Crime and Policing in Transitional Societies

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Jan Smuts House, University of the Witwatersrand
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Table of Contents

Table of Contents

Introduction

While South Africa has faced high levels of crime in the first few years of the establishment of democracy, the country is by no means unique. A number of other societies that have also experienced transitions from authoritarian to democratic rule have undergone similar experiences. In almost all cases, such transitions have been accompanied by equally dramatic changes in economic and social circumstances, some of which have resulted in higher levels of crime.

These and related issues were considered at a conference entitled *Crime and Policing in Transitional Societies*, on which this publication is based. The conference was held at the South African Institute of International Affairs from 30 August to 1 September 2000 and was sponsored by, among others, the Ford Foundation, the Konrad Adenauer Foundation, the British Council and MTN.

The meeting drew participants from around the world including a number of transitional societies: Argentina, Brazil, Peru, Chile, Russia, Poland, Ukraine, Nigeria, Moçambique and South Africa. Speakers from Northern Ireland, Palestine and Israel also participated, as did contributors from North America and Europe who are closely involved with funding police transformation and crime-fighting exercises in developing countries.

The issues debated by the conference are of considerable importance in each of the societies represented. While each have very different historical contexts – Latin American countries, for example, experienced a wave of democratisation in the mid-1980s, while in Eastern and Central Europe and in Africa, democratisation occurred later – there are a number of important parallels between them. Most notably – and an issue which was discussed in some detail at the conference – police transformation in each of the societies remains a highly contested and often difficult process. Thus, one of the central questions of the conference was simply: How can old instruments of political oppression be effectively transformed to face new criminal threats?

The conference was characterised by high levels of participation and support from the South African government. The conference banquet was attended by both the Minister for Safety and Security, Steve Tshwete (whose short address is included in the collection), and the Director of Public Prosecutions, Bulelani Ncguka. Both Tshwete and Ncguka in their contributions and in response to questions thereafter outlined many of the challenges that South Africa faces.

The conference itself was designed to ensure maximum debate among the participants. Each contributor was asked to provide a short input along clearly defined guidelines. These papers represent a collection of some of the contributions, where participants agreed to put their ideas into writing. Thus many of the papers represent not only what various participants contributed to the conference, but also some of the debates within individual sessions. The collection is preceded by a summary of the discussions that took place at the conference. This summary provides an overview of all the major themes, debates and some of the conclusions of the conference.

Introduction

One important outcome of the conference was agreement that greater cooperation was required between both researchers and practitioners in respect of this topic. In this regard, it is important to note that the holding of the conference was not an end in itself. The event is part of a broader research project that examines the nature and extent of crime and policing problems in countries experiencing transition. It is intended that this research programme will be completed with a detailed publication of the general lessons to be learnt from a range of transitional societies in fighting crime by early 2002.

It is hoped that this publication provides a unique insight into some of the problems as well as success stories of societies that have struggled with violence and crime as they emerge from periods of transition. Its contents emphasise both the degree to which the issue of fighting crime in such societies is of critical importance, and the extent to which the experience of the past decade has ensured the growth of expertise and critical analysis in this area.

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Crime and Policing in Transitional Societies – Conference Summary and Overview

Mark Shaw

BACKGROUND

The South African Institute of International Affairs (SAIIA) staged a conference on *Crime and Policing in Transitional Societies* from 30 August to 1 September 2000. The event stemmed from the belief that crime and policing problems in a number of societies that have experienced a transition from authoritarian to democratic rule might hold comparative lessons. Selected academics, policy analysts and practitioners from transitional societies in Latin America (Brazil, Argentina, Peru and Chile), Africa (South Africa, Nigeria and Moçambique) and Eastern Europe and the former Soviet Union (Russia, Ukraine and Poland) were invited.

Representatives from two other transitional societies, Northern Ireland and Israel/Palestine, were also present. Additional participants who have worked in or studied these societies from the United Kingdom, United States (US) and Canada as well as the United Nations Office for Drug Control and Crime Prevention (Southern Africa) and the United Nations Interregional Crime and Justice Research Institute attended.

The following discussion broadly reflects the debate which took place at the conference. It does not attempt to be a summary of all the papers presented but instead seeks to give a flavour of both the issues discussed and some of the tentative conclusions reached.

