

ABUSE OF A DIFFERENT KIND

Adults using children to commit crime

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In terms of the International Labour Organisation (ILO) Convention 182 of 1999, adults using children to commit criminal offences is considered to be one of the worst forms of child labour. Through an ILO and Department of Labour programme focusing on the elimination of the worst forms of child labour in South Africa, a study was undertaken to explore this issue, and engaged 541 children in consultation. The results of the study are discussed, and the value that such studies hold for crime analysis is briefly considered.

In 2005, the Community Law Centre at the University of the Western Cape commissioned a 'child consultation study' around the issue of children being used by adults to commit crime. The study was part of a broader programme, 'Towards the Elimination of the Worst Forms of Child Labour' (TECL), a technical assistance project established by the International Labour Organisation (ILO) in support of the Department of Labour that seeks to eliminate children's engagement in the worst forms of child labour.

The International Labour Organisation Convention 182 of 1999 identifies "the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties" as one of the worst forms of child labour.¹ In addition, the commercial sexual exploitation of children, the trafficking of children, and work that is likely to harm the health, safety or morals of children are also considered amongst these 'worst forms' of child labour.

This Convention was ratified by South Africa in 2000. South Africa has also ratified the ILO Convention on Minimum Age for Admission to

Employment (1973), and, based on both conventions, has developed the Child Labour Action Programme (CLAP), which has been provisionally approved by government. The TECL programme commissioned the investigation and design of three pilot projects, aimed at addressing the worst forms of child labour in South Africa. These are:

- commercial sexual exploitation of children and child trafficking;
- the delivery of water by children to households far away from safe sources of water; and
- children engaged by adults in the commission of offences.

The acronym CUBAC was coined by the Community Law Centre as an abbreviation for the term 'children used by adults to commit crime', and this pilot project will seek to develop an intervention strategy which is to be implemented and tested in Mitchells Plain and Mamelodi in 2006/07.

One of the activities undertaken in preparation for the pilot project was a Child Consultation Study.² This study sought to obtain information about the

experiences and opinions of children in relation to this phenomenon, in order that appropriate intervention strategies could be developed. This article summarises the key findings of the study, and briefly considers some of the issues that have emerged.

Child participation methodology

Engaging children in 'participation' or 'consultation' is motivated primarily by Articles 12 and 13 of the Convention on the Rights of the Child (CRC),³ which have the intention of ensuring that children are afforded a direct stake in all processes that relate to them. The Convention makes the following express provisions:

- State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.⁴
- For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.⁵
- The child shall have the right of freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.⁶

As may be noted from these provisions, the ideal situation is for children to be consulted in relation to all processes, programmes, policies and decisions that may affect them. There is much debate in the children's rights arena about how to ensure that child participation actually happens, and the purposes that it may fulfil.

It is clear that there are varying degrees of participation that children may be engaged in, some where children may only be marginally involved (such as a once-off study), and others where children are engaged in a deep and ongoing process of discussion and debate (through structures created

for this purpose). The primary debate amongst children's rights activists relates to how such participation may be given respect and meaning, rather than become a token offering by adults, who continue to dominate processes and agendas.⁷

It should be noted from the outset that there are considerable differences between a situation where children are simply being used as research subjects; and one where they are engaged in a participation or consultation process. In an authentic child participation process the views, experiences and opinions of children are paramount, and these are the direct object of interest.

When children are used as research subjects or respondents, they are seen as a means to the information-gathering process, thought to be relevant by adults. This distinction is both philosophical and practical, and is the most fundamental issue that should be addressed before any children are engaged in participation.

The CUBAC child consultation study

A total of 541 children were engaged in this consultation process. This number included 420 children who were awaiting trial in Secure Care Facilities (SCFs) and 121 secondary school children. Children were accessed in five SCFs (in Gauteng and in the Western Cape), and one secondary school in Gauteng. Forty-one focus groups were held, each involving an average of 14 participants.

The average age of the children in the sample was 16 years. A total of 492 males (91%) and 49 females (9%) participated in the focus group discussions. The females were all from the secondary school group.

Given that the intention of the research was child consultation, the substance of group discussions focused on obtaining the opinions and views of children on this issue, rather than on facts relating to their individual experiences. This is particularly important to note, given that the nature of the study did not lend itself to the direct questioning of children about the prevalence of the problem, nor about the impact on them personally.

One of the issues emerging from these focus groups related to children's engagement in general economic activity and how they used the money earned. Two thirds (67%) of the total group indicated that they had in the past engaged in some activity that earned them money. Nearly a third (33%) of the total group stated that they had never earned money on their own, and that they relied on their caregivers for money.

Just over 30% of the total group, and 38% of the children from the SCF group, reported engaging in illicit activities to obtain money. In contrast, only 2.5% of the school group reported engaging in illicit activities to earn money.

The key discussions, however, related to how children get involved in crime and, in particular, the role of adults in this process.

How children get involved in crime

Prior to asking children about their views relating to CUBAC, the researchers explored their views and beliefs about how children get involved in crime in the first place. The following issues were raised by the groups, and are discussed in order of how frequently they were noted within the sample of 41 focus groups.

