

EXPLORING THE NEEDS AND EXPERIENCES
OF THE
SOCIAL WORKER AS AN INTERMEDIARY

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ABSTRACT

During this research an attempt was made to gain an understanding of the experiences and needs of the social workers acting as intermediaries for the sexually abused children in the criminal court during the trials of perpetrators.

To achieve this, ten social workers that have performed the role of intermediary were interviewed.

Research as well as literature on this topic is limited and it is believed that this study will present a valuable basis to pursue in further research as well as assist social workers already rendering intermediary services. Literature that was available was found to be critical of the adversarial system and the negative elements associated with the system, especially for the child witness.

The study found that there are many problems associated with the intermediary system. The most important issue is the delay between the decision to prosecute and the trial as this impacts negatively on the child witness. In addition social workers acting as intermediaries are inadequately trained and are not supervised in this role. As a result very few are willing to continue with the procedure.

Nevertheless the intermediary system is adjudged better than the adversarial system, especially as the child witness no longer has to face the alleged perpetrator in an open court.

The thesis ends with recommendations for addressing the concerns of intermediaries in order to strengthen the system.

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CHAPTER 1

1.1 INTRODUCTION

The intermediary system was introduced into the South African Judicial system with the insertion of Section 170A into the Criminal Procedures Act 51 of 1977 and by the introduction of the Criminal Law Amendment Act 135 of 1991. This section provides for a child witness to appear in the criminal court after being sexually abused. An intermediary is appointed if the court feels that the child will be under undue mental stress or suffer if he/she testifies at such proceedings. In East London only social workers have acted as intermediaries since the inception of the system but currently none are willing to continue in this role.

The researcher, in view of the importance of assisting the child victim, felt that it was necessary to establish what the experiences of the social workers were by exploring with them how they experienced the role of the intermediary and establish in this way what their needs were. Any knowledge generated by this research could be used to benefit other intermediaries, who may possibly be experiencing the same needs and/or concerns.

In this chapter a brief overview will be given of the main issues relating to the intermediary system. The areas in which problems are being experienced by the intermediaries will be introduced and the purpose of the study will be highlighted.

1.2 BACKGROUND

Sexual abuse of children is reported in the media on a daily basis in South Africa. Cases of abuse that were reported and processed through the Justice system prior to 1991, found the children appearing in the open court, giving evidence while being confronted by the alleged abuser. The Criminal Procedures Act 135/1991, provides for the appointment of an intermediary in Section 170A, should the court feel that the

child will be exposed to undue mental stress or suffering if he/she testifies at such proceedings.

With the number of sexual abuse cases increasing, it is apparent that an appropriate child protection system is lacking. Although a National Strategy on Child Abuse and Neglect was put in place in South Africa as recently as 1998, each Province had to compile, on the basis of the National Strategy, a Protocol to suit the needs and prevailing circumstances of that Province. This policy is to be effected in every province of this country soon, with the launching of the Protocol on Child Abuse and Neglect for the Eastern Cape which took place on 29 October 1999, in Bisho, the capital of the Eastern Cape.

This Protocol, compiled by the Department of Welfare in collaboration with the Departments of Health, Education, SAPS, Justice and Non-Government Organizations, will ensure a uniform, multi-sectoral approach to dealing with the pathology of abuse. Prior to this there was no systematic process for dealing with the problem.

Awareness of child sexual abuse exists nationally and internationally. As a result of this, the South African community recognizes the cardinal need to not only protect children from this abuse, but also to effect preventative measures. A larger number of convictions in order to deter abusers, may be one manner of prevention while assisting the child witness to be a more effective witness, could be a means of achieving more convictions.

Compulsory reporting of child abuse cases is enacted in the Child Care Amendment Act (Child Care Amendment Act 96/1996 Sec 42). However, reporting of child abuse very often leads to secondary abuse should this process not be carried out with the necessary skills or knowledge. According to September and Lofell (1998:3) the present system is so inadequate that children are damaged rather than helped.

In view of the damage done to these children, the adversarial system in South Africa has undergone change, to benefit the sexually abused child who enters the Justice system as a child witness in the criminal court. (From information gained from the

intermediaries, the change from the previous system in which the child appears in the open courtroom, has to face the perpetrator and court officials under the adversarial system, to the present system of not facing any of the people in the open courtroom, has been for the better.)

The change implies that a camera room has been equipped next to the main courtroom, where the presiding officer and court officials, the alleged accused and his legal counsel are present. This system is however only in use in main city centres of South Africa, such as East London, Cape Town, Port Elizabeth, Johannesburg, Pretoria, Durban and Pietermaritzburg. For children in the more rural areas of this country, however, this system is not in place as yet and they are at a major disadvantage, still exposed to the former system.

In courts in which an intermediary can be used, a television monitor is installed in the courtroom, from where questions are directed to the child witness in the adjacent cameraroom. An intermediary who is present with the child wears earphones and acts as a go-between for the prosecutor, lawyer and magistrate, “translating” their questions to the child in a simple way the child can understand, but maintaining the general purport of the question. The reply is then heard in court.

The aim of exploring the experiences of the social workers acting as intermediaries, is to gain an understanding of and assess the role performed to ultimately establish a training framework, within which the social worker could be better equipped to meet the mandate of the role more successfully.

1.3 REASON FOR THE CHOICE OF THE RESEARCH TOPIC

The adversarial system forms the basis for the Justice system in South Africa, as is the case in England, the United States of America and Australia. The presiding officer in this system is expected to play a passive role during cross-examination (Watney 1998:412). The child witness who is exposed to this system endures trauma and in

the case of sexual abuse, secondary abuse is a major factor because with cross-examination the child has to relive the abusive experience.

In the system, which prevailed prior to 1991, a child witness was questioned in the presence of the alleged perpetrator in a formal courtroom by court officials who spoke legal language (normally foreign to the child) and was then cross-questioned by the perpetrator and/or his/her legal counsel. The child thus was in the situation of being confronted by the perpetrator and his/her legal counsel and had to endure being interrogated by both these persons who were attempting to prove that the perpetrator was innocent - while the impression was gained that they were actually trying to prove that the child was making false accusations. One must agree with Schwikkard (1994:44) who states that the adversarial system "imposes severe hardships on the child witness". Key (1988:54), a doctor attached to the Addington Hospital in Durban, has also criticized this system, as "an inhuman form of secondary abuse". The findings of my research, is that the participants share this perspective.

Zieff (1991:21) stated in 1991, that the occurrence of child sexual abuse was being reported with "alarming frequency" – and this is still the case at present. He also emphasized the psychological harm the child is exposed to and when brought to court, within the adversarial system, the harm could be increased.

The Law Commission was tasked in 1988 to investigate an alternative system when the then Minister of Justice identified the need for reform. The use of one-way mirrors and an intermediary which would allow for a system of "translated cross-examination" (Watney 1998:431), was recommended. This system was used in the Pietermaritzburg Regional Court for the first time in October 1990, and the intermediary system was implemented nationally in August 1993, when Section 3 of the Criminal Law Amendment Act No 135/1991, was promulgated.

South Africa is the first country in the world to introduce this system although closed circuit television is used in England (Goodman 1993:15), but no intermediary system is in place.

1.4 **THE PRESENT SYSTEM**

Of great concern at present is the unavailability of intermediaries. In East London where the research was undertaken, only social workers are presently performing this role of intermediary for the child witness when evidence is heard. The Criminal Law Amendment Act, (Criminal Law Amendment Act 135/1977 Section 170A), makes provision that when it appears to a court that or suffering if he/she testifies at such proceedings, the court may appoint a competent person as an intermediary in order to enable the witness to give his/her evidence through that intermediary. Other classes of persons who may conduct this service are psychiatrists, paediatricians, certain classes of teachers and childcare workers. A certain degree of expertise is required; in the case of a social worker, the requirement is that he/she must be registered as a social worker with the Council for Social Service Professions and have more than two years experience.

Complaints were received by the head of the Department of Welfare, from the Senior Prosecutor, that social workers failed to report as intermediaries on the day of the sexual abuse trial with the result that cases had to be postponed. Presently there is a backlog of approximately 180 sexual abuse cases awaiting trial in East London. The implication of this backlog is that some of these cases will not be heard in the near future and the child witness cannot remember details accurately after such a long time has passed – in some cases up to two years subsequent to the abuse having taken place. Because of the child's memory then failing him/her, the child is regarded as an unreliable witness. According to Antze and Lambek (1996:viii), human memory is used to heal, blame and legitimate and not simply to record. After a time delay, evidence given by the child is then not factual and consistent. Negative experiences related to the testimony of children, result in the intermediaries (social workers in this study), feeling increasingly resistant to the process. Their resistance and failure to report at the criminal court has thus also contributed to the enormously mounting backlog.

1.5 OBJECTIVES OF THE RESEARCH

To explore with social workers in East London who have performed intermediary services, their experiences, understanding and assessment of this role in order to establish the reasons as to why they did not make themselves available. It was also felt important to identify the strengths and the weaknesses of this system from the perspective of the intermediary.

1.6 ANTICIPATED VALUE

It is anticipated that the information generated will assist in the establishment of a training framework within which to better equip the social worker for their task and thereby meet the mandate of the role more successfully.

The knowledge that has been generated during the interviews will be distributed to the co-ordinators of intermediary services in the Department of Welfare via Provincial Offices, who will be requested to bring the knowledge to the attention of intermediaries functioning in their provinces an attempt to benefit the system.

1.7 SCOPE AND LIMITS OF THE STUDY

The study was small, comprising ten social workers who had acted as intermediaries in the East London district. As yet, there is no provision for the intermediary system in rural areas. With East London being a city and thus an urban area, this study represents the feelings and experiences of participants based in a city environment in the Eastern Cape and may well differ from the experiences of intermediaries in rural areas. Generalization of findings is thus not possible. A precondition was that the social workers had acted as intermediaries.

Literature on this topic is limited on a local level, as well as overseas, as this is a relatively new field and no research on this particular topic has been undertaken in South Africa where the intermediary system has been introduced.

1.8 **RESEARCH DESIGN AND METHODOLOGY**

1.8.1 **DESIGN**

The nature of the research is an exploratory study as very little is known about this topic being studied (Grinnell:1988:237) while the intermediary system is not yet well developed and for this reason this method was felt to be appropriate.

It was also regarded as necessary that a basis of ideas and experiences could be gathered in view of the lack of information and that this could later be further explored with follow-up research. This is appropriate in exploratory research.

1.8.2 **RESEARCH TOOLS**

Semi-structured interviews, consisting of open-ended questions, were used to allow the participants to freely discuss the issues (Hall & Hall 1996:157-158), while this at the same time provided a means of getting to the experiences and problems of the system as perceived by the participants. In this way major questions could be asked in the same way but the order in which they followed, could be changed. Using the interviewing method also ensured that all questions were asked and responded to.

During the interviews, the researcher could further probe answers to obtain more “in-depth information” and could complete interviews in this method (Yegidis & Wienbach 1991:194-195). While conducting interviews, the researcher could clarify any misinterpretations of questions or uncertainties.

To establish the nature of experiences of the intermediaries, the themes of the questions incorporated the following:

- (i) Give a description of the nature of training in intermediary services, which you received prior to your becoming an intermediary.
- (ii) When did you receive training?
- (iii) What follow-up training has been provided since you received your initial training?
- (iv) Briefly explain the nature of your experience during supervision throughout the intermediary process.
- (v) Tell me about your experience of being an intermediary.
- (vi) How did you become involved in the intermediary service?
- (vii) What were the feelings most commonly experienced as an intermediary?
- (viii) How did you cope with the feelings evoked while performing this role?
- (ix) With which gender are you most comfortable?
- (x) Which age group are you more comfortable with?
- (xi) What do you feel are the benefits of this system?
- (xii) What in this system can you identify as being problematic?
- (xiii) What needs can you identify for additional training?
- (xiv) What has been the nature of debriefing after acting as an intermediary?
- (xv) What motivation could you present for continuing with your role as an intermediary?
- (xvi) What are your feelings about participating in this research?

Feelings were only probed when question number (vii) was introduced, after general information was obtained. All interviews were conducted individually due to the sensitivity of some of the questions and to ensure privacy. The language medium was English. As all the social workers are employed on a full-time basis,

appointments were made to suit them. The venue was easily accessible, suitable and without interruptions such as a telephone or other persons entering the room while interviews were being conducted.

The researcher made use of a very small pilot study with one participant and as the questions were understood, it was not necessary to change the research tool and this interview was included in the research study.

The researcher remained aware that her presence could influence the reactions of the participants, for example attempting to please the researcher - referred to by Yegidis and Weinbach (1991:195) as the expectancy effect. This would naturally have clouded their true feelings while not getting truthful answers would have had a hampering effect on the research findings. The researcher also remained conscious of tone of voice and was aware of her body language all the time.

1.8.3 ANALYSIS OF DATA

Interviews were tape recorded and transcribed by me to ensure that interview dynamics, tone of voice and pauses (Kvale 1996:160) could be captured and then replayed for their impact and to accurately recall interviews. Ensuring confidentiality was another reason why the researcher personally transcribed the interviews.

A full discussion of the data analysis is contained in Chapter 4 and will therefore not be discussed here.

1.9 CONCEPTS CENTRAL TO THE STUDY

1.9.1 ADVERSARIAL SYSTEM

Hall & Martin (1993:176) explain this term as follows: “the legal representatives of the parties play a prominent part and the bench sits back and listens”.

1.9.2 CHILD SEXUAL ABUSE

A legal definition for this term does not exist. According to Levett (1991:12) the term covers rape, intercourse, fondling, masturbation, oral genital contact, simulated intercourse with attempted penetration or without penetration, sodomy, exposure to adult exhibitionists “and others”. Numerous sexual acts are thus included. A major component is the lack of informed consent to these acts, by the abused child, who does not fully comprehend the sexual activity (De la Rey et al 1993:161).

1.9.3 INTERMEDIARY

A legal definition is lacking and the duties and functions of the intermediary are not described in the Criminal Law Amendment Act 135/1991. Watney (1998:434) says in this regard that the courts decide how they wish to employ the intermediary. The intermediary for the purpose of this study is a social worker who prepares the child for the court appearance and sits with the child in the camera room, translating questions posed by the magistrate, attorney, prosecutor or alleged perpetrator, into language the child will understand, without changing the general purport of the question.

The intermediary has the duty of buffering aggression and intimidation and informs the court when the witness tires or loses concentration in order for the presiding officer to adjourn the court.

1.9.4 THE INTERMEDIARY SYSTEM

A closed-circuit television, a microphone and the intermediary form the basis of the system. The television is in the main courtroom while a camera room that is adjacent to the main courtroom accommodates the child witness and the intermediary. The latter is fitted with earphones. Only the intermediary hears the questions, but the persons present in the courtroom hear the answers.

1.9.5 ORGANISATION OF THE STUDY

Chapter 2: Contains the available literature on the intermediary and the child witness, memory and adversarial system that has been reviewed.

Chapter 3: The Research Design and Methodology used is discussed in this chapter.

Chapter 4: The Presentation and discussion of research findings.

Chapter 5: The final chapter contains the recommendations and conclusions with suggestions for further research.

The bibliography, appendices with the requirements from the Acts and the interviews follow.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

In this chapter, literature on the child witness in sexual abuse trials, problems experienced in the adversarial system concerning the child witness in these mentioned cases, the intermediary service and the role of the intermediary will be reviewed. The consequences of child sexual abuse will not be fully discussed in the scope of this study. Attention will be given to the terminology used and where possible, definitions or explanations of the terms will be dealt with. With relation to the intermediary service, the particular system implemented in South Africa is a first in the world and literature as well as research on this topic is limited. Knowledge generated in this study is thus viewed as important to add to and extend the limited existing knowledge basis.

Bradfield (1996:546) says the following: "Children are increasingly being seen as an important interest group...and the child is seen as having rights of his/her own in all spheres of law". September and Lofell (1998:Preface) lay the duty to respect the dignity of children at the door of the Government and the community as a whole, in order to preserve the physical, mental and social integrity of the child. The researcher is in agreement that the duty to protect children has to be dealt with by the community holistically if an earnest endeavour is to be made to protect children. A team on child abuse and neglect has been formed on a National level as well as in each Province in South Africa. The main task of these teams was to set up a protocol on Child Abuse and Neglect, relevant to the conditions in each province, to establish a uniform and multi-disciplinary approach to deal with this pathology.

To highlight the importance of the protection of children from abusive

situations, reference is made to the Constitution of South Africa (Act 108/1996) containing the Bill of Rights, with Section 28 being devoted to children. Sections which relate directly to this research emphasize the rights of the children to be protected from maltreatment, neglect, abuse or degradation. Special stress is placed on the paramount importance of the best interest of the child in whatever matter concerns the child.

The United Nations Convention on the Rights of the Child was ratified by the South African Government on 16 June 1995 – which amongst other principles states that the child will be protected from sexual abuse. Sloth-Nielsen (1995:405) highlights that the child has the right to “enjoyment of a happy childhood”. When we view the damage done by sexual abuse, within the frame of protection, it is quite clear just how badly these rights of the children have been infringed and are allowed to continue being infringed.

For the purpose of this study, “child” means a person under the age of 18 years, which is in agreement with the Child Care Amendment Act (Child Care Amendment Act 96/1996), that is applicable in South Africa, while provision of the intermediary system which is contained in Section 3 of the Criminal Law Amendment Act 135/1991 may only be applied to children under 18 years.

The reporting of child sexual abuse is becoming alarmingly frequent in South Africa while the Intersectoral Protocol for the Management of Child Abuse and Neglect in the Eastern Cape Province states the following, “Concern is growing about the extent of child abuse and neglect in the Eastern Cape” (1999:1) and is in fact reported in the media on a daily basis, with more than one report appearing in the newspaper on the same day. Zieff (1991:21) and Levett (1991:9) stress that this phenomenon has been given a lot of attention in professional literature as well as the media but despite this, practices remain harmful and ineffectual. It is of concern that despite the aforementioned, as well as the fact that full protection is made for young people in the Sexual Offences Act, 23/1957 (presently being amended), so many perpetrators continue to abuse on a daily and recurrent basis. However it is also true that many people are ignorant of how legislation protects the individual in the community and thorough education of the community will be necessary to inform on this protection.

The relevant sections of the act are contained in the appendix and will not be quoted at this stage. De La Rey (1997:159) agrees that media reports on sexually violent acts are reported at an alarming rate, however not much has been done by way of academic or research activity. As a result a true picture of the extent of this phenomenon, including a true comparison on an international basis, cannot be made. It is also a known fact that cases are not reported and true figures are thus not known. It is envisaged that reporting will continue to escalate as the media stresses that cases must be reported and after the launching of the Protocol, as mentioned, awareness within the community will increase. The Department of Justice Deputy Minister Gilliwald announced on the television on 25 October 1999 that an amount of R1m had been given by Canada to the local Department of Justice to improve the court system dealing with sexual crimes. Published in the media (Daily Dispatch 26 October 1999:1) was further information that 20 courts would be equipped with audio-visual material creating camera-rooms and special waiting rooms so that the victim did not have to face the attacker and 400 officials would be trained for this purpose. Gilliwald agreed that the plight of the victims was being compounded by the shortcomings in the Justice system – however in view of a recent judgement that a lighter sentence was passed “because the sexual abuse took place in the family and no harm was done to the community”, the realization that children will continue to live in fear is a frightening reality. The researcher strongly feels that a commitment to prevention of this crime, is to be called for in all sincerity – this however calls for involvement of the whole community being more aware of the abuse and campaigning against this crime. At this stage programmes that are in place to assist abused children, provide for assistance only after abuse is brought to public attention and this certainly falls short of prevention by not instituting prevention strategies timeously. This however also calls for a change in the attitudes of adults and the fact that children must be listened to and not ignored when they talk of being abused.

Sexual abuse is regarded as a traumatic experience and Lewis (1999:13) says of the abuse that it is a trauma that the child experiences suddenly, which is horrifying and happens unexpectedly. It must be accepted that the act of sexual abuse can only be described as a horrific experience. Linking this to the right of a child to have a happy childhood, we realize of just how out of balance the whole scenario concerning the child, actually presents itself in reality.

In the United States of America mandatory reporting of licensed mental health workers, physicians, teachers, day care workers and others having professional contact with children has been statuted, but mandatory reporting has not been favourably viewed by adult therapists who treat adult abusers, stating that paedophiles who self-reported dropped from 7% of their caseload to 0% when Maryland introduced mandatory reporting (Weisz 1995:27).

In South Africa, the Child Care Amendment Act (Child Care Amendment Act 96/1996 Sec 42) now also compels –

dentists, medical practitioners, nurses, social workers, teachers or any persons employed by or managing children’s homes, places of care or shelters or dealing with children in circumstances giving rise to suspicions that they are being ill-treated, or manifesting injuries of a singular or multiple basis, appearing to be deliberate, to immediately notify the Director-General of the Department of Welfare.

This crime committed against children is severely damaging psychologically and emotionally and can have long term consequences – the consequences will not be attended to fully in the scope of this research. However I quote from a woman who had been sexually abused as a child -

“Everything seems to have been coloured by it, not just close relationships, ...even the way I deal with finance and academic achievements and general attitudes to choices and behaviour” (Speaking out 1998:14).

A key point in the article this quote is taken from, is that the abused children have difficulty speaking as the adult world treats the child’s world as unreliable.

The trial which follows on the crime, heralds further harm due to the nature of the Adversarial Justice system which is in place in South Africa. The accused has the right to a fair trial with the witness also entitled to his/her rights. These interests must thus be balanced to do justice to both – however the researcher feels that the main interest is that the truth must ultimately be the principal deciding factor.

Within the adversarial system, the child is confronted by the alleged perpetrator in and has to relive the experience, when the details of the abuse must be given. Spencer (Hammond 1987:6) states in this regard that appearing in the court has an unpredictable effect on a child and while quite capable of stating what happened to the social worker outside the court, may say nothing in the court situation as a witness. As a result of this, the key evidence is lost with the child impressing as unreliable and the perpetrator unfortunately goes free and probably continues with his abusive behaviour.