The overall aim of the conference was to bring together representatives from transitional societies to begin a process of comparative analysis which to date has not occurred. The link between the dramatic political, economic and social transitions in these societies, on the one hand, and growing levels of crime as well as differing policing responses, on the other, are little understood. Comparing the links between the transitions and the growth of crime and transformation of the police in these states suggests some important conclusions not only in respect of the key causal features which generate crime in transitional societies but, by implication, also which areas of policy focus may have the greatest impact on reducing crime.

1. LINKING TRANSITIONS TO CRIME

It has often been said that crime in South Africa is related to the transition from authoritarian rule to democracy in the country. Similar patterns appear to apply in other transitional societies such as those who have moved from military to civilian rule in Latin America, the former communist regimes of Eastern and Central Europe, as well as states in Africa, most clearly illustrated by Nigeria and Moçambique, which have moved from authoritarian forms of rule or civil war to fledgling democracies.

The rise of crime in periods of political (and related economic and social) transition is a complex phenomenon difficult to analyse. Statistical data on levels of crime before and after the transition are difficult to come by, and when available, their accuracy may be open to question. In South Africa, for example, there are no reliable crime statistics for the whole country before January 1994. At the same time, our understanding of crime in authoritarian societies is often complicated by the fact that

state repression led to a blurring of the boundaries of political and criminal activity and that the state itself was often a significant source (although not defined as such at the time) of criminal activity.

These issues raise important questions about whether or not dramatic transitions lead to the more visible appearance of older forms of criminal activity in new guises or whether transitions themselves give rise to new forms of criminal activity. In South Africa, for example, is the increase in crime predominantly the result of a displacement of criminal activity previously contained in townships and which has now spread to (white) suburban areas? Have levels of rape, for example, not always been high but now because they are reported (and viewed with concern by both government and citizens) it appears that the transition has brought with it remarkably high levels of sexual violence?

The answer probably lies somewhere in between the two positions. Old forms of criminal activity have undoubtedly been displaced (often in new forms) into the new democratic order, while at the same time they have been joined by growth in the overall level of all forms of criminality. Of course, this still leaves the question of why a shift from authoritarian rule to democracy should lead to higher levels of crime, and if so, how?

Ironically, and contrary to popular belief, increases in crime in transitional societies may be less an issue of declining levels of law enforcement and policing than is commonly assumed. A comparison of authoritarian regimes across countries suggests that most citizens were policed as much for crime control as for political control. Yet it is not certain whether policing in most post-authoritarian states has improved in the eyes of the majority of citizens, and if it has, whether this is not because the police are more effective in controlling crime, but because they are now less repressive and thereby less intrusive.

2. ARE THERE COMMONALITIES?

An overview of the growth of crime in a number of transitional societies suggests a more complex reason for the growth in crime: the breakdown of community and related principles of social organisation, including the crime control arrangements and reduced risks for punish-

ment, as well as an increase in opportunities, targets and motivation. Thus, dramatic political, economic and social transitions may be much more disruptive of the internal social organisation, including that of crime prevention and control, of communities than has often been assumed. The conference presentations suggested that three forms of internal social organisation may be dramatically altered in a period of transition:

- First, in societies such as in South Africa, the struggle against an authoritarian state produces opposing forms of community cohesion and social control, which keeps criminality in check. In Northern Ireland, for example, criminal activities have been restricted given the vulnerability of offenders (who are threatened with prosecution if they do not agree) to being recruited as informers by the police.

- Second, in communist countries with centralised political structures such as in Eastern and Central Europe and the former Soviet Union the state itself imposed the organisational network. The collapse of the communist state led to a breakdown of these structures, fragmenting local forms of social cohesion without any immediate replacement.

- Third, in most societies, quite apart from structures established in a response to, or by, an authoritarian state, some form of community controls remained. These include structures such as the church, community groups, the extended family and neighbourhood groups. A review of societies which have undergone dramatic transitions suggests that these structures are weakened and lose their reach into the community. This is a result of the strength of the two new forms of community cohesion outlined above and which are generated by authoritarian states. But it is also a consequence of the disruptive nature of transitions and the violence that often accompanies them, weakening old forms of social organisation which no longer provide an attractive option for increasingly militarised and vocal sectors of the society, often the youth. In addition, traditional forms of social control are undercut during periods of transition by the emergence of new social movements and non-governmental organisations (NGOs).