Factors at home

Overwhelmingly, the groups stated that factors at home were the cause of children getting involved in crime, and noted things such as poverty in families, parenting and care of children, and family relationships. These issues were raised by 33 of the 41 groups. Children said the following:

Children come from a hard environment, they have a poor family.

Your mother may be abusing you and you don't know what to do.

I had problems with my family and they chased me away.

Peer pressure and the influence of friends

This was the second most common factor noted by children as influencing children's involvement in

crime (in 30 of the 41 groups). The participants described the influence of their peers as subtle and nuanced; it is not simply a question of friends actively pressuring children into criminal behaviour. Many children are slowly drawn into the culture of the peer group, often because they aspire to having similar possessions as those of the peer group. Examples of children's responses included:

You just start hanging around with other people who do bad things. It happens from there.

You want to please friends. You want to be part of everyone.

You want to impress friends and wear label clothing.

The use of drugs and alcohol

The use of drugs and alcohol, and particularly addiction to these substances, emerged as a significant theme throughout the study. This was raised as the third set of reasons for children becoming engaged in crime for the first time (by 29 of the 41 groups). The influence of drugs especially was spoken about with a sense of desperation. Children described the drugs as 'making' children commit crime. They noted:

Drugs and Tik make you crazy. Once you start, you must have more.

You smoke mandrax and Tik and start going with the wrong friends, you become *skelm* (sneaky).

The influence of gangs

This was noted as the fourth set of factors (raised by 13 of the 41 groups) having an influence on children committing crimes for the first time. This was most prominently noted by the groups in the Western Cape, and to some extent in the group of school children. Children described gangs as helping to define their aspirations: children observe what gangsters have and how they are perceived by the community, and aspire to the same things. Children said:

Growing up in gangster areas, you get involved. You want to be like them.

The gang is attractive with its gold and rings, and there are things that you must do to get that.

How adults are involved in child crime

Children were asked several questions that attempted to elicit whether and how adults engage children in crime. All 41 focus groups provided information that indicated that adults engaging children in criminal activities is a common phenomenon, and provided clear and direct examples of how adults are involved when children commit crime.

Adult involvement: direct and indirect

Overall, children indicated that adults involved children in crime through direct and indirect means. The direct involvement of children by adults in crime (noted by 30 of the 41 groups) was described as engaging children as accomplices in the commission of crimes. This included committing crimes together, children acting as look-outs, adults taking children to crime scenes where the children were then expected to commit crime, adults overseeing the commission of the crime, and adults paying children for the commission of crime. This also involved using children to sell drugs.

In 32 of the 41 groups children also described how adults were indirectly involved in engaging children in criminal activities. This would include buying stolen goods, showing children how to commit crime, and providing the means to do so (such as guns). At another level, adults made it known to children that it was easy to commit crime; showed them the kinds of rewards that could be obtained; and gave them an overall impression of crime as attractive and positive.

Offering rewards or 'bribes'

All 41 groups identified rewards as a means through which adults engaged children in crime. The key issue related to the nature of the reward that was offered, in many cases the children termed these as 'bribes'. All the groups identified material rewards

such as money (29 groups), drugs (21 groups), guns (6 groups) and clothes. In 14 groups, recognition, esteem, acknowledgement and respect were noted as a reward offered.

The issue of drugs in particular emerged throughout this study as a primary means by which adults engaged children in crime. Children often said that getting money was related to getting drugs, in order to feed what they described as an 'addiction'. Fifteen of the groups described how adults deliberately got children addicted to drugs so that these children could become easy targets for use in criminal activities at a later stage.

Using physical violence and threats of violence

Twenty-seven of the 41 focus groups noted the use of physical violence and the threat of physical violence as a means by which adults coerced children into committing crimes. In exploring the nature of violence and threats used, nine groups spoke of actual beatings and abuse of children, and one of these groups mentioned rape. Fourteen groups identified threats of violence being used to coerce children to commit crime, with five of these groups specifically noting threats of death, made with a weapon such as a gun or knife. Two groups used terms such as 'torture' and 'bullying' to describe children's experience.

At least six groups described adults engaging children in criminal conduct as a process of deception. Primarily, this was described as a process where adults would, over time, provide children with things such as money, drugs, clothes and other items. At a later stage they would then claim that 'these things cost money' and request the repayment of the 'debt' in the form of criminal activities.

Family influence

Twenty-four of the 41 groups described in some detail other behaviour of adults that resulted in children becoming involved in crime. In most cases this related to the experiences of children in their families, and actions of family members that were described as 'pushing' children to commit offences. These were:

- home circumstances, with poverty, neglect and abuse cited as the most critical of these influences;
- children receiving no guidance or examples of appropriate behaviour;
- families ignoring or excusing criminal behaviour;
- families making children feel guilty for expressing basic needs.

Mothers don't know it, but they cause children to commit crime when they say, 'don't sit around, go and work for money'.

Coercion or willing participation?