The manifestation of the behaviour mentioned above, has been supported by Key (The Star 22 March 1988:3), who stated that she had witnessed many cases where the child had been so frightened of appearing in the court, that he/she failed to utter a word because of being reduced to a state of terrified silence.

Concerning the child witness, Swanepoel (1991:59) said of the judicial system:

- (i) That the victim of abuse is often lost within this impersonal system and the trial and cross-examination can be as serious as the act of abuse.
- (ii) The victim has no privacy, has to repeatedly give evidence of a very sensitive nature to strangers - this is humiliating and threatening. For this reason it is important that the child not only be informed on court procedure but also understands the procedure.
- (iii) The parent who has feelings of loyalty, may be emotionally and financially dependent on the perpetrator, fears loss of income and support.
- (iv) The perpetrator is often released on bail immediately after arrest and this threatens the victim.
- (v) Prolonged court proceedings prolong the crisis for the family.
- (vi) Incest can result in psycho-dynamic disturbances and the punishment, if it is to be effective, must include rehabilitation and treatment and not be purely punitive.

- (vii) The main problems concerning evidence of the child witness are seen against the background of the child being petrified of the accused – this influences the evidence; very young children cannot verbalise experiences and while the medical certificate proves rape, it does not state by who; the child can fabricate or tell a deliberate lie; children do not always understand questions posed – all this is a “dilemma” to the presiding officer.

All the points mentioned above illustrate the complexity of the situation and the serious need to change this system in order to make the courts accessible to the child and again emphasise the need for commitment.

The adversarial system was criticized by Key who is a medical doctor attached to the Child Protection Unit at Addington Hospital in Durban in 1988, when she termed this system “an inhuman form of secondary abuse”. She regarded the delays that existed in bringing a case to court as a major damaging factor, emphasizing that a delay of two years, which to an adult could be unpleasant, was regarded as a developmental disaster to a child in view of the fact that if the developmental phases the child moved through, were disrupted because of emotional trauma, the child could be adversely affected. A time delay of up to two years is in fact what is happening in East London, while even longer periods of up to four years, before a trial was completed, have been reported, while it would seem that no real attempt is being made to speed matters up. It is understandable that this has devastating consequences for the child as well as the family of the child. These delays also impact on the social worker that has to carry the case indefinitely while new cases of abuse are being reported and have to be dealt with.

Zieff (1991:36) states that research evidence “strongly suggests” that memory loss and anxiety are prolonged by both postponements and continuation of a trial. The trend in England currently is to reform this position with the Ciba Foundation suggesting that they would like to see a short maximum time limit set for child sexual abuse cases with no longer than three months delay after the charge is made. The resultant advantage of this would be less disruption for the family of the abused child

as a whole and memories would still be fresh to give evidence. This suggestion is supported by the researcher, however it is doubtful that the Department of Justice would succeed in instituting this ruling as it would be argued against by the perpetrators as infringing on their rights in terms of the Constitution. Key further stressed that a court atmosphere could either force the child to tell the truth or leave the child silent. It must be emphasised that children react to situations differently and that the child witness when appearing in court, has experienced a traumatic event. Reactions to this event will also be individualistic and while one child may be able to distinguish between a mental picture of what happened and the feelings that accompanied the incident outside the court situation, when in the court, the questions that are posed actually force the child to relive the whole experience and not just mentally picture what happened. Possible silence is therefore understandable and must be seen as an attempt to protect him-/herself from reliving the trauma and the consequences of the traumatic event.

The solution Key offers to the long delays in respect of attorneys, is that if the legal counsel of the accused's choice was not available, he should be obliged to obtain a lawyer who was available. An early court date would be in the interest of the child as his/her memory would still be fresh and the long period of anxiously waiting to go to court would be shortened so that the child can start putting his/her life together again. The legal counsel along with their client, would not be happy with this ruling because the conviction rate could be higher.

The principles that have been criticized as insensitive in South Africa with regard to the child witness such as cross-examination, testifying in an open court and rendering of "viva voce" (verbal) evidence, have also been criticized in England, America and Australia, where the accusatorial system of criminal procedure is employed (Watney 1998:423), illustrating that concern regarding the child witness in this system exists internationally. However, no suitable alternative system for the child witness has as yet been instituted effectively in these countries to lessen the burden on the child.

South Africa introduced an alternative in the form of the intermediary service in August 1993 when Section 3 of the Criminal Law Amendment Act, No 135/1991,

was introduced. In East London where research is being undertaken, only social workers have thus far acted as intermediaries.

2.2 THE INTERMEDIARY SYSTEM

The intermediary system is operative in the larger cities in South Africa at present, for example Cape Town, Port Elizabeth, Johannesburg, Pretoria, Bloemfontein, East London and Pietermaritzburg and is soon to be introduced to the Mdantsane Magistrates Court – an area within the greater East London Municipality.

The duties and functions of an intermediary are not described in the Criminal Law Amendment Act (Criminal Law Amendment Act 135/1991), with the result that it appears, according to Watney (1998:434) that the individual courts decide how to employ the intermediary and procedures will thus differ from court to court, depending on the presiding official.

The present system operates with the intermediary and the child witness together in a separate room to the courtroom where the hearing takes place. A closed-circuit television and microphone relay what takes place and what is said, to the main courtroom. A number of structural changes have been made in court buildings to accommodate the closed circuit television arrangement (September & Lofell 1998:5). All questions put to the witness are addressed to the intermediary via earphones so that the witness does not hear the questions coming from the main courtroom. It is however required that both the witness and the intermediary must be visible and audible to the court (Watney 1998:434).

The intermediary in turn “translates” the questions to the witness, with due consideration given to the age and developmental ability of the witness. The subsequent reaction of the witness is immediately seen and heard by the parties present in the court. The intermediary plays a key role in the proceedings to relay the general purport of the question to the child, however should the presiding officer so request, the intermediary puts the question directly as asked.

The intermediary has the duty of buffering aggression and intimidation and also informing the court when the witness is tired or losing concentration. The affect of this is that the intermediary has to bear the brunt of this aggression and intimidation.

This system poses a totally new role for the social worker and the necessity of training and preparation for this role is expressed by the researcher as this is a specialized role, making new demands on the social worker. The main aim of this system is to remove the witness from the strict, formal and often unfriendly environment of the court process to a room/place, which is informal and provides for the needs of a child. Key (The Star 22 March 1988:3) suggested that a playroom environment should accommodate the child witness. This is presently the case in East London and with the support of a local service Club as well as Business against Crime in East London, the intermediary room has been made child-friendly, catering for children of all ages with books, toys, crayons and the like.

Intermediaries are appointed at the discretion of the court due to the youthfulness of the witness – however, in the case of Stafford and Southwood (1996:231), the court clearly indicated that youthfulness of the witness is only one of the factors that play a role in the decision to appoint a mediator, as the court felt that due consideration was not granted to the conditions of Section 170 A (1) of the Criminal Procedures Act (Criminal Procedures Act 51/1977), that a witness under the age of 18 years had been exposed to unreasonable stress. It did happen recently in East London that the court found that there was a necessity to appoint an intermediary but the 14-year old girl who had been sexually abused from the age of six for a period of eight years by her biological father, demanded that she face him in court, mainly due to the fact that her mother would not believe the allegations of abuse. This girl was prepared to give her experience of abuse unassisted in the open court.

The value given to the evidence, according to Stafford (1996:232) is dependent on the child's observational capability, memory and ability to give an accurate account of what took place at the time of the abuse. He further claims that the child must be tested for capacity in every case in order to ensure that the child has the ability to understand the questions put to him and also be able to answer the questions asked. It is however felt that the requirement in the local court of distinguishing between the

truth and a lie and colours, should be re-assessed, especially in view of the number of children not being exposed to this form of teaching, very often until the age of 9 or 10 years in many cases, as not all children attend pre-school as yet, particularly in rural areas.

According to Watney (1996:444), a requirement from the court is that the child witness must impress as honest as the goal of the adversarial system is to gain the truth. Watney emphasises that questions put in court can be threatening, with the tone of voice being intimidating and this is where the intermediary can play a very important role by translating these questions and protecting the child against this harshness. The intermediary thus has the role of an interpreter, which is viewed by the researcher as no strange factor in court, because interpreters are commonly used in courts throughout this country on a daily basis.

Provision for the appointment of an intermediary is contained in Section 170A of the Criminal Law Amendment Act (Criminal Law Amendment Act 135/1991) as follows:

- (1) “Whenever criminal proceedings are pending before any court and it appears to such a court that it would expose any witness under the age of 18 years to undue mental stress or suffering if he testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give his evidence through that intermediary.
- (2)(a) No examination, cross-examination or re-examination of any witness in respect of whom a court has appointed an intermediary under subsection (1), except examination by court, shall take place in any manner other than through that intermediary.
- (b) The intermediary may, unless the court directs otherwise, convey the general purport of any question to the relevant witness
- (3) If a court appoints an intermediary under subsection (1), the court may direct that the relevant witness shall give his evidence at any place –
 - (a) which is informally arranged to set that witness at ease

- (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness; and
 - (c) that enables the court and any person whose presence is necessary at the relevant proceedings to see and hear, either directly or through the medium of an electronic or other devices, that intermediary as well as that witness during his testimony.
- (4)(a) The Minister may by notice in the Gazette determine the persons or the category or class or persons who are competent to be appointed as intermediaries.
- (b) An intermediary who is not in full-time employment of the State shall be paid such travelling and subsistence and other allowances in respect of the services rendered by him as the Minister, with the Minister of Finance, may determine”.

2.3 SKILLS REQUIRED BY AN INTERMEDIARY

Schoeman (1994:42) regards the following skills as necessary for the intermediary to possess:

- Objectivity - to be able to relay the questions to the child witness without distortion, without translating it into a leading question and without indoctrination.
- The intermediary must be able to create an objective communication system and must be a translator between the child and his intentions and the magistrate or court officials.
- The intermediary must gather sufficient information to understand and respect the behaviour of a child in a court situation.
- The intermediary must understand how children function, be able to evaluate the child’s spatial, language, memory- and fantasy worlds, as well as reliability, in order to give adequate feedback to both the child and the court.

- The intermediary must serve the court in a manner that neither benefits nor is to the detriment of either the child or the court.

The importance of questioning skills must be emphasised and social workers or persons in other categories who may function as intermediaries are not trained in questioning on the sensitive subject of sexual abuse.

In East London attempts have been made to employ other categories of persons in line with the act. According to an intermediary (Scholtz 1999), meetings have been held and teachers were invited, but they declined, due to the fact that sensitivity of these cases is an issue and they teach during the morning and would not be able to take time off work, every time a case is postponed.

The categories of persons who are competent to be appointed as intermediaries other than social workers, include medical practitioners, family counsellors, child care workers and teachers - the categories and specific criteria to be applied, is included as an appendix and not fully discussed at this stage.

An East London Senior Regional Court Magistrate, Van Zyl (12.3.1998) requested the Regional Court President in writing, to explore the relevant categories to include interpreters, especially when fluent in Xhosa, to act as intermediaries – naturally with the necessary training and in cases of girl witnesses, to appoint intermediaries who are female, or alternatively suggesting that the magistrate has the jurisdiction to use his discretion as to whom to appoint. This request was made because of the unavailability of intermediaries in Xhosa speaking cases, resulting in what he termed “unacceptable delays” as well as the high number of cases awaiting trial. He further voiced concern about cases being heard a year or longer after the crime was committed and requested that special steps be taken to place these cases on the roll within a month and during this time the accused must organise legal representation so that cases can be finalized. He regards it as not conducive to the administration of Justice that in a case where a child is four to six years old, evidence is only given after one to two years after the sexual abuse took place and he recommended that the Attorney-General give attention to this matter urgently. The researcher feels that it is

encouraging that the initiative came from the Department of Justice to approach the Regional Court President.

2.4 PROBLEMS EXPERIENCED WITH THE INTERMEDIARY SYSTEM

Serious problems are presently being experienced with this system according to the Senior Prosecutor (Smit 1998) attached to the local Department of Justice:

- In November 1998, there was a backlog of approximately 180 awaiting trial cases for sexual abuse.
- Social Workers were not reporting as intermediaries on the day of the hearing.

Social workers reported that they were reluctant to continue as intermediaries as they purportedly found this role emotionally draining in the extreme, complained of burnout and not feeling up to performing as intermediaries.

When the prosecutor approached social workers, to inquire why they did not want to function as intermediaries, the reasons they gave were that they felt demoralized and unmotivated because of the following reasons:

- Long delays in hearings led to the children being regarded as unreliable witnesses as their evidence was not simply factual and consistent as they had to rely on their memory.
- The perpetrator was often a family member or friend of the family and this was threatening, with the result that these cases were then withdrawn. This was bad for the people concerned as these perpetrators could then continue with their abusive practices in the community.

Zieff (1991:36) says in this regard that many parents choose to protect their children

from court abuse rather than have the abuser brought to court.

It is imperative that through this research these factors are addressed and the role of the social worker acting as an intermediary must be explored to gain a more meaningful understanding of this role.

2.5 THE PRACTICAL IMPLEMENTATION OF THE INTERMEDIARY SYSTEM

On receiving the docket of the complaint of sexual abuse, the public prosecutor arranges an interview with the intermediary, providing some background information such as the following -

- The age of the child, family circumstances, who the perpetrator was, when the incident occurred, the language of the child.

The prosecutor also arranges that the intermediary meet the child before the court date. Should the child be very young, or talk of the incident with difficulty, multiple interviews may be necessary. The intermediary must visit the camera room with the child and spend some time alone with the child, in order to develop rapport and during the interview assess the intellectual ability as well as child's developmental stage. An assessment must be made of the language ability and vocabulary of the child.

Anatomically correct dolls could be used as part of the assessment to determine the words used by the child for private parts, at the same time ensuring that the child feels comfortable with the dolls as the dolls at times can be used during the inquiry for the purpose of demonstrating what the child experienced.

Although this service is only one facet of the work done by the social worker, bearing in mind that it is a voluntary service additional to the normal work load, it is evident

that performing the role of the intermediary demands quite a major part of the social worker's time if the role is performed properly and to the utmost benefit of the victim involved. At the same time it is felt to be important that the social worker must gain a sense of satisfaction at rendering the service to make it meaningful.

2.6 THE ROLE OF THE INTERMEDIARY DURING THE COURT HEARING

According to Schoeman (1994:4) the following is expected from the intermediary:

- The intermediary must put the questions to the child as simply and understandably as possible.
- The intermediary must place on record how the child reacts – for example, she is getting tired, tearful or anxious, in order that the prosecutor may ask for a remand if necessary.
- The intermediary must monitor if the child tires, as the attention span of a child is short and the child may give inaccurate answers when tired – this may be interpreted as the child being an unreliable witness.
- Any non-verbal behaviour of the child must be placed on record, for example, the child “nods in agreement” or “shakes her head in disagreement”.
- Should anatomically correct dolls be used for demonstration purposes, the exact response of what the child demonstrates must be placed on record by the intermediary, should the presiding officer not do it.
- If it is felt to be advantageous to the child, the mother may be permitted to sit in and the intermediary must make the necessary recommendation to this effect.
- A request can be made that the intermediary assess if the child is regarded as a competent witness and whether the child can distinguish between a lie and the truth.

2.7 PREREQUISITES RELATING TO CRIMINAL LAW, COURT PROCEDURE AND RULES OF EVIDENCE

It is necessary for the social worker, acting as an intermediary in the criminal court to have knowledge of the following are requirements (Dürr Fitschenn & Pledger, Department of Welfare, Cape Town 1993:3) -

- A basic knowledge of the law, what a leading question is and when and how to avoid asking it. Time must be spent in court to gain experience of how court procedure works and to get a feeling of the process.
- The intermediary must be impartial, without prejudicing the trust placed in him/her by the witness
- The intermediary has a few seconds only in which to convey intricately phrased questions or questions that come across in an aggressive manner, in a manner that is simple and sounds non-threatening. The leeway which the intermediary has to interpret questions and to give the general purport of the questions, should be utilised fully by him/her.
- The intermediary must be in control of his/her emotions at all times – should the child for example start crying, it is normal to sympathize and feel upset on behalf of the child. The emotional well-being of the child must be carefully monitored as this could have an adverse effect on his/her evidence and the intermediary must request a remand so that the child can regain control before carrying on with the inquiry.
- The intermediary may be upset by aggressive cross-examination by the attorney and this reaction must not be displayed openly to the child or to the court.
- The intermediary must have the ability to concentrate for a lengthy period as court hearings can take from two hours to a few days to complete.
- Being an intermediary requires a great deal of patience.
- The intermediary must immediately place on record when the witness starts to tire, although it is not always easy to detect this.

- The witness sometimes indicates an answer by merely nodding his/her head or by shrugging of the shoulders – these gestures have to be placed on record as they are not always discernable on the television screen.
- The intermediary must have knowledge of the use of anatomical dolls. It is however not always possible to see what the child demonstrates and should the child for example demonstrate penetration, the intermediary must tell the court that the child is demonstrating penetration.

2.8 ANATOMICALLY CORRECT DOLLS

According to Songca (1993:84), detecting and proving sexual abuse is becoming difficult, as it takes place in secret, often the victim is very young and the only witness, while the abuser is someone trusted and respected by the victim. As a result of these difficulties some professionals apply various techniques such as different forms of play therapy, at times using anatomically correct dolls or psychological testing.

Anatomical dolls come in families – a mother, a father, a son and a daughter. The dolls have anal openings and genitalia and come in different sizes and colours. Many of the adult dolls are fixed with pubic hair, scrotum, detachable penis and moustache. These dolls were already “discovered” (Songca 1993:84) in 1976 in America and in 1980 were manufactured for general use in investigations of child sexual abuse. Some of the dolls are used purely for therapeutic purposes in a recovery programme, while the dolls are also used as a diagnostic tool, to prove sexual abuse. The dolls have been used very successfully with young children who cannot yet verbalize the incident of abuse or with children who are very shy. Songca (1993:84) is of the opinion that these dolls cannot be used to prove sexual abuse until the dolls have been established as reliable for this purpose. Meyers (1992:76) agrees with this statement but states that these dolls can effectively be used to aid the communication of children and may also supply evidence of sexual abuse – however not prove it.

The use of these dolls is thus limited and an argument against the dolls being used in the court of law, is that they have openings into which children would easily poke their fingers –out of curiosity - this action may come naturally and could well not be indicative of sexual abuse with the result that this display cannot be used as proof of abuse.

According to Songca (1993:86), the most damaging allegation against the use of the dolls is that they are being used by professionals without proper training, or with some training restricted to a workshop only. There is however a lack of existing literature available on the use of these dolls and it would seem that Songca's view is that professionals have acknowledged that they used the dolls to "encourage" or "coerce" children into making accusations of sexual abuse.

When viewed in this light, it is understandable that the use of these dolls may not be reliable to prove that sexual abuse actually took place.

It must be borne in mind that children who live in the same apartment as their parents may have seen the parents engaging in sexual activities and when seeing these dolls, indicate sexual activities with them, purely acting out what they have witnessed. With current television programmes on view during the day, often containing sexual scenes, it must also be borne in mind that children are at risk of viewing scenes well ahead of their readiness to fully understand what is happening.

One must thus view the sexual knowledge of a child against his background circumstances and what exposure he/she has had to this experience.

2.9 REASONS FOR INTRODUCTION OF PRESENT SYSTEM

Although traditional rules of evidence and the adversarial judicial process is widely accepted as an imposition of severe hardships on the child witness, sexual abuse is

often not reported due to parents protecting their children from the courtroom confrontation and interrogation which takes place and which is regarded as traumatic and destructive.

The child who does appear in court, suffers fear, alienation and anxiety and can as a result, not give adequate testimony which means that the requirements of giving evidence, are not met. According to Schwikkard (1994:44), it was resultant from these factors that the Minister of Justice in 1988 instructed the South African Law Commission to do an investigation of children giving evidence in litigation, concerning allegations of indecent assault. The recommendation after the investigation was that one way mirrors should be used.

The Pietermaritzburg Regional Court, in October 1990, was requested to permit a 7-year old child after being kidnapped, to testify from an adjoining room to the court, via closed circuit television while the presiding officer, prosecutor, defense attorney and accused were in the main courtroom. A video camera recorded the interaction between the prosecutor's representative and the witness, from the room where the witness was. Transmission was into two television monitors in the court room – one to be viewed by the magistrate and the other for viewing by the court officer, the accused and the public. In this context, the child victim was protected from facing the perpetrator. The sounds from the witness room were audible in the court, but the sounds from the court could only be heard by the prosecutor's representative, who wore earphones. Questions that were put to this officer, were then relayed to the witness with the answers heard in the courtroom.

This was the start of the intermediary service and a major breakthrough was made for the child witness in sexual abuse cases. In this particular case, a prosecutor who had great empathy with children performed this role (Schwikkard 1994:45).

The use of this method has been widely criticized, because of the requirement of Section 158 of the Criminal Procedures Act (Criminal Procedures Act 51/1977), that states that criminal proceedings must take place "in the presence of the accused". However, according to Schwikkard (1994:45), closed circuit testifying is regarded as

being in the presence of the accused as the accused can witness what is happening and can hear the reply from the child.

This model is however also criticized because the child has to relive the experience, which implies repeating the traumatization, which is in actual fact, secondary abuse - the latter is seen as just as harmful as the initial abuse and in fact re-imprints the abusive situation.

The long delays in court procedures retard the child's recovery from this experience as the children often have to return to the court on numerous occasions with the time span stretching over approximately four years in some cases. The problems a young child experiences in giving evidence are thus not solved by this system. A further factor which comes into play, is the memory capacity of a young child and according to Schwikkard (1994:48), while a child of two and a half years could well be in a position to give an accurate account of what took place within a few days following the incident, several months later this testimony may not be as coherent. Memory will be discussed at greater length later in this section.

