleges her son, who was seventeen at the time, was taking the ‘fall’ for a crime because he was a juvenile and would serve a lesser sentence. She knew the people with whom her son was involved and this was the

⁵⁰¹ Translation from Afrikaans: *‘I just say “no man, just leave me alone”’*.

⁵⁰² Hagan et al op cit note 97 at 7192. Hagan et al found that neighbourhood racial composition is linked to police reported crime and that even communities where there was racial segregation a long time ago have been found to have continued cynicism about crime prevention and protection, impacting crime reporting.

⁵⁰³ Ra’eesa Pather ‘Community police break ranks in Flats’ *Mail and Guardian* 12 July 2019 at 12 am, available at <https://mg.co.za/article/2019-07-12-00-community-police-break-ranks-in-flats/>, accessed on 20 March 2020.

information she reported to the police in an attempt to have the charge against him removed. She alleges her son was then shot by the people with whom he had been involved in the crime. According to her, they killed him before he could be a witness in court.

When her brother was stabbed, Barbara did not bother calling the police, because of possible consequences for her brother and for her. Her brother, who survived the stabbing, was targeted because of involvement with drug crimes and she thinks if they had reported the matter to the police there would have been retaliation from gangsters: *'They will basically try to get him back like that'*.

People also fear reporting crimes that are not drug or gang-related, because of the close connection between most criminal activity and gangsters, and a culture of retaliation, even when the perpetrators are not gangsters. A perception exists that criminals are protected by the police, along with the view that there is no confidentiality when reporting crime, nor protection for 'whistle blowers'. Alex says, *'people are scared of reporting crime or maybe a male hitting his wife or girlfriend'*. She explains that *'people are scared that they will be named when they report something and I think that is the biggest problem that we have'*. She goes on to say that it does not matter if the crime is *'drugs or guns'*; even when people know where the drugs and guns are being kept they are afraid to tell the police, because somehow *'these guys find out ... so people fear for their lives and that is a major problem'*.

Criminals and their associates are known to threaten witnesses. Robyn, who as was mentioned on pg 86 was a witness in a drive-by shooting, says that she has been threatened by one of the boys that was in prison with the accused. He told her, *'I mustn't walk like I want to walk, because [the defendant's] talking like he's going to shoot me dead, he's going to get people to shoot me dead'*. Robyn told the detective about the threats, but says she has not been offered witness protection. Expressing her fear of retaliation, she articulates, *'you know how the people if they get out of prison, all kwaai⁵⁰⁴ and all that'*. She adds, with reference to the low value gangsters place on life, *'you know how the people is here in Lavender Hill. They get out of cars and they shoot you dead'*.

Women justify not coming forward when they are witnesses to crimes because they want to protect their family and themselves. Katrina says she was not willing to be a witness in a case where a person was shot in her yard for fear of retaliation by the gangs. Describing the fear of gang retaliation, she says, *'in our place they will come back for you, they will come*

⁵⁰⁴ Translation from Afrikaans: 'Angry'.

back for your family'. Explaining her reasoning she adds, *'you can't go to the police or tell them this and that person shot them because I'm putting mine and my family's life in danger, because they will definitely come to us'*.

Similarly, Julie, who lives in an area where the gang known as the 'Funkys' dominate, describes how the gangsters watch to see what people are doing and who reports to the police. Says that if caught the gangsters *'hit the people'*.⁵⁰⁵ Recounting the fear experienced by people, she says that *'we are too scared to go to that lengths because they will come for you. They will taal⁵⁰⁶ with you'*. Her son was recently beaten up by gangsters for being on the wrong turf, possibly related to past involvement in gang or criminal activity:

'Look my son was beaten up Friday morning. He took his girlfriend to the station. She stays in Emily Estate, and then he walks through the houses, and then he walks to her house, and they walk to Retreat Station and she gets the 6.10 am train. Then he walks home. The Funkys got him coming home. For what I don't know. Look, your past catches up with you. Something that he has done, taken someone's bike, so I had heard'.

Fear of retaliation also contributes to women withdrawing cases. Mariette says that after she reported being raped by her ex-boyfriend to the police, his gang wanted to kill her. She was taken to a safe house, but being away from her life and community was hard, and having to see the perpetrator in the regional court was too difficult. Explaining this she says, *'I withdrew the case ... because every time I had to see him. I didn't have time for that anymore'*. Similarly, Lynelle says she was afraid of reporting abuse at the hands of her boyfriend because *'I would want to go in [to the police station] and they [her boyfriend's friends] would look at me like ... I'm going to tell him that you were at the police station'*. Fearing further abuse by her boyfriend and the possibility that he would respond by saying *'oh you went to run for help and what are you trying to do, are you trying to get away from me?'*, Lynelle made the decision not to report the abuse.

7.2.7 'He said yes he can do that; he's from the law'⁵⁰⁷: Positive experience of policing

Women who hold conservative views generally refer to positive expectations of policing and believe that the police are effective considering the circumstances. As has been described

⁵⁰⁵ 'Hit' refers to 'shoot'.

⁵⁰⁶ Interpretation: 'Taal' is a colloquialism for 'messing with'.

⁵⁰⁷ Quote from interview with Beatrice.

earlier in this chapter, police work is dangerous and police do not always have the skills or the tools to avoid being targets of violence. Women spoke about police being poorly paid and having little reward for doing their jobs well while putting their lives at risk. Linda says of the police that *'there are good ones and there are bad ones'*. Referring to a conversation Linda had with a sergeant who was frustrated with the attitude of the community towards police, she said of his observation, *'people will sometimes, when you put in a lot, people will talk bad about you, but just look away. You just go on with what you are doing'*.

Abigail, describing effective policing, spoke of the incident of the five-year-old who was raped. The girl had managed to escape from the man who was drunk or drugged and passed out and the police assisted the child's parents to find her that night. The man who raped the girl is currently in jail and Abigail shares how the police went beyond the call of duty: *'She got counselling like twice a week and then holidays one of the captains or whoever they would take her holidays to their place. And then buy her Christmas clothes'*.

Beatrice is of the view that the community has faith in the police, but that a fear of retaliation prevents people from seeking police assistance: *'So people are too scared. So if I see people won't back me up I won't you know talk'*. Speaking of people involved with policing that the community trusts, Beatrice says, *'You know our pastor he's a law enforcement'*. She recently found out about his role in law enforcement and says when she asked him about assisting with a legal matter he said, *'yes he can do that, he's from the law'*. Maria, who was abused by her husband, says she would call the police and they would come and ask her where he was. She would tell them and they would pick him up. She had a protection order that he had violated, requiring a response from the police. Her husband spent time in jail for violating the protection order.

Women like Linda, who are involved with the street and court committee and the CPF, have compassion for the role of the police and the risks involved. She criticises the view that is put forward of the police being corrupt or connected with gangsters: *'Why must they always make the people who cares and in uniforms look bad, they also got a family ... They go out of the house this morning and they get shot, and their family is left behind'*.⁵⁰⁸

⁵⁰⁸ Hagan et al op cit note 97 at 7198. Hagan et al say 'when African American neighbourhoods asked for better policing legislators tend to hear more police'. He argues more research is needed on how the distance between these understandings can be reduced.

7.3 COMMUNITY POLICE FORUM (CPF)⁵⁰⁹

The CPF in Lavender Hill was referred to in interviews and in the media as playing an important role in addressing crime. A number of women spoke highly about Lucinda Evans, a member of the CPF: *'The one that stands out in the community is Lucinda Evans'*⁵¹⁰. Katrina, who had been abused by her partner and needed help applying for a protection order, says she reached out to Lucinda Evans: *'I reached out to her and she helped me ... she took me for a month in a safe house and I went for counselling'*, which *'helped me a lot'*. Marjorie, speaking of Lucinda and her role in dealing with gang violence, says, *'Dit sal net sy wees dat praat saam met polisie van gang violence'*.⁵¹¹

In order for a CPF to be effective there must be cooperation between the community and the police. The community must be willing to expose crime that has come to their notice. However, the dynamics in the community and fear of retaliation means that women are restricted in their willingness to report crime. Talita, describing the need for cooperation between police and the community, says:

'Ek dink is dit - die relationships met mense. Because why? As ek dit sien, die polisie kan help, maar dan is it die mense in die community, hulle staan mekaar nie by nie. Soos, vir instance, nou my kind word in 'n gang en die vrou lanks aan word in 'n gang. Nou sal ons opcover. Dan sê vir die polisie "nee wat soek julle hier! Julle moet nie hier kom! Julle moet daai kant gaan, want is daai gangsters wat geskiet 't! It is nie hier wat die ding begin it nie". Hulle cover op, maar ek wiet my kind is 'n gangster en die neighbour wiet haar kind is 'n gangster'.⁵¹²

⁵⁰⁹ Community Police Forums (CPF) are platforms where community members, organisations (CBOs, NGOs, business, FBOs, youth organisations, women's organisations and school governing bodies) and other relevant stakeholders and the police meet to discuss local crime prevention. Section 19 (1) of the South African Police Service Act 68 of 1995 stipulates that CPFs are the only recognised consultative forum designed to permit communities to make their policing concerns known to the police. They are also provided for in section 221 (2) of the Constitution. See: SAPS 'The effectiveness of Community Policing Forums (CPF) in addressing crime at local level: Practical perspectives', available at https://www.saps.gov.za/resource_centre/publications/mr_tj_masilela_presentation_effective_policing_practical_perspective.pdf, accessed on 1 October 2019.

⁵¹⁰ Lucinda Evans is the founder member of the project Philisa Abafazi Bethu Women Centre. The 'healing our women' centre provides interventions for survivors of domestic violence and offers a child protection programme. Evans has won a number of awards for her work in Lavender Hill. See in: Racine Edwardes 'Activist gets recognition' *News24* 19 November 2019, available at <https://www.news24.com/news24/SouthAfrica/Local/Peoples-Post/activist-gets-recognition-20191118>, accessed on 20 November 2020.

⁵¹¹ Translation from Afrikaans: *'It is just her [Lucinda Evans] that talks to the police about gang violence'*.

⁵¹² Translation from Afrikaans: *'I think it's the relationship between people. Because why? As I see it the police can help but the people in the community don't stand together. So for example if my child is in a gang and the woman next door is a member of a gang. Now we cover up. Then they say to the police what are you doing her, no one is here, you must go that side, it's those gangsters who were shooting. It was those gangsters who started it. But I know my child is a gangster and the neighbour knows their child is a gangster.'*

According to the media, the Mitchells Plain CPF cluster, which includes Steenberg, has broken ranks and violated official regulations that state they are not mandated to speak about police affairs – meaning they risk suspension.⁵¹³ They made a call in 2019 for Minister Cele to appoint an independent administrator to take over the management of the police in the Western Cape. They called for the South African National Defence Force (SANDF) to be deployed to protect the police and escort emergency services so that officers can focus on policing.⁵¹⁴ This CPF has a longstanding reputation of being outspoken on gang violence and policing, but the recent level of violence and killings has made them more frustrated with police resources and management.⁵¹⁵

7.4 MAGISTRATE’S COURTS AND PROTECTION ORDERS⁵¹⁶

According to Nellie, women who get protection orders are reluctant to use them. She says that they get the protection order when abuse occurs and then *‘the boyfriend is all sweet and nice and huggy and holding hands until it starts again’*.⁵¹⁷ Similar to the fear of retaliation when reporting other crimes, Nellie says that women are afraid of bringing police into the home *‘because the boyfriends are gangsters and if they go to the police and report them they will get even more hurt’*. A study by Artz found that the *‘act of seeking a protection order results in a boomerang effect whereby seeking help only amplifies threatening behaviours and escalates violence by the respondent (perpetrator)’*.⁵¹⁸ Marla also says when women report cases at the police station they are told to go to NWF for counselling, *‘but they don’t pitch up here. They won’t go and get a restraining order at the court’*. Referring to what Marla calls the

⁵¹³ Ra’eesa Pather op cit note 503.

⁵¹⁴ Ibid.

⁵¹⁵ Ibid.

⁵¹⁶ The Domestic Violence Act 116 of 1998 (the DV Act) and the Protection from Harassment Act 17 of 2011 were enacted to protect vulnerable members of society. They are also intended to provide protection from violations of constitutionally-enshrined rights, such as the right to equality, privacy, dignity, freedom and security. The Acts are an improvement on what was available previously, such as the Prevention of Family Violence Act 133 of 1993 and having to apply for an interdict in cases of harassment where there was no domestic relationship. See: Katherine Butler *‘Do protection orders for domestic violence and harassment work?’ De Rebus, Law Society of South Africa* 2018, available at <http://www.derebus.org.za/do-protection-orders-for-domestic-violence-and-harassment-work/>, accessed on 30 September 2019.

⁵¹⁷ A woman who has a protection order should be able to call the police if there is an infringement. The police have the option to arrest the respondent if it appears the complainant may suffer imminent harm as a result of the breach, or deliver in person a written notice to the respondent, calling on the respondent to appear before court on a specified date, on a charge of contravening the terms of the interim orders 8 (4) (b) and (c) of the DV Act and 11 (4) (b) and (c) of the Protection from Harassment Act.

⁵¹⁸ Lillian Artz *‘Fear or failure: Why victims of domestic violence retract from the criminal justice process’* (2011) 37 *SA Crime Quarterly* 9. For more on understanding domestic violence see the Power and Control Wheel in: Ellen Pence & Michael Paymar *Education Groups for Men Who Batter: The Duluth Model* (1993) 3.

'honeymoon phase' – after women have reported an incident of domestic violence and the perpetrator tries to win the woman over – she says, *'most of the time they stop the case, because the guy gives a bunch of flowers, or he ... says sorry and things like that'*.

One of the problems, as Nellie explains, is the reluctance of police to arrest men when a protection order is in place. She says, *'It's too much hassle, too much paperwork'*, and when women go to the police station the police say *'Julle moet dit self uitsort. Mōre is julle weer saam'*.⁵¹⁹ She clarifies that she understands the police's frustration because twelve out of twenty women in her estimation waste the police's time. However, *'the other eight, who want to be taken seriously, don't get taken seriously because of those who did waste the police's time'*. She says that Wynberg Court is part of the problem and women are reluctant to go there because *'you go to Wynberg court and they get treated badly by the clerks of the court'*.⁵²⁰

Women demonstrate through the interviews a limited understanding of their rights in terms of intimate partner violence. This restricts their ability to engage with the law and to stand up for their rights. Marla, for example, said she did not know being abused was wrong until she attended a woman's support group meeting. From her perspective attending these meetings made her realise that she was in a *'comfort zone'* which was not that comfortable. Of the emotional abuse she says, *'I'm used to being told "you this and you that"'*. Explaining how she would excuse her ex-husbands behaviour, she said *'That is the way he was raised'*. Marla only got a protection order after she left her husband and he continued to harass her. Describing the challenges women have with getting protection orders, she says women *'will go to the police station and the police say this and that'*. She explains that women are sent from one place to another and in the end do not get protection orders, because of the *'hassles'* they experience *'or they go to other places because of money and things, no taxi fare and so they won't go or get a restraining order'*.

Jannie says that she had to get a J88⁵²¹ in order to get help from the police: *'I went to the police station and they said I need to go to the day hospital for a J88 to fill in ... because I*

⁵¹⁹ Translation from Afrikaans: *'You must sort it out yourselves. Tomorrow you are back together'*.

⁵²⁰ A study by Kelley Moulton of the discretion exercised by clerks of the court verifies this experience of women when attending the magistrate's court. Moulton in her dissertation on domestic violence and discretion in the legal system says that clerks of the courts have discretion and use it, although they don't admit it. This is because *'the idea of discretion is a characteristic commonly reserved for magistrates and in this hierarchical environment admitting to applying discretion would seem to erode the hierarchical superiority of magistrates'*. See: Kelley Moulton *Gatekeepers or rights keepers? Domestic violence, court clerks and the administration of justice in South Africa* (unpublished PhD thesis in Justice Law and Society, American University, 2010) 142.

⁵²¹ A J88 form may be the only objective information in a case. See: Kirsten Rowe, Hendrik Botha, Hassan Mahomed & Arina Schlemmer *'Justice through the J88: The doctor's role in the criminal justice system'* (2013) 103 *South African Medical Journal* 437.

want to make a case against him. I can't just make a case. I need to go to the hospital to have proof'. After many years of abuse, Jannie finally went to court to get a protection order. She says she realised if she did not *'it's just going to get worse'*. Stories like Jannie's demonstrate that there are instances where the opinion is held that women should only be assisted if there are visible physical wounds, although the definition of domestic violence in the Domestic Violence Act 116 of 1998 includes verbal, emotional, sexual and economic abuse.

Some women use the protection order to manage their relationships and in some instances to improve the relationship because it gives them some control. Men who have grown up in a patriarchal society expect to be able to use force to ensure that women are submissive. Alex says she has used reporting to the police as a way of gaining power in her relationship: *'It also escalated to the point where he actually smacked me. I made the case and they just warned him and ever since it been two weeks now that we have been going for couples' therapy'*. Similarly, Katrina says her partner has *'been really trying, he is trying. I can see he is really trying'*, since she applied for a protection order. She still has to attend court, but she says, *'he got the shock of his life because he never thought that I would be able to do that'*. She is optimistic about the effect of the protection order on their future relationship and says *'because of that I can see now there is a big change in him'*. She says despite the change she is still going to court because she has to stand up for herself. She says, *'my child is still very young and I must be a role model for her'*. She grew up with an abusive father and she does not want her daughter to grow up with similar levels of abuse.

Women use protection orders to prevent further violence in other intimate and familial relationships. Rifkah explained that she applied for a protection order against her father who has been abusive, especially when alcohol was involved. The police told her *'they don't handle things like that'*. She says the *'peace order was to stop the violence, threatening and whatever'*. Julie has also applied for protection orders against her family members. She says, *'I have three of them [protection orders] in my car'*. In her view, her children take advantage of her and are abusive towards her and the protection orders are to protect her against harassment by her family. She uses them to threaten the children when their behaviour is abusive.

Maria used a protection order to keep her ex-husband away from her after years of abuse. She says he would threaten her if she said she was going to leave him. Even after she left him, he would threaten her if he saw her in the street. She says she eventually involved the police and they went to court. There he was given a warning that *'of hy kry buite straf, of hy 'n*

fine betaal, or whatever, maar ek het nie opgegee nie'.⁵²² She says that her adult daughter finally told him that if he abused her mother one more time she would hit him back. His behaviour improved as a result and he stopped harassing her. The protection order, coupled with pressure from his children, resulted in a change of behaviour.

