The Peninsula Anti Crime Agency (PEACA)

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1. Introduction

Respect for the rule of law is one of the core ingredients for a healthy democratic nation. In such a democratic dispensation the state takes primary responsibility for the provision of justice to its citizens. Citizens, for their part, respect the authority of the state. When a conflict or dispute arises the state – through its judicial wing – serves as the final arbiter. Thomas Hobbes[ii] saw this set-up as part of a social contract premised on his notion that people give away some of their rights to prevent a state of 'warre' for the good of all.

South Africa gave birth to such a social contract in 1994 when, for the first time, a non-racial Constitution[iii] that pronounces equality of citizens was adopted. In terms of the Constitution all South Africans have equal status and are equally entitled to protection of the law. Almost a decade after this historic turn of events, however, a lot remains unchanged as far as the accessibility of justice to groups that were excluded by the pre-1994 state is concerned. The majority of black South Africans are still outside the state legal system. For their justice needs they resort to non-state tribunals and agencies[iv]. The most pertinent and serious problem is the increasing incidents of people taking the law into their own hands and the proliferation of private security mechanisms falling outside the state regulation. If newspaper reports are to be believed,[v] there are many

people who get involved in meting out justice – often in very brutal ways such as cutting a suspected rapist's penis off or burning a robbery suspect to death. Moreover there are other structures whose core business is the prevention of crime and meting out of justice. These are structures such as the Peninsula Anti Crime Agency (PEACA), Mapogo a Mathamaga,[vi] etc., which are often labelled 'vigilante'.

This paper grapples with the phenomenon known as 'vigilantism'. This generally refers to extra state activities by residents who take the law into their own hands in order to handle cases. With PEACA as a case study this paper points to the vacuum in which such organisations emerge and analyses the necessary (or even adequate?) conditions that enable the emergence and existence of PEACA and similar structures.

In conclusion this paper, somehow cautiously, points a finger at the South African Criminal Justice System for the emergence and existence of structures such as PEACA. Cautiously because even though members of these organisations use the failure/inability of the Criminal Justice System to justify their activities, a closer look at their activities reveals that there are many other factors that play a role and there is evidence of other motives being pursued. In the final analysis, it is submitted, the responsibility to deal with vigilantism lies with the Criminal Justice System both for practical reasons as well as because of the duty the South African State has in terms of the Constitution. Moreover, some commentators believe that service delivery by state organs such as local government, home affairs and housing departments should pay more attention

rapid urbanisation and the growth of squatter settlements, which create the environment conducive to commission of crime and are difficult to police.[vii] This, it is suggested, would go a long way in dealing with crime and by extension vigilantism.[viii]

2. The Peninsula Anti Crime Agency (PEACA)[ix]

PEACA was formed in 1998 by ex-members (soldiers) of 'Umkhonto we Sizwe (MK), Azanian People's Liberation Army (APLA)[x], Self Defence Units (SDU's) and the South African National Defence Force (SANDF). Their offices are two shipping containers situated at Site C taxi rank in Khayelitsha. PEACA boasts a membership of 1500 people throughout the Peninsula. The members of PEACA are appointed into office by the founders[xi] of this organisation. Among the most important positions in the executive committee of PEACA are Commander, Co-ordinator, Director and Deputy Director.

According to its leaders, PEACA was formed in response to the high rate of crime and the Criminal Justice System's inability to deal with crime. Though their initial focus was on criminal cases, they now handle all cases brought to them. The Co-ordinator of PEACA whom I asked as to what cases they deal with put it as follows:

> "Armed robbery, murder, car theft. But petty cases are supposed to be handled by SANCO and its street committees, but street

> committees fail. The people come to us and say 'sisi/butie' those people failed, so we handle those cases as well".

This feature of PEACA (their handling of criminal cases) distinguishes them from other community structures in Khayelitsha, which restrict themselves to non-criminal cases, thereby leaving criminal cases to the Criminal Justice System. PEACA further distinguishes itself from other community structures there in that they charge disputants for services rendered. There are two methods in which money is collected. The Co-ordinator put it as follows:

> "The complainant pays R70.00 for transport and we go and fetch the respondent. The respondent then has to pay the money back to the complainant because we wrote a letter and s/he did not come to us... There are these structures called 'imigalelo'. If PEACA is to collect R200.00 from a respondent, we collect R220.00. R20.00 goes to PEACA and R200.00 to the complainant. That is how we buy food and we pay for our phone. But if there is no case we have no money".