It would seem that the core of the problem still remains the adversarial system and the view held by Schwikkard (1994:49) is that the child will continue to be traumatized while the trial is regarded as a contest and not an enquiry to ascertain the truth. This would seem to be the impression given by attorneys that they are just out to win the case for their client, at whatever cost to the victim and in this sense the child who needs protection is actually open to abuse.

It seems that this is a matter of concern internationally, as a debate continuing in Britain, (Schwikkard 1994:50) is that it would be preferable if the child could give evidence in a pre-recorded interview when the child could recall the evidence at his/her best and then put the incident behind them, without having to face the trauma of court and the gruelling cross-examination, so that the child could start the recovery process and get on with his/her life. Although this would be an ideal situation for the child, it would not allow the accused the opportunity to cross-examine the witness which means violation of his/her rights in terms of the

Constitution, with the South African community at this stage almost over-aware of their rights and demanding these rights irrespective of the consequences.

2.10 THE CHILD WITNESS

A child who understands what it means to tell the truth is regarded as a competent witness in South Africa. Evidence may be given, sworn or unsworn, if it is the opinion of the court that the child can “understand the nature and religious sanction of the oath” (Zieff 1991:22). The judge needs to satisfy himself that the child understands what the meaning of speaking the truth is. The child is regarded as an incompetent witness should he/she not know the difference between the truth and lying, because of lack of intelligence to make this distinction. There is no reference to age as a criteria for being a competent witness.

The same trend has been followed in England however, with the difference that children under the age of eight years are not regarded as competent witnesses. Children under eight are the targets of abusers and with this ruling, the evidence of large numbers of abused children will not be heard and many abusers will go free to continue with the abuse. In South Africa cases are dealt with individually and on the merits of the case according to the requirements as already mentioned.

Children of three or four years have been permitted to give evidence although it has happened that the trial judge regarded a five-year old rape victim as not suitable to testify as he was not convinced that she was capable of distinguishing between “truth and falsehood” and was therefore found incompetent to testify (Hoffman & Zeffert 1983:290).

According to Van der Vyver (1979:466) a pre-requisite for a child to give evidence is whether he/she can distinguish between the truth and a lie with the other factors to be assessed, being the intellectual level, honesty, observancy and the nature of the evidence. The cautionary rule should also be applied, that means, the possibility that

the child may fantasize or give an inaccurate version of a situation, must be taken into account.

Giving judgement in a sexual abuse case, a high court judge in Pretoria (Daily Dispatch 1 September 1999:3), stressed that the truth of each case must be assessed and the cautionary rule must not be over-emphasised. He stressed that guilt had to be proved beyond reasonable doubt and ultimately common sense had to be applied.

While it appears universally that a child is considered a less competent witness than an adult, there is according to Hammond (1987:3) growing empirical evidence that a child is no less credible than an adult with regard to memory, suggestibility and in making a distinction between reality and fantasy.

In comparing emotional vulnerability and linguistic ability, a child is at a disadvantage compared to an adult because a child has not been exposed to court processes or the form of language used, namely legal terms. It is for this reason that an intermediary should interpret for the child – on the premise that the intermediary is knowledgeable about the developmental stages of a child and has been trained to assist a child in a court situation.

Libai (Hammond et al 1987:4) indicates that proposals to keep children out of main courtrooms are gaining acceptance, while Gwynn (Hammond et al 1987:4) stresses that even the use of video recording lessens the strain on the child victim.

Meyers (1992:31) states that during the 1980's, the child was the prime target of the defense attorney during sexual abuse cases. The reason for this was that young children are regarded as incompetent witnesses as their memory is poor, they cannot distinguish between fact and fantasy and they do not understand the need to tell the truth, while older children or adolescents were accused of seeking revenge, should sexual abuse allegedly have taken place. Meyers further states that the defense will continue with their efforts – his motivation for this being that the child is the most important witness the state has and as such the credibility is undermined. He also stresses that it must be borne in mind that children are sometimes hesitant to make a statement as they fear getting into trouble. Should the child victim not be able to

recall the details in this threatening environment, especially if the alleged perpetrator is a relation or a family friend, the credibility of the child is immediately doubted.

Meyers (1992:64) is of the opinion that children do possess the necessary skills to recall and describe events, especially when questioned in a supportive environment. If the credibility of the child as a witness is undermined and evidence on a medical level lacking, conviction is sure to fail. The researcher feels in this regard that all efforts must be made to secure convictions in order to bring the perpetrator to task and also to serve as a preventative measure against repeating the abusive act.

The opinion of Muller (1998:488) is that the victims of sexual abuse or rape ‘...experience a second victimization’ during a trial as the victim is required to detail the abusive act in an open court and is therefore put through a gruelling cross-examination with the result being high levels of stress, anxiety and fear for the child. It is pointed out by Flin & Boon (Wattam, Hughes & Blagg 1989:122) that a child who has been sexually abused, may also face other social and emotional difficulties apart from the sexual abuse. It is thus understandable that stress escalates with the abuse and is emphasised when the child has to appear in court and give details of this experience. The afore-mentioned has been experienced on numerous occasions by the researcher when sexually abused children are from poverty stricken backgrounds where unemployment alcohol abuse and other pathologies are rife. The abused children living in these circumstances go unassisted with regards to their problems as professionals are not always easily accessible and in many cases are not sought by the family. Teachers or community members at least come to the aid of the children on some occasions. It is thus not difficult to understand what emotional baggage a child in these circumstances brings along to a court trial.

In the adversarial justice system, the presiding officer is limited in his capacity to protect the witness, thus stressing just how vulnerable and isolated the witness is. It is widely accepted that a child who does not understand the nature of an oath, but does understand what it means to speak the truth, is justified in having his evidence heard. The British Children’s Act of 1989 states that if a child does not understand the nature of an oath, he/she may still give evidence if the court feels that “he understands it is his duty to speak the truth” and he has sufficient understanding to

justify his evidence being heard (Hall et al 1993:178). However, the child witness is accused of other factors such as imagination and having a disposition to weave romance, but at the same time, children are regarded as straightforwardly saying what is on their minds (Hall et al 1993:178).

The following table sets out an analysis conducted by Spencer and Flin (Hall et al 1993:179) of the principal objections lawyers in England made to the evidence of children and illustrates the difference in the observations lawyers had compared to the findings made by Spencer and Flin.

TABLE 1

Statements versus conclusions regarding evidence of children in England.

STATEMENT	CONCLUSION
Children's memories are unreliable	Reliability of evidence depends on the manner in which the child is questioned – if done correctly, the court need not generalize with respect to the child witness or heed their evidence and caution to tell the truth
Children are egocentric	The link between egocentricity and the veracity of statements is not clear. Age does not determine what significance is paid to events
Children are highly suggestible	Children as well as adults can be suggestible, but sensitive techniques in questioning can minimize risk
Children have difficulty in distinguishing fact from fantasy	Clinicians do not support this suggestion
Children make false allegations particularly of sexual assault	No evidence thus far indicated that children are less truthful than adults
Children do not understand the duty to tell the truth in court	Moral comprehension does not predict a child's propensity to tell the truth

2.11 MEMORY

Mention has been made of the long time span of a trial. It is felt necessary that the concept of a child's memory must be viewed against the impact this mentioned factor, as well as regular postponements, lengthy waiting periods and attorneys who fail to report on the day of the hearing, has on the picture the child portrays of the abusive event as this is dependent on how much the memory retains.

With reference to memory, Antze and Lambeck (1996:vii) state that it "is invoked to heal, blame and legitimate" however, forgetting is also an intrinsic characteristic of the memory. Memory must not be viewed simply as a record of past experiences, but has the quality of interpreting and thus reconstructing the experience in terms of culture and social contexts. Terdiman (Antze et al 1996:xxiv) stresses that memory acts in the present to represent the past.

Considerable research on the memory of children has been carried out in the United States of America by Meyers (Zieff 1991:24-26), and it is felt that the research findings are directly relevant to this study. It appears from the research, that a child must have the ability to demonstrate retention of material through recognition, reconstruction and recall.

Recognition is meant as the simplest form of remembering which requires that an object is perceived as something previously perceived. It was found from studies that as the child matured, there was rapid improvement in the ability to recognize. Five year olds were found to be as proficient as adults in recognition of familiar objects – however with informative stimuli which needed more skill, a child was less proficient.

Reconstruction memory is meant as a specialized method of retrieving material of past events from the memory. Should questions be posed in the order that an event took place or by recreating the event, it is possible to facilitate memory. However,

when questions are put to the child witness and these questions are not asked in order, but are done in a manner to confuse the child and leave the impression that the child is being forced into admitting that he/she is telling untruths.

The most complex form of memory is recall. This requires that events previously experienced can be retrieved from memory without, or with very little prompting – this is the retrieval method the child witness must be capable of. This retrieval ability is however age-related to a strong degree and develops as the child matures.

In research undertaken in 1987 by Goodman and Reed (Zieff 1991:25) in the United States of America, it was found that children in the age group 6 to 8, proved to be just as accurate as older persons with regard to recall, but reported less information. From this is concluded that completeness of an event is less well developed in the child, and not the accuracy of the event. Should material which forms part of the child's daily life be recalled, recall improves as compared to events which are isolated.

It appears that most of this research conducted stemmed from events that were remembered after viewing either slides, films or after being told stories. In view of a lack of findings in available research it must be accepted that irrespective of where children live, memory functions are similar and the ability to remember would apply to children in this country as well.

The emotional consequences of a crime, such as sexual abuse of a child, must be linked to the ability to recall an experience as this has an effect on the ability of the functioning of the child as an accurate witness. Research done by Schetsby and Benedek (Zieff 1991:26) indicates that severe stress does not impact on the child resulting in poor memory performance overall, but when questioned, better recall manifests for central information while the ability to recall peripheral information, is less accurate. An inhibiting factor for children to tell an accurate story when in stressful circumstances, is anxiety.

One can thus understand how the courtroom, which is a formal situation where the defendant is present, would affect a child. The effect of stress is difficult to assess as

it cannot be measured, however when witnesses cry or refuse to talk, it is assumed that they are not relaxed and this must have an influence on the manner in which they give evidence.

From research conducted by Spencer and Flin (Zieff 1991:27) with regard to young children and their belief about the court it appears that many children stated that they thought the judge would know if they were lying and they would be punished accordingly. The conclusion from this was that the younger the child was, the less one would fear that they would deliberately lie. These researchers do however stress that both a child's memory and an adult memory is sensitive to the passage of time, either due to interference or decay. Meyers (1992:65) holds the opinion that even very young children are as reliable as adults when recalling events, even though attorneys maintain that a child's memory is not as long-lasting as that of an adult.

2.12 THE ADVERSARIAL SYSTEM

According to Hammond (1987:5) there is concern that a child who has been a victim of abuse tries to maintain composure under "the full onslaught of the adversarial system". From this can be deduced just how overpowering this system must be for a child who is without support in a court.

The explanation of the term "adversarial" given by Hall and Martin (Hall et al 1993:176) is that a prominent role is played by the legal representative while the bench sits back and listens. They also regard this system as so entrenched in the legal process that fundamental change will not take place and state that the British regard this as the best way of getting to the truth due to the manner of digging for facts with the opposition having to rigorously cross-examine the witness. This is seen as the desire to win and thus taking of sides. Flin & Boon (Wattam et al 1989:124) see this process as two opposing parties, with each one stating their case for the court to make the decision.

From all the above, it is clear that a child is at a disadvantage in the adversarial system and is open to further victimization at the hands of the court officials as well as the perpetrators. The intermediary system is thus a major step in the right direction and while it offers support and comfort to the child, it meets the legal requirements such as giving the accused the opportunity to cross-examine and observe responses from the witness.

The adversarial system poses the danger that a very young child does not understand the court language and manner of questioning and this process is in fact rather insensitive towards the child witnesses. When considering that the child has to testify in an open court and is cross-examined by legal people in a confrontational manner, this can understandably be very frightening considering that even an adult is afraid of appearing in court.

In view of the above picture given above one must agree with Schwikkard (1994:44) who says that the adversarial judicial system imposes severe hardships on the child witness when the child is questioned in the presence of the alleged perpetrator in a formal courtroom by court officials who speak legal language, normally foreign to the child, with the child then cross-questioned by the perpetrator or his legal counsel.

No provision is made for the child in the open court to make him/her feel safe and when the court setting is visualized with the presiding officer positioned high up on the bench, the other court officials dressed in black cloaks staring at the child and also the perpetrator present, glaring at the witness, it must be a frightening experience and one not wished on a child.

2.13 RESEARCH CONDUCTED IN SOUTH AFRICA

It is important that due to a lack of local research material and also to serve as a comparison with studies undertaken internationally concerning child witnesses, the

researcher discuss quite comprehensively a study undertaken in the Eastern Cape by two senior lecturers at Vista University, Muller and Tait (1998:448) were of the opinion that evidence given by children in a legal environment depended on 3 factors which interacted, namely:

- (i) The child, who had to be seen along with his cognitive capabilities such as potential to remember, communicate and perception of court proceedings and the role he/she played in them.
- (ii) The court personnel involved in the trial, such as the magistrate, prosecutors and defense attorneys. They felt that should the prosecutor possess communication skills he would have an understanding of leading children in evidence as compared to colleagues who had no knowledge of the cognitive abilities of children.
- (iii) Environment – if this was hostile or intimidating, children would not share sensitive information.

The focus of this study was on competence of abused children to recall accurate events and allegations of suggestibility made against children. The research was carried out because of limited understanding on how children in South Africa experienced the court process. Their knowledge of legal terms and procedures was tested.

It was felt necessary that children firstly indicate what aspects of the judicial process were traumatic and secondly, how the perception the child had of legal concepts and procedures affected the performance of the witness.

According to Ziech and Schudson (Muller et al 1997:594), two American judges, the court room can terrify and silence a child, with fear of an unknown situation, confusion and misconceptions being associated with the court experience. This statement must be viewed against the background of ignorance of court procedures and the inability to understand legal terminology that hinders the child from giving evidence or taking part in the judicial process effectively.

Saywitz (Muller et al 1997:594) states that generalized anxiety associated with fear of the unknown, results in avoidance with the motivation and effort of the child to remember detail, reduced. Anxiety further causes the child to become frantic and illogical so that information and details are confusing and the end result is undermined credibility. The conclusion reached by him is that misconceptions of the legal system affect the quality of the evidence given by the child.

Studies performed in England which are mentioned by Muller and Tait (1997:597), highlight that a court trial subjects a child to language they do not understand and without this knowledge they cannot answer questions competently. Studies conducted in the United States of America, mentioned by them, state that children could define terms such as “police, judge and lie” but not “oath, lawyer and witness”. The general understanding children had of the court, was that it was a bad place for bad people.

2.13.1 METHOD OF THE SOUTH AFRICAN STUDY

The aim of the study was to establish what knowledge and understanding children had of the court personnel and process. The study included 286 English speaking children – 136 male and 140 female - from predominantly white schools between the ages 8 of and 14 years. The reason for this particular selection was insufficient money and time to appoint interpreters to cope with other languages at that time. The focus was thus on language and knowledge of terms rather than cultural differences.

Questionnaires were used to assess understanding of legal terms and certain procedural aspects. Terms used were taken from a study conducted in Scotland and California, chosen according to the vocabulary child witnesses in South Africa would use and not the less used words such as “subpoena, plea and jury”.

This was regarded as a pilot study to draw initial conclusions that would serve as a basis for further study.

A second study was carried out in 1998, with children chosen from a different cultural group. The aim of this study was to establish what knowledge the children had of the judicial process and cultural differences. One hundred and eighty children from schools in black townships aged between 7 and 16 years were included - 80 male and 100 female – with Xhosa as their first language.

The questionnaires used contained the same terms as the first study, but was translated into Xhosa by Xhosa-speaking research assistants who were fully briefed not to attempt to assist with answers. The children had a choice of language preference to complete the questionnaires – only one child did not complete in Xhosa. The assistants translated the answers that the children had written into English after a briefing to translate precisely.

2.13.2 RESULTS

Older children were found to have more knowledge of terminology and procedures – thus indicating a definite developmental trend. Also highlighted were deficiencies in knowledge of the legal process and gross misconceptions of some terms and procedures. These findings are of particular relevance to this thesis and also agree with the studies carried out in Scotland and the United States of America first mentioned in this section.

When trying to understand how South African children view the court process, the following findings are particularly important:

- (i) TERMS
 - i. Trial - was explained In both studies as “leaving footprints’ (Muller et al 1998:449). In this regard the researchers concluded that the fact that they had made use of questionnaires could have been a limiting factor as young children were not always proficient readers. Despite allowing for this, it was found that there was generally little

understanding of this term with the older children faring better, but a child of 13 years described this as the execution process.

- iii Court – had a negative connotation for the children in study one, as they believed that if you went there, something awful would happen to you as bad people went to court. Some children even equated the court with the jail where you were executed. The children from the second study gave an understanding of the court as a place where an argument took place and where cases took place often referring to it as a place where a debate took place.

(ii) PEOPLE

- i. Magistrate – this term was virtually foreign to the children in the first study but “judge” was better understood. Magistrate was explained as anyone from being in parliament, keeping the noise level down, to a queen or king or a “female judge”, while “judge” was described as a preacher, author, person in charge of police and a doorkeeper – knowledge on what this person did, was thus totally lacking. One child responded that the “judge is a man who can see if you had killed or not”.

In the second study , the children had very little knowledge of this term and were unable to provide details of what the function of a judge was and he was said to ”assist the magistrate”. He was also described as an investigator and a prosecutor, professing that you win a case if the judge knows you or your father. These children generally knew what a magistrate was as well as his duties and regarded him in a positive light.

- ii. Prosecutor - he was regarded as the real bad guy who kills people, who wears a bag over his head and “who chops off heads”. The second study described the prosecutor as someone who hurries you or “makes you speak the truth quickly not to think too much”.

- iii. Witness – this term was especially confusing to the younger children and was explained as “one witnesses what he saw with his own eyes and when the time has come to go to court, he argues for what he saw”, while another explanation was that the witness was someone who agreed with your lies and wrote down what was said in court. The children believed that a witness had to tell the truth but also that the witness had to give evidence for a certain party that was the accused. These responses from both the studies emphasize just how uncertain the witness was as to what this role implied.
- iv. Victim – the vast majority perceived this term in a very negative light and had no knowledge what it meant in both studies. Some of the explanations given, were – the guilty person, one who wants to kill you, a liar, and one which gave this particular article the study was taken from its title, namely “...an animal that eats meat, its lunch is called a victim!”
- v. Accused – both groups lacked understanding of this term and it was regarded as the person wrongfully charged or a guilty person who was accused of doing something even though he had not, a person taken by surprise and told that a complaint has been made against him, while one child gave the following description, “when they say you did something but you did not”.
- vi. Policeman – this term showed quite a dramatic difference. While children from the first study had positive feelings towards policemen and thought them to be people who protect you, the second study described policemen as people who shot you.
- vii. Abstract terms – the children found these difficult to explain while the terms truth and lies were merely regarded as opposites or stating “a lie is not the truth”.

Muller (1998:455) stresses that these illustrations display the lack of knowledge children have of abstract concepts and implies the important consequences of the way in which examinations of competence are conducted, while it does not imply that the child cannot give accurate evidence as to what his experience of sexual abuse was.

The misconception children have of the process, does illustrate however that the children could fear and could experience stress when they have to give evidence in court because of the negative connotations it has. The differences between cultural groups are also highlighted and must be taken into account with regard to the court process – this actually emphasizes the importance of preparing children prior to going to court as a witness and almost implies a comprehensive educational programme concerning the court procedure, in an attempt to rid them of uncertainty and fears regarding the judicial system.

2.14 CHILD SEXUAL ABUSE

2.14.1 THEORIES OF THE CONCEPT

According to Levett (1991:12) a specific legal definition for sexual abuse is lacking and adds that definitions with regard to both abuse and sexual abuse have changed historically, as reference was made to child sexual abuse prior to 1950, on limited occasions. Prior to 1970, when sexual abuse was mentioned, it denoted sexual intercourse between a father and his prepubescent daughter. The term child sexual abuse presently covers rape, intercourse, fondling, masturbation, oral-genital contact, simulated intercourse with attempted penetration or without penetration, sodomy, exposure to adult exhibitionists and others.

2.14.2 SOCIO-CULTURAL PERSPECTIVE

From a socio-cultural developmental perspective, Magwasa (De La Rey 1997:16) says that the concept of sexual abuse lacks clarity due to the variety of sexual acts included in the meaning of the term. He quotes from Scheckter and Roberge who regard sexual abuse as “the involvement of dependent, developmentally immature children and adolescents in sexual activities they do not fully comprehend ,

to which they are unable to give informed consent and which violate the social taboos of family roles". Kempe (Hall et al 1993:7-8) agrees with this definition and stresses that these activities are against the law.

2.14.3 CULTURAL PERSPECTIVE

From a cultural perspective, De La Rey (1997:161) refers to the Black African population in South Africa, and specifically the children from this culture who lack essential knowledge of sexual activities as open discussions on sexual matters are inhibited. He does however not specify exactly which culture he is referring to but the experience of the researcher with the Xhosa culture confirms what he says and while doing training on working with sexually abused children in the urban as well as rural townships, this manifested as a particularly difficult area as discussions on sexual activities were found to be very difficult, even with the social workers who ultimately render this service.

In this culture, discussions on sexual issues are in fact termed embarrassing.

September and Loffell (1998:8-9) adapt a definition from Faller that sexual abuse "... is an act between a child and a person who is more powerful in terms of for example age, assertiveness or physical strength, which is for the gratification of the more powerful person...this definition includes sexual acts which do not involve direct physical contact such as exhibitionism and exposure of children to pornography or their involvement in the production thereof". In their view, commercial sexual exploitation (child prostitution) also falls in the ambit of this definition.