The breakdown of social and state controls appears to be the single most common factor leading to the growth of crime in diverse transitional societies. Traditional forms of internal social cohesion may be replaced by – or mutate into – a different set of organising principles, including criminal organisations or gangs. In communities feeling threatened by a growing group of criminals this may also take the form of vigilante groups which come to play an important role in local community cohesion.

Changes brought about by the dramatic impact of the political transition are exacerbated by longer term processes of industrialisation and urbanisation which have themselves had a considerable impact on the changing nature of community and social controls. In a post-apartheid society, the effects of HIV/AIDS may already be having a considerable impact, both on family units and organisation and on cognitive behaviour.

Post-authoritarian and post-conflict societies are increasingly subject to structural changes in their economies. While a number of approaches are followed in this regard, transitional societies tend to share the experience of changes in the ownership structure (privatisation), the multiplication of economic actors and the influences of globalisation. Many transitional societies also seek to redefine the role of the state by reducing or altering its role in economic activity. In such states, the access to newly-created opportunities is not equal for all. This factor, combined with the requirement for political legitimacy and the need to attempt to meet popular expectations, creates contradictory pressures. In societies such as South Africa, these pressures are complicated by a political and economic commitment to improve the lot of previously disadvantaged groups.

Such frictions are common to transitional societies. There appears to be an abundance of structural as well as other motivational factors for the involvement of people in "alternative opportunities" both in the context of the growth of the informal and the criminal economy. Such recourse to the illicit is facilitated by the breakdown and loosening of the mechanisms of formal and social control, including the diminished risks of punitive and/or resocialising reactions. If, over time, poverty and marginalisation are perceived as a likely reality, the recourse to the illicit is often (particularly for the young)

perceived as the most efficient and low risk avenue to live better *now* rather than wait for the uncertain prospects for improvement promised by the state. No amount of political rhetoric about building a new democratic society (except perhaps at the initial stages of collective enthusiasm) matches the economic reality of unequal access to the new opportunities for wealth. Although these observations are hardly new, they are important in understanding the growth of criminal activity in transitional societies.

3. THE OLD REFLECTED IN THE NEW

At the same time as these developments occur, post-authoritarian states are often, as in South Africa, attempting to secure their hold on the levers of the security establishment. Here there are multiple challenges. The most common across all societies represented at the conference is the desire to legitimate the old forces of order to ensure citizens look to the police for their safety. What appears clear is that no amount of urging by political leaders that the police are now legitimate is enough; agencies of law enforcement have to prove their legitimacy through effective operation. There is, as yet, the conference concluded, no clear case of any society in transition being able to build a legitimate police agency in the post-conflict phase. The growth of crime itself in transitional societies has in many cases undercut the growth of local forms of policing by ensuring more centralised and militarised responses to disorder.

A key to building the legitimacy of the police is to ensure effective forms of local control and accountability – in effect, to make citizens believe that the police are responsive to their needs, and not those of some bureaucrat in a distant capital. Here all transitional societies have had to balance the requirement of ensuring local accountability (which remains weak in all cases) with centralised control – the desire to manage change from the centre to ensure both that it occurs uniformly and that local groups (who may oppose the central state) do not obtain control of the police in their area.

The absence of social and community controls and the establishment of a democracy bring paradoxical forces into play in most transitional societies. On one hand, the conditions for the growth of crime are enhanced, on the

other, citizens look (as they have never done before) to the state for protection. Given the very real constraints on the post-transition state in delivering effective systems of criminal justice (such as low skills levels, lack of representative institutions and poor resourcing) citizens are likely, over time, to seek alternative forms of protection. For the poor community this will include forms of protection such as vigilante groups and for the wealthy (including the business sector), the increased privatisation of policing and crime prevention.

The parallels among transitional societies are striking. Probably the most effective means of controlling and preventing crime in the longer term is the one least open to the state: the re-establishment of effective means of community and social control. Key to the process is both the establishment of effective local systems of democracy through which people can exercise their rights and express their grievances as well as the support of institutions such as churches, schools, sport and youth activities which assist in the building of stronger and more cohesive communities. The conference noted, however, that the difficulty of implementing such projects is great, since there is the added problem that such initiatives are often difficult to link to reductions in crime in the short term, thus being harder to sell to policy makers.