Like many community structures in Khayelitsha, to my knowledge only Peace Committees being an exception, members of PEACA are vested with a significant amount of discretion regarding the procedures to be followed in handling of cases. The extent of discretion is demonstrated better in the words of the Co-ordinator of PEACA, who said:

> "When a person comes to report a case to us we take a statement and then write a letter to the respondent calling him/her to our office. When the respondent arrives we listen to both the complainant and the respondent. Because of my intelligence, acquired in military training, I can tell who is telling the truth and who is lying. Then I make a decision concerning who is wrong and who is right".

This should be a disturbing attribute of PEACA especially when taking into account the fact that PEACA is a forum of first and last instance (i.e. they handle the case from the beginning to the end with no allowance for review or appeal).

It is independent of all other structures and accountable to none. Concerning referral of cases to other structures, the co-ordinator said:

> "... If a case is not very serious we do not go to the police station, we take chances. Before we go to the police, we try our best *to force the person to admit guilt*. We do not refer cases to other structures". (Italics added)

The Deputy Director of PEACA, however, denies that PEACA ever uses force. But the admission of the Co-ordinator to the use of force seems to line up with an allegation made by a lady who was involved with PEACA as a respondent, who said:

> "When they (PEACA) arrived at my house, they told me to pay the money I owed to the other person and they did not even listen to me. Then they took me to the container. There I was left with other men who told me to go home and come again with the money."[xii]

Relying on my interviews and observations, the following features are easily attributable to PEACA:

- It appears to be the most controversial among all the researched ordering structures.

The KCPF through its Chairman, Secretary and Deputy Secretary regard PEACA as a vigilante group run by criminals with no mandate from the community of Khayelitsha and it should be closed down. The South African Police Services' interviewed members hold different views about PEACA in that an inspector dismisses PEACA as using unconstitutional means to handle suspected criminals while a senior superintendent at the same office sees PEACA as useful, though

having reservations about their modus operandi. To contrast the inefficiency of the Criminal Justice System with the apparent efficiency of PEACA, he used the following example:

> "If a person's hi-fi has been stolen and that person reports the case to the SAPS, it is firstly difficult to get the criminal due to lack of information as people do not cooperate in tracing perpetrators. Even if the police apprehend the suspect and get the hi-fi back, it is stored at the police store until the case has been finalised. This is a serious inconvenience to the victim who normally, in Khayelitsha, does not have insurance on his/her belongings. If the case is reported to PEACA they trace the culprit and after getting the hi-fi, they give it to the victim immediately. That is why people tend to prefer PEACA to the police".

An executive committee member of the KCPF said about PEACA:

> "These people are trained as soldiers. They are very active people who have been active all their lives. They now find themselves in a situation of unemployment, so they create activities to keep themselves busy. Unfortunately the high rate of crime makes it possible for them to engage in such activities. Being trained soldiers who are unable to render their services within the country's military structures, they try to create a platform for themselves so that they can get some recognition and make a living as well. Everyone needs an income to survive".

An interviewee who has been involved with PEACA in a professional capacity as a member of an NGO dismisses PEACA as a group of people merely trying to make a name for themselves. While PEACA claims to charge minimal fees as indicated above, the interviewee who had to deal with PEACA as a respondent alleges that PEACA demanded R1600.00 as part of their fees and they informed her that the amount could be higher as the account was still going to be 'taxed'. And an inspector of the SAPS relates a case where PEACA had collected R2000.00 on behalf of a complainant, which he (complainant) never received. The complainant approached the police for protection because instead of giving him

the collected R2000.00, PEACA was demanding R1000.00 from him as an outstanding amount of their fees. The respondent had been ordered to pay fees of R3000.00 to PEACA, but disappeared after only paying the R2000.00.