2.14.4 PATRIARCHAL PERSPECTIVE

It is felt necessary to introduce patriarchy and sexual abuse, to understand the norm surrounding sexual abuse in South Africa. From this perspective, women and children are exploited by men to maintain the male dominated and controlled

hierarchy. Abuse thus serves an intimidating and controlling function, maintaining the status quo. In terms of this understanding, mothers and mother figures are powerless (De La Rey 1997:62) and must obey the dominating male. It is a fact that men are the majority of abusers and socialization of men and women result in men abusing female children. This sexual abuse of children is thus both a gender and developmental violation. Magwaza and Shezi (De La Rey 1997:162) stress that within this context, the black African girl is at high risk of being sexually abused and also highlights the fact that men are the main perpetrators of abuse.

2.15 THE IMPACT OF ABUSE ON CHILDREN

Joseph, Williams and Yule (1997:59), report that in England, while conducting research, it was found that female children who have experienced sexual abuse, may manifest a wide range of “dissociative symptoms and auto destructive behaviours”. They also show increased aggression, anger, fear, shame and guilt, as well as eating disorders and sleep disturbances, truancy and sexual behaviour which is inappropriate. They further state that women who suffered sexual abuse as children, were more likely to suffer both social and interpersonal difficulties when adults.

Other problems manifested were inappropriate sexual behaviour, dysfunction and self-harming behaviour. The self-esteem was low, feelings of isolation manifested, as well as depression and anxiety while substance abuse showed a relation to earlier abuse of a sexual nature. Research had also been conducted with men who had experienced sexual abuse as children, with disturbed attitudes shown towards sexuality in the form of fear of sexual contact or a tendency to engage in frequent sexual encounters of a short nature, while other problems were mood fluctuations, anxiety and substance-use disorders.

September and Loffell (1998:56) stress the inadequate picture of the full scope of child abuse in South Africa, with many cases of abuse going unreported, while in

rural areas there is no mechanism in place to report abuse. The consequence of this is that no informed decisions can be made to adequately deal with the problem or put the necessary structures in place as a means of prevention. They recommend a thorough analysis on a national, provincial and local level in South Africa, in order to address this pathology. However in view of the lack of informed statistics, it does not seem possible to carry out this recommendation.

The researcher however feels that there will have to be a concerted effort on the part of the whole community to fight this phenomenon especially when cultural concepts are taken into account, as have been mentioned and these concepts cannot be changed in a short space of time but will take a lengthy period of awareness as well as education of an ever increasing population.

2.16 CROSS-EXAMINATION

The goal of cross-examination is to give the accused the opportunity to test the evidence given by the witness.

According to Meyers (1992:159), attorneys regard the process of cross-examination as an essential component in gaining the truth. It is however a method regarded by Meyers as causing anxiety with the framework for questioning, being the same for adults as for children in the adversarial system. He states that cross-examination can either be positive or negative –the purpose of the negative, is to attack the credibility, as well as undermine the testimony of the witness.

The most publicised case in Britain during 1983 – 1989, which was regarded as an ordeal for the witnesses, involved two little girls who were indecently assaulted by a famous actor who subsequently was acquitted. The child of 8 years burst into tears while being cross-examined. Brennan & Brennan (Wattam et al 1989:131) regard cross-examination as ignoring and sacrificing the interests of the child and questioned in a newspaper report whether “...the ends of justice really require that a child must be grilled to the point of tears in the intimidating surroundings of a packed courtroom?”.

Flin & Boon (Wattam et al 1989:131) state that there are defense lawyers in Britain who believe it is not in their interest to upset small children while giving evidence as it weakens their case in the eyes of the jury. However the language that is used stresses the formality of the courtroom and it would seem that the manner of questioning is done deliberately to confuse the witness and undermine credibility. The court scenario pictured here is the same as that which was relevant in the South African court system prior to the introduction of the intermediary system and the researcher believes that the effects on the child are the same irrespective of the difference in countries. It must however also be accepted that lawyers have not had training in questioning children and lack this specialized interviewing technique. Possibly they should be involved in training in this aspect although I question whether the lawyers would take a different and softer stand against children when they are employed to represent and defend their clients.

Goodman (1993:15) maintains that the language used to question a child, especially “legal” usage is confusing and that age-inappropriate questions affect the accuracy with which a child gives an answer. When an accusatory or intimidating manner of questioning is upheld, errors can increase while questions in the presence of the accused, could lead to a substantial reduction in the willingness of the child to disclose what had happened. She emphasizes that while children have the potential to be accurate, they are not necessarily accurate – this however can be said of adults as well. The importance of understanding how to question a child is regarded as crucial should children be protected from abuse while protecting adults from false reporting.

Goodman (1993:15) reports that studies conducted in the United States of America examining the reaction of children to legal involvement in criminal cases, are only a handful. Over 200 children were followed through the criminal court procedure and it was found by her that there were children who were not adversely affected by this process, but children who were negatively affected, had to testify on multiple occasions, lacked maternal support and were unhappy with the outcome of the case. Those who had verbalized strong fear of the defendant, found it more difficult to answer questions posed by the prosecutor.

Zieff (1991:34) mentions that researchers attached to the Department of Psychology at the Natal University refer to cross-examination of the child witness by attorneys and advocates, as “nothing short of brutal”. He further states that in this process, grotesque facts that the child would not have imagined, will be brought out, while the child is bullied because events are placed out of sequence and details may not be remembered because the trial takes place so long after the occurrence of the incident. The child must now also relate every minute detail of the sexual abuse. If the child has been threatened by the abuser, the child questions whether punishment will be meted out for disclosing the truth and may then decline to tell the truth. Watney (1998:424) says of cross-examination that it is a test of the value of verbal evidence that cannot be equalled. The right to cross-examine is confirmed in Section 35(3)(i) of the Constitution of South Africa (Act 108/96:17) which states that every “accused person has a right to a fair trial, which includes the right to adduce and challenge evidence”.

It is exactly this “challenge” which the researcher feels is being harsh on a child witness as it implies direct confrontation between the accused and the child.

It can thus be concluded that the nature of cross-examination locally agrees with the manner in which it is conducted internationally and that all child witnesses go through the same difficult process of being questioned. The provision of the intermediary system is thus seen as a major relief for the child who cannot cope with cross-examination especially when confronted with the accused.

2.17 LEADING QUESTIONS

Meyers (1992:55) defines a leading question as “being suggestive and which tempts the child to give a particular answer”. He further states that a leading question can have serious consequences and he suggests that should a leading question be resorted to, the suspect must not be mentioned and neither should the abuse location be mentioned. His argument is that suggesting the answer the witness is desired to give “...assumes the existence of disputed facts to which the witness has not yet

testified”.

A leading question could thus be seen as a possible collusion between the witness and the person posing the question and while leading questions are in fact sometimes asked, Meyers (1992:182) feels that it should not be allowed that unwanted words are put into the mouth of the unsuspecting witness, but he also states that there never has and never will be one correct way of talking to children.

It is understandable that this type of question cannot be permitted as the child is then tempted to give a particular answer and this could well have legal consequences.

Leading questions when regarded as being suggestive can also be tricky in the sense that a child can easily be confused by the questions when repeatedly posed, or when more than one question is asked at the same time, can lead the witness to contradicting what he/she had earlier said in evidence – this would lead to the witness being unreliable. If this is linked to the language that is used in court, which often is confusing, it will naturally be very easy for a lawyer to prove unreliability on the part of the child witness.

Goodman (1993:14) in conjunction with Saywitz, conducted an examination on five and seven year old girls who had been medically examined by a doctor. Thirty six children were examined from head to foot, while half of the children had a genital examination. For the other half, this was omitted. On subsequently questioning the children, very few reported on the genital issue when asked open-ended questions – however with the use of naked anatomically detailed dolls questions were asked directly on whether the doctor had touched “there”, while pointing to the genital area, the majority of the children having had this examination, revealed correctly that he had. False reporting was done by three of the children who had not been examined fully. There are thus advantages as well as disadvantages regarding this type of questioning. However, the impression gained is that children react differently when questioned on genital touch compared to other events and Goodman concluded that at the age of three or four years, many children are knowledgeable about taboo concerning genital touch, nudity and the like. Children are as a result embarrassed, surprised and fearful and not as willing to give information.

Forensic training in interviewing skills, means knowledge of how to interview to build rapport quickly and how to get from the child the most “accurate and complete” information, including knowledge on the advantages and disadvantages of questioning in a specific manner. Open-ended questions that would be appropriate for certain children in certain situations, would not work for other children of different ages or backgrounds. Questions on events that had just taken place compared to questions on events that had happened a long time ago, would also differ (Goodman 1993:14). Where children had the support of their parents or a loved one being present, they were more capable of responding. These responses as well as findings from other relevant studies, convinced the United States Supreme Court that children should testify via closed-circuit television in order to avoid facing the defendant.

Having subsequently completed a study of 80 children testifying via closed circuit television, it was concluded that the accuracy with which the child testified via this medium did not differ compared to testifying in the open court. However, it is reported that legal professions were of the opinion that using closed circuit television testimony, had less impact on jurors than live testimony from a child witness in the open court.

Goodman (1993:32) reports that several researchers are devoting time to devising techniques to assist children with recounting their evidence and she is confident that children can be helped to be more accurate witnesses.

2.18 SUMMARY

The introduction of intermediary services is a new phase in social work and as such, a new role for the social worker. The aim of the intermediary is to be a translator of court procedure to the child witness, who is threatened by the formal atmosphere of the court as well as the presence of the abuser. To promote the effectiveness of this service it is necessary to establish the role of the social worker as an intermediary and

to explore the needs and experiences of the social worker as an intermediary as formal preparation for this role has not been effected, according to the needs of the intermediary.

CHAPTER 3

RESEARCH DESIGN AND METHODOLOGY

This chapter will examine the design and methodology used and how the research was conducted in order to obtain data. It is hoped that the research undertaken will generate knowledge of the role and experiences of the social worker while performing the role of intermediary. Limitations of the study as well as manifested problems are also contained in this chapter.

3.1 INTRODUCTION

Data was collected by means of conducting semi-structured open-ended interviews, which were tape recorded and transcribed by the interviewer in order to maintain confidentiality. The reason for using open-ended questions was to obtain the viewpoints of the social workers that had done intermediary work, in line with what Patton (1980:278) refers to as “accessing the perspective”.

Prior to constructing the interview schedule, as thorough a literature study as possible was conducted, in view of the limited available literature. An interview schedule containing four sections was used for the purpose of questioning. Section 1 was aimed at gathering identifying information on the participants, Section 2 was aimed at obtaining biographical details on their work situation, Section 3 was related mainly to training received – asking for a description of the nature of training, when training was received and what follow-up training was provided subsequent to initial training, and a fourth question investigated the

nature of experience during supervision. Section 4 contained questions on the intermediary service.

A small pilot study was conducted with one participant in order to evaluate whether questions were understood by participants or whether the interview schedule needed to be refined before continuing with further interviews, as stated by Grinnell (1988:319) “before a research instrument is submitted to the sample population, it should be pre-tested to be sure that other individuals who are asked to answer the question, understand them and have a favourable impression of the appearance and utility of the instrument”.

Due to the questions being understood, it was not necessary to change the research tool and the interview was included in this research study.

Initially it was planned that all interviews would be conducted in English, but social workers who had acted as intermediaries had either left the East London area or gained employment elsewhere and were not able to participate. Ten interviews were conducted. Four Xhosa, two English and four Afrikaans speaking social workers were interviewed - six in the English language medium and four in the Afrikaans language medium.

Questions had to be translated into Afrikaans for this purpose and to ensure that the intended meaning was maintained, the questions were given to the senior prosecutor to peruse.

The sample constituted ten participants as mentioned and although not large enough to generalize, represents the feelings and experiences of ten social workers who have acted as intermediaries in the East London area. One cannot therefore talk with conviction on behalf of intermediaries generally or state that these experiences with either the Justice system or the legal fraternity are found elsewhere.

During interviews as well as during data analysis, the researcher guarded against becoming biased, as it was obvious that intermediary service rendering contained many stressors. The realisation of just how devoted the social workers were to this task could very easily

lead to subjectivity in the form of pitying the social workers and feeling angry towards perpetrators and the system. Saslow (1988:24) holds the opinion that little that can be utilised immediately to solve problems is produced by basic research. Only the understanding of the problem is increased. Solutions to the problems could be addressed in further research, with attention being given to areas indicated by the intermediaries as necessary to assist them with follow-up training, discussions with Justice and the Legal fraternity, to see how the system could be improved so that everyone's rights in terms of the Constitution will still be respected and be legal within the broader framework of the Justice system.

3.2 RESEARCH DESIGN AND METHODOLOGY

Basic research is undertaken in this study, with the purpose of gaining insight into and understanding of the experiences of the social workers while performing the intermediary role. The research is in line with what Saslow (1988:24) states that basic research serves to understand a problem but does not allow for immediate resolution of problems.

As stated in Chapter 1, the research design documented in this study is exploratory in nature as very little is known about the topic (Yegidis et al 1991:76). This design was used on the basis that to understand a problem, more must be known about the problem and it is hoped that new insights will be engendered about this topic (Royse 1991:44) Collins (McKendrick 1990:257) states that the "main condition for exploratory research is imperfect knowledge or research about a phenomenon".

Limited research has been done in South Africa on this topic due to the relatively "new" nature of the system while it is totally lacking on an international level. According to Reid and Smith (1989:69) exploratory studies can help to inform actions especially in the case of social workers who often have to make decisions in the absence of much

knowledge – as in the case of the intermediary system, where the social workers have had to rely on their own resources in view of the lack of adequate training. This design also seemed the most appropriate to get to the deeper meaning this role held for the social workers in view of the fact that they complained of suffering from feelings of burnout.

Exploratory research involves a small sample, which limits generalization as well as representation and as Grinnell and Williams (1990:140) state, statistically sound data is not generated so that results are not conclusive, but only a “low level of knowledge” is obtained. Open-ended questions were used and according to Hall and Hall (1996:158) this form of questioning is useful in exploratory research. When semi-structured, the sequence can be altered and probing for more information is facilitated. The researcher interviewed participants personally in order to gain insight into their experiences and perceptions of the intermediary system and also to explore the factors that either promoted or impeded functioning in this system.

According to Reid and Smith (1989:213), “in-person interviews elicit information in large amounts and greater depths and in particular, are a useful method to obtain data when topics are “highly sensitive or relatively unexplored”, while it is a successful tool for interviewing virtually any group of participants.

A sample of ten social workers was used in this research as this is the number of social workers available who have thus far acted as intermediaries in the East London district. A pre-condition for inclusion in the research was experience as an intermediary and an interest in the service while participation was voluntary.

Although the method used was exploratory, there is a dimension of qualitative research present and according to Van Maanen (Miles et al 1994:10) the lived experiences are emphasized by this while at the same time being fundamentally well suited to gain meanings from people concerning their perceptions. In view of this it was found that a large amount of information was obtained in this research which could be compared to the “voluminous amount of information” Marshal and Rossman (1989:114) refer to in a qualitative study. This information is then reduced into certain patterns, categories or

themes and interpreted by using some schema, the aim of which according to Tesch (1990:97) is, the emergence of a larger, consolidated picture. To prevent being overwhelmed by the information, categorization was done in this way.

However, the data collected is a multitude of words and with the multiplicity of meaning attached to these words, analysing becomes difficult and the researcher must guard against awarding her own interpretations of meanings. These words must also not be taken out of context or interpreted in isolation.

It would thus seem that in this research it could have been possible to use more than one research method to explain the social realities.

When this research was first conceptualized, the motivation behind it was to assist the social workers to continue with the intermediary service as resistance was being experienced on the part of social workers to repeatedly continue acting as an intermediary as they were complaining about feeling burnt out. In order to facilitate any assistance, their needs had to be identified before an adequate training programme could be set in place.

3.3 SAMPLING PROCEDURES

The method of sampling used in this research was purposive sampling in view of Grinnell and Williams' (1990:126) statement that this type of sampling is used when we purposely choose a particular sample, while Royse (1991:116) states that for the respondents to be selected for inclusion in a research study, they have to have characteristics in common. The participants in this study were all social workers who had acted in the capacity of intermediary in the criminal court while a further requirement was that the participants were willing to participate in research of this nature. The researcher however, must

choose who must answer the questions regarded as necessary in investigating the topic being studied. Seaberg (Grinnell (1988:240) says that after defining the research problem, data which is relevant to that problem, must be generated. A “sample” is thus only a small set of the total that is referred to as the “population” (Grinnell 1988:240), which is used in the research study.

Ten social workers who have acted as intermediaries in East London were interviewed on their experiences while conducting the intermediary service. The researcher knew all the participants but no direct professional relationship existed between researcher and participants. Sufficient boundaries in the research situation could thus be maintained. Research was restricted to the East London urban area, with the result that this may not be representative of feelings of intermediaries elsewhere or of other categories of persons acting as intermediaries.

The social workers that participated verbalized a keen interest in the system mainly because they felt a need to assist the children and were keen to see the system succeed and improve, while they also wished to gain more experience in this field.

3.4 THE USE OF A RESEARCH INTERVIEW AS METHOD OF DATA COLLECTION

According to Gochros (1981:255) interviewing is regarded as being at the core of social work practice. In social work this is the most used tool to gather information – whether on the family and problems experienced or in dealing with these problems. In the research situation therefore, this is the tool that is best known to the social worker and the tool the social worker is most comfortable with when conducting a qualitative study or in order to collect data. In order to use this tool, the researcher must be familiar with techniques of questioning as well as the purpose, if useful data is to be obtained.

In research of this nature, where sensitive information is gathered and questions of a sensitive nature are posed, semi-structured questions appear best suited because answers to questions cannot be avoided and an interview guide is used. According to Huysamen (1994:144) this type of interview is suited to sensitive topics as well as when respondents come from divergent backgrounds – it is for this reason that this particular tool was chosen. The flexibility and adaptability of this type of interview make it useful and it was found that when asking a certain question, participants often covered many other aspects so that some of the questions did not have to be asked.

Semi-structured interviews allow for probing should responses be vague and more information is needed and with the flexibility this method permits to change the sequence of questioning, allows for free discussion of issues. The interview is more like a conversation and is not formal (Hall & Hall 1996:119), while the interviewee can ask for clarification if the question is not clear. The researcher regards this factor as valuable to assist in creating an informal environment especially where sensitive questions are asked. In this manner a high quality of response can be ensured. A further advantage of the interview is that it can take place in a natural environment and these interviews were conducted in an office in the workplace – however care was taken that no interruptions could take place. There was no telephone and a notice was placed on the door requesting that no one interrupted.

It is envisaged that through this study, knowledge will be gained to inform on the experiences of social workers in the role of the intermediary.

Interviews with the social workers were conducted individually due to the sensitivity of the questions calling for exposure of feelings, as well as to ensure privacy. At the time of planning the research, all interviews were to be conducted in English, however, 4 social workers had moved away from East London and participants replacing these social workers preferred to be interviewed in Afrikaans. Questions were therefore translated

with great care to maintain the same meaning, by giving them to the Senior Prosecutor to peruse for accuracy of meaning and to add to reliability.

Questioning was based on an initial open-ended introductory question on experiences as an intermediary. Literature on this topic is limited in this country as well as internationally, as the system introduced in South Africa is a first in the world. Literature available centers on the child witness and criticism on the adversities thereof. Although literature on this topic is limited, the chapter on the literature review formed a large part of the research process.

It was felt necessary to introduce themes along the lines of feelings around coping mechanisms while performing the intermediary role. It was found that each participant had something new to add to the contributions of the previous participants.

All interviews were face to face for the specific purpose of observing reactions such as "tone of voice, facial expressions"(Bell 1996:91) and body language which could provide valuable added information. An interview format was chosen for this reason, as well as because of the adaptability and ability to react immediately to responses received. The questionnaire does not have this advantage as some questions possibly need to be clarified on the part of the participant and if not clarified, are ignored. Open-ended questions allow for answers to be given in greater depth while the participant is able to express his feelings to the extent that he feels comfortable.

Close attention was paid while interviews were tape recorded with questions asked after the participant related her response if the particular information sought from following questions had not been forthcoming.

Interviews were transcribed prior to being given to participants to view, to ensure that transcriptions were accurate. Bell (1996:96) states that should transcripts or quotations be used they should be verified in order to avoid reporting being challenged.

The researcher believes that themes covered were appropriate to serve the purpose of this study.

3.5 **DATA ANALYSIS**

From the point that data collection started, the researcher started analyzing the information given by the participants for meaning and to match themes that emerged. After transcriptions from the recorded interviews were completed, the researcher started to code these to easily identify themes, which related directly to the questions asked.

It has been mentioned that ten interviews were conducted. After conducting and transcribing five interviews, an early analysis was carried out in order to evaluate what gaps there were in the data collection process. Subsequently the same process was then followed with a further two interviews prior to concluding the remaining three interviews.

It was explained to the participants that interviews would be tape-recorded. The reason given for this was that the exact words used by the participants were needed and writing down an interview would be time consuming as the interviewee would have to keep to the pace of the speed with which the interviewer wrote – this would slow the interviewee down considerably and be taxing on both the interviewer and the interviewee. Their permission was obtained to do this and also to write down brief notes during the interview. Participants were informed that the researcher would transcribe the interviews personally.

Brief notes were taken in some cases where the researcher wanted to return to a response in order to clarify a response or to confirm what had been meant. This was done rather than to immediately ask for clarification and possibly interrupt the train of thought of the

participant. Transcription of interviews was time consuming due to the rewinding of tapes when the tone of voice dropped.