Comparative experience suggests that while the state is good at breaking down forms of local social control and cohesion it is notoriously bad at reconstructing these. What is clear, however, is that a concentration of improved law enforcement alone (however necessary) will not stem the long-term crime problems of states emerging from periods of transition. This suggests that the implementation of crime prevention projects as understood in the developed world (and often marketed in transitional and developing societies) is not the most appropriate route. Instead, comparative experience indicates that much greater debate and effort is required to seek alternative ways of rebuilding the social fabric in post-conflict and post-authoritarian societies.

The danger, however, in societies in transition is that responses to crime become increasingly militarised. In many post-authoritarian societies this results from the dual pressures of increased public insistence on government to be seen to act against lawlessness as well as pres-

sures from within the security establishment. In respect of the latter, policing organisations which have undergone dramatic processes of transformation seek security in operations which they know and are comfortable with, and in any event may have been urging as an appropriate response to crime. The dangers of such approaches in post-authoritarian states is that important gains in respect of the protection of human rights may be undercut over time. Such militarised responses to crime control, while they may often be sold as such, should not be seen as the same as problem solving and/or saturation policing in more advanced democracies. The case of the decline in crime in New York in the recent past and the policing approaches used in this respect, are drawn upon in a surprising number of post-authoritarian states as potential solutions to domestic crime problems. Yet implementation in often fragile democracies carries the danger of a return (or at least perceptions to this effect) to authoritarianism.

Some distinction should be made, however, between increasingly militarised responses to crime and more specialised responses such as the establishment of high profile national investigative units. Given the complexity and sophistication of criminal organisations, such units are an essential addition to the tools available to the government to fight crime. The establishment of such units highlights an additional problem for many countries moving from authoritarian rule to democracy: poor cooperation between law enforcement personnel and prosecutors. Given that one of the outcomes of democratic policing is the presentation of evidence before an impartial court of law, improving these mechanisms is essential to the long-term success of post-authoritarian policing.

4. EXTERNAL IMPACTS
The conference sought to examine the impact of foreign assistance provided to countries in transition with significant problems of police reform and crime. Indeed, many of the countries have had quite close links with foreign funding organisations and the law enforcement agencies of foreign governments (particularly the US) who are assisting in both the reform process and the fight against crime. These interventions have not been uncritically accepted in the recipient countries. There was consensus that many assistance programmes were not

designed with the recipient country in mind and that assistance such as training was often offered simply because it was available rather than because it was relevant to the needs of transitional societies. In particular, the focus of the US on issues of transnational organised crime and drugs had the ability to distort local law enforcement agencies and focus scarce resource on areas which, while of concern to foreigners, were of little value to the immediate safety needs of the local population.

It was also suggested that extensive foreign training programmes might have two inter-connected impacts. The first is to undermine the development of innovative local responses to crime problems, given that foreign assistance often points to particular sets of solutions, despite the fact that these were developed in other more developed societies. Second, while there were some advantages in this regard, law enforcement and criminal justice agencies in transitional societies could increasingly begin to look the same, drawing on similar training programmes and heavily conditioned by foreign experience (especially that of developed democracies). While this holds out the possibility of better cooperation between agencies who would be in a position to understand their counterparts actions and systems, it also might mean that local initiatives will not be encouraged. Overall it was concluded that the impact of foreign assistance on the development of local systems of criminal justice in transitional societies were little understood, despite the fact that these were likely in the medium term to be one of the most important influences in their development.

In all cases it was agreed that regional responses to problems of criminality were essential but, in the main and with the possible exception of Southern Africa, were reasonably underdeveloped. It appeared that the development of mechanisms of regional cooperation were often, although not always, dependent on the strength of political cooperation among states. Regional cooperation held out the prospect of improving the ability of countries to prevent crime and combat criminality by ensuring that neighbouring "safe havens" were eliminated or made less attractive for criminals. While an international convention against transnational organised crime has been agreed upon at the 10th United Nations Congress on the "Prevention of Crime and the Treatment of Offenders", there was some concern that once transitional countries sign the convention, in practice they will have limited capacity to implement it. The issue of international assistance is thus of paramount importance.