- Though PEACA claims to operate throughout the Peninsula, all interviewees in other areas, viz. UMAC, CPF's of Mfuleni, Gugulethu and Nyanga as well as SANCO bear no knowledge of their activities outside Khayelitsha.
- PEACA has been accused by many for use of force in dealing with suspected criminals and PEACA members contradict one another in responding to these allegations. The Co-ordinator of PEACA admitted use of force in handling of suspects. Another interviewee at the PEACA office admitted intimidation as the means they used to get people to tell them the truth. He denies ever assaulting anyone, as they never reach that stage. In one of the offices [1]there are pictures on the wall, which show people lying down. He says they show people these pictures and tell them that that is how they would be tied up and shocked with electricity. He says that they show them the electric plug and tell them that it controls a machine in the adjacent room, which will be used to shock them. The now defunct Human Rights Committee records a well-known incident in Khayelitsha where a police officer was kidnapped by PEACA (2001:25). An interviewee at KCPF informed me that the family of the kidnapped police officer had to pay R150.00 per day so that the police officer could be fed. He spent the whole weekend at the PEACA container. He was

[1]

> accused of having stolen a motor vehicle, which later was proved to be his own. I can further confirm the use of force by PEACA in that the first day I went to introduce myself to them I found some men, in the office, casually punching two people who were apparently tied to each other. The Deputy Director of PEACA vehemently denies use of force despite the evidence such as members of PEACA having been convicted and serving sentences resultant from their handling of criminals (which he sees as a campaign by those opposed to and jealous of PEACA) as well as my personal observation of use of force.[xiii]

Despite my nine visits to PEACA offices, I have not been able to find a case in progress at all and there is no register of cases to be handled. The explanation initially given to me was that the weekend was their busy time. My visits there, even on weekends, failed to find any case in progress. It is really difficult to tell if PEACA handles cases the way they say they do, but the account of the lady who was handled by PEACA as a respondent gives a hint: it appears that in many instances PEACA members go to look for the respondent/suspect immediately after a report has been made which does not necessarily have to be at the office, and when the respondent/suspect has been found summary trial takes place on the spot. That would explain why the Co-ordinator of PEACA was not aware of a well-publicised case in which PEACA had recovered about R40 000.00 for members of an 'umgalelo'. He probably did not know about it because it was handled by some members outside the offices and there are no records.

- PEACA has been trying hard to boost its image by attempting to forge a working relationship with many other institutions and organisations. Among others they tried to join the KCPF, they approached Dr. Omar, the former Minister of Justice, for a letter of recommendation to form a private security company; they approached the Centre for Conflict Resolution (CCR) and are now negotiating with CPP.

3. CONDITIONS THAT ENABLE NON-STATE JUSTICE WORK

There are a number of factors that need to exist before any form of justice work can take place. In respect of justice work performed by the state that factor is the existence of a social contract as ordinarily constituted through the electoral process. The social contract empowers the state to administer justice among its subjects. In respect of justice work done outside the state there are at least four important factors that are crucial before any form of such justice can take place. The factors, which are now dealt with in turn, are community, common enemy, feeling of vulnerability and threat of (or actual) rule-breaking (or crime).

3.1. Community

Community is one of the oft-used yet malleable terms (Thornton and Ramphele, 1988:30). Community is used here as meaning a sense of belonging together or sharing certain values. Terms used by members a 'community' are 'we' and 'us'. In this broad category would be people who share residential area(s) or even people pursuing a particular trade or profession. Whenever people do justice such an activity is done for, in or by the 'community', or a small slice of it. No wonder one of the many names of non-state justice is 'community justice'. But this sense of community also extends to the less organised sporadic manifestations of justice work. Dealing with the Argentinean rebellion of 1989, Laura Kalmanowiecki helpfully states:

> 'The Tres Arroyes uprising was a community protest. They knew each other, and there were solidarity networks among them..... The loss of a neighbour's child reinforced the bond of solidarity that existed among the residents' (1991:53)

Similarly in Khayelitsha, as the newspapers clearly put it, the community took up arms in January 2002 and killed people who were accused of having robbed and killed some businessmen in the area (The Star, 16/01/2002). There was that momentary sense of community among the people. Thus a sense of community does not have to be long-lasting, when it comes to personal safety it can be quite fleeting. This is also the rhetoric of PEACA. They charge that it is their responsibility to protect their community from criminals.