Men who can afford lawyers when defending themselves at a protection order hearing are able, through the lawyer, to articulate their defence. Women, as complainants, seldom have a representative and as a result are not able to explain their positions in court and ask for an appropriate sanction. Maria felt that the magistrate was lenient with her husband who was represented in court, and that despite years of abuse he only received a warning. He would arrive in court with a lawyer paid for by his sister and the lawyer would argue for him. She would have to *'praat vir myself*'.⁵²³ Describing her ex-husband's response to the lenient punishment by the magistrate, she says, *'dan sal hy lekker kry want vir hom is dit heirsoe ek is weer buite and is dit sy week uitkom en dan is dit nog vanaand vors die deur*'.⁵²⁴

Marla, after years of abuse from her ex-husband was empowered by a woman's support group to get a protection order: *'Monday morning in the taxi straight to Wynberg court and I filed the complaint against him*'. She says that women prefer to go straight to Wynberg Court to get a protection order. For her one of the problems is that the protection order has to be formally served to the respondent to have effect and *'the men are not scared of a piece of paper that restrains them ... it actually makes them worse and it flares them up to do something bad*'. Marla also says that a lot of women drop the case because they want to avoid the court procedure. Return dates are often a few months after the interim protection order hearing and Marla says *'it drags. It takes too long and eventually they just drop it*'. In her instance she says her ex-husband lived in an informal settlement and it was difficult for the police to find him and serve the protection order.

Similar to what Marla said about taking years to finally get a protection order, a number of women shared stories of being abused but not being willing to go through with getting a protection order.⁵²⁵ Astrid, a member of a street and court committee, says *'they want help*

⁵²² Translation from Afrikaans: *'Either he will be punished or he will get a fine. But I did not give up there*'.

⁵²³ Translation from Afrikaans: *'Speak for myself*'.

⁵²⁴ Translation from Afrikaans: *'And then he would be pleased because he was out and he could come and force the door in again at night*'.

⁵²⁵ Katherine Butler, in her critique of legislation that protects vulnerable members of society and their role in upholding constitutional rights, argues that the 'legislation is not above criticism as the system is open to abuse'. She adds, 'Proceedings can be drawn out for months resulting in unnecessary costs and frustration'. See: Butler op cit note 497.

when they get beaten up but when they in the process they pull out. She also says that the women *'can't go to the police they don't trust the police'* and that the police come, but do nothing: *'If it's a house problem they don't touch it'*. Valerie, says that women also find the whole court process *'takes too long and eventually they just drop it'*.⁵²⁶

A notable number of participants who spoke about domestic and intimate partner violence maintained that it is only when a woman can prove physical evidence of abuse that action is taken by the police. Judy says that she was abused from the age of 17 to 19 and eventually *'he hit me so bad that I was unconscious and then I woke up and the next morning I went to the hospital and the police and finally laid a charge'*. The abuse stopped because her boyfriend realised that she was serious about taking action. She says as a result of her involvement in women's support groups she is more aware of her rights. She says she would definitely lay a charge if her boyfriend abused her again.

Nicole says she knows that she has to get a protection order to prevent her brother abusing her, but speaking of the inconvenience factor says *'I think the process is also a little too long to do that'*. She says her mother wants to apply for a protection order against her brother because she wants *'him to stay away from her house'*, because *'he would be aggressive and he would be rude'*. Nicole also claims that men report having been abused by the woman in order to counteract the woman's claim of abuse. This triggers a 'he said/she said' situation for police to navigate. She tells the story of her brother beating her up so badly that she went to hospital with a split lip where she was given a J88. While she was at the hospital her brother had time to go to the police station and lay a charge of assault against her, saying she had scratched him with her nails which she admits she did to defend herself. She says that the two policewomen who took her home from hospital took her brother's side and said to her, *'no he came there and said you were the one that attacked him'*. She says the final outcome was that the case was abandoned because the police did not know who to believe. She was pregnant at the time. She says that the police told her that her brother was released because there was not enough evidence. The police gave her a number to call if it happened again and said if that person does not answer *'then you must phone this number'*. She says she felt like complaining, but *'also thought I wouldn't be heard'*.

⁵²⁶At the return date for the protection order the respondent must show cause and establish why a final protection order should not be granted. See: Section 5 (3) (a) of the Domestic Violence Act 116 of 1998 and section 3 (3) (c) of the Protection from Harassment Act 17 of 2011.

A number of women indicated that having support when applying for a protection order contributed to having the courage needed to go through with the process. Jessica says her boyfriend's mother accompanied her when she went to apply for a protection order against her boyfriend.⁵²⁷ Having this support gave her the courage to take up the matter. The boyfriend's mother also informed her parents that she was being abused, which meant they could be supportive.

7.5 SOCIAL WORKERS

Social workers are part of the social welfare system and have a statutory role to protect the vulnerable, such as children, women, the elderly, addicts, disabled people, people with mental illnesses, and criminal offenders.⁵²⁸ As is demonstrated in this section, women who referred to the social work profession as a place to go for help often felt their expectations were not met. Compounding this negative perception of social workers is the shortage of social service practitioners and limited resources for prevention and early intervention services, resulting in ineffective social work practice and therefore the perception by clients that social workers are unwilling to assist.⁵²⁹ Towards the end of the interviewing period for this research, CAFDA,⁵³⁰ which had employed social workers who were placed in the NWF offices, closed the office, and clients were referred to the Department of Social Development social workers in Steenberg. I was told that the social workers were afraid of working from an office in Lavender Hill, which is not surprising considering the outbreak of violence during the process of conducting the interviews. These social workers primarily focused on the statutory work related to foster care, emergency child care placements, and crisis situations related to domestic violence, mental health and drug addiction.

7.5.1 Social workers deal mostly with statutory interventions

Since the end of apartheid, the South African social welfare structure has moved away from statutory intervention (removal of children) to the implementation of a developmental social welfare approach, focused on early intervention and prevention work.⁵³¹ Gangsterism and high

⁵²⁷ This story is introduced on pg. 76, where Jessica shares how her boyfriend's mother took her to apply for a protection order.

⁵²⁸ Social workers are regulated by the Social Service Professions Act (previously Social and Associated Workers Act) 110 of 1978.

⁵²⁹ Sonja Giese 'Setting the scene for social services: The gap between service need and delivery' 2007/2008 *South African Child Gauge* 19.

⁵³⁰ Cape Flats Development Association.

⁵³¹ See also: Merle Allsop 'Raising Children in a Global Village: Lessons from South Africa' (2011) 32 *Child and Youth Services* 80; Department of Social Development *Framework for Social Welfare Services* 2013; Patricia

levels of random violence makes it difficult for social workers to move around, especially if they are not from the community. Llewelyn Jordaan, a social worker often spoken of as a person of repute who knows the community well, had assisted in negotiating peace between gangsters. At the time of the interviews, Llewelyn was not working in the community. Referring to the gang violence he is quoted in the media as saying, *'We want the police to intervene and we want adequate policing that can match up to these gangs. Local police don't have the capacity'*.⁵³²

Linda says that the social workers have a role in dealing with problems, dependent on the type of problem. She says, *'some people have a problem for a social worker and some people have a problem for the pastor'*. Janine says that whenever they call the social worker to deal with her sister's poor treatment of her children, her sister will behave for a while after the social worker has been, but then she returns to her old ways. She says the social workers have stopped responding to the problems with her sister: *'Hulle kom nie uit nie'*. Often the family has the expectation that a social worker is the appropriate functionary to deal with their problem, when in fact that is not the case. Moreover, by calling on the social worker the family is simply avoiding a difficult family decision and action, in this instance having the sister certified as mentally unstable. Women want social workers to act so that they do not have to do anything that will make them unpopular with family members.

Cindy says that her daughter went to the social workers and was helped, but that they did not help her with her son who became involved in drugs. She says they told her, *'he must first do a crime before they can help him'*. Interpreted correctly, the social workers possibly meant he would have to be a danger to himself or others before social workers may intervene, and at the stage of asking for help he possibly had not proven to be such a risk.⁵³³

Martin, Linda Richter, Lawrence Aber, Vuyiswa Mathambo & Erin Godfrey *Government-funded programmes and services for vulnerable children in South Africa* (2010) 21; Patel op cit note 453 at 214. Because of high caseloads, lack of resources and infrastructure, high levels of stress, understaffing and time constraints, it is a challenge for social workers to deliver an effective service – especially in a community like Lavender Hill, where the problems are already so entrenched and freedom of movement is limited due to the real threat of random violence. This makes the implementation of a preventative framework extremely challenging. Social workers will therefore focus on statutory work, which cannot be avoided. See more in: Jackie Hope & Carlien van Wyk 'Intervention Strategies Used by Social Workers in Emergency Child Protection' (2018) 54 *Social Work/Maatskaplike Werk* 421–33.

⁵³² Chanel September 'Lavender Hill Gang Violence Continues' *EWN* 1 April 2012, available at <https://ewn.co.za/2012/04/01/Lavender-Hill-gang-violence-continues>, accessed on 16 September 2020.

⁵³³ According to section 33 (1) of the Prevention and Treatment of Substance Abuse Act 70 of 2008, a person may be involuntarily admitted to a treatment centre if they: a) are a danger to themselves, the environment or cause a public health risk; b) harm themselves or others; or c) commit a criminal act to sustain dependence.

7.5.2 Community responsiveness to social workers

Since social workers have a statutory role and are often seen as the profession that removes children or puts people in rehabilitation institutions, they are at times feared and treated with disdain. For this reason, people resist going to social workers to seek help with their problems.⁵³⁴ Despite respondents citing their own resistance to going to social workers, the waiting room for the social workers was always full when I went to interview women at NWF.⁵³⁵ Speaking about her son who is an addict and his resistance to seeing a social worker for his addiction issues, Liezl says, *'He don't want to go there, that's why I don't bother with social workers'*.

Tamsyn has had a similar experience with her granddaughter whose other grandmother sought the help of the social worker for problems with the mother of the child who is a drug addict. Of her experience she says, *'I don't know nothing happened, I think she didn't want to be helped'*. Tamsyn is raising both her grandchildren, who are still young (crèche-going age and nine years of age). She also had a negative experience with social workers when she sought assistance for her grandchildren. She says she went to apply for a foster care grant for the children and was told they are too old to apply for one. Of this experience she says, *'I don't know the rules of the country and I just left it'*.⁵³⁶ She has not given up and says, *'I told my husband in the new year God willing then I maybe want to come to go back to CAFDA again ... maybe make an appointment to speak to the head of social work there'*. Her motivation is to have security for the children so that they cannot be taken away by their mother. She fears the mother coming and saying, *'this is my child you know'*. She says the mother *'is not living in a well-established house. She don't even have a stable place'*.

Greta is of the view that she can deal with her problems without assistance and does not need to speak to social workers. Greta says, *'I don't want to see a social worker because I'm a strong person when it comes to emotions. I didn't feel like share with the social worker because I know they can help you and so on but I took for myself I can change my life'*. Claudine, when

⁵³⁴ There are also references in literature about social workers' stress levels influencing their behaviour towards clients when having to intervene, in particular with family situations. See: Lisa Merkel-Holguin, Dana M Hollinshead, Amy E Hahn, Katherin L Casillas & John D Fluke 'The influence of differential response and other factors on parent perceptions of child protection involvement' (2014) 39 *Child Abuse & Neglect* 20–2.

⁵³⁵ See more on resistance to social workers in: UKEssays 'Understanding And Coping With Client Resistance Social Work Essay' November 2018, available at <https://www.ukessays.com/essays/social-work/understanding-and-coping-with-client-resistance-social-work-essay.php?vref=1>, accessed on 19 September 2020.

⁵³⁶ According to the Children's Act No 38 of 2005, section 186 (2), children are eligible for foster care up to the age of 18.

asked who she goes to with her problems, said of going to social workers, *'I just don't feel like going'*.

Ashleigh made an observation about the community's responsiveness to the social workers. She says if the social worker is a person of colour then people do not respond to him/her. She continues: when the *'white'* social worker is on duty they say, *'Kan ek daai wit man sien, hy sal my beteraf verstaan. Hys goed nuh'*⁵³⁷. Ashleigh was cynical of this observation and said, *'Why is he so good? They go the same degree in this, but she prefers seeing the white man. Everybody mauls'*⁵³⁸ *for the white man'*. Ashleigh's observation speaks to the legacy of apartheid and consequential internalised racism that affects expectations of service delivery by people of colour.⁵³⁹

Nellie tells the story of a grandmother who, out of frustration with the social workers who had not arranged the transfer of the child support grant from the mother to her after a period of three years, *'left the children with the social worker and said you sort the children out'*. She claims the mother was receiving the grant and using it for alcohol while the grandmother took care of the children. As a result of this action by the grandmother, *'the following week the papers were sorted out'*. She says, *'most of the social worker's cases are where the mothers are getting the grants and drinking and drugging it away'*.

Moira has seen the social worker at the Red Cross Children's Hospital who helped her with her child. Pleased with the assistance she had received, she says the social worker *'is there to listen to me and to listen to what my child needs. She helps with accounts, to get the grants ... sometimes she helps me with food parcels and stuff'*.

7.6 CONCLUSION

In this chapter, I have captured the experiences of women making use of formal dispute resolution mechanisms. These narratives demonstrate the relationship between legal consciousness and legal cynicism theories. This provides a framework for understanding the experiences of different women when solving problems and resolving disputes in a place like Lavender Hill.

⁵³⁷ Translation from Afrikaans: 'Can I see that white man? He will understand my problems. He is good hey'.

⁵³⁸ 'Mauls' is vernacular for 'Chasing after'.

⁵³⁹ For more on internalised racism, see: Suzette L Speight 'Internalized Racism: One More Piece of the Puzzle' (2007) 35 *The Counselling Psychologist* 126–34.

As is demonstrated by the analysis, there are women with traditional values who are involved in community policing and contribute positively to strengthening the formal legal system through involvement in community policing structures. These women have positive expectations of the formal legal system. Another group of women have the expectation that the formal legal system should protect the community, but have determined due to observations and experiences of corruption and inefficiencies in the formal legal system that it has limited solutions. They have found ways to survive their circumstances, only invoking the legal system when it is necessary and there are no other solutions. Lastly, there is a sector of women who because of their experiences and observations of the legal system, have no expectation that this system will address their problems and have become completely disillusioned.

Legal cynicism as a response to formal systems is shaped by the experiences as displayed by the narratives in this chapter. As demonstrated, perceptions and observations of corruption and perceptions of familiarity between gangsters and criminals and the legal system, contributes to legal cynicism. From the stories shared, women are reluctant to report crime because they are tired of incompetency; are deterred by the inconvenience factor; and fear retaliation. This contributes to artificially lowering crime statistics, resulting in skewed planning by the state for police resourcing. Shooting and killing of people cannot be hidden, but there are many crimes being committed that are hidden, especially domestic violence, child abuse and neglect, drug peddling, and illegal alcohol sales. If not reported, a statistical impression is created that crime is lower than it actually is.

Contributing to legal cynicism and legal consciousness, the perception of what is right and wrong is not shared, and is often not about legality. Perceived and actual impunity observed of criminals who commit serious crime is used as the benchmark for what is criminal and what should be allowed or overlooked. Crimes that ‘feed’ the economy, such as the unlicensed sale of alcohol and even storing and distributing drugs like marijuana, are regarded as worthy of being flouted, as they ensure the economic survival of women. Crimes that leads to death are seen as serious and requiring intervention. The connection between the two is not clearly observed.

This chapter has set the scene for Chapter Eight, which focuses on the system outside of the law. This system is shaped by day-to-day practices of resolving disputes, the context, and historical experiences. Chapter Eight will demonstrate how women rely on the assets in the community that are available to them. The majority of problems do not require a response or solution from formal systems and the systems outside of the law are a necessary part of

ensuring problems are resolved. All women rely on systems outside of the law, although their motivations for seeking out these systems may be different. The next chapter demonstrates women's resilience and the value of informal systems in contributing to quality of life.

CHAPTER EIGHT: AROUND THE LAW

8.1 FINDING ALTERNATIVES TO FORMAL AND LEGAL SYSTEMS

In the previous chapter, I elucidated through the narratives of women their experiences of working through formal systems. Chapter Eight focuses on women resolving disputes outside of formal systems. This includes the NGO sector and less formal forms of redress that include turning to family, friends, colleagues and neighbours for assistance, advice, counselling and support. As this chapter establishes, respondents rely on various different sources.

This chapter shows how women find solace in God, religion, family and friends, when dealing with very difficult and challenging problems. There is an element of resignation to the situation and the problems they face on a daily basis. Although their actions at times appear to be against or ‘work around’ the law, this chapter demonstrates how for some women avoidance of both formal and informal systems is a survival strategy. It also shows how women’s experience of the law and normative systems is complicated by the multiple layers of power and the sub-cultures that exist in this community, determining variable responses to situations and the problems they experience.

8.2 ASSISTANCE FROM NON-GOVERNMENT ORGANISATIONS (NGO) AND LOCAL AGENCIES

The NGO sector in South Africa boasts 224 728 organisations that are registered with the Non-profit Organisations Directorate in the Department of Social Development.⁵⁴⁰ This large sector is a product of a diverse society with a high degree of inequality and unmet social justice and welfare needs.⁵⁴¹ The growth of this sector is largely related to the government’s inability to meet the needs of people and the democratic vacuum that is created.^{542 543} In Lavender Hill and

⁵⁴⁰ Department of Social Development, available at <http://www.npo.gov.za/?fbclid=IwAR1KDTuKPd-07GLbMuCPx-P1JOJ3pTbF0wLdMAdXkJVz6I9Her8WhY7C8tw>, accessed on 8 January 2019.

⁵⁴¹ There are two categories of NGOs in South Africa: the first mostly service driven, focused on providing much needed social services; and the second focused on human rights, advocacy and monitoring government service delivery. See: Lauren Stuart ‘The South African Nonprofit Sector: Struggling to Survive, Needing to Thrive’ *NGOPulse* 9 April 2013, available at <http://www.ngopulse.org/article/south-african-nonprofit-sector-struggling-survive-needing-thrive>, accessed on 2 October 2019.

⁵⁴² Brian Pratt & Tove Myhrman ‘Improving aid effectiveness: A review of recent initiatives for civil society organisations’ *INTRAC* May 2009, available at <https://www.intrac.org/wpcms/wp-content/uploads/2018/11/Improving-aid-effectiveness-A-review-of-recent-initiatives-for-CSOs.pdf>, accessed on 20 March 2019.

⁵⁴³ ‘Following the end of apartheid, the South African government adopted a neoliberal economic model, marked by the implementation of the Growth, Employment and Redistribution (GEAR) macroeconomic strategy that prioritised the “for-profit sector in economic growth and service delivery”’. See: Coalition on Civil Society Resource Mobilisation *Critical Perspectives on Sustainability of the South African Civil Society Sector* (2012) 36.

the surrounding areas, there are a number of non-profit organisations working to try and improve the quality of life. Some like NWF have funding and access to significant resources because of their many years of operation in the community. Others struggle to access funding or are too busy with the problems they are dealing with to spend time fundraising for their work.