5. POLICING CITIZENS AND CITIZENS AS POLICE

Nowhere is the failure of societies emerging from authoritarian rule more clearly illustrated than in citizens' perceptions of the police. In the majority of transitional societies, the police are viewed as ineffective by the citizenry. There are clearly exceptions to this, however, and in some cases data suggests that while the public appear willing to work with the police, little or no advantage is being taken to build better community confidence in policing by the police through the provision of better levels of service delivery.

In many societies citizens have begun to take their own initiatives against crime. Most commonly this takes two forms – the growth of the private security industry and the emergence of vigilantism. Again, the degree to which this manifests itself in any society is dependent on its history and traditions. In Eastern and Central Europe and the former Soviet Union cases of vigilante-type activities appear to be less well developed given a historic over-reliance on the state under communism for the delivery of services. While citizens are unhappy with the general level of service provision by the criminal justice system, they remain reliant on the state. In countries in Africa and Latin America where communities have, often in response to authoritarian rule, sought community responses to ensure local safety, vigilante groups in various guises have become reasonably common. State responses to these vigilante groups range from attempts to co-opt them to direct attacks upon them. It is also instructive to note that vigilante groups themselves in some countries were likely over time, and as they developed dominance in any particular area, to become involved in the illegal accumulation of resources to ensure their own survival.

The development of relatively sophisticated private security industries in the majority of transitional societies was viewed with concern. In most cases the employment of private security was designed to protect the rich from the poor, perpetuating old divisions or extending

divisions within the societies along class lines. The cross over between the security agencies of the state and private security companies was seen as a worrying development. This occurred through police officers or other state security officials moonlighting as security guards, despite the fact that this was illegal in most of the countries represented. Or, because former members of the security establishment who had left to establish or work in private security operations retained some links to the state's security forces. There was a recognition that the existence of active private security sectors was a reality that governments would have to accept. Ironically, effective regulation of the private security sector requires law enforcement capacity; precisely the reason why private security operations were in a position to exploit the market in the first place. In both the case of vigilantism and private security it appeared that the issue was now less how these security instruments which competed with the state could be eradicated, but rather how they could be managed.

UNCOMFORTABLE CONCLUSIONS
The conference highlighted both the importance of social responses to crime control in transitional societies as well as the critical necessity of achieving satisfactory police reform. However, while there was a concern that military-type law enforcement initiatives were likely to increasingly dominate responses to crime in fledgling democracies with an authoritarian past, there was a recognition that such interventions were to some extent inevitable given the scale of the problem. It was strongly urged, however, that such operations should be balanced with programmes that sought to undercut many of the causal features of high levels of criminality in the societies under consideration. Nor should a more specialised (and often nationally driven) approach to crime control undercut the critical necessity of improving the service delivery functions of the local police. What is required is a more balanced debate on the correct mix between law enforcement and prevention; and locally and nationally driven interventions.

Thus, the conference noted that what is required is a blend of crime prevention, service orientation, the involvement of local communities, local accountability, professionalisation

and specialisation of the police, as well as adequate "law and order" responses (with due respect for human rights). While agreeing that the above mix is generally the "blueprint" always proposed, participants were quick to highlight that the determination of the proportion of, and the relationship between, each of these factors depends on the domestic context in any transitional society.

In addition, some agreement was reached around the requisites for police reform in transitional societies. It was concluded that these must be informed; feasible and manageable; strategic; structured but flexible to allow for short-term adaptions; and under constant evaluation and scrutiny of democratic control. Moreover, it was emphasised that police reform (or for that matter crime control) is not the exclusive preserve of the police and must involve external actors such as the private sector as well as community inputs. In this respect NGOs had played an important role in issues of police transformation in almost all the transitional societies represented at the meeting.