3.2. Common Enemy

When people do justice in the manner under discussion, there is always an enemy, however defined. The usual enemy is the criminal (deviant) and the

subsidiary one, at least in the South African context and the Argentinean 1989 rebellion, the Criminal Justice System with the police being the closest and most visible of that system's representatives. Thus the common enemy of PAGAD comprises in drug dealers who corrupt members of the community, especially children and young people. Equally so Mapogo a Mathamaga have a clearly defined enemy. That enemy is identifiable by simply looking at the name of this organisation which is itself a declaration of war. It is derived from the Pedi proverb: 'Ge ole nkwe ke lepogo, bobedi re mathamaga' which implies or could be roughly translated: 'if you are a tiger, I am a leopard—we belong to the same species'. Thus business people—a community—who had been victimised by criminals (tigers in this case), who therefore constitute the enemy, where no longer to be sitting ducks but would, as leopards match them at their game. The criminals were the main enemy with the Criminal Justice System being the subsidiary one. Sekhonyane & Louw (2002:29) capture this stance by noting:

> 'The major complaint that led to establishment of Mapogo in 1996 by local business people ..... was the increase in the murders of business people, burglaries and robberies in the Nebo/Sekhukhuni (sic) area. Members of Mapogo alleged that the Criminal Justice System was failing to protect the lives and properties of business people in the areas. They further alleged that police in the area colluded with the criminals'.

Over 1300 kilometres away from Sekhukhune, PEACA and PAGAD--in the Western Cape—raised exactly the same concerns regarding the enemy in the form of criminals and the Criminal Justice System, the former more explicitly and the latter by implication.

3.3. Feeling of Vulnerability

People who get involved in this way of doing justice feel somehow vulnerable to the attacks by the common enemy or react to the vulnerable feelings that others have but don't have the ability to respond. One of the main justifications for all forms of justice work outside the state in South Africa is that they deal with criminals because they (the criminals) terrorise people and because the Criminal Justice System does nothing or not enough. It is common cause that many South Africans lack confidence in the police (see Shaw 2002:89). I will not delve into the debate of whether that lack of confidence is justified or not. That is debatable but the existence of such lack of confidence is not. It is worth noting that while that lack of confidence, coupled with the fear of crime, exists – albeit to varying degrees – across racial and class boundaries, people who do justice as discussed here are predominantly the poor South Africans. There is a relatively simple explanation for this. Those with financial means among South Africans deal with their vulnerability by resorting to private security while majority of the poor cannot afford such security measures. Tragically then, those with no resources to serve as a caution when crime strikes are the ones more vulnerable and living with that feeling a vulnerability in the absence of high security fences or gated communities. Makubetse Sekhonyane (2003) succinctly observes, many vigilante

"... phenomenon is more pronounced in criminogenic areas such as Braamfisherville. These areas are characterised by by poor infrastructure: no

street lights, street numbers, or electricity. Community cohesion is poor as people come from different areas and are all new to the area".

3.4. Threat/Actual Rule Breaking or Crime

The forms of justice discussed here are invariably preceded by rule breaking or threat thereof. In all cases that I am aware of they take place after a crime has been committed. In this sense the community sees someone as having broken one of the accepted rules or norms of that community. Naturally an action has to be taken. The motivation could be deterrence, popular punitiveness or restoration. That does not concern me much for the present purposes. What does concern me is that there has been a rule breaking and the doing of justice flows therefrom. These necessary/adequate factors for vigilante activities, however, are dependant on many other historical factors that serve to exercebate the situation in the South African context. For the sake of completeness the call for attention.

4. **Historical Factors**

4.1. Liberation Struggle

Values contained in the anti-colonial struggle will to some extent shape the post-independence legal ethos. This is true for many countries whose liberation struggle was anchored in socialist ideology. A pertinent example is Portugal where, as Santos (1982:251-280), noted the struggle for liberation and popular justice were interlinked. Isaacman and Isaacman (1982:281-320) also chronicle similar experiences in Mozambique. In both countries it is clear that there was a

struggle involving legality in the post independence/liberation phase and that the popular justice call was for a socialist legal order. In both Portugal and Mozambique, popular justice was seen as an 'embryonic' (Santos 1982:28) form of justice representing the system being fought for (see also Sachs and Honwana-Welch, 1990). Burman and Schärf (1990) describe such form of popular justice as 'prefigurative'. They were referring here to structures of people's justice that pervaded South Africa during the liberation struggle.