Participants had been assured of confidentiality and the researcher transcribed all interviews personally to maintain the confidentiality. This had the advantage of identifying certain themes in the given information while transcribing. Bell (1996:96) says in this regard that taped interviews can take approximately ten hours to transcribe correctly. However the benefits of the tape recording over writing interviews as mentioned, outweigh this time-factor. If the interviews had been handwritten, observation would not have been possible. It is regarded to be of cardinal importance that notes are accurate and with this method of re-listening to the interviews several times, it could be ensured that transcripts could be as accurate as possible. Re-listening to the tape recordings also offered an opportunity to gain a better understanding of what the participant had experienced - what Miles and Huberman (1994:6) term the "Lebenswelt" – thus viewing the experience as it fitted into the life situation of the participant and gaining the "essence" of the meaning. Summaries of notes were only made after repeatedly reading the transcripts with notes being made in the margins to highlight themes and feelings which showed similarity in responses, in order to identify and summarize generalities.

The researcher was mainly guided by the coding steps used by Miles and Huberman (1994:56-65) because it seemed practical to be able to immediately identify themes or responses when viewing the responses given by the participants and compare similarities.

The method of data analysis proposed by Tesch (1990: 142 - 145), describing eight steps was used in this research as a guide as it appeared logical and practical and the researcher felt comfortable using this method. This method was however not rigidly followed as the researcher used her own method of summarizing data from the transcriptions of interviews onto A-4 paper and then onto a card system, with a separate summary for each participant. This was a method of control and by following this process the researcher felt

comfortable that no data given by the participants had been left out. The researcher found it easier to start with the coding system as corresponding themes were immediately identified on each transcription. Transcriptions were read through in the order the researcher had conducted the interviews, viz A - K and each transcription was coded, using the coding steps as suggested by Miles and Huberman (1994:56-65). The alphabetical indicator I, was changed to K, due to confusion with "I" as referring to "me". After transcription of interviews, the information was read through to gain a sense of the whole, subsequent to which lists of the questions were made and information gained from the participants was summarized and then condensed accordingly. The process of condensing was performed with great care so as not to exclude any information that had relevance to this study. With words and topics having been abbreviated into a coding system, it helped to meaningfully dissect the information, and then record it onto theme cards. Codes were entered down the right hand side of the transcription, while on the left side, themes were indicated. Responses from participants were assigned according to their alphabetical indicator (A - K). Cross-referencing of themes was also indicated on the theme cards.

Miles and Huberman (1994:10-11) refer to 3 components of data analysis, namely

- (i) "Data reduction" which is a process of selection and focus of data while at the same time transforming the data. This process continues throughout the study and starts even before data is actually collected, when deciding on the framework within which the researcher will ask questions.

In this way data is organized to reach conclusions and thus is part of the process of analysis, however the researcher remained wary of condensing in order to not lose main themes.

- (ii) Data display and conclusion drawing

Displaying data is part of the process of analysis. Data was condensed after transcription and recorded onto theme cards – in this way, themes could be easily identified and interim conclusions could already be drawn.

(iii) verification

The third component involves drawing conclusions and the researcher begins to decide what the data means in view of regular themes and the patterns that emerge.

Miles and Huberman (1994:277) question verifying data with relation to how one would know whether the findings are valid and reliable. It must be borne in mind that the responses were from real life experiences and have had real consequences in the lives of these participants. What they have stated must thus be taken and accepted at face value. In this study a number of responses agreed with available literature, however the lack of literature also proved a disadvantage and did not cover all the areas of the study.

Douglas (Miles et al 1994:168) stated that irrespective of trust being established, people have a reason for omitting, selecting or distorting data, and may even have a reason for deceiving the researcher and themselves at times.

3.6 **LIMITATIONS**

The study was carried out in the urban area of East London, with ten participants who were the only intermediaries at the time of the study who had experience in this work. The sample was confined to ten participants and the results can therefore not be generalized and no view can be expressed concerning the rural situation.

Bell (1996:95) warns the researcher of bias being present while Borg in Bell (1996:95) stresses that the participant may have a need to satisfy the interviewer to the extent that

there is a tendency "to seek out answers that support his preconceived notions". However, Bell (1996:95) stresses continual awareness as well as self-control.

Some of the participants were more in touch with their feelings than others and should the interviews have been conducted in their first language, they may have been better able to verbalize their responses.

The researcher also found that in some interviews the temptation to assist the interviewee with an answer, was strong, but had to be controlled. This happened when the participant appeared to become emotional at recalling experiences with the children. Brannen (Lee 1993:105) says in this regard, that while conducting interviews the interviewer may want to help but the motivation for this must be questioned. Lee (1993:105) states that sensitive topics do manifest distress in respondents, which the interviewer must manage to deal with. The temptation was also strong to "counsel" when a participant criticized himself for not translating questions correctly – however he was reminded that the non-conviction was not his fault – and that he had to be objective.

Only one interview was conducted with each participant, apart from checking with him or her that the transcripts were correct. Although there were similarities in responses, there were also differences in the responses.

Literature was not available on all the aspects covered and comparisons could not be made with other research results.

3.7 ETHICAL CONSIDERATIONS

University guidelines on ethical considerations were adhered to. The goal of the study was to generate knowledge on the role and experiences of the social worker while acting as an intermediary in the courtroom, with the initial motivation being the concern that social workers did not want to continue performing this role, as well as the possible need for a revised training programme. I explained that participation was voluntary, that the format of information gathering would be through interviews which would be tape recorded, names would not be divulged in the feedback of data and that interviews would be conducted individually in private to protect confidentiality.

It was stressed at the outset that literature on this topic was gravely lacking because the service was relatively new and that participation would be extremely valuable in partly filling this need to generate new knowledge. I also informed participants that they could request a copy of the report when finalized should they wish to do so.

The researcher feels confident that this system can benefit the child witness, but sustaining this belief will depend on the knowledge gained through this study. Social workers generally felt that no rewards were gained in this role but they could be assisted through this study by way of a programme specially built around their needs, with possible additional training or debriefing with a view to rid the social worker of the negativities experienced and cause them to be less judgmental of their feelings of personal failure.

3.8 CONCLUSION

This chapter dealt with the manner in which the research was conducted and mentioned some of the problems which manifested themselves. However, they appeared typical of what is experienced in a study of this nature, of exploring experiences and feelings. The

data is based on responses from the questions asked on the experiences of the participants.

The feeling however is that this study could be replicated, even though it would seem that as already mentioned, the research could have been conducted in more than one manner.

CHAPTER 4

PRESENTATION AND DISCUSSION OF FINDINGS

4.1 INTRODUCTION

This chapter presents the biographical details of the participants followed by the data collected during interviews conducted with the ten participants as well as an analysis and discussion of the data and the relation to the limited available literature. It is stressed by De La Rey (1997:159) that although media reports on sexually violent acts are reported at an alarming rate, not much has been done by way of academic or research activity. Factors that are barriers to the service delivery, as well as the positive areas in the service as identified by the participants, are discussed.

The structure of this chapter corresponds with the format of the interview schedule, with responses grouped according to the themes that emerged.

4.2. BIOGRAPHICAL DETAILS

a. GENDER

All the participants in the research but for one, were female. These ten participants were all social workers who had acted as intermediaries in East London.

b. CURRENT FIELDS OF SERVICE

The intermediary service is only one aspect of the work the social workers do and they are employed in various fields as follows:

Welfare Funding and Development (3), Statutory Services (1), Probation Services (2), Field Work (2), Canalisation (1) and Acting Head of Office (1).

c. CURRENT RANKS OF EMPLOYMENT

The ten participants constitute three social workers, four senior social workers and three chief social workers – thus all experienced social workers.

d. AVERAGE YEARS OF SERVICE

The average years of service of the participants was 9,8, ranging from 5,5 years to 15 years - in most cases thus far longer service and experience than the requirement of two years as stipulated in the Act.

As mentioned in chapter one, to qualify to be an intermediary, the social worker had to have completed two years experience as a social worker, prior to partaking in the service. Participation in the research was voluntary.

4.3 TRAINING RECEIVED PRIOR TO BEING AN INTERMEDIARY

Eight social workers (A, B, D, E, F, G, J, K) received training in preparation for the role of intermediary prior to acting in this role, while two social workers received no training prior to being an intermediary.

Participants A, G, J, and K attended a workshop, which J referred to as a “one off training” session and K found “a great help”, involving procedures around the intermediary service. This workshop was also attended by participant H, however only after he had already acted as an intermediary. Prior to this he had “observed” social workers from the Department acting as intermediaries. Involved in this training session was senior staff from the Department of Welfare and a prosecutor. The role of the magistrate was explained as well as what the role of the intermediary entailed and what the expectations were from the prosecutor. During a role-playing session, social workers took the role of the intermediary while a prosecutor posed questions in the manner in which it was performed in the court. Theory and practical were combined in this session. Criticism of this session by participants (A, B, D, E, F, G, J, K) was that it was not sufficient training as the court process is stressful for the victim as well as for the intermediary and the intermediary must of necessity be well equipped and must feel comfortable in this situation (J).

Knowledge gained from this session according to the participants:

- one had to be objective (A)
- to distance oneself from the emotions of the child, procedures in court, what one must do and not do and what happens in court, not to talk to the child before the time concerning the case, get to know the child before and establish what the level of development of the child was (B)

Participant B attended a 2-day course, involving theory on what the intermediary service was, the necessary skills needed to conduct the service and what forms of abuse were taking place. The practical aspect was a visit to the courtroom used by the intermediary, an explanation of how the camera and the microphone worked, who attended the court and how to prepare the child for the court appearance and proceedings. As part of this training, a mock trial was held where a magistrate, prosecutor and an attorney posed questions as they had first hand knowledge of this legal area. The social

worker stated that after completion of this, she knew immediately what was expected and how the system worked.

According to participants D and E, they were “briefed” with regard to training, while participant C stated that she had no actual training but was “sat down” by the coordinator - all three these of participants indicated a very short training session, which would seem was rather an orientation, than an actual training session. Court procedures were explained subsequent to which C was referred to an intermediary who had experience in this service, to be further enlightened on this role, as well as what actually happened in the court, which problems arose, for example, postponements and the kind of questions that were asked in court so that she would not be shocked when attorneys and prosecutors directed their questions at the child witness. She went to court with the understanding that she was acting as a “moral support person” for the child witness. Briefing for D entailed how sensitive it was to talk about sexual organs and experiences, even if they were not bad ones and she stated that “... it’s very difficult to talk about something personal to a stranger “ and one had to think how it must be for the person to talk to a stranger about these things. She stated that even if it was just an exercise to talk to the person next to you, you did not feel free to talk about these issues. The briefing E had, was done by a person from court who talked broadly on legal aspects and then briefly on social work aspects. E was fortunate to go to Cape Town for one day where she was trained by an intermediary who went through the contents of the workshop offered there, with her.

Participant F attended a 4-day course in Pretoria, which she described as intensive and which focused on the developmental needs and stages of children as well as the role of the intermediary. Hammond (1987:4) states in this regard that concerning linguistic ability, a child is at a disadvantage compared to an adult and for this reason an intermediary should interpret for the child - on the premise that the intermediary is knowledgeable about the developmental stages of a child. This participant who received

the most intensive training of all the intermediaries included in the research study, stated that she still required follow-up training on skills to pose questions and how to cope with her own emotions as this had not been covered.

Skills that Schoeman (1994:42) regards as necessary to perform the intermediary service and thus feels that each intermediary must possess, are the following:

- The social worker must have knowledge of child development throughout all the phases of his life and be able to determine age appropriate behaviour.
- The social worker must be empowered with sufficient knowledge to understand the functioning of the child and identify developmental tasks in behaviour
- The knowledge to understand and respect the behaviour of the child in the court situation is a necessity.
- The social worker must be able to evaluate the spatial- language- memory- fantasy- and reliability skills of the child and give appropriate feedback to the child as well as to the court officials.
- The ability to gain the trust of the child in order to be able to get “close” to break through his/her emotional hurt within a short space of time in the court situation.
- The social worker must serve the court without bias toward either the court or the child. When information is conveyed the social worker must be objective and clear.
- The response of the child must be predicted by the social worker in terms of age while stimulating the child to give the correct information.

Two participants (E, F) underwent training in the period between 1994 to 1996 (they were not sure of the year), while three (A, B, K) were trained in 1996, another three (D,

G, H) in 1997 and two (C, J) in 1998. No intermediaries were trained over the last year and none of the intermediaries received any follow up training.

The needs for training expressed by the social workers as necessary for them to render the intermediary service centred around the following:

- A refresher course to express and discuss problems, practical, theory and time management with the participant requesting more theoretical training as one gains practical training while performing the duties of intermediary (A)
- Training on questioning skills and how questions must be interpreted, especially in view of cultural differences with the use of words that are difficult to interpret, theory on how to handle difficult children, for example quiet children or the more talkative ones (B). Goodman (1993:14) stresses that interviewing skills are necessary to build rapport quickly and also to get from the child the most “accurate and complete” information. The skill to question in a specific manner is necessary in view of the sensitivity of this crime.
- Information on new acts or policies, the need for teachers to be trained because children develop relationships with teachers at school and the teachers could be intermediaries, rather than the children having to form new relationships in the court situation with strange social workers (D)
- Although it was possible to read up on new things it was easier to be physically trained, especially about the developmental stages of the child, how to work with smaller children and working with mentally challenged children.

Some of the respondents drew attention to knowledge areas highlighted by Schoeman (1994:42) and Dürr Fitchen (1993:3) with reference to developmental stages relating to the child:

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- Information of what the court expects from the intermediary, dynamics of what a person or a child who is raped experiences as well as post traumatic stress disorder doing assessments on small children (D).
- Skills on how to cope with your own emotions (F) This pre-requisite was stressed by Dürr Fitschen (1993:3) in the literature review.
- Group support once in 2 or 3 months to discuss problems which emerged and persons with more experience could say how they handled the situation - it is felt that this would also improve the system (K).
- Additional training would improve the confidence of the intermediaries (J).

4.3.1 GENERAL FINDING

Careful consideration must be given to the training needs as expressed, to cover all the aspects mentioned. Training must also be completed prior to actually entering the court to function as an intermediary.

When analysing the training these social workers were exposed to, it is quite apparent that a mere briefing or information session is not sufficient, while the adequacy of even a workshop, with information only being given, does not seem sufficient.

It is apparent that some of the participants were actually ill prepared for their new roles while others had the advantage of intensive training. It is quite evident that none of the training received was adequate and that all ten participants should be included in a follow-up training process as soon as feasible. Training in terms of the legal requirements and preparation in dealing with the legal aspects did not form part of the “briefing” D had. Also lacking was preparation in dealing with the child in the court situation while the researcher feels that this is the most important aspect of this service

and if the social worker lacks training in this area, he/she will not be able to perform the role of the intermediary in a manner which is to the benefit of the child, nor will the social worker feel that the duty is performed in a professional way, but rather feel that he/she has failed.

The training programme however demands careful thought and preparation if it is to provide training for all the intermediaries and be adequate to equip them for their role.

The training H received did not prepare him for his role, as the skills he needed to cope in the court situation, were lacking. With regard to A and B, it must be concluded that the expectations set to the intermediaries, lacked the “how” of achieving what was expected from the intermediaries and left them ill equipped to deal with the expectations that were set.

At the time when participant C was roped in to assist, there was a shortage of intermediaries. However, it was not in her interest or that of the child to enter the court situation professionally ill-equipped for this task – being “sat down” was the only “training” that she received and her view of her role was to be a moral support person only, while in actual fact this is a most demanding role, requiring active participation and knowledge which a social worker does not normally have, unless specifically trained in these areas. Unrealistic demands were thus made on the intermediary to act in this capacity without the necessary preparation.

The lack of follow-up training is seen as a negative factor for future handling of, as well as coping with cases and many areas necessary to function in the capacity of intermediary. For example handling one’s own emotions never formed part of any training. The fact that none of the intermediaries had follow-up training, especially in view of them identifying this as important, highlights the need to provide the necessary training. Both Schoeman (1994:42) and Dürr Fitchen (1993:3) have mentioned the importance and necessity of training stating what the required skills were felt to be. The

problems manifested by the participants coping without the benefits of follow-up training, further highlight the importance of adequate and relevant training.

All the participants have a need for follow up training and it is felt necessary that all the intermediaries need to be subjected to a uniform training programme, which includes all aspects of court procedure, preparation for their role, dealing with emotions and comprehensive knowledge of the developmental needs of children, including the child with special needs, developing insight into cultural differences and how to cope with all the aforementioned. The social workers who have rendered this service must also be involved in the process of decision making around what should be included in the training programme, based on their experience and the areas in which they have felt that they lack expertise.

This training should take place as soon as feasible, with inexperienced intermediaries completing the training programme before they perform the role of an intermediary.

Despite being poorly prepared in most cases, these social workers have persevered and relied on their own resources to render the service in an attempt to bring the culprit to task and to make the court experience easier for the child.

4.4 EXPERIENCE OF SUPERVISION

None of the ten participants received formal supervision.

According to seven of the participants (A,C,F,G,H,J,K), experiences were related to whoever was available in the office after returning from the court. The “available” person generally was a colleague and it was remarked by participant J, that colleagues

would not always be available and this was the reason why a supervisor should be available. Other assistance was sought by speaking to the trainer or getting ideas by going to court and observing what happened during an intermediary case (G).

There were no supervisors available who had been trained in intermediary services. The participants stated that very few supervisors had attended training during 1994 - 1995, and no supervisor had practical experience as an intermediary. Participant E was the only trained person in East London during 1994 - 1995 and had to render the service on her own initiative without supervision and without any other intermediary who understood what she was experiencing and who could support her.

Statements made were that a supervisor would be helpful in order to unburden, while participant H remarked as follows, "it is frustrating and worrying without supervision as the social worker is used to being supervised". It was further felt that the supervisor gave feedback on coping and progress, whether the social worker was developing, how the case was going and also how the child was doing. From this statement it is obvious that there is a need for recognition of work done and also a need to know whether progress was taking place, highlighting the fact that social workers do rely on a supervisor.

Other responses (D,F,G,J,K,H) were, "that telling whoever was available, would help to get it off your chest, there was a need to unburden because the intermediary work was very emotional and thus draining, and one had to be strong and objective and could not get involved". Telling colleagues meant that they would try and motivate each other and look at strategies to cope with cases still to come, according to participant H.

One participant held the view that intermediaries need not be supervised but had to take initiative in this service, however at the same time feeling that it would help to debrief after cases had been dealt with (D).

4.4.1 GENERAL FINDING

The intermediaries relied heavily on colleagues to be their support system. The presence of a supervisor who had been trained and also had experience of intermediary functioning would have filled this need by giving the necessary recognition and encouragement, feedback on progress and as a result, boost confidence. The appointment of a supervisor must be emphasised as I feel that colleagues who have not functioned as an intermediary, do not have first hand experience or knowledge on the role played and could not understand just what the intermediary felt after a case and if one had not personally experienced the functioning of the intermediary in the practical sense, one would not know how draining or emotionally disturbing it was. It is therefore surprising that the intermediaries coped as well as they did, without adequate understanding, debriefing opportunities and recognition of their services.

4.5 EXPERIENCES WHILE ACTING AS AN INTERMEDIARY

Responses to this question varied between personal feelings, the court situation and a focus on the child and will be dealt with in that order.

4.5.1 PERSONAL

Feelings of anxiety at not knowing what was expected at the initial court appearance as an intermediary, were expressed by participants (A and D) while doubt and uncertainty at their own ability was expressed by (A and H). One participant, (A) for example, did not know if she would be able to control her feelings of emotional involvement as during the training it had been emphasised that the intermediary could not become emotionally

involved. Comforting the child was expressed as “emotional and tiring” by D who was, traumatised after the trial as a result of the strong feelings of empathy for what the child had been through and participant D stated that even as an adult, she would not have been able to handle this situation, also feeling that it was unfair on the child if the perpetrator was acquitted, because the court felt that the child was an unreliable witness because of being scared to face the accused when having to identify him. However, the skills to control emotions had not formed part of the training.

Had the training been adequate initially and possibly according to the requirements set out in Chapter 1 by Dürr Fitchen (1993:3), the intermediaries would possibly not have suffered these uncertainties, but would have been more confident in performing this role.

One participant (A), found the repetition of questions to be boring - such as when the legal fraternity kept repeating the same question - “what do you mean by rape?” She also felt ambivalent because of the trauma she witnessed the child going through. This made the intermediary doubt that reporting and encouraging parents to report cases was the right thing to do. It would seem that two participants (A, C) experienced what Zieff (1991:34) referred to concerning cross-examination of children, that it “is nothing short of brutal” with the concomitant process bringing out “grotesque facts” and all the minute details of the actual sexual abuse. Even as an intermediary while helping the child to speak about what had happened you needed to “be brave” (C), and it was stated by the intermediary, that she felt that for a long time the children failed to give proper evidence because they were threatened by the “atmosphere” in the court as well as the “kind of questioning” - which was frustrating - and asking the questions in a normal way was what the intermediary felt she was required to do. Swanepoel (1991:59) emphasises that the main problems concerning evidence of the child witness are seen against the background of the child being petrified of the accused – this influences the evidence with a very young child not able to verbalise experiences and while the medical certificate proves rape, it does not state by whom.

Satisfaction at being able to help the child was voiced (B), with dissatisfaction at not knowing what happened to the case subsequent to the intermediary being involved, because the court did not notify whether the accused was found guilty or how the case was resolved, with feelings of disappointment expressed as no one appreciated what you did and no one thanked you.

Although a participant (F) felt that this was a “rewarding” service, it was at the same time regarded as “very tiring” but still a good experience, calling for patience toward the court because of repeated postponements. An intermediary (G) commented that she found it fairly easy work with teenagers who, being older, had a better understanding of the questions as they were asked and she thus did not have to translate for them.

Communication with older children was generally found to be easier because of this, while the younger children were more demanding as the questions had to be changed to their level (E,F,G). Schoeman (1994:4) stated that it was expected from the intermediary to put questions to the child as simply and understandably as possible.