Valerie says that women will often go to non-profits if they have a problem or a dispute, *'because sometimes they are even too scared to go to the police or they would rather want one of the social workers or one of the counsellors to assist them'*. Referring to women who need assistance from NGOs when engaging the legal system, she says, *'they need us to accompany them just because sometimes they need that'*. Ashleigh says because she is empowered she has no problem going to a counsellor or a social worker to deal with a problem: *'I can actually tell you I can go to a social worker tomorrow'*. Referring to social workers in this context, Ashleigh is not speaking about the statutory role of social workers, but rather about the counselling and advice-giving role.

8.2.1 'I share it with somebody instead of closing up':⁵⁴⁴ New World Foundation

Not surprisingly, NWF, where the interviews were conducted, was widely reported as being the organisation that most people go to for assistance.⁵⁴⁵ Letitia says that the people at NWF are very supportive. As a person who is reluctant to share her problems, but acknowledges the importance of using resources available to her, she says *'if I want to share it with somebody then I share it with somebody instead of closing up, then it works on you'*. For counselling, Letitia says that people are likely to go to the NWF because there is a CAFDA auxiliary social worker and also other social workers. However, for financial problems, she says they are more likely to get loans from the *'bank, loan sharks or family members'*. Sadie says that being placed at NWF as part of the EPWP⁵⁴⁶ was a *'God-send'*. Explaining how NWF helped her, she says *'that week [when she started working in the EPWP] I admitted that I was being abused for the first time'*.

When it comes to alcohol and drug addiction problems, NWF is often seen as the first port of call. Letitia says that *'they come to NWF for information, and Lynette [the auxiliary social worker] does counselling and referrals for rehabilitation'*. The auxiliary social worker

⁵⁴⁴ Quote from an interview with Letitia.

⁵⁴⁵ The sample interviewed for this research is biased, as it is comprised of women who are making use of the NWF resources.

⁵⁴⁶ The EPWP is an important avenue for labour absorption and income transfers to poor households in the short-to-medium term.

sees a lot of people who are addicted to substances. Letitia says she tells women in support groups: *'Do you want to spend another 15 to 20 years going through the same problems you are now? Is that what you want to teach your girls? Is this what you want to teach your boys that its ok to hit a woman and it's ok not to think anything of yourself'*. She says that the staff at NWF do not give up on people: *'Ons try maar net een keer⁵⁴⁷ and we try again and again'*. She acknowledges that it takes courage for women to ask for help and it's important to *'do your 110 per cent to help people'*.

NWF is considered an important resource by many and Marla says that it is the first port of call for women when they experience a problem. She says that it also depends on what type of problem they are dealing with: *'If it's a case people are ashamed of they won't come to NWF'*. The reason given for this is that women fear gossip and NWF is a public place. People fear being seen asking for help at NWF, as this could lead to gossip about their problems. Explaining this she says, *'Domestic violence is a very delicate thing, very hush, hush'*. As Marla explains, women are afraid of other people *'knowing their business'*. She says people are also afraid of seeking help when their children are on drugs because of the shame associated with drug addiction. They will rather seek help outside the community so that their problems can remain anonymous. Greta also says that women do not want to be seen asking for help. Speaking in the second person, she says, *'my boyfriend mustn't see I go there for help if I'm being abused'*. They fear that the men may retaliate. She also expounds that community workers cannot visit women who need help because they fear vengeance from the abusive partner: *'He might attack me also'*. So she declares, *'we must make arrangements'*, meaning away from the home and NWF.

Fear of being seen to be asking for help is motivated by the knowledge that there are potentially deadly consequences. For example, people who want to exit gangs fear retaliation from gangsters. Shanda whose son was killed tells the story of how her son who was a drug addict asked her for help. She went to the Haven Rehabilitation Centre but it was too expensive. The father of her child gave her R400 towards the bill, which would have been R12 000, and yet they had no food in the house. Her son said to her that night: *'Mummy use the money for food, me and you will go to NWF and I know they will help me there'*. He never made it to NWF because he was shot and killed beforehand. She is of the view that leaving the gangs cost him his life. Ironically, reflecting on the positive of her son being killed, she said, *'I said thank*

⁵⁴⁷ Translation from Afrikaans: *'We try just one time'*

you to the Lord, thank you very much for me I don't have to go to rehab anymore to look for a place, because I know he's in a better place. He's fine there where he is now [in heaven]'.

In addition to advice, information, training and youth programmes, NWF also provides relief in the form of meals, clothing and toiletries. Marla says that if there are shack fires people come to NWF for assistance. They have a close relationship with Gift of the Givers, which helps in these crises. Countless women spoke with gratitude about the work that is done by the advice office and other women at NWF. They indicated high regard for their ethics, their empathy, and concern for people – especially women. Letitia shares how when she was at her wits end they were able to assist with her son who had dropped out of school and was involved with drugs. She took him to see the auxiliary social worker and she reports they are helping him to get back on track with his education, and to stay away from drugs. Other women spoke about the women's support groups run by NWF, the street and court committees, and the work with young people – especially in the aftercare programmes.

8.2.2 'Encourage each other, listen to each other's problems':⁵⁴⁸ Women's support groups

Women's support groups play an important role in building awareness and providing support to address a range of problems or disputes that need resolving. Especially popular among those who are trying to make a change in their lives, they are also frequented by those who value cohesion. There are also informal groups of women who meet to support one another. Formal support groups meet regularly and are used to empower women, and equip them with tools and skills to make a contribution and value themselves. NWF used the 'Hero Book' programme to stimulate creativity and imagination, and empower women through the telling of their biographies *'to rediscover themselves as heroes rather than as victims'*.⁵⁴⁹ Sheila, who was one of the sample interviewed for this study, had participated in the Hero Book programme and spoke highly of the experience. She felt validated by the book and having her story in the public domain. Sadie says the women's support group she attends has helped her a lot, particularly because it is run by a man who had been an abusive partner and had changed his behaviour through programmes he attended. She is of the view that he has helped her to *'see it from a man's perspective'*. She explains that the women's support group has helped her to understand that the only way to stop the abuse is to leave the relationship, and she believes the support group has helped her to change her perspective.

⁵⁴⁸ Quote from an interview with Isabel.

⁵⁴⁹ New World Foundation Programmes, available at <http://newworldfoundation.org.za/what-we-do/programmes/>, accessed on 2 October 2019.

Marla says, *'some women and there's quite a few that we will never know of that is being abused in silence. They will keep quiet. They might tell the neighbour but then the neighbour gossips and tell everyone in that court'*. She has observed that there are often women who come to her programmes who are unhappy with their lives. She takes the time to talk to them privately and they eventually tell her what is happening at home. She acknowledges that women avoid going to support groups for help because they fear associated gossip due to the stigma linked to being in an abusive relationship. According to Marla, women's groups provide an excellent decoy for women who are victims of abuse, as they then have an excuse to be at an NGO: *'If people run into or they say what are you doing here you immediately go "no, I'm part of this"'*.

Women's support groups deal with a range of issues. Some focus on gender-based violence, others on prevention and action, and skills development. There are also support groups for men. Jannie says that the support groups provide a place to go to, *'whenever I have an issue'*. Isabel corroborates this when she says, *'they go to encourage each other, listen to each other's problems, how they face it, how they deal with it'*. According to Isabel, *'they give you advice and that is just how you take the next day on and just go on with your life again'*. Cindy also declares, *'the women's groups we would just come together, talk about this, talk about problems or this or that'*.

Marla is of the view that women allow abuse to happen because of their insecurities. Speaking of emotional empowerment, she says that women only leave abusive men when they feel supported, and that support groups help women take action. She says it is through these groups that women ask themselves, *'Are you strong enough to sit for another few years with the same problem? Get up there's a thing that you can ... I mean there's so many things happening for women empowerment and women have rights and things but some are clueless to their rights'*. Valerie agrees that women come to the support groups, workshops and training opportunities to empower themselves. She says, *'They are coming for help and assistance for themselves'*. From her perspective, men are *'absent with their families'* which she says means there are *'few positive role models for children in the community'*.

8.2.3 Street and court committees⁵⁵⁰

Court committees were set up by residents to identify and try to resolve problems in the courts of Lavender Hill.⁵⁵¹ Despite the history of this type of mechanism, dating back to apartheid, the recent formations of court committees intends to empower the community to take action and change their environment.⁵⁵² The actions of the court committees include organising social evenings to build personal relationships and community spirit in a street. Another initiative of the street and court committees is to clean the buildings and immediate surroundings and to engage local councillors to advocate for improved building maintenance.⁵⁵³ These have expanded to include street committees, which play a similar role to those that operate in the courts.

Street and court committees are active in Lavender Hill, although only a few women interviewed were involved in their leadership. Respondents referred to people involved in the committees as people they can talk to if they have a problem. Linda, who is involved with street and court committees, says that *'If there is a house that lacks something we go out to see what we can do for the people and the old people'*. Alex, of the person coordinating the street and court committee where she lives, says, *'I often speak to the chair lady of that committee. And she is open for ideas and stuff. Like when I suggested we try and have a fun day every second week for the kids'*. She says they have been successful in organising the fun days. She states that they are also trying to organise a container so that the children can have a safe place to sit and read after school, the purpose being *'to get away from the activities going on outside'*, namely gangs and drug abuse.

Tamsyn also articulates that the street and court committee helps people to deal with their problems, although they are limited in their area of influence. Explaining this, she says *'they [the street and court committee] can't still take on gangsters'*. They deal mostly with issues related to housing and other community social problems. She states that the councillor helps with problems of *'a shebeen that is in the road, or we know someone is selling drugs from a house, or at this house people is keeping a drug house'*. Explaining her experience, she

⁵⁵⁰ Street and court committees were a feature of the South African landscape under apartheid and were particularly effective in the 1980s for organising people. They also played a role in ensuring street justice when the legal system was considered illegitimate. For more on the role of street committees, see: Sandra Burman & Wilfried Scharf 'Creating People's Justice: Street Committees and People's Courts in a South African City' (1990) 24 *Law & Society Review* 693–744.

⁵⁵¹ Watson & Ryan op cit note 250 at 82.

⁵⁵² Ibid.

⁵⁵³ Ibid.

points out that although she has not called the councillor herself, many other people can testify to having contacted the local councillor to assist with problems.

There are varied opinions on the effectiveness of street and court committees, which is mostly related to their type of leadership. While these structures were primarily set up to ensure the welfare of people living in a court or on a street, there are women who believe these committees could play more of a policing role and act as change agents. The value of this network is that the leadership of these committees meet and can identify collective issues. Although I did not ask specific questions about the effectiveness of these committees, women like Inga said *'the street and court committee'* is one place people go to when *'there's a lot of violence with the gangsters and things'*. However, their role seems to be limited to the welfare of people in the street and dealing with the conditions of council housing or rented accommodation and amenities.

In comparison to women who spoke about the important role of the street and court committees, Joy is of the view that they are ineffective and that she does not even know who is on the street and court committee: *'Ek het nooit gehoor van die mense wat die komitee is in die court'*.⁵⁵⁴ She has also never heard people say that they have done anything to help people. She says there is no unity, *'amper soos almal is teen mekaar'*.⁵⁵⁵

8.2.4 Other NGOs

NGOs are an important resource for resolving problems and are often a source of support when people have to engage the legal system. Valerie says that women often go to NGOs as their first port of call when there are problems because, *'sometimes they are too scared to go to the police or they would rather want one of the social workers or counsellors to go and assist them'*. NGO staff provide accompaniment for women when going to the police station, because they are often intimidated or fear they will not get the service they need.

Women's support groups play an important role in bolstering the self-esteem of women. Ashleigh says as a result of her involvement with a women's support group, she is *'empowered now'* and would not be afraid to go to NGOs or social workers to ask for help. In the past, she lacked the assurance to do so. She says that people lack knowledge of services: *'It's not made known to people that you have to go there if you get raped, that you have to go there if you're going through depression'*. The diversity of people she has met through the woman's support group has contributed to feeling more confident to deal with problems.

⁵⁵⁴ Translation from Afrikaans: *'I never heard of the people who are in the committee of the court'*.

⁵⁵⁵ Translation from Afrikaans: *'Almost like people are against one another'*.

Another NGO mentioned was Tiny Little Baskets, run by a woman called Belinda from Tiny Court. The organisation is run from her home and offers meals to people who are hungry. In addition to this, Marla says Belinda also ‘*runs an elderly group which meets on a Monday*’. Where Rainbows Meet,⁵⁵⁶ mentioned earlier, is an NGO that runs a number of programmes, which include an early childhood development centre, a soup kitchen, nutritional programme, organic garden, sewing and beading project, and a youth development programme. Smart Kingdom Kids Academy⁵⁵⁷ was mentioned as making a difference for young people in Lavender Hill. Many of these NGOs started as individual philanthropic efforts and are now fully-fledged, registered NGOs with governance structures and funding from other sources, including provincial and local government.

Katrina was in the process of applying for a protection order when the interviews took place and said that she would like to be able to go to ‘*a place where it’s no need for me to return to him ... I won’t let it happen to me again*’. Shelters offer short-term residential care with the view to equipping women to safely leave violent partners and prepare them to be independent. They are often under-resourced and rely on philanthropy.⁵⁵⁸

8.2.5 ‘I came back to the community to give’:⁵⁵⁹ Local philanthropy⁵⁶⁰

Women interviewed cited philanthropic involvement as a way of contributing to improvements in their community. Most efforts mentioned involved feeding hungry children or providing spaces for young people to come together to study or receive support and counselling. Individual women were mentioned by name as being particularly helpful. Trudy points out,

⁵⁵⁶ Where Rainbows Meet is run by Mymoena Scholtz, a known activist for women’s rights in the community. See more in: Tiyese Jeranji ‘Foundation of hope’ *People’s Post* 27 November 2018, available at <https://www.news24.com/news24/SouthAfrica/Local/Peoples-Post/foundation-of-hope-20181126>, accessed on 18 April 2020.

⁵⁵⁷ Kingdom Kids Academy is run by Heather Adonis. For more, see: Sara-Jayne King ‘Lead SA: Lavender Hill Healing from addiction’ *Radio 702* 17 February 2019 [Podcast], available at <https://www.702.co.za/podcasts/121/weekend-breakfast-with-sara-jayne-king/185761/lead-sa-lavender-hill-healing-from-addiction>, accessed on 22 November 2020.

⁵⁵⁸ Claudia Lopes & Patience Mungwari Mpani *Housing women who have experienced abuse: policy, funding and practice. Profiling shelters in Mpumalanga* (2013) 2-3, available at https://za.boell.org/sites/default/files/mp_housing_women_who_have_experienced_abuse_final-web.pdf, accessed on 21 November 2020.

⁵⁵⁹ Quote from an interview with Linda.

⁵⁶⁰ Susan Wilkinson-Maposa says poor people mobilise, circulate and recapitalise their resources. In resource-poor communities people have to work hard to be philanthropic. People give food, money and clothes at times when they have more than they need. They also give at times of specific need, like a funeral or wedding. Sometimes they will give a hand-up to someone in need, such as the provision of capital to start a small business or seedlings to start a garden. They also provide support of a psychosocial nature in the form of listening, counselling and praying with others who are in need. See: Susan Wilkinson-Maposa, Alan Fowler, Ceri Oliver-Evans & Chao F N Mulenga *The Poor Philanthropist: How and Why the Poor Help Each Other* (2006) 7.

'Aunty Janet. Ons gat haar toe met enige probleme'.⁵⁶¹ Women like Abigail and Shanda spoke of taking children into their homes on an informal basis during a crisis, or for longer periods, because of the unbearable conditions under which the children lived – associating home with trauma.

Interviews indicated that religious conviction provides a strong motivation to become involved with philanthropic activities. Abigail, who is unemployed herself, says *'God spoke to me and I was, like, how can I start a feeding scheme if I'm also in ... need?'* She marketed her ideas in the local community newspaper and members of the community donated food for soup and bread. She now feeds about 200 children a day, explaining that she does not support adults, *'who does not want to make a change in their life and who don't want to complete school'*. Of this role in the community Abigail says *'the parents don't know their children come to my house for something to eat'*.

Linda left her job to work full time in the community, leaving behind her pension fund and the benefits that she had. She proclaims, *'one morning God just showed me I have to leave the work. And I took my bag and left and I came back to the community to give'*. Linda was motivated by a life-changing experience where her son, who had been involved in drugs and gangs, transformed his life. Out of gratitude to God, she felt she had to give back. Linda also feeds children and elderly people and runs programmes at the old age homes. She says she does it because *'they so fond of me, and the mere fact is I'm getting fond of them'*. She is driven by social connection and making a difference for women in her neighbourhood.

Similarly motivated by religious conviction, Jannie – the daughter of a pastor – shares that she and her father are running programmes with young people. Together they are working with children who are being bullied in school and would like to take them out to the beach. Explaining her inspiration, she states, *'there's like a lot of youngsters that I try to encourage. Because why? Mostly it's problems in their household that they can't ... cope with'*. She is driven by wanting her son to grow up in a better community and is concerned that his role models are gangsters and drug addicts: *'He's playing outside and he's going to see what they do and maybe he's also going to go in that steps also'*.

Women like Trudy give clothes that her children have grown out of – *'soos die goed wat ek makeur nie'*⁵⁶² – to the school. According to Trudy, many children are assisted at the school through people who volunteer to help with homework and projects. Women who work

⁵⁶¹ Translation from Afrikaans: *'We go to her with any problems'*.

⁵⁶² Translation from Afrikaans: *'Like the things I no longer need'*.

in the community also spoke about *'reaching into their pockets'* to assist those who are desperate, do not have food, or need money for taxi fare.⁵⁶³

Katrina would like to help, but says because of her own economic situation it is too difficult: *'Even if I tell you I'm going to make every Thursday a pot of Akhni or something like that, buy ten loaves of bread every day ... give it to the children that don't have. Even me I'm unemployed but it's nothing to help'*. Explaining her cynicism towards helping adults, she says the parents send the children to ask for help but they are using their resources on drugs. She adds, *'They got money for drugs every day why can't they go buy a loaf of bread for their child?'* Katrina explains that she has a family member who allegedly spends *'R800 on tik a day'*. She had asked this family member if she could have *'a R100 till the end of the month and I didn't even get it ... and yoh! this man spends R800 every day on drugs'*.