While the conference covered much ground there was a recognition that some areas had not received the attention they deserved. The changing culture of police agencies in the transitional period (which one participant described as "the changing soul of the institution") required some analysis. In addition, issues related to the justice and corrections system in transitional societies (although the conference had explicitly only concentrated on the police) should also receive attention. Generally, the conference ended with a degree of pessimism – it was accepted that there was, as yet, no post-authoritarian state which had clearly been able to achieve significantly enhanced levels of safety for its citizens. If any case seemed to hold the least promise it was that of police reform in Nigeria, given both the scale of the country and the size of its police agency (approximately 120 000 for 140 million people) and the extent of lawlessness characteristic of Nigerian society.

At the same time there was a degree of optimism about the growing recognition at the conference of the dimensions of the problem and the fact that governments (many of whom were represented at the meeting) were beginning to view the issue with concern. Absolutely key to success in fighting crime in transition societies,

the conference concluded, was an understanding that innovative local solutions were required to problems which were often shaped by powerful local influences. It was explicitly recognised that despite the fact that autonomous paths to development are restricted within the context of an increasingly globalised world order, police reform and crime control policy which builds on local potential is the most viable strategy. This is even more important in view of another recognition, that is, while different transitional societies existed in different contexts, success in one might hold the promise of some success in others. The role of analysts working in the area was not only to scrutinise government pronouncements on crime and policing policy but to communicate both successes and failures to their counterparts in other transitional societies. The latter is at the same time a very promising avenue for effective international assistance.

It is envisaged that there will be a number of longer term outcomes of the conference. It is important that the amount of documentation available on the subject is increased so that the richness of the debates is not lost. The conference proceedings and papers by selected presenters are published in this Konrad Adenauer Foundation *Seminar Report*, which will be widely distributed.

In addition, it is hoped that a more detailed research paper will be produced which attempts to draw lessons from a number of transitional societies. This will be distributed to conference participants. It is clear that the conference has given rise to a new area of debate among those working on crime control policy issues in transitional societies.

The organisers hope to gather such individuals together again to discuss in more detail particular aspects of the problem and with more discussion on appropriate policy alternatives.

Welcoming Remarks

Michael Lange

INTRODUCTION

On behalf of the Konrad Adenauer Foundation (KAF) and the other sponsors, it gives me great pleasure to welcome you to this conference on *Crime and Policing in Transitional Societies*.

This is not the first time KAF has cooperated with the South African Institute of International Affairs (SAIIA) in preparing a conference of this nature on an issue that is closely related to the overall objectives of KAF's work as a political foundation in the new South Africa.

Questions relating to the consolidation of the new political dispensation in this country – as in other parts of Africa and Eastern Europe – are of prime concern to us all. This is particularly relevant when such issues threaten the overall success of political reforms, implemented after years of suffering under a political system that deprived people of the opportunity to pursue personal dreams of a better life – on an equal footing – in a democratic society.

1. BACKGROUND TO KAF

KAF, as with the other German political foundations active in South Africa, is a unique feature of today's democratic culture in Germany. The move behind the creation of the political foundations was the expectation that political and civic education, by way of organising such conferences and debates, could help develop and consolidate democratic dispensations, not only in Europe but the world over.

Both in Germany and abroad, these foundations seek to further develop and encourage people to engage in the political debate, thereby strengthening democracy and promoting a pluralistic society.

KAF is closely affiliated with Germany's Christian Democratic Union Party – a centrist political party. It proudly bears the name of one of its founding members, Konrad Adenauer: a German statesmen of great stature, who eventually became the first Chancellor of post-war Germany.

KAF has been cooperating with partners throughout the world for almost 40 years. Currently, some 80 colleagues oversee some 200 projects and programmes in more than 100 countries. In this way, the Foundation makes a unique contribution to policies serving peace and justice in international relations.

KAF is currently running wide-ranging programmes in different parts of Africa, as well as in the different provinces of South Africa. The Foundation cooperates not only with political parties and their respective think tanks, but also with reputable academic institutions, as you will surely note from today's event.

2. CRIME AND TRANSITION

Crime is of major concern to all countries in transition. This has been proven throughout the world in recent years, where we have seen numerous countries – particularly in Eastern Europe – struggling to come to grips with this undesired element in a society freed from the shackles of tutelage and oppression.

Recent polls in South Africa are proof of the fact that the implementation of democracy and the rule of law, together with the economic transformation currently under way, cannot be continuously implemented without causing frustration and disappointment to many South Africans who yearn for instant material rewards.