These structures of people's justice have a long history with so many twists and turns that cannot be sufficiently accounted for here. But a short history is in order for contextualisation purposes. Many authors have written about the history of justice work—using a variety of names but still referring to one phenomenon in its diverse manifestations--in South Africa (Hund & Kotu-Rammopu, 1983; Bapela, 1987; Burman & Schärf,1990; Schärf & Nina, 2001 etc.). What is clear from this literature is that justice work was intrinsically linked to the liberation struggle--more overtly from the 1970s. During the time following the 1970s we increasingly saw the growing overt link between the liberation struggle and the forms of non-state justice. The civics became more and more politicised--to the left--and so did the structures of justice they ran. These were street committees, block committees and area committees that dealt with disputes within the black townships.

When liberation was attained a new Constitution – guaranteeing, inter alia, equality before the law – was put in place. This Constitution did not include

forms of justice work outside the state, except section 166(e) which allows for new courts to be created. Interestingly, there was no insistence for the inclusion on the part of these structures. Justice work started to change shape during transition with the result that the post-1994 forms of justice are significantly different from their pre-1994 counterparts even where the same names are retained. For instance, street committees--affiliated to SANCO--retained their hierarchical structure as well as the name(s), but their ideology has changed. They are now ideologically *ad idem* with the present government. This refers to policy – at least as far as justice work is concerned. In practice, however, one finds street committees of SANCO which do not subscribe to the formal stance of this organisation. The most crucial of the post-1994 SANCO attributes is that street committees are not allowed to use force in their handling of cases, while there are incidents of such street committees taking the law into their own hands. For instance, a Khayelitsha resident's shack was burnt down simply because she had reported a case to the police instead of reporting it to a SANCO street committee[xiv]. And that is not an isolated incident as in February 2000, in Khayelitsha, a woman was subjected to name-calling, intimidation and swearing by the community simply for not reporting a case to SANCO[xv] Nor is it a new phenomenon as Boskati (1997:34) observed that in Khayelitsha, people considered to have done something wrong in the community were '... forced to appear before the street committee'. And if they persisted in their refusal to attend the meeting they were '... ordered to leave the community' and such person may even have his/her '...shack burnt'. There has not been a complete

shift from the harsh liberation era disciplinary ethos when people's courts had as their main purpose the disciplining of people stepping out of line in terms of the expected behaviour in a political struggle. During that time discipline within these structures also served as a survival tactic to avoid information leaking to the state spies.

The above describes the impact of the liberation struggle on the form that street committees of SANCO, as a form of people's justice, took after liberation. In short the ethos and ideology of these structures were abandoned in favour of state justice. These structures, however, did not disappear though it can hardly be denied that their identity and modus operandi got muddied in the process and they lost many of their seasoned leaders to the new government administration.

One other critical outcome of the abandonment of popular justice ethos that had underpinned the liberation struggle was that street committees were seen to be ineffective in their handling of disputes as many of them stopped using coercion in the form of force in their dealings. This was compounded by the fact that the state justice to which street committees relinquished the 'right' to deal with disputes (especially criminal cases) was unable to fill the vacuum. This resulted in people's discontent about the administration of justice. Moreover, crime rates increased (Shaw 2002). Many people were nostalgic about the recent past when street committees could handle problems, the time when people had a share in the resolution of their disputes. The time when street committees, as legitimate

community justice forums, could not be undermined by anyone without serious consequences, including eviction from the residential area where such a street committee is based.

A crude summation of the development of the justice work would be that when liberation dawned, many saw this as a moment they had all been waiting for. The form of justice that had been prefigured had now arrived. This was not to last for a long time as reality soon dawned--a very harsh one at that. On the one hand the street committees and like structures of non-state justice had ceased to operate or were no longer effective. On the other hand the state justice system--now purportedly inclusive of all—was unable to deliver justice, at least as expected by the communities. This accounts for the genesis of many of the post-1994 structures of non-state justice, especially the ones known as vigilante groups. These are organisations such as PAGAD, PEACA, Mapogo, etc.