8.3 SUPPORT FROM FRIENDS AND FAMILY

One of the greatest sources of support and assistance for women comes from friends and family. In such a broken society, people give a lot to others and there is a high level of dependence on close connections for support and assistance. Often women depend on their friends and family to assist with complex problems that are in many instances beyond their capacity to solve. However, they are the first port of call because of a lack of confidence in other sources of support. The types of assistance available include advice, financial assistance, counselling and, at times, family interventions, especially in cases of child abuse and neglect, domestic violence, and drug and alcohol abuse. In many families, there is at least one person who plays the matriarch or patriarch role and is valued for their ability to give sound advice or step in when needed. This is also a burden on families already overwhelmed with their own economic and psychosocial challenges. Where family members were not able to provide support, women often turned to friends and neighbours.

8.3.1 Family

The family system is a valuable source of support for women when dealing with problems in their personal lives or with disputes. Families were cited by the majority of women as a place to go to for assistance, including when seeking assistance from the formal legal system. There is a great degree of reliance by women on their mothers and sisters. Despite high levels of patriarchy, only a few women spoke of their husbands as a source of support and very few

⁵⁶³ Interview: Marla and Nellie.

spoke of brothers or other male figures as resources for problem solving. Absence of men in families and as role models was cited as a reason for not seeking assistance from men.

8.3.1.1 'If I don't have something then I will go to my mommy and grandma will make a way for us to eat':⁵⁶⁴ Economic support and assistance

Families play an important role in providing economic assistance during times of financial crisis, especially for women who often lack enough money to get through the month. There is a high level of dependence on social grants, a meagre amount on which to survive. This seeking of economic assistance adds to the burden of those families who have adequate resources, but are unable to move forward economically because other members of their family rely on them financially. It is also a burden on those who have to constantly ask for assistance. Nellie says, *'people don't have enough money to look after themselves, they can't now start looking after other people even if its family'*. Desperation drives women to seek assistance which includes as Nellie says, *'going to the money lender and then they owe more money which is a vicious cycle'*. Letitia says, *'I'm going to ask that person for a R100 until like I get my pension or I get my grant money or the Allpay money'*. Nellie remembers how hard it was when she was growing up and *'we had to go to this aunty and that aunty'*. She adds, *'when they see you by the door they think "hier kom die kind alweer"'*.⁵⁶⁵ Because of her experience as a child, she says she *'always smiles at people'*, because *'you do not know what that person went through last night'*.

Similarly, Letitia says her nephew comes to her and says, *'Aunty I am hungry, please get me something to eat'*. She answers, *'if I don't have something then I will go to my mommy and grandma will make a way for us to eat'*. She feels a sense of obligation to assist: *'I have to help because I am here'*. Letitia, whose young, unemployed daughter had a child with her boyfriend, is *'grateful'* that the boyfriend family helps with nappies and toiletries, because unlike so many other women they have not had to enter a legal fight to secure maintenance.

8.3.1.2 'I'm going to commit suicide; I don't like living anymore': In a crisis

Families provide refuge in times of crisis. Examples include the provision of accommodation when none was available, support when applying for an interdict or reporting a case to the police, and advice when dealing with a dispute with another party. When Sheila was in a crisis with her son, she relied on her sister to take him in. She could not accommodate him, because he had been sent to prison for abusing her and instead *'he went to go stay by my sister'*. Toni's

⁵⁶⁴ Quote from an interview with Letitia.

⁵⁶⁵ Translation from Afrikaans: *'Here comes the child again'*.

sister was in an abusive relationship and their mother had to take her in. She says their mother was *'talking to her encouraging her every day'*. Toni also supported her sister and pointed out the toll that the situation was having on her sister's children; whose daughter said to her, *'I'm going to commit suicide, I don't like living anymore'*.

Some family members were mentioned as being particularly reliable and trustworthy because they were less likely to gossip with others and divulge the reasons for seeking help. A reliable, trustworthy family member is seen as a more important resource than taking the risk of being seen seeking help from an NGO, which could trigger gossip about the possible problem. Carlie gave an example of her brother-in-law who aided her son who was on drugs and needed to go into rehabilitation. She says she did not want to go anywhere else for help, because *'every time people said "that's your son you must do something"'*. She did not want to be told by other people what she must do with her son, but she trusted her brother-in-law to provide assistance with her problems.

Women need accompaniment when dealing with legal disputes. This was particularly cited when it comes to reporting cases of domestic violence. Ruby says that people are frightened to go to the police when they are abused by their boyfriends or husbands. Therefore, they go to their families first *'and tell my family and then they take me to the ... you see they take me to the police station'*. She says the men's parents cover up for them. They say, *'my son is not like this'*. Family members play a useful role when they question and speak to perpetrators, warning them of the consequences if they continue with their abusive behaviour. This is seen as an effective intervention.

8.3.1.3 *'I'm talking to my aunties and close relatives, they hear me out'*:⁵⁶⁶ Psychosocial support

Family is used as a source of psychosocial support. Ruby says she always talks to her daughters. She says they also solve problems in the home rather than speaking to others: *'If you two got an argument, sort it out. Don't stand by the gate, in the road, don't shout at each other so, people they can hear. It's none of other people's business. Come in our house sort it out'*. Cindy says now that her children are grown up, they offer support: *'They there for me now you know'*.

Families are used as a source of support with problem solving instead of relying on formal systems or NGOs. Trudy says, *'I go every day to my parents, my sister them'*. Similarly, Liezl says, *'I'm talking to my aunties and close relatives, they hear me out'*. Nicole, Moira,

⁵⁶⁶ Quote from an interview with Liezl.

Claudine and Nellie all said that they speak to their mothers first when they have problems. Toni and her mother have been providing support to her sister, who is still traumatised, although she has left her abusive husband: *'So me and my mother we spoke every time and this is how she left him'*. Mariette, Claudine and Alex say they speak to their boyfriends or husband. Inga says if she has a problem she *'will go to a family member'*. She says she speaks to her aunty and husband on a daily basis, adding, *'if we have a problem we solve it soema'*. Inga says, *'my boyfriend knows what's been going on and he's very supportive when it comes to my wellbeing and stuff'*.

There are times when women receive family support to seek help outside the community. Barbara, who had a drug problem, says she went to a rehabilitation facility for help and was assisted by her mother. She had been on drugs for fifteen years and describing the process says, *'it's been a long road, it takes a lot out of you, especially when you want to come back to reality. It takes a lot, so ja'*. She says her mother does a lot to help. The hardest part of seeking help for drug and alcohol addiction outside of the community is returning to Lavender Hill with all its temptations. Support from families and friends is seen as critical to the success of the process after rehabilitation.

Depending on the type of problem, family members are regarded as offering valuable psychosocial support. They are also more likely to step in when there are difficult issues to resolve. Talita says there are some things you can only speak about with family and call upon them for help. She says if not family, *'dan gaan sien iemand boeka in jou blyf, jou vriend'*.⁵⁶⁷ She explains that it depends what the problems are and who can help you best.

8.3.1.4 *'They don't understand and they don't think on your level'*:⁵⁶⁸ Families don't help

It is hard on families to experience their children's addiction to drugs and alcohol, and their involvement in gangs. Some say they are hardened emotionally and have adopted a *'tough love'*⁵⁶⁹ approach. Illustrating this, Marla, says, *'their mothers tell them straight away go use your chance to do things like that. So this girly is then left to fight for herself. She will go to her friends and maybe the friend's family is the same'*.

An important factor that affects the ability of family members to assist each other is the level of skill and understanding to deal with difficult problems. Assisting others with their

⁵⁶⁷ Translation from Afrikaans: *'Then you go see someone in your area, a friend'*.

⁵⁶⁸ Quote from an interview with Ashleigh.

⁵⁶⁹ 'Tough love' is an approach to dealing with addicts, where the focus is on helping the family recover from the effects of substance abuse on an addicted family member. Usually the family has to distance themselves from the addict.

problems also places stress on families who are already feeling the strain of limited resources, and often have their own problems to deal with. In some instances, women realise that their family are unable to help because they lack the capacity to assist. Demonstrating this, Ashleigh says, *'they don't understand and they don't think on your level'*. She also says, *'you can't confide in your family. I don't know why, but it just doesn't work'*. This contradicts the view that family can be a good source of support and assistance. From my observation it depends on the structure of the family and the availability of trustworthy people to assist.

Lydia, discusses her role in intervening and supporting family members, and the role she plays in trying to get relatives away from drugs and gangs. Sharing the advice, she gave to her cousins she says, *'I have cousins I talk to them ... [I say] you know what you must stop shooting other people. You must stop doing murders for other guys'*. She has had to intervene with her father and her brother who have had drug and alcohol problems. She reminds her family members that they are role models for young people, and are having a negative influence: *'They're looking up to you now and so they want to take the gun and go shoot other people, because my father did take the gun and shoot'*. From her interview it seems she has an enormous challenge because so many of her family are involved in gang activities. Referring to the progression of youth drug use, she says, *'They start with the hookah⁵⁷⁰ pipe and move onto harder drugs'*. Often women have to get involved with family members who are addicted to alcohol and drugs. This includes engaging with the legal process of accessing involuntary, court-mandated rehabilitation.⁵⁷¹

8.3.2 Friends and neighbours

After family, friends and neighbours are the next port of call when seeking assistance or guidance. There is a close connection between women, their friends and neighbours. The responses indicate that there is a paradox: women fear gossip and stories being shared outside of their close network and yet neighbours are often their only sources of comfort and assistance. Friends were mentioned as an alternative resource to the family when dealing with problems or in a time of crisis.

As family members are often unable to assist as they have problems of their own, reliance on friends is important and necessary. Friends are reported to provide food, shelter and

⁵⁷⁰ A 'hookah' is a single- or multi-stemmed instrument used for vaporising and smoking flavoured tobacco and cannabis.

⁵⁷¹ According to section 33 of the Prevention of and Treatment for Substance Abuse Act No 70 of 2008, a person can be admitted involuntarily to a treatment centre after a 'sworn statement is submitted to a public prosecutor by a social worker, community leader or a person closely associated with such person'.

psychosocial support during times of crisis. The advantage of seeking help from friends was mentioned because they are unlikely to feel compelled to take on the problems of the help seeker. They have more distance and therefore feel less responsible. There are challenges with reliance on friends, including the potential for gossip. Katrina describes her reasons for not reaching out to friends: *'Even if you think you're my friend, you're not my friend because when you turn your back they laugh at you, they go tell the neighbours, they go tell each other'*.

8.3.2.1 'Then whenever I go home I feel good':⁵⁷² The feel-good value of friends

Respondents shared how their friends offer light relief, and provide insight not influenced by their own experience of the problem. Jannie says of speaking to colleagues and friends at work, *'then whenever I go home I feel good, but if I have a problem again I will come. Because why? We are very open and honest, were not keeping things from each other'*. Ruth also says she speaks to her friends at work and they make her laugh at herself. She says, *'I was laughing earlier and they couldn't understand why I was laughing ... there's a lot going on in my life you know. Nicole thought I was laughing at her toes'*.

Fear of judgement from relatives is a motivator for seeking assistance from friends who are perceived as less critical than family members. Jannie says she provides support to her friend Nikita who has been in an abusive relationship and remains with the father of her child. They have similar problems with the men in their lives and *'she's also trying to like get me through the day'*. Sadie, who is in an abusive relationship, says, *'I have this one friend I'd normally go to her if I need to speak to someone'*. Her friend is there for her on days between support group meetings.

Finding trustworthy friends is mentioned as a challenge. Shanda says she does not have many friends to talk to, but her friend *'was there for me, but I got no other friends to talk out with. She was the only one I could trust'*. Similarly, her friend sees her as a person she can go to for help. Shanda admits the honesty she shares with her friend is intense and that her friend has even shared wanting to hurt her own child: *'I can't handle him anymore. I want to burn him with boiling water'*. Shanda was able to encourage her not to follow this route and rather to speak to the child and seek a solution.

8.3.2.2 'Everybody who came into this project is broken women':⁵⁷³ Help from colleagues

Work colleagues were cited as a source of support with daily problems or at least light relief during a difficult crisis or challenge. Some of the respondents said that they received support

⁵⁷² Quote from an interview with Jannie.

⁵⁷³ Quote from an interview with Ashleigh.

from their colleagues at the EPWP. Through the EPWP, women work together and as a result are able to share their problems and get support. They appear to have built up trust in this group and it has contributed to feeling supported. Ashleigh says, *'Everybody who came into this project is broken women ... if they don't have a drug problem then they have an abusive problem or an unemployment problem'*. Although the EPWP is a short-term programme, bonds are built between women who work together to learn skills.

Having commonly shared problems helps women to feel safe in their collegial relationships, and this creates the openness to share. Ashleigh also says, *'this is the first place that I really saw that my problem was not that massive'*. Being able to compare her problems with those experienced by other women in the EPWP made her realise that she is not alone. Judy says she shares issues with her colleagues that would probably upset her mother. She says, *'I'm a sharer, sometimes I overshare'*. Lynelle has a friend at work who is also a neighbour and so she says they help each other. They also catch the bus together to get to work. The time on the commute has bonded them.

8.3.2.3 'I don't mind giving a child a piece of bread every day':⁵⁷⁴ Dealing with crises

According to the interviews, friends and neighbours of respondents are an important source of support for each other during crises. The types of crises that were mentioned include not having any food, the death of a child or partner, a husband or partner having an affair, and children and partners being on drugs or being members of gangs. The type of support mentioned when there is abuse in the home includes counselling, financial relief, food and refuge. Because of the economic situation, high levels of unemployment and reliance on social grants, the absence of food is often a crisis for families, and respondents spoke about children who would have no food if it was not for their intervention. Katrina observes that children are used by their addicted parents to ask for food: *'I don't mind giving a child a piece of bread every day ... why must that poor child suffer because they [the parents] must feed their addiction every day'*. She adds, *'they using their children to come knock on your door every day'*.

Greta, whose child was stillborn, said that by confiding in friends she was able to deal with her sadness. Similarly, Claudine's ex-husband had an affair and she says, *'I have a best friend which I spoked about this ... we've been friends for long'*. Greta and Claudine now talk and provide support to others who have had the same experiences. Marla, after leaving her abusive husband says she was given land on which to build a house by a friend in the area and that other friends assisted with clothes and furniture until she could get back on her feet.

⁵⁷⁴ Quote from an interview with Katrina.

8.3.2.4 'If you need something you can come to me':⁵⁷⁵ Help from neighbours

Neighbours can be a source of support, but can also be a threat if they gossip and share intimate information with others who should not know the details of their problems. Some, like Ashleigh, feel their neighbours are not equipped to assist with problems: *'I can't go to a next-door neighbour and confide in her and say this is how I feel because they don't understand and they don't think on your level'*. Nevertheless, there is a high degree of reliance on neighbours for all types of problems and support. They are an important source of security, keeping an eye out during the day for signs of criminal activity and alerting neighbours who are at work if they need to be concerned. Lucy, who once lived in Lavender Hill, says she often felt safer there than in the suburbs, because of the network that was provided by her neighbours. Toni is assisted by her neighbour when her drug-addicted brother-in-law, who lives with her family, becomes rowdy. She says the *'neighbour comes around and takes him away ... so that we can have peace in our house'*.

Neighbours play a role in co-parenting children, especially when parents are absent at work, involved in community activities or addicted to drugs and alcohol. Tamsyn says, *'If I see my neighbour's daughter in the park with a cigarette I will tell her you can't stand here, you still on school'*. She explains that the children respect the elders in the road so they do not speak back. They will rather change their behaviours to meet the standards of the elders. Parents do not always share the same values when it comes to parenting or have the same approaches to discipline, and these differences can contribute to conflict between neighbours, especially when neighbours overstep parenting boundaries.

Colleen says things have changed. When she was young her aunty would hit her, but *'I don't go tell my mother because she is going to ask what did you and give a smack'*. She says parenting is now different and parents will say, *'not my child, you can't hit, that's my children. Moenie my kind slat nie'*⁵⁷⁶. She says children will not stop behaving badly because they are protected by their parents: *'They want to hear nothing about their children'*.

Toni is philanthropic towards her neighbour's children and says she has told them to say when there is trouble at home: *'Told her if you need something you can come to me whatever it is you can come to me. If I don't have, I will ask my mom'*. She gives the children clothes and shoes and is concerned that the neighbour's child will be bullied at school because her parents are alcoholics and drug addicts.

⁵⁷⁵ Quote from an interview with Toni.

⁵⁷⁶ Translation from Afrikaans and vernacular: *'Don't come and hit my child'*.

Neighbours also share their concerns about issues that take place in their environment, such as a merchant or shebeen that is operating in the street, a shooting, or a family that is in crisis. People have time to watch and observe what is happening and know a lot about the behaviour of their neighbours and when things have changed. Close proximity to neighbours also means it is easy to hear what is happening.

Through the street and court committees, neighbours sometimes come together to discuss a strategy to address a problem. However, Joy says that her neighbours will come together to talk about a problem, like a shooting, but *'hulle sal niks praat van n stop te sit nie'*.⁵⁷⁷ Her observation is that people enjoy the excitement of talking about what happened, but they do not come up with solutions to problems. Gossip is a pastime and although it can lead to speculation about what is happening in a particular family or even as a whole, it is not perceived as being constructive.

8.3.2.5 'Telling them what happened and why it happened'.⁵⁷⁸ Speaking to others in the community

Sharing problems with others who are not close but are members of the community is described as a way of seeking solace and support. For example, Greta, who lost her infant, says she found comfort in speaking to other young girls who had lost babies: *'It was very hard. I took it very hard but when time went by I used to speak to others ... telling them what happened and why it happened'*. She says that is how she overcame her pain and she now makes it her life's work to support other women who have lost young children. She has become a resource to others.

There were many examples of women who had used their own pain and loss as a source of inspiration to provide support to women who had also experienced similar grief. For women who are deeply religious, this was often motivated by a commitment to God and a sense of a higher power controlling their lives. Women who work to improve the lives of others often seem to be motivated by this commitment.

8.4. GOD AND RELIGION

A belief in God and involvement in a religious institution was often mentioned as a source of solace for women who are survivors of violence and face disputes. Studies verify the importance of religious faith when managing stress and coping during stressful periods.⁵⁷⁹ This

⁵⁷⁷ Translation from Afrikaans: *'They never talk about solving the problem'*.

⁵⁷⁸ Quote from an interview with Greta.

⁵⁷⁹ Arndt Büssing, Daniela Rodrigues Recchia & Klaus Baumann 'Reliance on God's Help Scale as a Measure of Religious Trust – A Summary of Findings' (2015) 6 *Religions* 1359.

is common when formal structures have failed to assist and people turn to internal resources to control the situation or stressor.⁵⁸⁰ Some women have a relationship with God but are not involved in religious institutions. In this regard it appears that these women have a spiritual connection to a God that is not informed by religious doctrine. Bussing et al explain that reliance on religion may be in response to a ‘stressor or as a result of lifelong habit, or the conviction that faith is a stronghold and God is at one’s side whatever life brings’.⁵⁸¹ For these women, the church or their mosque was described as a place or refuge where they could seek assistance or at least respite from the harsh realities of their daily lives.