This may be understandable in light of the fact that approximately 20 million South Africans, representing almost half the current population, must be considered poor in the sense that their incomes fall below the poverty line.

Polls reveal that crime is of foremost concern to most, if not all, South Africans. Many express the opinion that the rule of law has all but disappeared. Criminals – some stated – seem better protected under the new constitution than the average law-abiding citizen.

The challenge for the South African crime fighting agencies is therefore enormous. Like so many institutions in South Africa during the apartheid years, the police force was never designed to provide a broad-based and equitable service to all the people of this country. It is hoped that the planned establishment of municipal police services by local governments would help address these inequities.

Policing across cultural lines at the same time cannot be seen in isolation of the country's history. Some professional observers of the crime situation have even warned that the situation in particular urban areas, as in some townships, has moved dangerously close to anarchy.

It is also discouraging to read in the newspapers that more than 14 000 police officers of the 120 000-strong South African police force are currently facing criminal charges ranging from murder and rape to theft, bribery and reckless driving.

If we define tyranny as "public order without freedom" and anarchy as "freedom without public order", we somehow seem to witness in the South Africa of today the former being replaced by the latter.

We cannot believe that the people of this country struggled so long against the tyranny of apartheid, only to have to live with the anarchy of crime.

I trust we all share the conviction that a process of transition will be successful only if democracy, the rule of law and the principle of a just participation in the economic development of a country by all sectors of society are understood, accepted and continuously implemented.

South Africa is considered by many observers to be an example of such a country in transition, on its way to become a legally consolidated democracy, in which the development of a constitutional, pluralistic state, ruled by the new law of the land, appears to be irreversible.

But by transforming white minority rule to black majority government, only the foundations of a peaceful democratic society have been laid. By assisting in bringing about this conference, KAF and the other sponsors are hoping to contribute in a meaningful way to the consolidation of this new political dispensation in South Africa.

CONCLUSION

Let today's conference be an example of the much needed exchange of expertise and cooperation between the South African government, the police services, civil society and partner institutions from abroad, in assessing possible solutions to crime problems in Africa.

Let this conference create the opportunity for more comparative analysis and evaluation, which South Africa could use to its advantage. And finally, let this conference be our humble contribution to the quest for peace and stability in this beautiful country.

I wish you all enjoyable, interesting and worthwhile deliberations.

Politics and Policing in Northern Ireland – The Way Ahead

Adam Ingram

INTRODUCTION

This conference promises to give a fascinating insight into crime and policing in societies across the world that are now emerging from conflict. It provides a valuable opportunity to share experiences and to discuss future plans.

I came to South Africa as an international observer to the 1994 elections. Since then I have followed the progress of South Africa's own transition with great interest.

Throughout those years South Africa, along with the United States (US), Canada, Finland and many other countries, has been generous in its support of our own peace process in Northern Ireland.

Two of South Africa's distinguished citizens, Cyril Ramaphosa and Brian Currin, are currently working on particularly delicate and contentious issues. The eminent criminologist Professor Clifford Shearing sat on the Independent Commission on Policing – the Patten Commission – of which will be discussed below.

I was also in Johannesburg and Pretoria earlier this year (2000) in my capacity as Minister with responsibility for victim's issues in Northern Ireland. Today, however, I am speaking as the United Kingdom (UK) Minister for Security, Policing, Criminal Justice and Prisons in Northern Ireland.

The fact that the same minister covers both security and victim's issues is not simply a whim on the part of government planners.

The issues of security and policing cannot be separated from the wider political process, in which the suffering caused by violence has had such a deep and corrosive effect.

Policing issues are therefore inextricably tied up with the process of healing divisions and building trust at a community level. Any new beginning in policing which does not take this into account, however good it may be in theory, is doomed to failure.

This paper will first explain briefly the political context and social pressures against which a new police service is now being forged in Northern Ireland. Second, it will set out some of the details of that new beginning. It is probably the most radical experiment in policing currently being undertaken in the international arena.

There is a great need for dialogue between specialists in politics and in security or policing matters. This dialogue is essential if our societies are to make real progress in the transition from violence and conflict to deep-rooted peace and security.