Questioning within the context of sexual abuse in the court situation, however, is a skill that the intermediaries will have to be taught in order for this to be a less demanding task.

Frustration was expressed (H) at dealing with children, but it was felt that it helped once one understood how to deal with them in this situation. The intermediary had his doubts that it was the correct thing for a male intermediary to deal with girls and felt it took time for them to adjust to a male, but he had not had any problems thus far. He had consulted with his female colleagues who assured him that if the child was comfortable and he felt confident working in this situation, then it was in order. He was prepared to face any problems in the future should they arise, concerning female witnesses.

Due to a lack of training, a participant (J) did not feel comfortable with the rendering of service and her experiences resultantly, were not positive. Despite this, she felt that her presence was essential for the child, but she had to be equipped for the role. Participants (J, D) voiced that an expectation from the intermediary, was to make the victim feel at ease, comfortable to answer questions and create a relaxing atmosphere thus enabling the child to tell of his/her experiences. Muller (1998:434) says in this regard that a child victim may not be able to recall the details in the threatening environment of the court, especially if the alleged perpetrator is a relation or a family friend. Resulting from this the credibility of the child as a witness is doubted immediately and if medical evidence is lacking, conviction will fail. Meyers (1992:65) is of the opinion that young children do possess the necessary memory skills to describe events, providing the atmosphere is supportive.

4.5.2 FEELINGS RELATING TO THE COURT SITUATION

A participant (A) felt that this was a demanding service as the court expected the intermediary to translate from English to Xhosa and then from Xhosa back to English. She however pointed out to the court, that they had to make use of an interpreter for this purpose. It is a requirement of the court that an interpreter is on duty on a daily basis and should thus perform the translating function. Her frustrations were further enhanced by the continual postponements of cases and the fact that the intermediaries felt that attorneys prolonged cases by failing to appear on the court day, while short notice was given by the Department of Justice prior to cases when an intermediary was needed. The solution offered by Key (The Star 1988:3) to the long delays by attorneys, was that if legal counsel of the accused's choice was not available, the accused must be obliged to obtain a lawyer who was available. With regard to long delays, Swanepoel (1991:59)

states that prolonged court proceedings prolong the crisis for the family. When an intermediary was suddenly informed to report at court, they could not prepare sufficiently and had to leave whatever they were busy doing to attend the trial. The intermediary (K) felt that this was bad planning on the part of the court that could make sure that they knew timeously that the intermediary was needed and would be available - this would also ensure that cases were finalised sooner. From this it appears that it is necessary to define the role of the intermediary in conjunction with the Department of Justice to gain clarity on their expectations.

Concern was expressed by an intermediary (A) that the court did not care about children, as they were not concerned when the children got tired or were exhausted. It is felt by Dürr Fitschen and Pledger (1993:3) that it is the task of the intermediary to inform the court when the child tires while they do however state that it is not easy to detect this. Communication on the part of the court was lacking according to participant C, as court officials did not phone back to inform the social worker whether the case was coming on or what was happening. This was disturbing as the social workers could not plan further and had to just sit and wait.

Frustration was caused by not knowing what the court expected. According to Watney (1998:434), it would appear that the court decides how to employ the intermediary. This may be the reason for the aforementioned frustration, as courts differ in their application of the procedure depending on the presiding officer and court officials. It was commented by a participant (G) that she found the criteria set by the court as to whether a child witness was able to give evidence in court, to be too high.

The child must be able to distinguish between a lie and the truth, as well as distinguish between colours. Watney (1996:444) mentions in this regard that a child witness must impress as honest as the goal of the adversarial system is to gain the truth. According to Van der Vyver (1979:466) a prerequisite for a child to give evidence is whether he/she

can distinguish between the truth and a lie with the other factors that are assessed being the intellectual level, honesty, observancy and the nature of the evidence. The cautionary rule should also be applied, namely the possibility that the child may fantasize or give an inaccurate version of a situation. The reality of the situation is that a number of children living in rural areas do not attend pre-schools and thus are not exposed to colours and do not get the necessary stimulation from their parents, teaching them these basics, at home. However, despite these shortcomings, the intermediary performing the assessments, was of the opinion that the child was capable of giving evidence of what had happened to her. The results of the research undertaken by Muller (1998:455) with regard to the lack of knowledge children have of abstract concepts, implies important consequences for the way in which examinations of competence are conducted – but this does not imply that the child cannot give evidence as to what his experience of sexual abuse was.

The Justice system was not found to be empathetic by an intermediary (H). He felt this to be a negative factor, as it did not bring out the best in cases because of the manner of questioning. Spencer and Flin (Hall et al 1993:179) state that the reliability of evidence of a child depends on the manner in which the child is questioned. The view of Goodman (1993:15) in this connection is that the language used to question a child, especially “legal” usage, is confusing and that age-inappropriate questions, affect the accuracy with which a child gives an answer. Children were the prime targets of defence attorneys during the 1980’s and he further states that defence attorneys will continue with their efforts to undermine the child witness as this is the most important witness and as such the credibility is undermined. This statement bears out the experiences and information given by the participants. The intermediary felt that a vision had to be established to translate questions and the message of the court to the child and then translate the response to court. It was felt that this questioning process did not suit the Xhosa culture because this particular culture did not name things as they were and did not discuss sexual issues openly. De La Rey (1997:161) supports this

statement in saying that from a cultural perspective, the African child lacks essential knowledge of sexual activities because open discussions on sexual matter are inhibited. These issues are in fact termed embarrassing.

The male intermediary was questioned by the magistrate on how he could conduct the intermediary service being a male - the apt reply given by the intermediary was that both the magistrate and the attorney happened to be males and that was not regarded as strange.

4.5.3 EXPERIENCES FOR THE CHILD

Of concern was the repeated questioning (A,C,K) the child had to face as it was felt that this only served to repeat the rape experience for the child while repeated postponements were emotional for the child as well, even though the intermediary was there to support the child. Swanepoel (1991:59) states that the victim has no privacy and has to repeatedly give evidence of a very sensitive nature to strangers which is humiliating and threatening. The intermediaries (J,K) felt it was good to know they could help the children, as the children were more relaxed with them and they had noticed what fear the children had of being alone in the open court . In the camera room the children were more open and could talk with greater ease and share more about their situation than in the open courtroom. Swanepoel (1991:59) says of the open courtroom that the victim of abuse is often lost within this impersonal system and the trial and cross-examination can be as serious as the act of abuse.

The fact that cases took so long to come to court and to be finalised was felt to be very unfair, (A,K) because children could not recall in detail after such a long period of time had passed. The long waiting periods and repeated postponements were strongly condemned by the social workers who found it unacceptable that attorneys did not arrive at the court when they had to appear on a particular date, with the trial then having to be postponed – the effect of this is that the child does not remember so well what took place. According to Terdiman (Antze et al 1996:xxiv), the memory acts in the present to represent the past, but an intrinsic characteristic of the memory is forgetting.

Antze (1996:1) stresses that trauma has the effect of suppression, reconstruction and different cultural idioms on the memory.

4.5.4 GENERAL FINDING

The lack of adequate training has manifested in the above responses with questioning skills regarded as especially important to fulfil this role - in view of the fact that communication with younger children was found to be demanding because the questions had to be changed to be understood.

It would be a great step in the right direction if a specific magistrate and court officials could be appointed for this purpose only, as the intermediaries could then approach one court, know the officials and their ways and have a centralised point from which to enquire what was happening and also have a regular contact person. Magistrates all differ in their approach and should a uniform approach exist, it would make it easier for the intermediary. In addition to this it would be helpful to the intermediary if a system could be introduced with the necessary staff, such as a clerk, appointed to do administrative duties for example to follow up after cases, to record what the outcome of

a case was. Social workers could ascertain what they wanted to know from this centralised point and would not have to go backwards and forwards to the court to establish what was happening, but could get on with other tasks in the time that they were doing this. A fully equipped section would add to making the intermediary functioning more professional.

Another major concern is the lack of a supervisor. In this regard, the researcher feels that the appointment of a supervisor who could address the problems the intermediaries have experienced is necessary. For example, the supervisor could be available after cases to discuss the experiences of the intermediary during the case and assist with working through any doubts, or in the case of participant H, assist him with skills in working with girls. The supervisor could render a valuable contribution to give recognition, for instance, to participant B who felt that no one appreciated what she did or said thank you, by recognising these feelings and giving the necessary credit for the work done. The appointment of a permanent supervisor is thus seen as an urgent necessity and should be attended to as a priority appointment.

It has already been said that children find the court appearance stressful and traumatic. These feelings, coupled with the long periods of waiting after the case actually goes to court, of necessity have a negative impact on the child so that the picture of the abusive situation must be tainted as far as peripheral facts are concerned. If the children have repressed the actual abusive situation, one can understand how painful recall must be when these traumatic incidents are now forced to be called to the conscious mind after a long period of time has lapsed or being reminded of the event every time when going to court if cases are continually postponed.

Participant A dealt with her discomfort immediately by informing the court that she did not perform the role of interpreter and in doing this, prevented a recurrence should this

presiding official take the bench. This factor should possibly be communicated to the Department of Justice in order to inform all staff as different magistrates take the bench and are then not fully informed.

The necessity of defining the role of the intermediary in conjunction with the mentioned department is highlighted by this issue. In this way clarity will be gained on the expectations the Justice Department have of the intermediary and the situation can be clarified for the social worker performing the intermediary role.

4.6 MOTIVATION FOR DOING INTERMEDIARY SERVICES

The motivation of participants B and E concurred, namely that this was a new service and therefore they were interested in learning to be intermediaries, while participant E said she was requested to do intermediary work but also showed an interest in the service, was willing to learn something new and she felt that ultimately it was of her own free will that she undertook to perform the service.

Participant A stated that her reason was “for the sake of the child I should be there” and “I’m always thinking of the child” while participant C stated that she went with the understanding that she was a moral support person for the child witness and for this reason she was willing to help out.

Participant F responded that she was asked to attend the training course, but she was not opposed to becoming involved in this service. Participant D gave as motivation the fact that she was told that there was a shortage of intermediaries. According to participant G a list was circulated by the co-ordinator at that stage to the social workers, to indicate who wanted to do intermediary training and at the training she indicated her interest in this service.

4.6.1 GENERAL FINDING

In summary therefore, the social workers were eager to learn new aspects of the social work field and also had the interests of the children at heart by committing to being intermediaries even if only to morally support. When there was a shortage of intermediaries, the social workers manifested an eagerness to assist.

4.7 FEELINGS COMMONLY EXPERIENCED WHILE PERFORMING INTERMEDIARY SERVICES

Diverse feelings emphasising the individuality of the social workers, were expressed. The researcher found these feelings to be important issues, affecting the future of this service and having a bearing on the motivation to continue rendering the service.

Feelings shared by the participants were:

Ambivalence at encouraging the reporting of sexual abuse and then seeing what the child went through caused the intermediary to wonder whether it was worth reporting (A).

There was a response that observing what the child witness went through, caused the participant (J) to feel powerless and she questioned whether it was really necessary that a person had to be exposed to this negative experience. The opinion of Muller (1998:448) with regard to this aspect is that the victims of sexual abuse or rape "... experience a second victimization" during a trial as the victim is required to detail the abusive act in an open court and is therefore put through a gruelling cross-examination which results in

high levels of stress, anxiety and fear. While she did not feel humiliated herself, she understood how humiliating it must be for the person in the situation.

Participants (B,F) agreed that nervousness was experienced at knowing what was expected (B) and realising that if the incorrect interpretation was made the case could be thrown out, while realising the importance of helping the child to be a reliable witness. Questioning whether she was capable of doing intermediary work also caused nervousness (F) with a further factor of finding it traumatic working with younger children and the younger they were, the more traumatic it was as there was “a lot of empathy with the child” and focusing her attention on the child made her become emotionally involved.

Frustration was voiced by participants (B,C, H) - however at different factors, for example, highlighting how differently the social workers experienced their roles:

- The children would not talk when you knew that they could talk (B) - with regard to this Meyers (1992:31) says that it must be borne in mind that children are hesitant to talk at times as they fear getting into trouble, while Hammond (1987:6) states that the court has an “unpredictable effect” on the child – while out of court possibly giving a coherent report on what happened, he will say nothing in the court.

A key point in an article (Speaking out 1998:14) mentioned in the literature where an anonymous person related her experiences having being abused as a child was that abused children have difficulty speaking as the adult world treats the child’s world as unreliable.

- With the court procedure as the prosecutors do not know their duties and the intermediary had to explain the process, the fact that the court did not communicate with the intermediary, for example inform if a case was postponed, there were long waiting periods at the court and the witness had to give evidence

- after 14h00, having been there since the morning - it was felt that this disturbed the routine of the child while the type of questions put to the child was felt to be detrimental (C).
- At dealing with a child as one had to understand a child and be prepared to work with children as the Justice system was not empathetic (H). He also had feelings of doubt at working with girls, but felt that he had managed thus far and with the support from his colleagues, was willing to continue and face problems if they arose. The Magistrate and the Legal Fraternity in court consisted of males so it was not strange to have a male intermediary.

Experiencing feelings of fear and anxiety were expressed by participants (D,G,H) with feelings of being overwhelmed and it was stated that the service was found demanding. Empathy was felt (D) for the person caring for the child who got no counselling and possibly did not understand what the child went through, possibly treating the child harshly if grades achieved were low, if the child wet the bed or other psychological factors were present. With relation to this Lewis (1999:13) stresses that sexual abuse is a horror experience which happens unexpectedly with the child suddenly experiencing trauma – it is thus understandable that without counselling this situation would be difficult to understand. This participant however referred the child to a psychologist who unfortunately could not speak Xhosa having originated from Ghana - the intermediary however did not know this at the time of referral. The latter in turn made a referral to Cecilia Makiwane Hospital in Mdantsane, where the child was engaged in group work for support. There the child could experience that she was not the only one who had had this experience of abuse but could, with this support, move on with her life. This centre would also render a service to the guardian or the caregiver, which the participant found very important. It was stated (G) that the service was experienced as demanding because listening to the court and simultaneously trying to convert the question to suit the level of the child needed great concentration. Coupled to this was the fact that the earphones made a disturbing sound and there were the sounds being made by

people in the courtroom, such as knocking with their pencils, even writing could be heard - this was experienced as disturbing with the people in the court oblivious to these disturbances and failing to realise that because the phone was right in the ear of the intermediary, all these noises could be heard and resulted in broken concentration. The intermediary brought these physical disturbances to the notice of the court thus ensuring that attention would be given.

Fear and anxiety (K) were also experienced as a result of identification with the child's feelings of fear, anger and sadness observed when the child found it difficult to answer questions posed by the attorney and judges as well as when they had to think back on the abusive situation. The intermediary had to think how to handle this while at the same time deal with the scared and anxious child. Swanepoel (1991:59) expresses the view that the main problems concerning evidence of the child witness are seen against the background of the child being petrified of the accused and this influences the evidence given by the witness.

Feelings of fulfilment were voiced (E) even though it was sometimes difficult to control emotions. The intermediary felt that she was protecting the child as she acted as a buffer between the child and the law and in helping the child in this way she felt that she really meant something, especially when the attorney started asking questions. She also felt that she could make it so much easier for the child in the present system, than when the witness had had to appear in the open court and with this system could offer support before and after the trial.

4.7.1 GENERAL FINDING

The researcher realises that no matter how comprehensive the training programme is, the social workers could never be equipped to handle all the situations she/he is faced with, but with adequate training the social worker would be better prepared for this task and feel more confident of being in control of the situation, her own feelings and competencies. The feelings of ambivalence experienced by A, obviously caused her to feel guilty and caused her to feel that she was actually responsible for the trauma the child went through, while simultaneously feeling that reporting was correct if the culprit had to be brought to task. The fact that the intermediaries could divorce themselves from the situation while empathising with the children and coping with their own feelings by concentrating on the child, displays the skill of objectivity on their part, helping them maintain control and act in a professional manner, doing their best to assist the children to be efficient witnesses - however using repression to handle whatever they felt is a coping mechanism which should have been dealt with during a debriefing session after finalisation of the trial.

It is quite apparent that the intermediaries must possess strong coping mechanisms and also use their initiative to deal with situations as they arise - as K did. It could have profound effects on the children and the outcome of the trial, should they not be able to handle these situations.

It is felt important that the training offered to the intermediary should include an understanding of child development and how children react in different situations,

especially in potentially threatening or confrontational situations. Interviewing techniques are regarded as a necessary part of this training. Participant H dealt with his feelings of doubt at working with female witnesses by having discussions with his female colleagues who were able to reassure him that if he did not experience problems, he should continue rendering the service. He thus made a concerted effort to deal with his

uncertainties. Participant G immediately tried to resolve the problems she found disturbing and which made her task more difficult, while at the same time resolving the problem in an effort to make it easier for other intermediaries who had to go to court.

The genuine concern that the intermediary (D) had for the child witness and his/her family, was clearly illustrated by the trouble she took to make the referral and when the child did not get suitable attention, a further referral was made, including the person who had the function of caring for the child and would have to deal with the emotional after-effects the child may suffer.

A clear need for recognition was voiced (E) which once again emphasises the need for a supervisor.

I feel that the role of the intermediary is a totally passive role compared to the role the social worker normally portrays, taking a leading role as the manager of the case, being the advocate, giving professional guidance and being in control. The role of the intermediary therefore leaves the social worker feeling powerless at for instance, the "humiliation" the child has to suffer, having to control empathic feelings while at the same time dealing with a multitude of factors as was mentioned, while performing the function of translator of questions.

4.8 MANNER OF COPING WITH THE FEELINGS EVOKED IN THE COURTROOM

Obvious themes that emerged from the participants in response to this question was that the participants regarded professional capability and the controlling of emotions as very important with a participant (A) telling herself to accept what was going on and to try and control her emotions – this was difficult as she identified with the children as if they were her own. Another participant (D) stated that even though she felt it very difficult to cope and treated each case individually, she got a sense of satisfaction at having done something to help someone, such as advise people, because they could then deal with the problem and ultimately it was important to be professional.

Although one participant (B) described herself as a calmer type of person who did not project her feelings onto the child, she felt that her training as a social worker had taught her to repress feelings, which had also assisted her in this work. It was also regarded by a participant (F) as her responsibility “to try and teach yourself” to cope. Having not done many cases she felt that once in a while she could handle the situation.

There were participants (E,G,J) who protected the children from their negative feelings by giving a hug (G,K) so that the children could not see what they were experiencing.

Participants felt that they were there for the children (C,J) and fortunately in the one case (C) the child was small and did not realise that the participant was disturbed by the physical noises in the court. She relied on her colleagues for moral support and found that unburdening helped a great deal.

Being very emotional (K) at times, made it difficult to cope, but the feeling was that it was important to have empathy with the child and to understand what the child went through. To cope the participant concentrated on factual information and what was

happening in the court and tried to distract the child’s attention by playing games with her and helped her to colour in. The camera room in East London is equipped and in line with the “playroom” environment suggested by Key (The Star 1988: 3).

Concern was expressed (H) at possible failure to interpret questions to the child correctly because the child did not understand the questions and the intermediary felt to blame as he regarded this as his responsibility and he felt guilty that the case had been lost due to the failure on his part. Goodman(1993:14-15) refers to errors made when children are questioned, namely that they react differently to questioning on sexual matters than to other events because children know that genital touch and nudity are taboo subjects.

4.8.1 GENERAL FINDING

None of the participants experienced this role as easy - their concern for the child witness in this situation is quite clear and they did their best to make the court experience easier for the child and it is felt that participants G and K also found the physical contact in the gesture of hugging the child to be self-supportive, while they had to cope with their own feelings and control their emotions, at the same time coping with translating questions, a task which demands concentration and one they were not trained in.

Being professional was a priority for the intermediaries despite the many frustrations of the court not being empathetic, feeling to blame if the alleged perpetrator was not convicted as they felt that they had not posed questions correctly, the inconvenience of long waiting periods and a lack of communication - all factors adding to an already difficult situation, especially when one considers that they had no supervisor to encourage, guide or assist them or who could be a spokesman with the Department of Justice to attend to the problems with the hope of resolving some of them.

Participant H discussed his feelings with his wife after he went home. If there had been a supervisor available, the intermediary could have consulted with her/him, and resolved his

doubts while at work. He would not have had to take this problem home with him, after having already had a troublesome day.

4.9 GENDER ISSUES

All the female participants had worked with girls while two had also worked with boys. The male participant had worked with both boys and girls.

Participant K had done an assessment with a boy prior to the trial, while B had started working with a boy, but the case had been thrown out. Neither of these participants could thus give their views on actually rendering the intermediary service to boys.

Responses from the female participants were the following :

- B and J did not feel that boys would be as comfortable with a woman with J stating that she would not be able to make boys feel as comfortable as girls as she identified with the questions put to girls. Having worked with both boys and girls, C felt it was easy to talk to boys and that boys were comfortable with her as in the Xhosa culture, the mother was closer to the children than the father and boys were therefore used to talking to the mother, with the result that boys of 6 - 8, did not feel threatened talking to an opposite sex adult.
- K voiced a preference to working with girls as they were less shy to talk about the situation of abuse and felt that it was easier for girls to talk to the same sex but did not feel it a requirement that she only worked with girls and did not mind working with boys.

4.9.1 GENERAL FINDING

The importance of including skills for working with boys and girls in the training programme of the intermediary and more importantly, to feel comfortable in this situation, needs to be emphasised. Questioning children in sexually abused situations is a skill which is not to the knowledge of the researcher, included on a tertiary level and should be attended to in order to prepare social workers not just for the task of the intermediary, but also for social work.

4.10 AGE GROUP ISSUES

Five participants (B,D,G,H,K) had a preference for dealing with younger children, for various reasons, while three participants (E,F,J) preferred older children. Only one(J) doubted her ability to work with younger children.

Although one respondent (B) said that she did not mind what the age of the child was, she felt that teenagers took a long time to trust people and a relationship first had to be established.