8.4.1 ‘We know there is a God but God doesn’t say that you must pray and then problems will go away’:⁵⁸² Reliance on God

For Talita, God provides a guide out of a ‘*desperate dark place*’ such as drug and alcohol addiction. She goes on to explain how having a relationship with God has turned her daughter’s life around. Her daughter, who was involved with drugs and gangsters, is sober after finding God. After an ultimatum, her daughter’s husband also turned to religion and Talita describes how they have been on a better path. Her daughter is twenty-nine and this young couple has five children. Talita says, ‘*they’re happily married, they both serving the Lord. You see it’s a happy ending*’.

In situations where women have experienced intense loss, they have found refuge in God. Talula, who lost a baby, says that she did not go to anyone else for help. Instead, she spoke to God to help her through her sorrow. Talita, when dealing with an abusive partner, says that instead of going to the police she called on God for help. She acknowledges that her prayers did not help her and she is still dealing with the abuse: ‘*En tweewens het ek die Here gevra om te help om te stop*’.⁵⁸³ Lydia also had a stillborn child and says she ‘*gave my heart to Jesus and still now I’m still going on*’. God answered her prayers and as a result, ‘*I am seventeen years married and I have two nice children*’. She still turns to God to solve her problems, ‘*because God do good in my life*’. She also prays with gangsters when they are seeking help, and a way out of the gangs. A gangster she was praying with who wanted to leave the gangs told her that the Mongrels [gang name] took out a gun to shoot him, but the gun did not go off and the gangster said to her ‘*it was like God was out there*’.

⁵⁸⁰ Ibid.

⁵⁸¹ Ibid.

⁵⁸² Quote from an interview with Nellie.

⁵⁸³ Translation from Afrikaans and vernacular: ‘*And twice I asked God to help to stop him*’.

Women like Nellie are cynical of the role of faith in God in solving problems. Describing her cynicism, she says *'they believe if you pray your problems will go away'*. Nellie, demonstrates her pragmatism in relation to religion and a belief in God, when she says *'we know there is a God but God doesn't say that you must pray and then problems will go away'*. She believes that people must move beyond blind belief in God and be active citizens.

Katrina has lost faith in her family and friends as a source of support, because they gossip about her problems: *'I learnt my lesson I go to my room pray, ask the Lord to help me and each and every person who is in my position'*. Prayer is used to find solutions to problems. A strong faith in a higher power provides solace from the challenges of life. Shanda uses prayer and her belief in God as a form of meditation and says that she resorts to prayer when she cannot handle her problems anymore: *'So I said to the Lord, Lord I give it all to you'*. This provides her with relief from her problems and makes her feel like she can face them. She faced her drug addict son's death on her doorstep and her faith in God helped her through. Explaining her experience, she says, *'He saw all that, he did saw that, how I did feel that time my son was alive'*. She adds, *'I am standing here firm in the name of the Lord ... People did say I must go for counselling ... but I know the Lord did lift me up'*. Similarly, Julie – who has a strong faith in God – says, *'I am very God-conscious. I pray a lot. I pray for them. Very God-conscious and I believe that he carries me'*.

A belief in God is attributed by some women as being the reason their problems are solved. Barbara refers to her daughter who *'is doing fine by the grace of God'*. But she is aware that her daughter – a recovering addict – is lucky, as many others do not escape this scourge that can be observed by looking around the neighbourhood. Tamsyn believes in God, because as she says, *'we all prayed and we keep on praying for our community, for our children, for all of us can be safe'* and she says as a result the gang warfare did not stir up again. Sadly, this changed during the process of conducting interviews, with shootings close to NWF.

8.4.2 'Ja we go to church, we pray for them':⁵⁸⁴ Religious institutions

Religious institutions including churches and mosques were cited by religious women as places that people can go to for assistance with their problems. Christianity and Islam are the two main religions practiced among those interviewed. Beatrice says when she speaks to *'my pastor's wife and she prays about it I can chat to her you know'*. Similarly, Inga, when they experienced a crisis, says she called her pastor and he came to listen and was a source of

⁵⁸⁴ Quote from an interview with Talita.

comfort. Lynelle says there is someone at church who is a trained counsellor and *'she can give me advice and stuff'*.

Nellie does not believe that the church provides as much support to people as it should, and expressed concern with the blind faith people have in religion. It is her view that religious institutions should be doing more to address problems: *'They don't deal with alcohol and drug abuse or the violence'*. She is concerned that Christian leaders in the community limit their interventions to religious days and are not doing more to address and prevent community problems.

Some deeply religious women demonstrate a blind faith in religion. Talita, who has witnessed gang killings, remains deeply committed to God, who she feels has helped her to *'forgot all of that stuff. You see when you serve the Lord you must forget about all the'* She says she prays at the church for the gangsters: *'Ja, we go to church, we pray for them'*.

Linda, who is deeply religious, explains there she understands that there are different institutions for different problems: *'Some people got problems for social workers and some people maybe have a problem for the pastor'*. Letitia says she would go to the mosque for help because that is her religion. She says, *'I'm a Muslim so I will go to an Imam or someone and I will say I wanted to do this. Is it the right choice?'* Nellie, although not Muslim, says she likes the way the mosques operate and help people in their community: *'They take care of each other'*. Marla is of the view that religious institutions contribute to patriarchy and oppression: *'In the church, the pastors say you as a woman need to be submissive to your husband and all those things. And the imams also unless he is having an affair, you cannot just go and divorce him and think things like that. So they come up with all this things Joanne'*.

Having dealt with her own experience of abuse by her husband, Marla found that *'the church was just never a help at all. So I understood fully why women and people don't approach the churches also'*. She says she contacted the church and spoke to pastors, but *'they never came to give counselling or anything like that'*. Sharing her experience of being judged by the church when she left her husband, she says, *'and the day they heard I was divorced they were like no can't speak about it at the round table ... And I was like no thank you, been there it's too late. And I never looked back'*.

Valerie is also cynical of the role of religious institutions. She acknowledges that there is a high reliance on places of worship, but feels these institutions are not capable of assistance: *'Most of them would go to their spiritual leaders first of all. To them that would be the first*

place of safety where they can go but I think our spiritual leaders are not equipped man. You know they don't have the proper training'. She says because of their patriarchal views and lack of skills, religious leaders are unable to deal with the problems faced by women: 'They fail women'. Astrid is also cynical of pastors in churches. She feels they contribute to gossip and says, 'that feeling man. No that pastor is going to go home and tell that one'.

8.5 'LONE RANGER. I HANDLE MYSELF ... OTHER PEOPLE'S JUST GOING TO MAKE IT WORSE':⁵⁸⁵ SELF-RELIANCE

Self-reliance to deal with problems is a strategy identified by those who have lost faith in other systems to resolve their problems and disputes. For these women, the motivation for looking inward and not involving others is borne out of a fear of gossip and its consequences. Self-reliance has come about because of a breakdown of trust in formal institutions and others in the community. Gossip is experienced as a salacious sharing of information. Respondents express how this has contributed to a loss of self-esteem and embarrassment, and can even be life-threatening if it is heard by a violent partner or a gangster who would seek retaliation. The sharers of gossip are considered untrustworthy. For some women, self-reliance is seen as a refuge from their loss of faith in any institutions and a belief that seeking help does not result in change for themselves or their community.

However, as Marla says, there are instances where gossip was useful because it drew attention to situations where help was needed. This was particularly important for situations where women are being abused and remain silent about the abuse. According to Marla, women *'might tell the neighbour, but then the neighbour then gossips and tells everyone else in that court'*. Concerned women in the courts are then more observant of what is happening in the household and come to the assistance of a woman if they become aware of the dangers they face. Katrina, who is afraid of gossip, says she was scared to talk to her neighbours and friends because *'they go and tell each other'*. She has realised that *'everybody's got problems'*, but she says she has learnt that she cannot rely on her friends, because *'when I turn my back they stab me in the back ... they laugh at me'*. Being laughed at is viewed as a threat that could also lead to isolation, depending on the topic of the gossip. This is dangerous in a community where people rely on each other economically, emotionally and for physical safety.

Explaining self-reliance, Astrid – who had problems with disrespectful children who took advantage of her – shares how, instead of seeking advice or assistance, she wrote them all

⁵⁸⁵ A quote from an interview with Anna.

letters expressing how she was feeling. She says she gets emotional and *'I like to cry then I overlook it then the next day the problem is there again'*. She found that writing down her feelings and leaving letters on her children's cushions made her feel better. Sharing the outcome of the letters she says, *'So the Sunday I came home late and they were wondering where is this lady'*. She says that things improved from that day. Her husband also stood up for her after she wrote him a letter. Unfortunately, it did not last long *'and now they off track again. It starts over and over'*. Astrid also keeps journals, but she says that it is dangerous to write things down: *'If I feel something I will keep it for a week then I will destroy it when I feel better or when the situation is resolved, then I burn it'*.

Ashleigh is of the opinion there are very few trustworthy people and says that she has come to a point where she has lost faith in all systems. Instead of relying on others, *'I talk to myself, asking myself do you think it's a wise decision'*. Similarly, Shanda says, *'Sometimes I keep it for myself ... I don't want to talk with no one then I take a walk. That's when I come back'*. Anna says she is a *'lone ranger. I handle myself ... other people's just going to make it worse'*. Greta says if she had a problem, *'I would do it on my own'*. Beatrice, describing women who are indifferent, says *'they just stay in their houses and mind their own business. Its mos like that'*. Tamsyn, describing her own withdrawal, says *'I live for myself ... I'm too scared to involve me in people's things'*.

Joy has a close friend, but says she does not want to listen to her problems. An indifferent person, she says of dealing with her problems, *'Ek sluit my deur'*.⁵⁸⁶ Cindy, who is also indifferent, says that she drank her problems away. Her daughter and her brother were murdered in a short period of time and in both cases the perpetrator was not tried. She has learnt that people do not help one another and rather seek conflict: *'the one want to skell with you and that one skell with that one and so and so you know. So nowadays just each and everybody for themselves'*.

8.6 LEADERSHIP

Deference to leadership is cited as a potential solution, but the majority of respondents who referred to leadership said there were serious problems with leadership⁵⁸⁷. Leadership is loosely defined and appears to refer to political and religious leadership. Joy says, *'there is no leadership in the community. No one wants to put a stop to the problems that are occurring'*. Kelly, referring to the challenges faced by leadership, says *'the problem is the gangsters. They*

⁵⁸⁶ Translation from Afrikaans: *'I close my door'*.

⁵⁸⁷ See 6.4.6 where a lack of leadership is indicated as a problem in Lavender Hill.

are so difficult to control'. Even when leadership comes together to address problems, it cannot deal with the gangsters. Describing efforts by leadership to address gang violence, she says *'the pastors get the leaders from all the gangsters, they take them by the field. They listen and the community pastors was praying for them. They were making the peace that day and from that day it was like only a year and they starting again'*.

Katrina is of the view that *'the community don't stand together'*. Kelly agrees when she says, *'the community don't stand together that's the problem'*. She also says that the leadership is mostly concerned with gangsters when they should be interested in the *'children that goes hungry ... they busier with the stuff for the benefit of it'*. Sadie says that the community *'have to stand firm and trust that we can make a difference to the service delivery in our communities'*.

Judy cited a lack of education and leadership skills as contributing to leadership problems: *'The lack of education leads that people have a tendency not to be able to communicate with one another and that just escalates the problem'*. She says the lack of communication skills escalate small problems into big problems, adding *'it could be solved really like nicely in a nice way but no'*. Moira is of the opinion that the problem is that people do not listen: *'There's no solving a problem if nobody listens'*. Ashleigh similarly says, *'the biggest challenge is how illiterate they are, communication levels'*. Leadership loses interest in addressing problems because, according to Ashleigh, *'you cannot explain something to somebody who doesn't understand it'*.

According to Sadie, some people go to local councillors for assistance with their problems. Having cited the police as a problem, she says that the community should go and speak about *'management of the police station'*. Nicole says that going to the ward councillor is a waste of time because they do not help. She says, *'mostly the community has to do it for themselves'*. Poor follow-through on leadership decisions was also named as a barrier to solving problems. Vanessa says, *'they would come together and then look at solutions but then they don't follow through and it's kind of defunct again after a while'*. Talula posits that there is no consistency. According to her, leaders will work together – *'met die huis besigheid'*⁵⁸⁸ – but with other problems there is limited interest from leadership.

There is a desire for leadership to deal with gangsterism. Letitia says that they need someone *'to motivate them not to do that and to tell them okay we have something you can do'*. A few women mentioned Llewellyn Jordaan, a social worker at NWF, as a resource who

⁵⁸⁸ Translation from Afrikaans: *'They will come together for house problems'*.

was able to work with the gangsters. Marla says that *'he did this mediation between gangs and things. They had this meeting where they called all the leaders, the imams, the pastors and the main leaders in the community who sat with the gangsters'*. According to Marla, it was peaceful for a while after the mediation.

8.7 CONCLUSION

Formal systems provide limited remedies to address problems and disputes. In most instances where problems occur, informal mechanisms play a critical role in assisting women to find solutions to their problems. The most prevalent systems that women turn to outside of the law to resolve their problems are NGOs; friends, families and neighbours; and God and religious institutions. There is a type of woman who has lost faith in all systems as a result of her own past experiences or the narratives that have been passed on from others. As a result, she has decided to either avoid dealing with problems or rely on self rather than reach out and be disappointed.

There are numerous instances where informal systems play a role in the process of engaging formal systems and many women first seek accompaniment or support from these systems. The need for support is linked to the challenges women feel they will face when engaging formal systems, as well as the lack of understanding as to how formal systems work. There are some areas where women have a moderately good understanding of the law, such as the process for seeking protection orders. However, because of stories they have heard of other women's challenges when engaging the legal system, they want and will seek accompaniment and support. Women's help-seeking behaviour in relation to systems outside of the law are shaped in a similar way to how they engage formal systems. In both instances, fear of possible retaliation by perpetrators or ridicule as a result of gossip determines the choices they make.

The types of problems demonstrated in Chapters Five and Six and the operation of dispute resolution and problem solving mechanisms demonstrated by Chapter Seven and Eight are complex, multi-faceted, and difficult to predict, even for people who engage with these systems daily. For many women, the formation of normative responses to different situations is determined by practicalities. In these instances, the choices made appear to be primal, driven by the tension between levels of intellect, prior experience and the will to address problems. A key factor in the decisions that women make is physical and emotional safety. With high levels of violence, women first consider the implications for their safety of engaging a system.

In the following chapter, I conclude this study with an exploration of the implications of the findings for legal consciousness theory and description of the intersect with the theory

of legal cynicism, and how this influences problem-solving behaviour. Embarking on this study, I set out to allow a theory to emerge from the data of the experiences of women in a community like Lavender Hill, when solving problems in and around the law. With this in mind, in Chapter Nine, I discuss the framework that has emerged, which can assist others when working in places like Lavender Hill and developing further study outlines.

CHAPTER NINE: TRADITIONALISTS, SURVIVALISTS, INDIFFERENTS AND OUTLAWS.

We seek access to the meaning of law in the lives of ordinary citizens – the ways in which commonplace transactions and relationships come to assume or not to assume a legal character, and the ways in which the shape of everyday life is informed by law. Studies of legal culture and consciousness attempt to address these questions about the place and meaning of law in the lives of ordinary citizens.⁵⁸⁹

9.1 DETERMINING LEGAL CONSCIOUSNESS AMONG POOR URBAN WOMEN

Starting out the journey of this thesis I sought to gain an understanding of whether and how women engage problem solving and dispute resolution in and around the law. In doing so I pursued a deeper understanding of the types of problems predominantly experienced by women in a poor urban community, and their legal consciousness when invoking solutions to these problems. My motivation for engaging in this study was born out of a desire to understand the complexity of navigating life in a locality like Lavender Hill on the Cape Flats. After decades of working in social justice I had an aspiration to contribute to a greater appreciation for and consciousness of the perspectives and approaches of women in communities of this nature to problem solving. In doing so, my expectation is that I will influence and advance approaches to working in and with women in communities like Lavender Hill.

In this final chapter I reflect on the previous chapters and critically discuss the contribution this study makes to the theory of legal consciousness. While tying up these threads I move to the more abstract process of explaining what I have found in relation to legal consciousness theory. In this final chapter I determine that there are four typologies of women emerging from this study and that these typologies reflect and influence the choices women make when problem solving.⁵⁹⁰ Finally in shaping this conclusion, I identify that locality, and expectations and understanding of formal and informal systems are key elements that lattice the typologies, in the way that threads in a tapestry intersect. From this I determine that in this poor urban community, heterogeneity occurring in a relatively compact geographic area, is a

⁵⁸⁹ Patricia Ewick & Susan S Silbey 'Conformity, Contestation, and Resistance: An Account of Legal Consciousness' (1992) 26 *New England Law Review* 26.

⁵⁹⁰ Silbey *op cit* note 66 at 728. Silbey at pg 728 points out that 'stories from people interviewed provide a model or theory of legal consciousness as they are understood in juxtaposition to each other'.

key determinant in identifying and understanding patterns of problem solving, in and around the law.

This study adds value to legal consciousness theory in that it reveals the micro-element of typology, and its significance in understanding legal consciousness and how it determines women's approaches to problem solving. The typologies I identified are traditionalists, survivalists, indifferent and outlaws. Later in this chapter I will discuss these in greater depth. Shared values and norms among these types regulate expectations of formal and informal systems, and to some extent standardise each types' approach to engaging these systems when solving problem.⁵⁹¹ In my final conclusions I determined that these typologies can be expanded to other localities with similar demographics and can be useful in understanding other neighbourhoods affected by poverty, unemployment, neglect, urban decay, gangsterism, and a culture of patriarchy.

This study demonstrates that approaches to engaging communities on issues which assume that the inhabitants are a homogenous grouping are doomed to failure. The reason being that they do not take into account the dynamism of different people with divergent perspectives living together. I did not intend to limit this study to seeking out a theory that explains behaviour: instead I aimed to contribute to improving approaches to working in communities, which bring about social transformation and justice.

Setting the context for the discussion of the findings I will now recap the progression of this study. After introducing the research question in Chapter One, I positioned legal consciousness and legal cynicism theory in relation to the study in Chapter Two. I then described the context as understood in the literature in Chapter Three. Following this I explained the research process in Chapter Four. In the next chapters I summarised what women I interviewed said, using their words, and intersected this with what I found in the media and from my observations. From this I formed a logic, which is my contribution to the theory of legal consciousness.