4.2. Social Diversity

Experiences from different countries show that social diversity impacts on the nature of justice work – at least the extent to which disputes are dealt with outside the state and the one to which they are dealt with through the state justice channels. Colonialism, in many respects, seems to have influenced social diversity especially when it comes to social control, legal ordering. In countries that were colonised by a country with a significantly different cultural and legal systems, the result has often been an increase in diversity. Robert Bush (1979)

calls this ‘evolution’. He argues that the colonised (or formerly colonised) move from their legal system to those of the colonisers. There is a continuum in social diversity. At the one end is the African culture and at the other the Western one. It can hardly be denied that the movement is from the African to the Western legal system. This adequately depicts the South African reality. At the one end we have rural residents, many of whom adhere to the African legal system as administered by traditional leaders.[xvi] At the other end stands the Western legal system, which passes as the South African state's legal system. In between these two extremes are many people. We have many South Africans staying in rural areas and applying the traditional dispute resolution mechanisms. Those in the urban areas are divided, sharply so, into two main categories: those who adhere to the state justice system and its trappings as well as those left mainly to non-state forms of justice, be it in the form of popular justice, vigilante groups and NGO-led forms of justice.

At the root of this legal diversity lie two main factors. The one is the inaccessibility (i.e. geographically and/or economically) of the state justice system. The other is the incongruency between the culture of many South Africans, especially blacks, with the state justice system. The type of justice offered by the state system does not satisfy many of their expectations from a justice system or dispute resolution structure. According to the Coordinator of PEACA[xvii] many presiding officers in the formal (state) courts do not understand the culture(s) of black South Africans. In a way of an example, he asserts that

white presiding officers in particular do not attach importance to 'lobolo' (an amount in money or goods paid to the bride's father as a formality for a valid customary marriage) while this is one of the most important considerations in matrimonial disputes among many black South Africans.

4.3. Transition

Dixon (2002) warns us to tread carefully when talking about transition. Transition is used here to refer to a political marker designating a process from apartheid to democracy. It does not only refer to the official handover of the political power. Moreover, unless it is a coup transition is preceded by negotiations as we have witnessed in South Africa. More specifically, transition includes events that took place from the time when negotiations started formally in 1990 to date. I am aware of the danger that, seen in this light, transition can go on forever as we do not know when it stops. What can be said with certainty is that there was a move from apartheid to non-racial democracy. It therefore includes the events that led to that democracy as well as those that followed it or even followed because of it. That will not be debated here. Mine is a very simple take, namely: South Africa embarked on a process that resulted in the dismantling of apartheid as well as its form of governance, including justice and crime control, and we are now a democratic polity. Surely we have moved from one system to the other. Flowing from that, it can be said that transition as defined here--brought about realities that are dealt with in this paper. It is submitted that when apartheid

reached its demise a chain of events followed and those events affect/ed the way in which people do justice, for better or worse—and submit that this simple definition sufficiently serves the present purposes.

5. Conclusion

The factors identified above paint a gloomy picture regarding the South African Criminal Justice System. It is submitted, however, that while many of the factors described above cannot be addressed adequately, there is still room for improvement of the way in which non-state justice is dealt with and further that had the post-1994 government taken advantage of its legitimacy—an attribute that the Criminal Justice System enjoys among many South Africans—we would not be in the state we are in now. While it is undisputable that it would be a toll order for the State to be expected to deal with some of the necessary/adequate conditions for vigilante activities, it is also true that some of the factors, such as 'feeling of vulnerability', which contributes significantly to the emergence and continued existence of structures such as PEACA could be dealt with. Among others, as observed before, many members of the community turn to vigilante groups after first approaching the police and finding no joy. The lack of assistance from the police or the Criminal Justice System as a whole, further fuels the perception that police are 'good for nothing' . That helps sustain the vigilante groups such as PEACA. An interaction with a businessman from Khayelitsha illustrates this point: He approached the Institute of Criminology, University of Cape Town, and asked that the Institute should support PEACA.

His reasoning was simple: the police are unable to deal with crime in Khayelitsha. He informed us that the section of Khayelitsha that he came from had arrested a 'criminal' (his word) over the weekend. The criminal, he asserted, had begged them to take him to the police rather than to PEACA. To him (the businessman), this meant that criminals do not fear the police but PEACA. Sadly, I can confirm that his take is not different from that of many other residents (even those who commit crimes). As long as this holds true, then vigilante groups are going to remain in business for a very long time. By now we know that it is in no one's long term interest that such groups should be part of society given their unconstitutionality, but it becomes untenable to denounce them without dealing with the factors that bring them into existence.