The reactions of the teenage witnesses, namely that they became terrified and were not open (D,E), were seen against the background that they had possibly already engaged in sexual relations prior to being molested and were thus more aware of being pregnant as well as of other sexually related issues such as rape and molestation. Another reason was due to the fact that in the Xhosa culture, children were not used to talking to parents about private parts or sexually related matters and girls would not disclose everything they knew nor were they comfortable discussing sexual issues – these issues therefore

had to be resolved and worked out before sitting together with the intermediary in the camera room on the day of the trial.

A participant (H) stated that he had experienced problems with a boy of 14 whom he termed, “too mature”. Contrary to this, there was the response from a participant (J) who had dealt with a 14 year old, who found this age group easy. There was agreement (E) that older children were easier to work with because they understood questions more easily and it was not necessary to explain the questions in depth or change them - while younger children often did not attend school yet nor were they stimulated by their parents, with the result that questions had to be translated to their age appropriate levels. This agrees with the research results found by Muller and Tait (1998:448), that older children had a greater knowledge of legal terminology and court procedure compared to younger children.

The participant (F) who managed to communicate with children successfully, however found that younger children were more demanding and one had to be a baby-sitter and wait with them before the court case, which was a draining experience. Confidence was expressed (G) at working with children between the ages of 8 years and 14 years, but found children under 8 years more difficult to work with as the situation was more sensitive and she found it very difficult to remain neutral and got worked up when the court felt that the child could not give evidence because of the criteria of making a distinction between the truth and a lie and being able to distinguish between colours. She was convinced that the child could give the necessary evidence.

The participant (D) who felt comfortable with children of 6 - 7 years, because they were able to express themselves, felt sorry for children below this age because they would not

win the case and the perpetrator would not be convicted - this to her was the pathetic part about intermediary cases. She however preferred smaller children as they were easier to

entertain, with toys that were available in the camera room and that were more suitable for a pre-school or junior school child than teenagers. The courtroom is geared to accommodate a child of this age group and the environment agrees with that suggested by Key (The Star 22 March 1988) that a playroom environment should accommodate the child witness.

4.10.1 GENERAL FINDING

It is obvious from the above responses that skills training in dealing with all age groups must be included in the training programme in order to prepare intermediaries to deal with a child from any age group. This would make the intermediary more confident and also more comfortable in working with the children. The importance of gaining the trust of the children has also been highlighted.

Thorough training on age appropriate behaviour for boys and girls is essential to allow the social worker to feel comfortable with both genders. However, this task is not straightforward as cultural differences affect behaviour and the social workers need to be aware of these differences should they be dealing with children across all cultures.

The issue regarding cultures, is of concern and it is felt necessary that the intermediary system needs to be revisited, as it does not accommodate all cultures. While all social workers must be made aware of cultural differences, they must also be equipped with the skills of dealing with the problems encountered.

The need to re-assess the criteria used regarding suitability as a witness and the reality that each case must be looked at individually, is emphasised by the response gained from participant F.

4.11 BENEFITS OF THE PRESENT SYSTEM

Schwikkard (1994:44) says of the adversarial system that severe hardships were placed on the child witness who was questioned in the presence of the alleged perpetrator in a formal courtroom by court officials who spoke legal language which the child did not understand while cross questioning by the perpetrator and his legal counsel followed on this. This statement is supported by the response from all the participants who agreed that this was a better system than that previously in place, mainly because of the child witness not being in the open courtroom and as stated by one participant (C), the child was not as “fearful of the court”. It was stated (E) that even though it was a better system, it did not take away the fact that it was still difficult for the child to give evidence.

Motivations given in support of this choice were as follows:

- Four participants (C,E,B,H) agreed that the child did not see the “culprit”, while a fifth (A) who supported this statement used the term “perpetrator” to refer to the alleged accused, with participant (D) stating that the child was not scared of the perpetrator in this system. Spencer (Hammond 1987:6) states that appearing in court has an unpredictable effect on a child and while quite capable of stating what happened to the social worker outside the court, may say nothing in the court situation as a witness. Key evidence is as a result lost and the child witness is regarded as unreliable. Participants E and H responded that the new system

- implied an easier, more comfortable environment where “the child felt at home and secure”.
- Two participants (B,H) stated that with this system the child did not have to face any of the court officials - namely the attorneys or the magistrates and was spared

hearing the manner of questioning by these officials or the prosecutor. This is in direct contrast to the previous system of which Hammond (1987:65) expresses concern that a child who has been a victim of abuse tries to maintain composure under “the full onslaught of the adversarial system”. This safer environment helped the child to feel free to express herself according to participants C and E, and as stated by K, the child was more relaxed in this situation and shared more than he/she did in the open court where the child felt anxious and did not really participate or say how things had happened. Key (The Star 22 March 1988) supports this manifestation of behaviour having witnessed many cases where the child had been so frightened at appearing in the court, that he/she failed to utter a word because of being reduced to a state of terrified silence. The experience as related by participant B was that the attorneys questioned in a very strict manner, with questions following very quickly on each other so that the child became confused within the open court environment while with this system the social worker asked the questions slowly, adapting to the pace of the child.

According to two participants (C,E), rapport was established prior to going to court and everything was explained to the children - thus adding to their feeling of security.

Other individual statements were the following :

“the intermediary gives support to the child (A), the child now gives enough evidence to send the culprit to jail (C), the parents prefer this system (D), it is

traumatic to see the perpetrator for the first time in court after the incident (E), prosecutors are now more sensitive and realise what the child witness must go through and also go to the trouble of being better prepared than before (E), the child is free to become emotional and the intermediary can interrupt the court more easily when the child becomes emotional than was the case in the open court (G) the child sat with a social worker who was interested in the child (H), the child was comfortable because questions were coming from the social worker who “interpreted the questions at a level to suit the child”.

4.11.1 GENERAL FINDING

In viewing the experiences of the intermediaries, it is obvious that the benefits of the new system far outweigh the previous system and that the child witness is presently in a more secure environment with the support and interest shown by the intermediary. The child gives more information due to the feeling of security, as well as not being confronted by the alleged perpetrator. The social worker however, has to feel comfortable dealing with legal questions and terminology before being able to translate them to the child in a short time space, while still keeping the general purport of the question.

It is not difficult to understand the feelings the child must have experienced in the previous system, where the child stood alone in the witness box, which in most cases rises above the height of the child, having to face the magistrate who is elevated above the child on the bench, dressed in a black cloak, as well as facing the other court officials, also dressed in black cloaks and then being confronted with the person alleged to have abused the child.

From research done by Muller and Tait (1998:449) in Port Elizabeth, in the Eastern Cape, “court” had negative connotations for some children who believed that if you went to court, bad things would happen to you as bad people went to court. Some children even equated the court with jail and being executed. The fear the child has of going to court, is thus not unfounded.

4.12 PROBLEMS EXPERIENCED WITH THE PRESENT SYSTEM

Responses are divided into views relating to the Justice System and the court scenario, the child, the social worker and the intermediary system.

4.12.1 JUSTICE SYSTEM

Time management appears to be a cardinal problem (A,C) as the intermediaries had to wait for long periods at the court before the case started, the attorneys did not arrive for the scheduled case and also made the intermediary wait for lengthy periods. Swanepoel (1991:59) emphasises that prolonging court proceedings, prolongs the crisis for the family.

Cases were often postponed but the prosecutor failed to notify the intermediary. The intermediary in turn waited for the court to phone and call them to court when the case should start - during this waiting period they could not carry on with other work and eventually had to go back to the court to find out what was happening - this was found to

be very frustrating. The fact that cases were continually postponed with the child having to repeatedly come to court, resulted in the parents withdrawing the case, according to participants F and H and H responded that “I still don’t understand why cases of rape will

be postponed...given say that the victim usually the child has a short memory...". Zieff (1991:36) supports this finding and states that many parents choose to protect their children from court abuse rather than have the abuser brought to court. These participants regarded this as "not good for the Justice system". This was also most discouraging for the persons involved prior to the case coming to court, for example the Child Protection Unit and the social workers who had worked intensively with the child to prepare him/her for the court appearance.

Communication on the part of the court was lacking, especially the short notice given for the court appearance before the case was heard (A,K)

Participant B felt it was important to be kept up to date with any changes relating to the acts.

4.12.2 THE CHILD

It was stated by participants A and F that the court did not seem to care about the child, that the child still became despondent and still experienced emotional trauma.

Three intermediaries (C,F,G) regarded the long period between the charge being laid and the eventual court appearance as a problem because the child forgot the detailed information. Research evidence, according to Zieff (1991:36) "strongly suggests" that memory loss and anxiety are prolonged by both postponements and continuation of a trial. Cases from 1996 in some instances, were only being placed on the roll in 1999.

Participant H stated that he could not understand why rape cases were postponed for long periods, while the child had a short memory. The court expected the child to remember

what had happened a year to two before, and evidence or lack of evidence is then not viewed in the light of how long ago the rape had actually taken place. Stafford (1996:232) says in this regard that the value given to the evidence is dependent on the observational capacity, memory and ability of the child to give an accurate account of what took place. Schwikkard (1994:48) emphasises that the problems experienced by young children having to give evidence are not solved by this system as at two and a half years of age, the child could well be in a position to give accurate evidence of what took place within a few days following the incident, but several months later, this evidence may not be as coherent.

One particularly upsetting situation (C) was a child who was raped and the perpetrator who was being detained, sent a friend to murder the child in order to prevent her from giving evidence. The friend however then also raped the child. In court, the child did not know which case was being referred to and was confused. The first case is still not finalised. Should the alleged accused be allowed bail, the community and especially the parents, feel threatened by him and some people move to another location. Concern expressed by Swanepoel (1991:59) is that the perpetrator is often released on bail immediately after arrest which threatens the victim.

4.12.3 RELATING TO THE SOCIAL WORKER

Problems mentioned relate to the lack of training the intermediaries had and the absence of a supervisor appointed for this particular purpose, with the lack of a support group to help with feelings evoked by the cases due to the intensity and the realisation of the

“sick” society we are living in (B). It is necessary to unburden and there is presently no one to make you feel better consistently.

4.12.4 THE INTERMEDIARY SYSTEM

The intermediaries agree that this is a better system and it was stated (C) that in the open court a definite atmosphere could be felt. However even under these improved circumstances, it was still difficult for the children to say what had happened to them.

One intermediary (E) stated that there was a terrible gap in the system because the social workers did not meet the child before the case to prepare them but waited until the child

came to court and only then talked to them. This was then too late with the result that the child was reserved and did not build a relationship easily and it was difficult to talk. The case could resultantly be lost. In this regard, Muller (1998:456) mentions that the lack of knowledge that children have, must influence their ability to give evidence effectively in court and thus emphasises the great need that children should be prepared to give evidence in court. The intermediary ascribed this gap to a lack of training or the fact that the social worker feels that being an intermediary is just another task and the motivation is lacking. She gives as a possible reason for the lack of motivation that the social workers do not have cars readily at their disposal, they are overworked and do not quite realise just how bad it is for the child to give evidence in court. The participant felt that the social workers project the blame for everything onto the court and when they were told that should this system not work and reversal to the old system could be possible, they fail to realise the implications of a step such as this.

These problems are of concern and need to be addressed in follow up training where social workers, court officials and legal persons are present. In this multi-disciplinary atmosphere, insight into problems can be developed by everyone concerned and together solutions may possibly be found.

4.12.5 GENERAL FINDING

The feeling is held that something is needed to improve the service and thus also help the child. This problem would be addressed if there were an adequate infrastructure, including a supervisor, training programme, regular discussions with Justice staff and legal fraternity. It is understandable that attorneys have to protect their clients and win the case for them while at this stage, most of the problems that have been experienced, work in their favour – for instance the long waiting period with the child then not being

in the position to remember detail as well as shortly after the abusive situation. If the child is regarded as an unreliable witness, the case is closed and the perpetrator is free to continue with abusive acts.

The frustration the social workers feel at the lack of consideration for performing the role of intermediary as only a small facet of their full work complement, is understandable. This is a voluntary service for the social workers employed by the Government and also the only social workers presently willing to perform this task, as already mentioned. Insight development from the side of Justice is thus felt necessary. The social worker as an expert witness also wants to be properly prepared for court appearances and thus has the right to be notified timeously. Short notice is to be regarded as disadvantaging the child as the social worker has then also not prepared the child for the court appearance.

The researcher now questions why these delays take place regularly as well as why there is such an outcry from all sides on the rights of the child and building a healthier nation when children seem to be made to suffer when becoming a witness - this phenomenon should be discussed with the Department of Justice as a matter of urgency.

4.13 OPPORTUNITIES TO DEBRIEF

None of the participants had the opportunity to debrief, mainly due to the lack of a supervisor.

The unburdening of feelings after cases was to any available colleague (A,F,G,H,K,J). The need for this debriefing opportunity was stressed in order to get feelings off your chest (F) as the intermediary service was very emotional (J) or emotionally draining (K) and the intermediary had to be strong for the sake of the child, while remaining objective and not getting involved. It would therefore help to be able to talk to someone so that one “could just feel better about the whole day’s situation” - as quoted from participant K. It was expressed that colleagues were generally found to be understanding, but colleagues were not always available or may not always be there in the office when the intermediary returns from the court. In the case of participant J her case stretched over two days and the intermediary felt she needed to unburden as she found it very emotional.

4.13.1 GENERAL FINDING

The need for and value of unburdening on the part of the intermediary after cases has already been highlighted, with the need for a supervisor also attended to. Throughout the study the lack of a supervisor has proved to be a major theme and the researcher has stressed that urgent attention to this matter is needed. Unfortunately, due to a lack of available research, no literature relating directly to this topic could be found.

4.14 MOTIVATION OF THE INTERMEDIARY FOR CONTINUING IN THIS ROLE

Despite the difficulties, as already mentioned, that the intermediaries had to face – for example handling all the problems on their own without a support system - all the participants were prepared to continue with this role – half of them, explaining that it was for the sake of the children.

Reasons given for continuing with this service despite problems experienced:

Seven participants (A,C,D,E,F,H,J) agreed that it was for the sake of the children. Some of the motivations were as follows:

- to gain “more experience” because this system had more advantages than disadvantages and must thus continue (G)
- while the intermediary enjoyed working with children this was a part of social work where as a social worker she felt that she meant something to someone and made an impact on someone’s life (K)
- the sexually molested child has very few resources and the intermediary could therefore help with the trauma the child was experiencing (J)
- the intermediary acted as an advocate (H)

4.14.1 GENERAL FINDING

A general theme emerged, namely that it was in the interest of the children that this service should continue and the responses indicated a finality that there could be no return to the previous system.

4.15 FEELINGS ABOUT PARTICIPATING IN THIS RESEARCH

The responses were once again diverse, but rather interesting with hopes of improvement about the intermediary system coming to the fore.

The research was seen as an unburdening tool (A), however feelings of being scared were expressed as the intermediary (G) did not know what would be expected from her, with K stating that she experienced anxiety as well as feeling honoured at being requested to participate.

Reluctance was experienced (J) as she felt that she had insufficient experience and may not contribute meaningfully.

B was thankful that someone was doing research on the intermediary so that it could be used for the future with C regarding it as a positive step towards improving this service.

Some hopes that were raised:

- That the Department of Justice would hear how the intermediaries felt and try to rectify their mistakes, saw research as a positive step and as long as

the Department of Justice accepted what was said, justice must not let the child sit every day and postpone cases unnecessarily (C)

- The intermediary would like to know how the pressure placed on the social worker by the male prosecutor is going to change so that the child gets what he/she deserves (H)

Expectations that there would be training was expressed as follows:

- Participant A felt that a refresher course would help the social worker to feel fresh and enthusiastic

Other statements were:

- That partaking in the research had helped the intermediary to think what the service meant to both the intermediary and the child (B) while also helping others to realise the need to become involved to help the child feel more mature and confident (C)
- The outcome could be helpful as the victims as well as the guardian or the caregiver need follow up counselling. The opinion was expressed that each case should be referred for counselling even before the court hearing (D)
- Doing research was fantastic, as it would benefit the witness, it would serve the purpose of getting more information and the more information the social worker got, the more motivated he/she would be to become involved, the intermediary should be a specialised person and the service should not be shared by so many people so that in the end, no one did it (E).

4.15.1 GENERAL FINDING

On analysing these statements which are all regarded as relevant in terms of promoting this system, the research is regarded in a positive light and seen by the participants as an

aid to improving the system. This links with contributions made by the participants in previous questions, that the system is “better” and improvement is necessary to keep the system running. As participant G said, this system has more advantages than disadvantages and must continue, while participant E stated that there had to be no return to the old system, exposing the child to the circumstances which had prevailed - termed by Schwikkard as “hardships”(1994:44).

The hopes that were raised were that the research results must be conveyed to the Department of Justice in order to rectify mistakes, while there was the expectation of further training. The expectation of a refresher course would be easy to fulfil in the short term and would assist all the social workers rendering this service while negotiations with the Department of Justice could possibly take more time.

The research was seen as an unburdening tool (A) while the statement made by participant B, that the intermediary now was helped to think about the meaning of the service - for both the intermediary and the child - confirms the grave necessity of an appointed supervisor for this field of social work so that discussions could take place when the social worker returned from court.

If it is borne in mind that this is a purely voluntary service and just one facet of the task performance of the social workers, it is pleasing to see that the social workers in all earnest want this service to be a success.

The statement made by participant H, that the pressure placed on the social worker, should change so that the child gets what he/she deserves, makes a mockery of the Constitution and the Convention on the Rights of the Child to be protected and “...as having rights of his/her own in all spheres of law” (Bradfield 1996:546).

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This chapter will outline conclusions reached in this study as well as recommendations, with a view to improving and securing the continuation of the system as well as further research. The conclusions follow on the information given by social workers that have fulfilled the role of intermediary.

Thirteen social workers had acted as intermediaries in the East London area but at the time of the conceptualization of this research, only three were willing to be called by the courts to act as intermediaries. However when the research started, social workers were no longer prepared to render this service due to feelings of burnout as well as the fact that no new social workers had been trained for the service or were willing to assist with this service any longer - the burden on the other social workers thus became too heavy. In view of the approximately 180 cases awaiting trial, the unwillingness of social workers to render intermediary services, is a serious and concerning factor.

The purpose of this study, exploring the needs and experiences of the social worker as an intermediary, was to develop an understanding of the experiences of the social workers while performing the role of the intermediary, in order to identify the reason for their unwillingness to continue with this service.

This research and resultant findings, is considered meaningful as no research has been undertaken on this topic in South Africa and as this system does not exist overseas, no research has been done internationally on the intermediary system. In this respect, the lack of literature was a limiting factor because no comparisons could be made.

Literature which is available on the child witness, adversarial system, sexual abuse within the confines of this study, intermediary services and information on the

capability of the memory with input of the consequences of fear on the memory was reviewed.

The social workers have quite clearly rendered this service to the best of their ability under very difficult circumstances and their main reason for persevering with this service is for the sake of the children. The social workers must be commended on the service rendered thus far under the prevailing difficulties and the fact that they have persevered for the sake of the children.

5.2 CONCLUSIONS

It must be noted that the sample, namely ten, is not sufficient to generalise, however the areas of concern have been identified as impeding the service while some positive factors which outweigh the negatives, are highlighted. An endeavour should thus be made to continue with this system in the interest of the children.

- All the participants agreed that the present system is a better system than was previously in place with the child witness having to face the perpetrator. Presently the child does not face the perpetrator or any other official in the court but is in the presence of the intermediary who has the interests of the child at heart, in a secure environment but the intermediary must also have the ability to create a secure environment. The intermediary must be able to cope with his/her anxiety in order to convey questions that are threatening and aggressive to the witness, in a meaningful manner and in language familiar to the child. The hardships mentioned by Schwikkard (1994:44) which are placed on the child by the adversarial system, are therefore lessened in the present system and although it is still difficult for the child to give evidence, the child is more relaxed, gives more information than was the case in the open court and is not as “fearful of the court”.

- This system, although termed “better”, manifests many flaws which need attention and while all the problems may not be resolved, they could be improved on. It is concluded that the intermediary system is a multifaceted process with varying roles that are all demanding on the social worker and cause great stress. A main flaw identified was the lack of adequate training for this role and all the social workers in fact need follow up training. In preparation for this, the social worker should have been trained in basic communication skills, knowledge of age appropriate developmental levels of children as well as working with children with special needs, such as the mentally challenged child. The intermediary must possess the ability to comfortably deal with children of both genders and of all ages and to establish rapport in a short space of time. However, for this to be achieved, the intermediary must be comfortable in this role. Further stress factors that remain include the long period from the time that the case is reported until the trial actually takes place and waiting in the court building where the child witness could meet the perpetrator at any stage. A major frustration mentioned by the intermediaries, is the lack of consideration for the service they render on the part of the Department of Justice.
- Knowledge of the judicial system and court procedures is a necessary requirement while the social worker must be able to be in full control of emotions and remain objective. It is apparent that this training must be comprehensive and cannot be a mere “briefing” as some social workers were subject to as preparation prior to rendering the service in the court.
- A structured and adequate training programme is lacking around the needs as indicated by the social workers. There must be provision for follow up training, a refresher course and complete training for the intermediaries not trained adequately prior to acting in this role. Appropriate training could also have been a mechanism through which to encourage social workers not yet involved in the intermediary system, as feedback would be positive and not negative, as is presently the case.