In Chapter Five I determined that the context of gangsterism and patriarchy contributes to high levels of violence and impacts on women's approaches to solving problems. Violence affects freedom of movement and contributes to high levels of stress and fear. Women shared

⁵⁹¹ Ibid. Silbey reported in this article at pg 728 indicates 'that there were not three separate narratives but rather that it was an ensemble woven together. She also says that the several accounts of legality create a persistent structure of legality as well as the potential of variation and change'.

experiences of violence to their person, or violence they have observed and the consequential post-traumatic stress symptoms they experienced, especially when they received no counselling or support. Others have had deeply traumatic experiences where violence and random or targeted shootings have affected them, their families or close friends and relatives. Most women interviewed live with an awareness of their vulnerability to violence determined by the context, and make decisions daily to avoid becoming victims of situations that are mostly beyond their control.⁵⁹²

Violence as a result of gangsterism, crime and violent shootings is contextual and has a long history dating back to the 1960s, apartheid and forced removals. Gender-based violence is entrenched due to patriarchy, which is also a strong feature in gangs dominated by men and hierarchy. Hence the prevalence of GBV in Lavender Hill, where gangs are rife. Traditional, conservative values are also evident in certain elements of the neighbourhood, with women also expecting men to be the head of the household, and that women should be meek and obey. This means that women expect relationships with men to be about being controlled and forced into submission when they disobey.

In Chapter Six I found that second to violence, problematic substance use, poverty and unemployment are predominant problems for women. Substance use softens the experience of living with the conditions that are found in Lavender Hill. Poverty and unemployment are considered to create a conducive environment for gangsterism and substance use to flourish. These problems similarly make it difficult for the community to transform and conditions to improve, which means that poverty remains entrenched, with the majority of people relying on social grants to survive. Following on from this, the data determined that the other problems which women find are the most important in their community are: a lack of male role models; poor parenting and parent abuse; poor communication skills; poor service delivery; and a lack of leadership. In both Chapters Five and Six, different types of women have different views on the problems they prioritised and even though there was a high level of commonality in identifying problems, there were divergent perspectives and attitudes towards the existence of these problems.

In Chapter Seven I analysed the perceptions, experiences and approaches of women when engaging formal systems for resolving problems. In Chapter Seven, the connection

⁵⁹² Dean Mobbs, Cindy C Hagan, Tim Dalgleish, Brian Silston & Charlotte Prévost 'The ecology of human fear: survival optimization and the nervous system' *Frontiers in Neuroscience* 55.

between legal consciousness and legal cynicism emerges. The different approaches that different types of women have to problem solving comes into view, with traditional conservative women expecting that the legal system will work for them, and when it does not, demonstrating compassion for the actors in this system. Survivalists are more cynical of the legal system and only rely on it for problems when there are few alternatives outside of the law. Indifferent women have lost faith in the legal system and, as is demonstrated in Chapter Eight, rely on themselves and avoid engaging systems in and around the law. Outlaws flout the legal system and use others in the community to protect them from the legal system, enticing those who assist through the offer of financial rewards.

In Chapter Eight I unpack the perceptions and experiences different types of women have of systems outside of the law. Traditional women and survivalists make use of NGOs and their services in the community where they believe they will be useful. Both types of women are involved in NGOs in the community and are trying to make a difference, either through formal employment or volunteering in structures, such as women's support groups and street and court committees. Support from family, friends, colleagues and neighbours was indicated to be a valuable source of help for women. These systems provide accompaniment when engaging the legal system; dealing with a crisis; or seeking economic refuge, informal counselling, or advice and mentorship. Indifferent women indicate they have lost faith in these systems outside of the law and so will retreat, try to solve problems themselves or sit with unsolved problems, which then compound. The fear of being let down means they remain isolated.

In the next sections I discuss typologies of women that emerged from the study and the elements of locality and expectations of formal and informal systems intersect. I liken these intersections to the vertical and horizontal threads in a tapestry, which are hidden from view, but hold the structure of the image together.

9.2 TYPOLOGIES DETERMINING LEGAL CONSCIOUSNESS

Categorisation is not new to legal consciousness scholarship or to sociology more generally. From my analysis of the data I determined that there were different types of women who share norms and values which impact on the decisions they make with regard to problem solving. It also affects the choices they make with regard to systems in and around the law. I identified, through categorisation, four types of women who live in Lavender Hill: traditionalists, survivalists, indifferents and outlaws. These types are not fixed and some women live on the

culp of two typologies. Some women indicated through their responses to questions that they were one type, but as they have matured and life has impacted on their choices, their norms and values have shifted and this has adapted their perspective and approach to live.

Traditionalist are conservative, patriarchal, religious, and participate in religious institutions. They have strict rules for their children and hold strong views on correct and appropriate conduct. They engage in organised philanthropic activities, are positive about the role of formal systems to address problems, and use gossip as a form of social control.⁵⁹³ Survivalists are modern. They may or may not be religious and rely less on religion for problem solving. They have adaptable parenting styles, might resort to alcohol and drugs to cope, are randomly philanthropic, and cynical of formal systems. They use gossip as a form of entertainment and to connect with others. Indifferent types have lost faith in formal and informal systems for resolving problems or to provide support. They are irreligious even if they believe in God. They have detached parenting styles, rely on self, and avoid dealing with problems. Outlaws are involved in gangs. They may be merchants and protect gangsters by hiding drugs, alcohol and guns. They value the economic safety net provided by gangs and the status associated with their connection to gangs. None of the women interviewed shared their current involvement with gangs and therefore could not be identified as being outlaws. However, the narratives of women did at times refer to either historical involvement with gangs and criminals, and their observations indicted that women they know are involved in criminal activity or assist and protect gangsters and criminals.

From the data it materialised that each type of woman has a different level of anticipation of success when engaging systems in and around the law. There are permeable boundaries between typologies. However, most women clearly belonged to one typology, with survivalists being the most prevalent. Understanding different typologies of women in one locality allows for mapping different experiences of legal consciousness. These typologies are not fixed categories but rather provide a guide to understanding poor women's approaches to legal consciousness. Occasionally there were women interviewed who displayed independent views not determined by one set of norms and values, with context-specific approaches to dealing with problems. Through my interviews I found these were mostly women who worked in

⁵⁹³ Donald Black 'Crime as Social Control' (1983) 48 *American sociological review* 34–45. Donald Black identified gossip and ridicule as self-help aimed at achieving social control.

NGOs and are strategic about where they engage their energies. This theory of variety allows for a deeper understanding of the experience of women in and around the law.

From the women interviewed I conclude that there is a universal desire for the situation in their community to improve, particularly among traditionalists, survivalists and indifferents. There is also a high degree of cynicism, particularly among survivalists and indifferent women, towards formal systems. Indifferents are cynical of all systems. Norms are powerful determinants of what is acceptable. From the data, I observe that women from one type will make observations and pass judgement on the approach of another type, even though they have not identified these categories. This was particularly visible in the responses with regard to domestic and familial violence. Gossip is a strong form of social control and is used to redirect behaviour.

9.2.1 Resilience through strict values: Traditionalists

'God played a significant role in my life. All my trials and tribulations that I went through God carried me through'.⁵⁹⁴

Traditionalists are conservative and share 'old school' values and approaches to life and problem solving.⁵⁹⁵ Motivated by a reverence for God and organised religion, they see this as an important source of solace when encountering problems and seeking solutions. Women with this value set are willing to give of their own resources to help others and are often involved in organised forms of philanthropy through churches or NGOs in Lavender Hill. Examples cited included women who had given up formal employment to give back to the community or, because of being raised in the church, are involved in efforts to divert young people from the street. They see religious institutions as being a source of information and support when deciding on a course of action for resolving a problem.

Gangsterism, violence and substance use are perceived by traditionalists to be the greatest problems and they do not condone involvement in these. Traditionalists are more likely to report crime to the police and are less tolerant of illegal activity. They view the police and courts as a resource and are more forgiving of the weaknesses in these institutions, as compared to the observations made by other types of women. They are willing to work with the police to

⁵⁹⁴ Valerie Adams 'In Prayer, I received nothing I wanted, but I received everything I needed' in Pillay-Constant op cit note 322 at 59.

⁵⁹⁵ Friedrich C J 'Traditionalist Theory' In *Tradition and Authority. Key Concepts in Political Science* (1972) Palgrave, London.

improve the system and tend to be involved in the CPF and the street and court committees. Weaknesses in the legal system are seen as being as a result of low salaries, inadequate resourcing and a lack of cooperation from the community.

Men are seen as the head of the household and women are concerned about the lack of role models. Traditionalists do not necessarily condone domestic violence but understand that it is used as punishment against women who have not lived up to their partner's expectations. Paradoxically, traditionalists are judgemental toward women who remain in situations where domestic violence occurs, and of women who report such cases to the police repeatedly but do not leave. Traditionalists are of the view that women should leave the first time they report domestic violence as a crime, and show little consideration for the complexity of leaving a breadwinner, and a life partner, especially where there are shared children. As a result, they are sympathetic towards police who are cynical of women who report domestic violence.

Gossip is used by traditionalists as a form of social control.⁵⁹⁶ At times they may ostracise women who have not lived up to their traditional values. Gossip is powerful because it can lead to judgement and exclusion in a place like Lavender Hill, where reliance on others is key to survival. Forms of being ostracised include exclusion from religious institutions and family, friends or neighbours, who fear being associated with people who are judged for their negative behaviour. Victims of violence are at times also viewed negatively and ostracised.

9.2.2 Shrewdness and compromise: Survivalists

'Before that time, that woman had to find a way of making money to support her family. And because there was no income in that house, her husband was in jail, she had to do everything on her own. So now she had to start a business, what business? To become a merchant, sell drugs and whatever, just for a living, and that was so sad'.⁵⁹⁷

Survival skills are necessary for women in Lavender Hill as they navigate threats daily, whether in the external environment, in the family, or the work context. Survivalists have developed

⁵⁹⁶ Elain R Salo in her book *Respectable Mothers, Tough Men and Good Daughters Producing Persons in Manenberg Township in South Africa* (2018) 130, discusses the idea of respectable women. She highlights the risk for women who lose this status through involvement in gangs. The consequence being that their social and economic network shrinks as other respectable women fear that by association they will be deemed bad. She also explains how mothers in Manenberg have to pass final judgement on a woman's behaviour for her to be deemed *sleg* (bad). Manenberg is a community similar to Lavender Hill, also located on the Cape Flats. Salo discusses her observation that women in the street where she was conducting interviews were monitoring the people with whom she was seen to be associating.

⁵⁹⁷ Interview: Isabel.

contextually relevant behaviours to defend against recurring threats.⁵⁹⁸ Their value set is modern and adaptable, and is shaped around these survival strategies. Although they may hold strong religious views and be involved in religious institutions, they are less likely to rely on the promise of religion to solve problems. At times their actions go against their core values because they acknowledge the necessity of compromise in order to survive in a place like Lavender Hill.

From the interviews I found that the respondents were mostly single mothers, many of whom rely on social grants for an income. Those who are employed are away from home for long hours and rely on school and after-care programmes, like those run by NGOs. They also rely on family and neighbours to monitor children, when they are at work. A lack of role models was cited as another challenge for raising children, with gangs acting as a replacement for absent male parents. Where children have become gangsters and are violent towards parents, survivalists resort to seeking help from the formal legal system, when other systems like support in the community fail.⁵⁹⁹

They see the problems they face as being largely beyond their control. There is nostalgia for the past when life in Lavender Hill was less dangerous and there was a greater sense of community. Survivalist are hopeful that things will improve and indicate they have chosen to live in Lavender Hill because they know the place and have created mechanisms to ensure relative safety. These include knowledge of different turfs, understanding the gangs, and having warning systems and people to turn to in an emergency.

Cynicism of the police triage system has developed, as they observe violent, criminal behaviour ignored, while less dangerous criminals face sanction. Survivalists are less likely to report crime, because they fear retaliation from gangs, and are pessimistic that crime will be dealt with even if they do report it. They weigh up the benefits of reporting crime against the possible consequences they could face should they report criminal activities. Where family members or children are involved in gang activity or selling drugs, they protect them and even become accomplices in order to do so. As survivalists they will use the economic opportunities created by hiding drugs and guns. According to women interviewed, they are at times used as the middle person in drug deals.

⁵⁹⁸ Mobbs et al op cit note 592 at 55.

⁵⁹⁹ Jacobs op cit note 382; De Klerk op cit note 328.

When crime like domestic violence happens it is believed to be a normal part of life, because it is generational and part of how women were raised. It is through support groups and exposure to information that they became aware that they do not have to tolerate violence, and can seek help from NGOs and the legal system. Survivalists reach out to their family, friends and neighbours to accompany them, as they navigate the legal system when dealing with problems like domestic and familial violence.

Also involved in philanthropic deeds in the neighbourhoods, survivalist's efforts are less organised and are more inclined toward small contributions to friends and neighbours when they are in need. Similarly, they rely on their neighbours and friends when they are in a difficult situation or need economic or social relief. Giving is often in the form of food or clothing to neighbours and family members, and occasionally financial support when income does not last the month. With a high reliance on social grants, women often seek financial help from others for times in the month when they have no income.

Survivalists are of the view that substance use is a problem in the community but understand its role in numbing the pain of a difficult life. Breaking the addiction cycle was reported as a challenge and rehabilitation facilities are seen as necessary. However, rehabilitation places a financial burden on family members in a community where there are limited resources. The strong lure of drugs when returning to Lavender Hill after rehabilitation is recognised as a challenge. Survivalist seek assistance from NGOs and family members to address addiction and see these as an important resource. Survivalists accept that women sometimes have to resort to illegal behaviours like the sale of drugs and alcohol in order to survive.

9.2.3 Giving up and withdrawing: Indifferent or Impassive

'I've come to a point where I advise myself, I talk to myself, asking myself if that's a wise decision. I don't go to nobody with my problems'.⁶⁰⁰

Emerging from the interviews is a typology I describe as indifferent, lacking concern for the situation, and the lack of a desire or passion to do anything about what is happening in Lavender Hill. This type of apathy is driven by a history of traumatic experiences and perceptions that nothing can be done to change things. It is born out of experiences of a lack of assistance when seeking justice after being victims of crime or violence. Similarly, these women have become

⁶⁰⁰ Quote from an interview with Ashleigh.

cynical of informal systems and believe that there are very few or no people who can be trusted. With gossip playing an important role in social control, women have been driven inward towards reliance on self. Problems compound, disabling the desire to address them, and result in an inability to determine which are most important and where to start. As a consequence, they have withdrawn from help-seeking behaviour, from building social connections, and from engaging in civic action.

Also associated with apathy are social problems, such as the neglect of children, problematic substance use, and remaining in situations of domestic violence. A high level of teenage pregnancy means that many parents are not mature enough to be effective, and so parenting is left to grandparents, foster parents or the streets. Apathy makes children vulnerable to being drawn in by the gangs or becoming the victims of violence. One of the risks of indifferent parenting is that young girls become victims of ‘blessers’ and young boys become runners for drug merchants, which starts the process of involvement in gangs.⁶⁰¹ They aspire to the lavish lifestyles demonstrated by fast cars and extravagant clothes shown off by gangsters and their lords. Indifferents accept that a consequence of living in Lavender Hill is that their children are being drawn into this lifestyle and they will seldom challenge this choice.

Victims of domestic violence accept violence as part of life. From interviews I conducted it is speculated that abused women are addicted to the rollercoaster of the violence, followed by the so called ‘honeymoon phase’. Police are described as ineffective in responding to crime and women interviewed would rather avoid calling out the police when they are aware of a crime, because of their view that it would not serve to change anything and could result in retaliatory violence. They cite experiences where calling the police to assist resulted in them waiting for a long time for assistance, or the police never came or turned away from the crime. Indifferent women favour avoidance over dealing with problems or being activists for change.

9.2.4 Outlaws determining the norm.

*‘There’s no work and now everybody runs to merchants and stuff. There they get something that can feed them, that can dress them, and that stage that is where they fall into gangsterism’.*⁶⁰²

⁶⁰¹ For more on the ‘blesser’ phenomenon see Prevan Moodley & Sumayya Ebrahim ‘Blesser: A Critical Evaluation of Conceptual Antecedents and the Allure of a Transactional Relationship’ (2019) 51 *Acta academica* 21–40.

⁶⁰² Quote from an interview with Linda

Outlaws are represented by gangsters and criminals who resort to crime to survive and gain status in the community. Women involved in gangs were not interviewed. However, some women interviewed identified other women – friends and neighbours – as having a connection to gangs. A few women reported some history of involvement in gangs or having a partner who is a gangster or a merchant. Wing and Willis identified ways in which women can affect the lives of gang members, which is usually through relationship to the gang rather than as members of gangs.⁶⁰³ Gangs set the tone for life on the Cape Flats using violence, fear and collusion with the legal system as a form of control. Living in townships on the Cape Flats requires that people know and understand gangs and their behaviour in order to survive.

It is understood by women interviewed that the attraction to deviance is associated with the high levels of unemployment and abject poverty. Criminality provides respite from poverty although it is associated with high levels of risks for self and family.⁶⁰⁴ According to the media and literature, gangs are extremely patriarchal and even women who hold positions of power are seldom gang leaders. Their position is usually associated with a powerful person in the gang. Gangs buy protection from the neighbourhood and hold economic power by providing relief during difficult economic times. In doing so, they determine the norms of the neighbourhood. They ensure that crime is not reported through threats of retaliation, resulting in loss of life or damage to property.

Gangs have a long history on the Cape Flats, reigning through terror, and impacting on the quality of life of people in these neighbourhoods. They enforce systems of control through threats of violence and sporadic, often extended, outbursts of gang warfare, of which many innocent people are victims. It emerged from the interviews, supported by media reports, that gangs and some police work together, contributing to cynicism about reporting crime to the police. This system of gang's infiltration into police is understood by women interviewed to be made possible because of low levels of financial reward for police working in highly volatile situations. In contrast, gangs offer attractive incentives for protection from the legal system.

Empirical data from this study demonstrates that the presence of gangs is an overwhelming determinant in the help-seeking behaviour of women. Their prevalence, and use of violence and fear, as well as their penetration of the legal system, contributes to women's

⁶⁰³ Wing & Willis op cit note 121 at 4.

⁶⁰⁴ Salo op cit note 596 at 166, identifies that men who face structural factors such as a lack of suitable employment and seek to meet the 'economic demands of dominant boyhood, support their families through illegal informal activities'.

fear of seeking help from police and courts. A significant number of women hold the view that police will tell gangsters about people who report crime, and this will result in either themselves or their family being victims of retaliatory violence. In some instances, where domestic violence occurs, women are afraid to seek protection orders due to the possibility of violence intensifying, especially where partners are associated with gangs.