In exploring whether children are coerced into crime, or whether they are willing participants, the groups provided responses to indicate that children were often threatened and coerced into committing crimes (as was noted earlier, 27 of the 41 groups provided information as to the coercive nature of this). However, the groups also noted that, equally, children were making decisions as to whether they should commit crime. Thirty-nine of the groups stated that children themselves often made decisions to commit crime, and that this often related to the nature of the reward expected.

Addressing the problem

The overwhelming majority of groups agreed that adults engaging children in crime was problematic, and that something needed to be done to address the situation.

It is clear that children need help for a number of reasons: those who have dropped out of school and have no opportunities; those addicted to drugs; and those children subjected to coercion by adults. Some of the responses indicated a somewhat fatalistic position, namely that whatever help was given would not make a difference and that a life of crime was somehow inevitable.

Responses to the question of what should be done to help children ranged from constructive options, such as the importance of returning to school, to the xenophobic: "get the Nigerians out of the country". The majority of suggestions, however, emphasised

education, development, social work services, sport and recreation, and employment.

Based on the information provided, it seems clear that adults engaging children in crime was common knowledge, or commonly experienced, among the child respondents. The study also found that of those respondents in the SCF group on whom information was available through self-reporting (N=389), a total of 182 (47%) were co-accused with adults, while 207 (53%) reported being charged on their own.

The experiences described by children indicate that criminal justice and crime prevention efforts need to be far more vigilant to the question of adult involvement in crime with children. How the criminal justice system deals with the issue warrants particular attention.

The Child Justice Bill will respond to the issue of child offending, and provide for systems to deal with the child's involvement in crime. However, the act of adults engaging children in illicit activities is not specifically criminalised in South African law.

Sloth-Nielsen comments that while the common law provisions for incitement and conspiracy do exist, these may be inadequate in dealing with the adults who engage children in crime. She argues that instituting prosecutions against adults may, in fact, undermine the overall goal of keeping children away from criminal proceedings, and states that the creation of a new statutory offence, in line with proposals already made by the South African Law Reform Commission in relation to the Child Justice Bill, may be preferable.⁸

Rewards and threats

The results of the study indicate children's engagement by adults in crime is not primarily the result of violent or threatening coercion by adults (although this too is common). The respondents indicated that children are engaged in crime by adults most often through the promise of a range of different rewards.

The respondents described rewards of both a tangible and intangible nature. Tangible rewards

included money, drugs, clothes and weapons, while intangible rewards such as praise, acknowledgement, respect and recognition were noted. The nature of the rewards described by the respondents offers some valuable clues as to how children are motivated, and allows crime prevention practitioners to consider how such rewards may be replaced or duplicated in the context of programme interventions.

The use of violence, threats and coercion by adults also needs to be noted. The use of such strategies by adults indicates that some children may be at considerable risk of violence or physical harm, and that prevention and early intervention strategies need to be cognisant of these risks, and pragmatic in relation to how children should respond to them.

Children, crime and agency

Children themselves have, throughout the study, indicated that far from simply being the victims of adults, children often make direct decisions about their involvement in crime. These decisions seem to be motivated by quite logical concerns, based on children's environment and personal circumstances. As such, they warrant far greater attention from crime prevention practitioners than has previously been given.

The role of drugs and alcohol

A theme that emerged throughout this study was the role of drugs and alcohol as a factor in influencing children to engage in crime with adults. Children spoke of drugs such as mandrax, tik and heroin as forcing them into relationships that would ensure that they had continued access to these substances. Children's description of adult involvement in this indicates that substance abuse in particular has the potential to significantly increase children's risk levels in relation to crime.

Can child participation help the study of crime?

This research raises some questions about the value that child participation or consultation holds for the study of crime. Child participation is, in its purest form, about the views, opinions, impressions and recommendations of children and does not directly seek to create new data about crime problems. Especially when one seeks to obtain information about the nature, extent and impact of crime

problems, child participation studies may be hugely inappropriate given the ethics of engaging children as subjects; and the kinds of risks that may relate to children acting as informers.

Child participation studies may, however, be enormously beneficial in the development of prevention, early intervention and reintegration programmes. From both a child rights and programme development perspective, the involvement of children in the construction of programmes intended for their benefit has been noted to be a good practice. More important, however, is that these studies offer glimpses into the lives of children that may otherwise be impossible to imagine.

Endnotes

- 1 International Labour Organisation Convention on the Elimination of the Worst Forms of Child Labour, No. 182, 1999.
- 2 C Frank and L Muntingh, *Children Used by Adults to Commit Crime (CUBAC): Children's Perceptions*, International Labour Organisation, 2005.
- 3 United Nations Convention on the Rights of the Child, 20 November 1989.
- 4 Article 12 (1), Convention on the Rights of the Child.
- 5 Article 12 (2), Convention on the Rights of the Child.
- 6 Article 13, Convention on the Rights of the Child.
- 7 R Hart, Children's Participation: From Tokenism to Citizenship, *Innocenti Digest No. 4*, UNICEF, 1992.
- 8 J Sloth-Nielsen, Let not the Sins of the Fathers... Investigating the Child Labour/Juvenile Justice Intersection, 4th World Congress on the Rights of Children and Youth, Cape Town, March 2005.