- In view of the lack of a permanently appointed supervisor for this field of work, just any available social worker or colleague “listened” to the social workers after their return from the court – this is not a permanent unburdening structure as these colleagues are not always available and if not having acted as an intermediary, do not fully comprehend just how emotionally draining this service is - this emphasizes the need for an appointed supervisor who is available on a permanent basis and who is part of the intermediary structure. The service rendered by the intermediary could then be acknowledged, debriefing could take place and the necessary guidance and feedback on progress can be given. This would result in confidence and emotional support on the part of the intermediary and possibly a more positive attitude towards the service.
- Complaints were received by the Head of the Department of Welfare that intermediaries did not report to court on the day of the trial – cases thus had to be postponed. The social workers were initially eager to venture into this new field and although they had the interests of the children at heart were refusing to act as intermediaries because they were suffering from burnout. This aspect was not directly addressed during the interviews because I did not want the social workers to be defensive. However, it is important that this be investigated further.
- The pressure would have been relieved if other categories of persons were available but even with the incentive of remuneration, they were not prepared to assist. It was mentioned in the previous chapter that attempts have been made to involve teachers – to no avail. However, it is deemed urgent that this concept be explored. The need is especially for Xhosa speaking persons and with the many Xhosa schools in the East London area, there should be retired teachers who would be willing to serve in this role. There is also the added incentive of remuneration. Additional intermediaries would at least relieve the trauma the social workers are experiencing, especially if they are Xhosa literate.

- The many benefits of this service have been recorded in the previous chapter and from this it must be accepted that this system must be made to work. It is clear that the social workers have made efforts to pursue follow up training by going to other towns where training is conducted, talking to other social workers who have acted as intermediaries and are thus trying to sustain the service despite numerous difficulties.
- All ten intermediaries indicated problem areas of the system. These areas need attention and where possible, attempts must be made to rectify or resolve problems. Although many problems coloured this system the social workers persevered and continued to render the service and as participant D said, she "feels great that she could assist the child", while A,C,F and H indicated that "this was for the sake of the children". It is realized that not all problems may be able to be resolved, such as continual postponements.
- It is concluded that negotiations with the Department of Justice were not sufficient to amiably resolve the existing problems.
- In conclusion, it must be highlighted that there can be no return to the previous system.

5.3 RECOMMENDATIONS

It follows from the above as well as the interviews, that the following issues, which are crucial, need further attention and warrant greater detailed research. They have been grouped into four categories, namely training, research, supervision and negotiations.

5.3.1. TRAINING FOR SOCIAL WORKERS

- An effective training programme that covers all the areas as mentioned for example court procedures, knowledge of the developmental needs of all children, age-appropriate knowledge as social workers have different needs. Training however should not be restricted to pre-intermediary services, as the participants have indicated that this training has not been sufficient and should be of an ongoing nature, with new social workers being adequately trained continuously. The formulation of a suitable training programme has to be done with the social workers that have performed this role in conjunction with the legal persons, as well as specialists in each area where training is needed – thus a multi-disciplinary team. These mentioned training needs were identified by the participants during the research process.
- A supervisor must be included in the training sessions.
- The researcher regards it more important that the intermediary is trained to deal with children of both genders and receive skills in establishing rapport and trust, rather than that a male intermediary deal only with a boy or a female intermediary deal only with a girl as this may not always be practically possible.
- Training in debriefing must be an essential part of the training programme.
- Training on cross-cultural issues with all intermediaries to be empowered with questioning skills, especially when having to translate questions in the court during proceedings. Sexual matters that illustrate a high level of sensitivity especially in the Xhosa culture, need special attention.
- Training in both interviewing and questioning techniques in order to gain more information especially from the child that does not want to talk.

The intermediary must feel comfortable in his role and with the necessary training this could be achieved.

- A basic introduction into legal terms. Despite the fact that social workers with the Department of Welfare deal mainly in statutory work, legal terminology is an unknown area for them and greater knowledge would help with translating questions to the child as well as allow them to participate with greater effectivity in the judicial process.

5.3.2 TRAINING FOR CHILDREN AND THEIR PARENTS

- The establishment of a “court school” where the child and his/her parents are introduced to the court procedures, with video-tapes that could be used as an aid to introduce the child to the actual court environment and functioning. The researcher identified this as a need from the responses that were given by the participants as well as from the literature reviewed.

5.3.3 RESEARCH

- Research into the reaction of intermediaries in other areas, possibly on a questionnaire basis, in order to compare responses and experiences. The researcher would be interested to have this information in order to establish whether the problems experienced are area specific or general.
- A comparison of the number of convictions under the present system as compared to the previous system, in line with the number of reported cases reaching trial status.

5.3.4 SUPERVISION

- The provision of a supervisor who is employed in this position in a full-time capacity to supervise only social workers who are rendering intermediary services – should ten social workers conduct this service, it is envisaged that they would occupy all the time of the supervisor. The ratio set by the Department of Welfare with regard to supervisor-social workers, is one to six, implying that ten are too many to supervise, but one must bear in mind that these social workers have to have a minimum of two years service to qualify to do intermediary work and also, that these particular social workers do now have experience in this field and if trained, may need a supervisor on a consultation basis only. The main needs of the social workers are support, recognition and debriefing. The supervisor will need to possess debriefing skills as well as have knowledge and an understanding of the intermediary service to support the social workers meaningfully. The lack of a supervisor was identified as a problem by the social workers during research.

5.3.4 NEGOTIATIONS

- The facilitation of closer liaison between the Departments of Welfare, Justice and the Legal fraternity with negotiations to be initiated by the Department of Welfare.
- It is imperative that discussions be held with the Department of Justice as well as the Attorneys Association around creating an awareness of difficulties in this system as experienced by the intermediaries and possible approaches to these difficulties in order to improve the system in the interest of all the involved parties.

- It would be an interesting exercise to establish the reaction from both the above institutions to the views held by the intermediaries and to establish what recommendations they could make to improve the system.
- Insight development into the role of the intermediary on the part of the Justice Department, in the role of the intermediary being a volunteer service and only a small facet of the workload of the social worker.
- It is deemed necessary to establish the view of the Department of Justice and the Legal fraternity on how they view the interests and the rights of the child witness, as opposed to the interests and the rights of their clients.
- The provision of a separate entrance to the court building leading to the camera room so that the child witness will avoid meeting the perpetrator in the passageways.

The expectations raised by the intermediaries must be honoured and an earnest endeavour must be made to improve on this system to ensure its survival in the interest of the children, as well as in an attempt to curb this heinous crime of sexual abuse.

5.4 CONCLUDING COMMENT

The distinct advantages of the intermediary service as shared by the social workers as benefits of this system, have been discussed. The experiences of the social workers linked to the available literature on this topic are sufficient and convincing evidence to realize that this system must be made to work if any attempts are going to succeed at either lessening or preventing abuse from further escalating.

The areas needing to be attended to have been identified and in all fairness to the social workers and the sexually abused children, should be pursued. By improving the intermediary system it is hoped that an increased workforce of social workers will

be recruited and encouraged to deal with the large number of cases waiting to be attended to.

It is felt that the Department of Welfare must play a leading role in achieving the above recommendations.

APPENDIX A

THE SEXUAL OFFENCES ACT 23 of 1957.

Section 9 reads as follows:

1. Any person who, being a parent or guardian of any child under the age of 18 years –
 - (a) permits, procures or attempts to procure such a child to have unlawful carnal intercourse, or to commit any immoral or indecent act, with any person other than the procurer, or to reside in or to frequent a brothel, or
 - (b) orders, permits, or in any way assists in bringing about, or receives any consideration for, the defilement, seduction, or prostitution of such a child, shall be guilty of an offence

Section 12 reads as follows:

1. Any person who takes or detains any female against her will –
 - (a) to or in or upon any house or place with intent that she may be unlawfully carnally known by any male, whether a particular male or not; or
2. Where a male is in or upon any house or place for the purpose that she may be unlawfully carnally known by any male. Whether a particular male or not, or is in any brothel, she shall for the purposes of this section be deemed to have been taken thereto or to be detained therein or thereon against her will –
 - (a) if she is under the age of sixteen years; or
 - (b) if she being of or above the age of sixteen years and under the age of twenty-one years, was taken or is detained against her will or against the will of her father or mother, or any person having the lawful care or charge of her.

Section 14 reads as follows:

Any male person who –

- (a) has or attempts to have unlawful carnal intercourse with a girl under the age of 16 years; or

- (b) commits or attempts to commit with such a girl or boy under the age of 19 years an immoral or indecent act; or
- (c) solicits or entices such a girl or boy to the commission of an immoral or indecent act, shall be guilty of an offence

Section 14(3) reads as follows:

Any female who –

- (a) has or attempts to have unlawful carnal intercourse with a boy under the age of 16 years; or
- (b) commits or attempts to commit with such a boy or with a girl under the age of 19 years an immoral or indecent act;
- (c) solicits or entices such a boy or girl to the commission of an immoral or indecent act, shall be guilty of an offence
(Robinson 1997:150-153)

Full provision is made in the above for protection of young people, however, many people are ignorant of how legislation protects the individual in the community and thorough education of the community will be necessary to inform on this protection.

However, one also wonders that with all this legislation, so many perpetrators continue to abuse on a daily and recurrent basis.

APPENDIX B

APPROACH FOR VOLUNTARY PARTICIPATION IN RESEARCH PROJECT

Dear Sir/Madam

PARTICIPATION IN RESEARCH

As a Masters student at Rhodes University, East London, I am conducting research to explore the needs and experiences of the Social Worker as an intermediary, to develop a better understanding of the strengths and weaknesses of this system in the South African context as well as to assist the Social Worker acting as an intermediary, to understand the trauma this relatively new role holds.

Ten Social Workers, all of whom have acted as intermediaries in the East London area, will participate in the research project. Information will be gained through conducting interviews in a strictly confidential setting. Exerpts of the interview may be used as part of the final report, but your identifying details will under no circumstances be disclosed.

I am approaching you for your voluntary participation in this research project and emphasize that your participation is valuable and will be highly appreciated.

Participants may request a copy of the research report.

Yours sincerely

Ms R. Jarman

APPENDIX C

INTERVIEW SCHEDULE

SECTION 1

1.1 BIOGRAPHICAL DETAILS

1.1.1. Participant	
1.1.2 Gender	
1.1.3 Highest qualification	
1.1.4 Marital status	
1.1.5 Children	
1.1.6 Gender of child(ren)	
1.1.7 Age of child(ren)	
1.1.8 Grew up : urban rural	
1.1.9 Sex education received from: Parents School Friends Other	

SECTION 2

2.1 WORK DETAILS

- 2.1.1 Current field of service
- 2.1.2 Current position held
- 2.1.3 Length of employment
- 2.1.4 Experience in social work

2.1.5 Experience as an intermediary

SECTION 3

3.1 TRAINING

- 3.1.1 Give a description of the nature of training in intermediary services which you received prior to your becoming an intermediary.
- 3.1.2 When did you receive training?
- 3.1.3 What follow up training was provided to you since you received training?
- 3.1.4 Briefly explain the nature of your experience during supervision throughout the intermediary process.

SECTION 4

4.1 INTERMEDIARY SERVICE

- 4.1.1 Tell me about your experience of being an intermediary.

(This question is relied on to inform on various areas of information, however the following themes need to be covered).

- 4.1.2 How did you become involved in the intermediary service?
- 4.1.3 What were the feelings you most commonly experienced as an intermediary?
- 4.1.4 How did you cope with feelings evoked while performing this role?
- 4.1.5 Which gender child are you most comfortable with?
- 4.1.6 Motivation.
- 4.1.7 Which age group are you more comfortable with?
- 4.1.8 Motivation.
- 4.1.9 What do you feel are the benefits of this system?
- 4.1.10 What in this system can you identify as being problematic?
- 4.1.11 What needs can you identify for additional training?
- 4.1.12 What has been the nature of debriefing after acting as an intermediary?
- 4.1.13 What motivation could you present for continuing with your role as an intermediary?

4.1.14 What are your feelings about participating in this research?

APPENDIX D

ONDERHOUD VRAELYS

AFDELING 3

3.1 OPLEIDING

- 3.1.1 Gee vir my 'n beskrywing van die opleiding wat jy gekry het voordat jy tussengangerswerk gedoen het.
- 3.1.2 Wanneer het jy opleiding gekry?
- 3.1.3 Was daar opvolgopleiding?
- 3.1.4 Wat was jou ondervinding met supervisie tydens tussengangerswerk?

AFDELING 4

4.1 TUSSENGANGERSWERK

- 4.1.1 Wat was jou ondervinding as 'n tussenganger?
- 4.1.2 Hoe het jy betrokke geraak met tussengangerswerk?
- 4.1.3 Wat was die gevoelens wat jy meer algemeen ondervind het terwyl jy 'n tussenganger was?
- 4.1.4 Hoe het jy die gevoelens wat jy daar ervaar het hanteer?
- 4.1.5 Met watter geslag kind voel jy meer ontspanne?
- 4.1.6 Motiveer.
- 4.1.7 Met watter ouderdomsgroep is jy meer ontspanne?
- 4.1.8 Motiveer.
- 4.1.9 Wat voel jy is die voordele van hierdie sisteem?
- 4.1.10 Wat in hierdie sisteem kan jy identifiseer as problematiek?
- 4.1.11 Watter behoefte is daar aan opvolgopleiding?
- 4.1.12 Watter voorsiening was daar vir ontlading?
- 4.1.13 Watter motivering sou jy gebruik om met tussengangerswerk voort te gaan?
- 4.1.14 Hoe voel jy om aan hierdie navorsing deel te neem?

APPENDIX E

INTERVIEW WITH PARTICIPANT A

Friday 14th May 1999.

(I = Interviewer)

(P=Participant)

I: Could you give me a description of the nature of training in intermediary services that you received prior to becoming an intermediary?

P: When you are talking of the nature, must I give you how did I experience it when I first get the training ?

I: Yes, and what kind of training did you get,, were you trained to be an intermediary?

P: Yes, I was trained to be an intermediary, in fact do you want me to tell you what I gained from that training? In fact I can't tell you everything that I gained, what I've noticed is when you are an intermediary you should be as objective as you can be, you know, lets say you have to distance yourself from the emotions of the child. On the other hand even the magistrate and whoever is in court must see you as the person who is... you musn't be biased when you ask those questions of the child.

P: Did you attend a training course before being an intermediary or did you train yourself?

P: There was that training course, it was a workshop, not a training course.

I: And when did you get this training? How long ago?

P: Which year is it now?

I: We're now in 1999.

P: Was it not in 1996? '96? I'm not sure of the year.

I: What follow up training have you had since?

P: No, there was no follow up training,

I: No follow up training?.... and what was the nature of your experience of supervision that you got throughout your being an intermediary?..... Did you have supervision from your supervisor?

P: No,.....

I: So that you could maybe come and report back to say this is what I experienced ?.....

I: and did nobody ask you what your experience was now while being an intermediary.

P: Nobody asked me the experience.

I: I'm now at question 4.1.

Could you tell me of your experiences of being an intermediary?

P: Yes, when I started working as an intermediary, the first day in court was not a good one, I was anxious, in the first place because I did not know what was expected of me and I did not know whether I was going to be emotionally involved as it was said that I should not be emotionally involved, so, O.K., O.K. it was like that but I tried my best to relate to the child and to distance myself from the emotions of the child and then I did not know about the court what are they expecting from me you know, in fact I have already mentioned that but as the time went on I'll get used to it, and even the questions, I had a problem in the first place with the interpretation because I had to interpret to the child and then again this magistrate wanted me to interpret back to the court, as a result I had to complain and said no, they must use their own interpreter that's there because I don't have to translate in English to Xhosa ne. Yes,..... and then Xhosa to English again, so that was my problem number 1, and again I also had a problem with the... especially cases involving the attorney, because they are taking too long, let's say if I'm in court at 9 o'clock, they used to say I must wait up until the attorney arrives, and then sometimes maybe the attorney doesn't arrive and then the case is again remanded for another day, so I had that problem. Another problem I had was there were those cases where you will find there's short notice to go to court without even having plans to go to court you would have to rush for the sake of the child and go to court for this

intermediary, you know, so I don't know whether I have to add on. I maybe am forgetting some of the problems but I did encounter some problems especially concerning the time and the court doesn't care about the child, whether the child is exhausted or what, but even then I managed to deal with it. O.K.

I: What was the court's reaction for instance if the child was tired, did you tell them or how did you get it across to them,

Ja, I used to tell them that the child now is feeling drowsy and then they say O.K. lets take lets say a 5 minute break, and then we come back again, but it's as it is its tiring to the child, because if she comes back if she is not drowsy as such she is losing concentration and again what is on my first experience with this intermediary court cases is that you have to interpret this some words lets say if the words that the child can understand so I had a difficulty with those words cause you have to simplify Xhosa into you know, this I don't know,....

I:"what the child can understand"?

P: Yes, what the child understands, yes, "come to the child's level" and what is boring me is that repetition of almost the same ... let's say, the child is saying this man raped me, the court is asking the child what do you mean about rape, and that demonstration with you know, I end up being emotionally involved, because I don't imagine myself always talking to the child, asking the child, how did this thing happen, so those demonstrations are having an impact in me now. I don't know about the child it should be much more worse with the child because each and every time that thing is being, you know enforced straight away to the child, the child now is given that he's having the picture again of what happened that other year.

I: Question 4.1.2.

How did you become involved in intermediary services, for instance did you volunteer to do it or what was your interest there.

P: My interest in the first place was the child, because I always think about the child. Let's say if the child is raped I should be there if I do have a chance to be there to serve the interests of the child. So, my interest number one was the child, and my interest

number two, I wanted to have an experience of intermediary court cases. Cause it's not nice to only know one thing.

I: Question 4.1.3.

What were the feelings you most commonly experienced as an intermediary?

P: The feelings - can you repeat the question?

I: Yes, the feelings you most commonly experienced as an intermediary?like you said just now it impacted on you emotionally as well..... what kind of feelings did you feel when you were in that emotional frame of mind?

I: You know what I was in the dilemma, was it right to report these cases or not, cause immediately you report it you undergo through all those steps in court and you have to be questioned, especially the child, so I did not feel right about these cases. In the first place I used to encourage these people to report the cases so that the law takes its course, but ever since I went there and I heard all the questions, even though the child can't see the perpetrator but it does have an impact on the child and I don't think its psychologically right for the child to be questioned like that even if the perpetrator is not there.

I: Question 4.1.4.

How did you cope with the feelings which were coming to you in this role?.....How did you manage to control them,..... cope with them specially being in court, sitting there?mmmmmm, In fact what I told myself is that I should accept whatever is going on because this one time I asked the prosecutor why was this happening like this because to me it seems as if it is unfair to the child especially if the case has to be postponed or you know cause the child is going back to square one, but as it is considering the fact that it can't change, it should to be like that, for instance if the attorney's not there definitely the case has to be remanded, so I accepted it as it is and I tried to be not so emotionally involved because I think I'm having that problem, let's say I'm taking it personally as if now this is my child being asked about the private parts and everything, you know.
O.K.

I: Question 4.1.5.

Which gender child are you most comfortable with?.....Have you done girls and boys ormostly girls, have you done boys?

P: I only did assessments on boys, not intermediary.

I: So you haven't got experience of both? Question 4.1.6.

What do feel are the benefits of this system?compared to the old system?that they used to have in court where you used to face the perpetrator with nobody helping the child as such?

P: This one is 100% good even though it does have these disadvantages but it is good considering the fact that the child does not see the perpetrator specifically the perpetrator and the social worker is there, no the intermediary sorry, to give support. I: Why would you think that its better to not see the perpetrator, what is the consequence of seeing the perpetrator?

P: The child will be intimidated not to say everything she was supposed to say, there will be those fears, as if you know..... O.K.

Question 4.1.10. What in this system can you identify as being problematic?

P: I think you have already covered some of those areas that the child is still going through the whole emotional trauma

I: Question 4.1.10. What needs can you identify for additional training for the intermediary?..... do you feel that the training that you got at the one day workshop is sufficient or what other training is necessary, how can you be better prepared to do intermediary work?

P:I think, you know, when I got the training for the first time, I did not do the intermediary court cases in practical terms, so when I did them practically there were those things I observed and I was irritated, I don't know, about them, but now I think I need a refresher course, so as to come out with all my problems and then we check of what should be done, especially concerning the time management on how can we come to the same understanding with the court, lets say the magistrate and the prosecutors about when can I go to court , how long am I going to wait there in court and what should be done about all those questions but I don't know whether there will be a solution or not.

I: O.K.

I: Question 4.1.12 .What has been the nature of debriefing for you after being in court.... after being an intermediary.....with debriefing I refer to what opportunities are there for you to come and talk to a person, a supervisor who can listen to how you feel at the time when you come out of court, and you have got these emotions and problems ?

P: So what are they?

I: Yes what debriefing have you had,...have you had any opportunities to come and sit and talk to someone ?

P: Ah ah,...in fact I can't say I had opportunities, except for the in fact lets say I'm coming from court I tell whatever excited me or irritated me in court I just tell whoever is there, I didn't have any opportunity of sitting down formally with anybody. Can you explain any reason why there isn't somebody or for what reason did you not have anyone?

P:a specific person like you say.....there was no big deal about it.

I: Was it just not available maybe?

P: Ja, I could say so

I: Question 4.1.13. What motivation can you give me to continue with these cases? despite the problems you are having?

P: The motivation I am having, it goes back to the interest of the children, because even though I don't like these cases because of what I told you, if the child is supposed to be in court and I'm not there that case will be remanded up until I am there even if the year 2000, so for the sake of the child I should be there. So that is the motivation I'm having, I'm always thinking about the child even if I have to sit in the court the whole day, as long as I am next to the child giving the child the support.

I: O.K. and then my last question. Question 4.1.14
What are your feeling about participating in this research?

P:Even though I feel I did not think I give you enough information about it, I feel it's good for me to ventilate whatever, you know, I have concerning this intermediary court cases and I hope there will be something that will come up next, or there should be refresher courses considering this so that we get fresh and enthusiastic about it.

I: O.K. if you feel participant A, that you have not given me enough information, is there anything else that you could think of that is going through your mind that you could give me..... I can't think of anything now..... but I don't feel as if I give you enough information. O.K. if we maybe come back at a later stage, if you think of something that you feel would be of importance, we can consider talking about it O.K. Would you agree to that?

P: O.K.

Thank you very much.

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