9.3 LOCALITY: LAVENDER HILL

*'Lavender Hill defines you ... Once you tell people that you come from Lavender Hill people make assumptions, and either won't give you a job or will be very cautious when dealing with you'.*⁶⁰⁵

The research question I sought to investigate includes the words 'living in a poor urban community'. Having read the literature, this empirical study confirmed that there are a multitude of factors in everyday life which shapes legal consciousness. One of these is context,⁶⁰⁶ as is similarly indicated by Margaret Hobart in her study of two different communities, and the legal consciousness of abused women.⁶⁰⁷ Through observation, interviews, media and film I found that norms, which shape problem-solving behaviour in and around the law, are determined by context, which includes the historical, social, political and economic factors that shape life.

Hostilities meted out to coloured people by the apartheid government have continued on the Cape Flats as have increasing levels of poverty and neglect, set against a backdrop of violence and crime. Spatial arrangements have determined the continued effects of apartheid and created opportunities for criminal behaviour to flourish, often targeting the most vulnerable.⁶⁰⁸ The history of forced removals and the trauma that was experienced lives on in the psyche and has shaped the identity of women in Lavender Hill, who indicate limited anticipation of a better future. The level and breadth of the problems that occur daily permeate the fabric of life, making survival appear impossible to the observer. And yet, women find contentment, and display a high level of resilience, while navigating the complexities of their lives.

⁶⁰⁵ Interview with Luanne.

⁶⁰⁶ Silbey op cit note 56 at 325 also identifies that context contributes to shaping legal consciousness.

⁶⁰⁷ Margaret Hobart *Resisting violence in the shadow of the law: the legal consciousness and legal mobilisation of battered women in Phoenix, Arizona and Seattle, Washington* (unpublished PhD thesis, University of Washington, 2003).

⁶⁰⁸ Christian Hamman *Socio-spatial change in the post-apartheid city of Tshwane metropolitan municipality, South Africa* (unpublished Master's thesis, University of South Africa, 2015) 182.

The perception expressed in interviews and the media of being abandoned, especially by political leadership, contributes to the anticipation by women that formal systems, which are meant to protect their rights, are ill suited to work for women from Lavender Hill. According to media and the film *Ellen*, women have been failed by the system on multiple occasions. Similarly, this scepticism shapes interactions with informal systems and the anticipation that both formal and informal systems are limited in their capacity to enable problem solving. Women interviewed shared the barriers they face daily and how as a result they avoid seeking solutions, and their problems compound.

Spatially, Lavender Hill is removed from resources that are meant to serve them, as seen in other communities on the Cape Flats, located on the margins of Cape Town. Even moving short distances, women put their lives at risk when seeking assistance. Media reports indicate that social workers, police and ambulance staff are fearful of coming into or working in the community because of the dangers involved and the historical numbers of service people who have been victims of violence who dare to do so.

Living in a gang-infested locality where there is little regard for human life augments the harshness of daily life. High levels of violence and random shootings, where innocent people are often the victims, limits freedom of movement and impacts on decisions about where to go for help, and when to invoke the legal system. Fear of retaliation by gangs is a key determinant for women reporting crime. Women interviewed indicate they are afraid of reporting abuse out of fear that their partners who are gang members will seek revenge, or that violence will escalate. Familial and intimate relationships between women and gangsters determine women's willingness to report crime. The existence of gangs and fear of retaliation also limit the community coming together to address this scourge.

Gender-based violence – and domestic violence in particular – was cited by respondents and reported in the media as one of the most challenging problems. This demonstrates the pervasiveness of patriarchal attitudes. As supported by scholars like Hunnicutt, domestic violence must be understood to be a product of patriarchy and that there are varieties of patriarchy.⁶⁰⁹ Patriarchy permeates Lavender Hill and infiltrates women's world view and

⁶⁰⁹ Gwen Hunnicutt 'Varieties of Patriarchy and Violence Against Women: Resurrecting "Patriarchy" as a Theoretical Tool' (2009) 15 *Violence Against Women* 553–573: According to Hunnicutt, (at pg 554) 'gender remains the central organising feature of patriarchy'. Hunnicutt (at pg 558) argues that 'a cursory glance at the literature shows there is a multiplicity of connections between variations of patriarchal arrangement and violence against women'. Her argument is that patriarchy should be used to understand violence against women but that patriarchy occurs in various ways (ibid). She posits that violence against women should be understood from the

approaches to problem solving. Although most households are run by women who carry the burden of responsibility for providing care for children and the elderly, women also convey patriarchal views. Enforced through violence, patriarchy has been passed down through generations. It is also upheld by gossip and fear of being ostracised, as it is a dominant perspective in this community. Consequentially, women avoid seeking advice or assistance from people in NGOs, or from police and the magistrates court because of the public nature of these services. They fear the possibility of being seen to seek help and the possibility of retribution. Despite their own patriarchal views, women indicated a desire for the abuse to stop and to not have to live in fear.

Observations and reports from women who were abused by intimate partners indicate that they exercise caution when seeking help, because they anticipate patriarchal responses and inconsistencies in discretion applied by the legal system. Similarly, Myhill and Johnson argue that the use of discretion has a negative impact on police legitimacy.⁶¹⁰ Women in Lavender Hill indicate that their experience of the legal system is forged by the attitudes of police towards women.⁶¹¹ Data from interviews indicate that women are of the view that the negative attitudes they encounter are partly because police anticipate that they will return to the perpetrator. According to interviews, women who left abusive relationships had different experiences of invoking the law. Women who were accompanied either by a person working in an NGO or a family member seemed to have more success navigating the legal system than women who engaged the legal system alone.

The economic situation in Lavender Hill affects decisions women make about what problems they will deal with and when they will address criminal activities known to them. Gangs and drug trafficking provide an economic safety net, with women picking up the crumbs

women's experience (ibid); See also in Margaret Schmuhl *Patriarchy and varieties of violence against women: A contextual analysis* (unpublished PhD thesis, University of New York, 2017).

⁶¹⁰ Andy Myhill & Kelly Johnson 'Police use of Discretion in Response to Domestic Violence' (2015) 16 *Criminology and Criminal Justice* 4.

⁶¹¹ Lisa Vetten indicates that police perceptions of domestic violence (amongst other factors) undermine the implementation of the Domestic Violence Act. See: Lisa Vetten *Addressing Domestic Violence in South Africa: Reflections on Strategy and Practice* (2005) Centre for the Study of Violence and Reconciliation, Johannesburg 7. Additionally, Kelly Stone and Claudia Lopes indicate in their study on police responses to domestic violence that 'police officers do not fully understand their obligations under the DVA or their responsibilities in the provision of services to domestic violence victims in terms of the National Instruction'. See: Kelly Stone & Claudia Lopes *Policing Responses to Domestic Violence: Exploring Reactions by the Police to Women in Need of Shelter* (2018) 21, available at https://www.saferspaces.org.za/uploads/files/Research_paper.pdf, accessed on 25 July 2021. Rita Retief and Sulina Green make recommendations to equip police officers to deal more effectively with challenges in addressing domestic violence. See: Rita Retief & Sulina Green 'Some Challenges of Policing Domestic Violence' (2015) 51, 1 *Social Work/Maatskaplike Werk* 143-144.

from the table. Even though women cited gangsterism and drugs as two of the biggest problems, decisions to ignore criminal behaviour are tolerated and understood because of the role gangs and merchants play in providing social support and economic respite. Scholars like Colny et al support this view.⁶¹² According to respondents' observations, women hide drugs and weapons, protect gangsters and inform them when they think there will be a raid, and ignore what is obviously illegal, such as the sale of drugs by neighbours, friends or family.

9.4 EXPECTATIONS OF FORMAL AND INFORMAL SYSTEMS

Decisions made in determining women's approaches to problem solving are dogged by both positive and negative experiences and observations of both formal and informal systems. Perceptions have developed as a result of: anecdotal accounts passed between people living in Lavender Hill; experiences women have had of engaging these systems to resolve problems; and observations of what happens between formal legal systems and outlaws. Key in deciding women's choice of a system for dealing with problems are the anticipated likelihood of a positive outcome, the inconvenience factor, and possible physical, financial and emotional risks involved in engaging different systems.

9.4.1 In the law

Contradictory relationships exist between women and formal systems. Although they desire safety and security they are cynical of the police, courts and social welfare systems. They are doubtful of these formal systems and their willingness to help, as well as their capacity to respond. This is supported by Hagan et al who found that women in poor neighbourhoods in the US experienced the same paradox.⁶¹³ Different types of women have different expectations that formal systems will or will not work for them. Legal cynicism and the belief that nothing will be done to address crime, contributes to reduced reporting of crime and the result that crime statistics do not reflect the real situation.⁶¹⁴

⁶¹² Conly op cit note 186 at 5.

⁶¹³ Hagan et al op cit note 97 at 9191. See more on police corruption in various media articles: Cruywagen op cit note 495; ANA Reporter op cit note 495; Etheridge op cit note 495; Petersen op cit note 495; Petersen op cit note 495; Ntongana op cit note 495. For more on the effects of police corruption on faith in police see: Hubert Williams 'Core factors of police corruption across the world' (2002) 2 *Forum on Crime and Society* 85-99; Kirk and Matsuda op cit note 24; Bell op cit note 102.

⁶¹⁴ Ibid. Hagan argues that the conscious and unconscious reasons for legal cynicism lie in the 'historical isolation and cumulative structured inequalities that disadvantage neighbourhoods' experience, such as Lavender Hill and others on the Cape Flats. Reflecting on the American situation of reduced welfare and increased incarceration of men in inner city neighbourhoods Hagan found that women who were left behind had to be strategic in deciding when to summon the police when dealing with threats to their households' safety and security. Increased calls for

Also contributing to avoidance as demonstrated by the narratives of women is the stress and fear of retaliation from others when reporting crime. Scholars like Trinkner and Cohn emphasise the role of interaction with authorities in shaping legal socialisation.⁶¹⁵ Women not only fear for themselves, they fear the possibility of people with whom they have familial or intimate relationships, or rely on economically, being incarcerated.

Policing is seen by traditionalists as an important part of creating a safe and secure environment. They tend to anticipate positive results when engaging the police and demonstrate an understanding that police are working under difficult conditions. Holding the view that police work with a complex situation, they have compassion for the many temptations for officers who they feel are not adequately rewarded or protected while doing their work. Traditionalist are also more likely to work within the system and therefore participate in structures like the CPF.

The cynical view of policing held by survivalists and indifferent women is driven by observations of corruption and collusions between police and gangsters. Kochel similarly found that ‘unprofessionalism and corruption contributed to legal institution legitimacy and collective efficacy’.⁶¹⁶ Respondents have also had negative experiences of phoning the police for assistance and finding they have to put their lives at risk by going to police stations in order to get the help they need. As a result, survivalists only call the police when there are no other alternatives and indifferents turn inwards and deny witnessing crime. This includes when they have been victims themselves. Survivalists will engage the legal system when it is strategic to do so and will participate in structures like the CPF if it is beneficial to themselves and the community. According to the media, groups have broken away from the CPF because of frustration with its effectiveness in addressing crime and violence.

When crime happens in the private domain women across the board are reluctant to seek assistance from the police and courts because they fear being seen and gossip ensuing, leading to judgement by others. Giardini and Conte regard gossip as a ‘one of the most universally influential social behaviours for ensuring cooperation and social control’.⁶¹⁷

help resulted in lower response rates from police due to limited resources and capacity, which contributed to increased legal cynicism; For more on police resourcing see in Redpath op cit note 195 at 15.

⁶¹⁵ Rick Trinkner & Ellen S Cohn ‘Putting the “social” Back in Legal Socialization: Procedural Justice, Legitimacy, and Cynicism in Legal and Nonlegal Authorities’ (2014) 38 *Law and human behaviour* 602–617 Trinkner and Cohn discuss socialisation and legal cynicism.

⁶¹⁶ Kochel op cit note 103 at 413.

⁶¹⁷ Max Gluckman ‘Gossip and scandal’ (1963) 4 *Current Anthropology* 312. Gossip is seen as an influential theme in research and is defined by Gluckman (at pg 312) as a ‘culturally controlled game with important social

Traditionalists indicate that they expect the police and courts to assist them when they seek protection from abusers. Survivalists are more cynical of the legal system and so seek out others to accompany them in accessing protection orders, and indifferents will avoid engaging the legal system. Indifferents accept being abused as a normal part of life and intimate relationships. Avoidance of the legal system is also motivated by fear that violence will escalate.

Also contributing to the negative perception of the formal legal system when dealing with domestic violence, is the observation that police only respond when there are visible signs of assault. This is in contradiction with the Domestic Violence Act which seeks to protect people against verbal, emotional and financial abuse all of which are harder to prove and would require effective and often time consuming investigations. Women perceive the system to protect men.

Social workers, as part of the formal system, are perceived in a negative light partly because of their role in dealing with child abuse and neglect and the view that they will take children away without reason. They are seen as a threat to the family, even when parents are neglectful and abusive. Negative perceptions are compounded by a shortage of staff and the distance people have to travel to access social work services. Social workers prioritise statutory interventions because of their high caseloads and are not able to get involved in prevention or community work. The danger of working in Lavender Hill has driven social workers away from the community. There is an historically held view entrenched by internalised racism that the white social worker offers a better service to the community. This compounds the problems because people seek out one white social worker to assist with problems. The type of agency the social worker is employed by also appears to affect perceptions and expectations of service delivery.

9.4.2 Around the law

Informal systems play a valuable role in resolving issues including the problems identified through interviews, observations and the media. These include NGOs, religious institutions, families, friends and neighbours. According to Elickson people everywhere rely on cooperation

functions' Gluckman finds that in traditional societies gossip presents some common features. Gluckman found that gossip whether true or not impacts on reputation and this affects third parties' willingness to interact with strangers; See more in Francesca Giardini & Rosaria Conte 'Gossip for social control in natural and artificial societies' (2012) 88 *SIMULATION* 18–32. According to Giardini & Conte 'gossip 'allows group members to accumulate large social knowledge capital' (pg 29). It is used as a form of social control which plays a role in ensuring cooperation in social groups determining social cohesion (pg 18).

a lot of the time to resolve disputes. He illuminates from his study the contexts and within what content informal norms emerge to help people achieve order without law.⁶¹⁸ Through observations, interviews and reports from the media I have determined when and why people use legal systems and when and how norms determine women's choices when engaging help outside of the legal system.

Similar to engaging the law, different types of women make different choices when seeking help outside of the law. NGOs provide a valuable source of support for traditionalist and survivalists. Traditionalists tend to be more involved in organised activities of NGOs and will be found leading the Street and Court Committees and in philanthropic activities such as feeding children. For women, NGOs play an important role in determining a course of action when dealing with a problem and providing accompaniment to deal with a problem particularly when it involves engaging the formal legal system. NGOs also help when dealing with problems associated with substance use, child abuse and child neglect and providing respite when families are in crisis.

Reliance on religious institutions is common among the different types of women. From the empirical data I have determined that traditionalists are more likely to rely on religious institutions and their leaders when seeking help outside of the law. Survivalists are practical about turning to religion and tend to be motivated by a commitment to God. They rely less on prayer and religious institutions to solve their problems and believe in prayer as a form of solace but that action is necessary. Their observation of religious leaders is that they can be judgemental and patriarchal and so do not offer the best solutions when dealing with relationship problems and domestic violence. According to Krause, research on God-mediated control indicates that this is an important facet of control.⁶¹⁹ Religious institutions encourage women to remain in relationships and leaving a relationship can even lead to exclusion from these institutions. Indifferents turn to God for solace but do not participate in religious institutions. Outlaws may be involved in religious institutions using these as a mask for their involvement in crime.

Family, friends and neighbours are complex sources of both assistance and a hindrance when dealing with challenges. Traditionalist and survivalists both referred to the value they

⁶¹⁸ Ellickson op cit note 65 at 230.

⁶¹⁹ Neal M Krause 'Social Involvement in Religious Institutions and God-Mediated Control Beliefs: A Longitudinal Investigation' (2007) 46 *Journal for the scientific study of religion* 519–537. Krause's studies on God-mediated control found that people are more likely to have stronger feelings of God-mediated control when they are more involved in religion and involvement in church maintains this feeling over time (pg 521).

place on these systems, while recognising that they act with caution. The reason being that there are people within these systems who use gossip and judgement against those who face problems. There are reliable, trustworthy people who play a valuable role providing good advice and accompaniment when engaging formal or legal systems. Gossip and judgement are powerful weapons, especially when they lead to exclusion in a place where interdependence is a critical element of survival.

Indifferents are cynical of these systems and say they prefer to rely on self to deal with problems. They indicate that their cynicism has arisen out of exposure to the punishments meted out by people who gossip, and the unreliable advice and assistance given by people with little knowledge or understanding of how to deal with problems. Outlaws have their own type of family systems, which are associated with gang structure. When family members decide to leave the protection of the gangs, women interviewed indicated they had assisted with this difficult exit, which at times led to the loss of lives.

While leadership was loosely defined observation, interviews and media articles indicate that leadership that does exist does not have the power to counter the gangs. All types of women indicate the desire that leadership work together to bring about transformation. It appears it would require a carefully thought out strategy backed by significant resources and political will to bring about sustained change. Interviews with women indicate that police visibility and the military presence does make a difference to the levels of violence they experience, but as soon as the presence is removed, violence and gang fights over turf resurface.

9.5 FINAL THOUGHTS: THEORETICAL AND PRACTICAL IMPLICATIONS

From the analysis and discussion above, I come to some conclusions about the contribution of this study to the theory of legal consciousness and how this applies to this study of women in a poor urban community. Important to consider are the practical implications of a study of this nature and how it can contribute to better understanding the complex situation for these women and the many dynamics they navigate in their daily lives.

This study highlights the importance of viewing the spectre of poverty through a micro lens, and in doing so gain a better understanding of the multiple dimensions' poor urban women navigate daily. By paying attention to the impact of poverty on legal consciousness in localities like Lavender Hill, I find that studies will be more considerate of the complexities that poor women in particular navigate daily. From the observations made while conducting this study,

spatial marginalisation designed by apartheid, and entrenched under the current dispensation, contribute to frustrations with the options available to women when solving problems.