Finally, it is submitted that the Criminal Justice System reevaluate it strategy in dealing with vigilante groups or even non-state justice at large. The current trend, characterised by lack of a coherent strategy to deal with vigilante groups is both myopic and self-defeating. At present the Criminal Justice System is widely perceived as not doing enough to curb crime, at best, and, at worst, the police are seen to be more sympathetic to criminals or even as acting in cahoots with them. Surely, this cannot be a fair assessment of the Criminal Justice System or the police, but the perception is there and it helps bring about and sustain vigilante groups. How else does one explain a situation where a crime is reported and police do not come immediately—if they come at all—for lack of transport, but then respond promptly as soon as the community has taken the law into its own hands?

[i] I am grateful to Wilfried Schärf of the Institute of Criminology, UCT, with whom many of the ideas and thoughts contained in this article were initiated and discussed with a view to writing a joint chapter. The analysis, opinions and views expressed, however, do not necessarily reflect those of Wilfried Schärf.

[ii] See www.zero.eti.br/textos/hobbes-ing.html, accessed on 21/01/2003; Boskati (1997:16) and Nina (2001:101).

[iii] Constitution of the Republic of South Africa, Act 108 of 1996.

[iv] See Scharf and Nina (2001) for a detailed discussion of the variety of structures that cater for the justice needs of South Africans outside the State Justice System. They coined the term 'the other law' to classify the type of law applied by such structures.

[v] Among the many newspaper reports on these incidents see Cape Times of 03/12/2001, 15/01/2002, 27/01/2002,30/01/2002; Cape Argus of 11/09/2001, 18/01/2002, 21/01/2002, 24/01/2002; The Mercury of 14/04/2002 and The Star of 09/04/2002.

[vi] For a study of Mapogo-a-Mathamaga see Sekhonyane and Louw (2002:35) who refer to it as "....an organisation to protect businessmen and their property. Now better known as a prominent vigilante group in the Northern Province, Mapogo was formed in August 1996 after the murder of the eighth businessman in the Sekhukhuni (sic)/Nebo area".

[vii] Discussion with Makubetse Sekhonyane on 23 September 2003.

[viii] See Sekhonyane, M (2003).

[ix] The discussion of PEACA is based on interviews with different members of PEACA, including the Deputy Director and the Coordinator as well as other respondents in the community of Khayelitsha conducting over the period between 2000 and 2003.

[x] MK and APLA were the military wings of the African National Congress and the Pan Africanist Congress, receptively.

[xi] The founders of PEACA are the members who were responsible for its formation and called the rest to join. They appointed other office bearers and there is no provision for duration in office, which implies permanent position in office as confirmed by the Coordinator.

[xii] My research visit to KCPF coincided with her reporting of this incident to the KCPF and she was advised by the secretary to lay a charge of intimidation against PEACA.

[xiii] This interviewee suggests that my observation is not a true reflection of what was happening on the day in question. I went to the PEACA office to introduce myself and found two people tied up and lying on the floor of one of the offices with a number of men punching and kicking them. The interviewee said about this event: "... you did not have a clear view and you may be mistaken as we do not do such things here".

[xiv] Article written by Ndama, M (2000) with the tile 'Twist of Fate'.in City Vision. Cape Peninsula Township News. Vol. 11-8, April.

[xv] Article written by Mesi, J (2000) with the title 'I live in Fear of Sanco,' says Khayelitsha Mum. in City Vision. Cape Peninsula Township News. Vol. 8-5, February.

[xvi] Traditional tribunals are empowered to deal with cases just as they did in the pre-1994 dispensation on the basis of Section 181 of the Constitution which as Van Niekerk (1999:267) noted, 'determines that traditional authorities which observe indigenous law and which are recognised before the implementation of the Constitution, shall continue as such authorities and continue to exercise their powers in accordance with "the applicable laws and customs (indigenous law), subject to repeal of such laws and customs'. As at the time of writing such a repeal has not yet taken place.

[xvii] Interview at PEACA offices in 2000.

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