Decisions of legality are muddled by economic and emotional decisions, which trump the hegemonic legal position of the law in books. Even where substantive laws are supported, they are ignored to protect family members and intimates to ensure survival. Women become accomplices to crime to protect familial and emotional relationships. Scholars such as Wildeman and Wakefield have found that the use of police can have costly consequences for intimates and family members, affecting relationships and financial support.⁶²⁰ Women in this context fear retaliation, determining whether they will report crime. Anthropological studies, such as those by Black, determined that ‘violent modes of redress such as assassinations, feuding, fighting, maiming and beating and the confiscation and destruction of property were forms of social control in traditional societies’.⁶²¹ Although illegal in modern societies, women interviewed and the media indicate that these are present in neighbourhoods on the Cape Flats, used by men and gangs to control the behaviour of people. These threats are taken into account when women make decisions regarding which route to follow when solving problems.

Patriarchal dominance and poverty, its equal evil, determine the decisions women make. This is further entrenched by an inferior education, and the difficult decision many women have had to make to abandon their studies, because of family demands and the need to survive economically. In the most impoverished situation where men and women are relatively equal in their desperation, women remain the most vulnerable. Through poverty and violence women are kept submissive. On an individual level, the decisions women make in the face of these conditions to seek legal and other forms of assistance are mired with considerations of negative consequences, which these women deem greater than suffering abuse. These include gossip, retaliation, and escalating violence in the home. Often vicious gossip linked to shame is feared because the ultimate possible consequence is ostracism. Gossip about women who are abused by their partners further entrenches patriarchy, with women often acting as the perpetrators of gossip.

Localities like Lavender Hill are heterogeneous and must be viewed through this lens, in seeking to understand the discursiveness of legal consciousness. Although women identified

⁶²⁰ See also in Christopher Wildeman & Sara Wakefield ‘The Long Arm of the Law: The Concentration of Incarceration in Families in the Era of Mass Incarceration’ (2014) 17 *Journal of Gender, Race, and Justice* 347–389; Bell op cit note 105.

⁶²¹ Black op cit note 593 at 34.

common problems, perspectives differed according to the typologies of women – whether traditionalists, survivalists, indifferents or outlaws. Similarly, multiple approaches to problem solving emerged, which are determined by different types. Silbey writes that ‘to understand the fissures in allegiance to the law we need to know how and who uses the law and when and by whom it is not used’.⁶²² I argue that the legal consciousness of women in a poor urban community cannot be reduced to one common narrative, and approaches to studying women in similar localities must take into account these multiple perspectives.

Women in neighbourhoods with the demographics of Lavender Hill have a limited understanding of the hegemonic legal system. Even where they have knowledge of the broad principles of the law, they invoke the route of ignoring these as a form of self-protection, often becoming accomplices to crime as a result. They do this in an effort to survive a system where the exertion of force is the most dominant form of social control. The legitimacy of South Africa’s legal system is framed within our constitutional democracy. However, observations and reports from interviews and the media indicate that women have mixed experiences of the way in which the justice system is executed.

Different types of women do not have a shared view on criminality, making it a challenge to address levels of crime, with reporting being an essential element to starting the justice process. This supports the view held by scholars like Pound that there is a ‘troublesome gap between the law on the books and the law in action’.⁶²³ It could be argued that educating the community on the law would increase understanding of what is legal and would increase participation in actions to eradicate crime and violence, identified by women as a critical concern for them. However, in China it was found that the governments ‘rule of law’ project contributed to increased legal consciousness but also resulted in increased litigation⁶²⁴ which would challenge South Africa’s already burdened courts.

Despite indications that there has been a breakdown in the justice system, the four types of women identified have diverse standpoints on the appropriateness of the legal system’s responses to their problems. Traditionalists rationalise approaches to the execution of justice, seeing it as impartial and just. Survivalists and indifferents on the other hand are cynical of the legal system. Survivalists will, however, engage the legal system when there are no other

⁶²² Silbey op cit note 56 at 326.

⁶²³ Pound op cit note 14 at 12; Austin Sarat ‘Legal effectiveness and social studies of law: on the unfortunate persistence of a research tradition’ (1985) 9 *Legal Studies Forum* 23.

⁶²⁴ Mary E Gallagher ‘Mobilizing the Law in China: ‘Informed Disenchantment’ and the Development of Legal Consciousness’ (2006) 40 *Law & society review* 811.

options. Indifferents avoid the legal system as far as is possible. Outlaws do not submit to the legitimacy of the legal system. Legal cynicism results in women, particularly survivalists and indifferents choosing not to report crime and violence unless it is deemed absolutely necessary.⁶²⁵ This contributes to crime statistics not reflecting the actual situation, which skews the allocation of resources to police the community.⁶²⁶

The capacity of women to challenge miscarriages of justice is limited due to their understanding of the law, and access to people with such knowledge. This, compounded by challenges in the legal system, constrains their aspiration for a better situation and contributes to apathy towards driving transformation. Human rights lawyers or paralegals with knowledge of the law are not located in Lavender Hill, nor are they easily accessible to the community. Activists for social justice appear to be limited in their numbers, and where they are present they put their lives at risk, challenging deviance, political leadership, and constrained approaches to the execution of justice. This implies that there is a need for agents who support, accompany and assist people with their problems who are not necessarily lawyers but rather community-based paralegals who have knowledge of the law and the types of problems people deal with locally.

This study has shown that systems outside of the law are valued by traditionalists and survivalists for their role in contributing to social control and equilibrium. These systems require no central coordination and have their own value systems. NGOs, women's support groups, and street and court committees can be life-changing for women who have limited options. The capacity of families, friends and neighbours to providing advice and support to those needing advice or assistance is determined by the knowledge, norms and values held by each system and those which the person seeking help has adopted.

9.6 CONCLUSION

In Chapter Nine I first summarised the study and then outlined the three factors which I found intersect with women's legal consciousness in a poor urban community. These were context, typology and expectations of systems in and around the law. Context was a key element as my research question focused on 'a poor urban community'. I started this study with an interest in women in this context and how they interact with systems in and around the law to solve their

⁶²⁵ Hagan et al op cit note 97 at 7191.

⁶²⁶ Ibid. Studies by Hagan et al support this observation and found similarly poor African American communities were 'cynical about the law, distrust legal authorities and believe the police are ineffective and this contributed to lower crimes statistics than the reality'

problems, which may or may not be legal. A key finding from this study is that socialisation influences legal consciousness and that in this locality there are four different typologies: traditionalists, survivalists, indifferents and outlaws. Each of these typologies has its own value base which influences approaches to problem solving. Since the study focused on women, patriarchy and its pervasiveness also emerged as a key contributor to shaping women's experience of problems in this community. Patriarchy is closely linked to violence, which is used either physically, verbally or emotionally to control women's lives. In addition, people in this locality use gossip and the fear of shame to control behaviour. A fear of retaliation also determines the choices women make when engaging with problem solving. These typologies also influence the expectations and experiences that women have of the systems in and around the law.

From this dissertation I have been left with a great admiration for the dexterity required for women to navigate problem solving in a place like Lavender Hill. The women I interviewed displayed a combination of resilience and resignation. The constant and pervasive problems identified by these women, that affect their quality of life, are difficult to overcome. Problems seem insurmountable when – as identified by women interviewed – they include an apparent lack of leadership and political will, systemic failures, and forces beyond the communities' control, such as gangsterism and problematic substance use. This study indicates that approaches to problem solving require methodologies which take into account the variety of people in the community. A single approach will not result in building confidence in systems in and around the law.

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<https://theconversation.com/why-a-law-designed-to-fight-gang-violence-in-south-africa-cant-do-the-job-111568>, accessed on 11 February 2021.

SOUTH AFRICAN LEGISLATION

Constitution of the Republic of South Africa, 1996.

Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

Domestic Violence Act 116 of 1998.

Prevention and Treatment for Substance Abuse Act 70 of 2008.

Prevention of Family Violence Act 133 of 1993.

Protection from Harassment Act 17 of 2011

Social Service Professions Act 110 of 1978.

South African Police Service Act 68 of 1995.

APPENDIX 1: CONSENT FORM FOR WOMEN INTERVIEWED

Thank you for agreeing to participate in this study on how women deal with problems in your community. This consent form will explain more about the purpose of this study, its potential value and what your rights are as a participant.

The purpose of this study is

- To understand how poor women living in an urban South African community create deal with the problems they face in their daily lives.

The benefits of this research will be:

- To understand what women do when they experience problems.
- To tell a story of the different ways in which women solve problems.
- To learn lessons from women's experiences so that we can identify strengths and weaknesses in the community and society.
- To be able to make suggestions about what works and what does not work when solving problems.

Do you have any questions or concerns about participating in this study? Although I may use some of your words in the final report I will not put your actual name next to any statements. I am going to allocate a name to your interview which is not your name so that you can be assured that there will be no reference to you in the report. Are you happy to be called _____?

Is it ok if I record the interview in order to help me accurately capture your words? These tapes will only be heard by the researcher. If you are uncomfortable with the recorder I will take notes instead of making a recording.

You can stop the interview at any time. If you do withdraw, the information you provided will be destroyed and left out of the final research paper. Please tell me if you do not want to answer a question. The interview should take between 30 and 40 minutes.

This research is being conducted for my PhD in Public Law at the University of Cape Town. The final report will be published by UCT and may be written up in articles and a book.

By signing this consent form, I certify that I _____ agree to the terms of this agreement.

Date _____

Signature _____

‘If you have concerns about the research, its risks and benefits or about your rights as a research participant in this study, you may contact the Law Faculty Research Ethics Committee Administrator, Mrs Lamize Viljoen, at 021 650 3080 or at lamize.viljoen@uct.ac.za. Alternatively, you may write to the Law Faculty Research Ethics Committee Administrator, Room 6.29, Kramer Law Building, Law Faculty, UCT, Private Bag, Rondebosch 7701.’

APPENDIX 2: INTERVIEW QUESTIONS

Interview questions: Individual women

The following questions are to be used as a guide.

Part One: Demographic questions.

	Question	
1.	What is your age?	
	12-17 years	
	18-24	
	25-34	
	35-44	
	45-54	
	55-64	
	65-74	
	75-older	
2.	What level of school have you completed?	
	No Schooling	
	Nursery to grade 3	
	Grade 4 to grade 7	
	Grade 7 to grade 9	
	Grade 10 to 11	
	Grade 12	
	Technical college	
	College	
Other, please name		
3.	Do you have an income?	Yes No
4.	Where does your income come from?	
	Disability Grant	

	Maintenance		
	Casual work		
	Full time employment		
	Other		
5.	How much money do you have monthly?		
6.	Are you in a relationship?	Yes	No
7.	If yes, what type of relationship?	Yes	No
8.	How many children do you have?		
9.	What type of dwelling do you live in?		
	Free standing house		
	Shack		
	Backyard dwelling		
	Flats		
	Other		
10.	How long have you lived in the area?		
11.	How many people live in your house?		
12.	How many people contribute to the income in the house?		
13.	What is the total monthly income of your household?		

Part 2. Problems experienced by women in communities and strategies used to address them.

2.1 Have you experienced any personal problems in your life? Such as:

	Problem	Tick
1	Divorce	
2	Relationship	
3	Maintenance	
4	Unemployment	
5	Violence in your relationship	

6	Violence in your family	
7	Debt	
8	Conflict with your neighbours	
9	Children	
10	Schooling	
11	Drugs	
12	Alcohol	
13	Gangsterism	
14	Other, please name	

2.2 Have you experienced problems in your community? Please refer to problems that have directly affected you.

1.	Conflict in the community	
2.	Violence	
3.	Political tension	
4.	Service delivery	
5.	Gang rivalry	
6.	Others, please name	

2.3 Choose one of the biggest personal problems you have experienced and tell me the story of how you dealt with this problem.

2.4 Who did you go to for help when you experienced this problem?

1.	Mother	
2.	Father	
3.	Partner/husband/wife	
4.	Brother	
5.	Sister	
6.	Child	
7.	Neighbour	

8.	Friend	
9.	Religious leader	
10.	Social Worker	
11.	Doctor/Nurse	
12.	Advice Office	
13.	NGO please name:	
14.	Police	
15.	Courts	
16.	Community leader	
17.	Political leader	
18.	Gangs	
19.	No-one dealt with it myself	
20.	Other, please name	

2.5 If you had the same problem now, who would you go to for help?

1.	Mother	
2.	Father	
3.	Partner/husband/wife	
4.	Brother	
5.	Sister	
6.	Child	
7.	Neighbour	
8.	Friend	
9.	Religious leader	
10.	Social Worker	
11.	Doctor/Nurse	
12.	Advice Office	
13.	NGO please name:	
14.	Police	
15.	Courts	
16.	Community leader	

17.	Political leader	
18.	Gangs	
19.	No-one dealt with it myself	
20.	Other, please name	

2.6 Think of a problem in the community? Please share with me how you experienced this problem (what happened?).

2.7 Who did you go to for help?

1	Community leader	
2.	Religious leader	
3.	NGO and which one?	
4.	Political leader	
5.	Police	
6.	Courts	
7.	Local government	
8.	Gangs	
9.	No-one	
10.	Other	

2.8 If you had the same problem now who would you go to for help?

1	Community leader	
2.	Religious leader	
3.	NGO and which one?	
4.	Political leader	
5.	Police	
6.	Courts	
7.	Local government	
8.	Gangs	
9.	No-one	

10.	Other	
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2.9 Is there a story of someone else in your community who experienced a problem and had an interesting way of solving the problem?

2.10 What are the biggest challenges with solving problems in your community?

1.	Leadership	
2.	Conflict	
3.	Local government service delivery	
4.	NGO availability	
5.	NGO service delivery	
6.	Gangsterism	
7.	Policing	
8.	Courts	
9.	Relationships	
10.	Other	

2.11 Where do you get support with daily problems? Who listens to you, who advises you?

1.	Mother	
2.	Father	
3.	Friend	
4.	Neighbour	
5.	Partner/husband/wife	
6.	Child	
7.	Teacher/school	
8.	Social Worker/psychologist	
9.	Doctor/nurse	
10.	Other, please name	

APPENDIX 3: ETHICS CLEARANCE



Faculty of Law

Research Ethics Committee

Private Bag X3 • Rondebosch • 7701 • South Africa
Room 6.29 • Kramer Building • Middle Campus
Tel: +27 021 650 3080 Fax: +27 021 650 5660 Fax2/Email: 086 572 1053
E-mail: janize.vilhoen@uct.ac.za
Internet: www.law.uct.ac.za

14 June 2017

Ms Joanne Harding
Public Law Department
Faculty of Law
Kramer Law Building

Contact information

Tel: 021 7129501 (h) Cell: 0833033618

Email: crtjoa001@myuct.ac.za

Dear Ms Harding

Re: Clearance Process Report for L0049-2017: "Women's legal consciousness in a poor urban community"

Thank you for your revised application submitted. The Law Faculty's Research Ethics Committee very much appreciates the considerable effort put into the documentation.

This study has been carefully considered and confirm that all ethical issues have been adequately addressed.

Ethics clearance is hereby granted as of **14 June 2017 for a period of 12 months** and is subject to renewal for another 12 months.

Please note that any material changes to the proposal will need to be cleared as an amendment

Please do quote reference number above on all communication to the committee.

With best wishes,

Signature Removed

PROFESSOR JULIE BERG
CHAIRPERSON: LAW REC

cc: Prof E Smythe, Public Law Dept, UCT

APPENDIX 4: WOMEN INTERVIEWED, DATES AND ROLES IN THE COMMUNITY

	Name allocated⁶²⁷	Date of interview	Position in the community
1	Abigail	23.10.2017	Does informal non-profit work, lives in LH. ⁶²⁸
2	Alex	24.10.2017	Lives in LH.
3	Anna	1.11.2017	Lives in LH.
4	Angelique	9.11.2017	Lives in LH.
5	Ashleigh	24.10.2017	Involved in the EPWP, lives in LH.
6	Astrid	1.11.2017	Member of a street and court committee, lives in LH.
7	Barbara	6.11.2017	Works in the crèche. Lives in LH.
8	Beatrice	17.11.2017	Lives in LH.
9	Carlie	1.11.2017	Lives in LH.
10	Cindy	30.01.2018	Lives in LH.
11	Claudine	24.10.2017	Lives in LH.
12	Colleen	20.10.2017	Lives in LH.
13	Denecia	23.10.2017	Works for an NGO
14	Greta	2.11.2017	Involved in support groups, lives in LH.
15	Inga	21.11.2017	Lives in LH.
16	Isabel	24.10.2017	Lives in LH.
17	Janine	18.10.2017	Lives in LH.
18	Jannie	23.10.2017	Member of a women's support group. Lives in LH.
19	Jessica	22.11.2017	Lives in LH.
20	Joy	22.11.2017	Lives in LH.
21	Judy	19.10.2017	Lives in LH.
22	Julie	19.10.2017	Lives in LH.
23	Karen	24.10.2017	Lives in LH.
24	Katrina	30.03.2018	Lives in LH.
25	Kate	23.10.2017	Lives in LH.
26	Kelly	30.01.2018	Lives in LH.
27	Letitia	23.10.2017	Lives in LH.
28	Liezl	2.11.2017	Lives in LH.
29	Leonora	24.10.2017	Lives in LH.
30	Linda	13.11.2017	Member of a street and court committee
31	Lizelle	21.11.2017	Runs a women's support group. Lives in LH.
32	Lydia	23.10.2017	Lives in LH.
33	Lynelle	24.10.2017	Lives in LH.

⁶²⁷ Not the women's actual names.

⁶²⁸ LH refers to Lavender Hill.

34	Marjorie	8.11.2017	Lives in LH.
35	Marla	10.10.2017	Works for an NGO.
36	Mariette	9.11.2017	Lives in LH.
37	Moira	8.11.2017	Lives in LH.
38	Nellie	20.10.2017	Works for an NGO
39	Nicole	7.11.2017	Lives in LH.
40	Rifkah	31.10.2017	Lives in LH.
41	Robyn	30.10.2017	Lives in LH.
42	Ruby	19.10.2017	Lives in LH.
43	Ruth	20.11.2017	Works for an NGO.
44	Sadie	23.10.2017	Member of a woman's support group. Lives in LH.
45	Shanda	24.10.2011	Lives in LH.
46	Sheila		Wrote her story in the book <i>Women Surviving Lavender Hill</i> . Where her responses were not discussed in the book I allocated another name. Sheila is duplicated in this list.
47	Shelley	17.11.2017	Lives in LH.
48	Talita	18.10.2017	Lives in LH.
49	Talula	21.11.2017	Lives in LH.
50	Tamsyn	20.11.2017	Lives in LH.
51	Toni	23.10.2017	Lives in LH.
52	Trudy	6.11.2017	Lives in LH.
53 ⁶²⁹	Valerie	18.10.2017	Works for an NGO.

⁶²⁹ There are 53 names but 52 interviews. One of the women interviewed also wrote her story in a book. Where she refers to the story in the book I use her own name. Where she refers to problems and how she resolves these in the community I use a name which is not her own, to protect her identity.