There is an overriding theme which links the two above-mentioned subjects, namely, the absolute requirement for trust and mutual understanding in the process of remodelling a policing service. If each side can appreciate the pain inflicted on the other by its demands in relation to policing, then there is hope for a constructive resolution of difficulties. This ability to see the other side's difficulties in a situation of conflict and division was powerfully demonstrated in the approach of South Africa's President Mandela to the transition from apartheid in that country. If such understanding and good will are missing, then the process of policing reform simply becomes an extension of the conflict, a new battleground for old divisions.

In other words, we cannot expect a new

police service to solve problems which we have not yet resolved in other areas of society. Nor can we expect that a peace process will deliver a crime-free society.

We can, however, hope that a new beginning in policing will become an engine, a driving force for change which will speed up the process of transformation across society.

1. POLITICAL CONTEXT

A brief explanation of the political background against which successive British governments have worked to prepare these new structures for policing, may be helpful.

Northern Ireland has a population of around 1.5 million. Roughly 60% are Protestants, almost all of whom are committed to keeping Northern Ireland within the UK. Around 40% are Catholics, most of whom wish to see Northern Ireland leave the UK and join the Republic of Ireland. These completely rational yet diametrically opposed positions lie at the heart of the Northern Ireland problem.

The history of conflict between the two communities dates back centuries. The government recognises that Britain too has been a participant, not simply an observer, in this relationship. In recent years, however, the policy of successive governments has been based on the recognition that an enduring solution to Northern Ireland's problems can only come about if institutions can be created that respect the majority, while not alienating or discriminating against the minority.

Over the past 30 years there have been numerous attempts to achieve this. Some had limited success and informed the next step forward. But governments saw that only if these institutions were accepted as legitimate across the whole community, would all excuses for using violence be removed.

One of the keys to achieving this came through the determination of the two sovereign governments – the UK and Ireland – to try and forge a joint approach.

This was embodied in the Anglo-Irish Agreement of 1985, which committed both governments to the principle that the constitutional status of Northern Ireland could only change with the consent of the majority of its people. From this building block came multi-party talks which focused on three sets of political relationships: those within Northern

Ireland; those between Northern Ireland and the Republic of Ireland – and those between the British and Irish governments.

Although groundbreaking, these talks did not include parties which had not established a commitment to constitutional politics. Sinn Féin, which represented the republican movement, was therefore not yet at the negotiating table.

There followed a further landmark in the 1993 Downing Street Declaration, when the British and Irish prime ministers charted a way forward for those democratically elected organisations that were prepared to commit themselves exclusively to the democratic process and to turn their backs on violence.

As a result, Sinn Féin (the political representatives of the Irish Republican Army [IRA] and the republican movement), and the UDP and PUP (two parties linked to Protestant loyalist paramilitaries) joined the process. Ten months after that declaration, the IRA announced a complete cessation of all military activities; the loyalist paramilitaries declared a similar ceasefire six weeks later.

2. THE GOOD FRIDAY AGREEMENT (GFA)

When the Labour Government came to power in the UK in May 1997, it stated its firm intention that inclusive negotiations should begin in September 1997, with a view to reaching a conclusion by May 1998. The final outcome would then be put to the people of Ireland, North and South, in separate but concurrent referendums. The Agreement reached on Good Friday (GFA), 10 April 1998, was a phenomenal achievement for all involved.

Skimming through the history of political developments may make them sound easy, but we should remember, particularly in the context of policing, the depth of bitterness between many of the participants in the talks. The legacy of violence was such that some politicians who signed up to the Agreement had not spoken directly to their counterparts in some of the other parties and could barely bring themselves to be in the same room.

3. WHAT THE AGREEMENT ACHIEVED

This made the substance of the GFA all the more remarkable. Its achievements were as follows:
• It set out arrangements for a devolved power-

sharing assembly and executive, a truly local administration to replace direct rule from Westminster.

- It made provision for closer cooperation between Northern Ireland and the Irish Republic and between the UK and the Republic.
- It laid the foundations for new arrangements in policing, criminal justice, security and equality.
- Crucially, it was founded on the principle of consent – the right of the people of Northern Ireland to self-determination.
- It acknowledged the legitimacy of British sovereignty in Northern Ireland for as long as it remained the wish of a majority of its people.
- At the same time, the agreement recognised the right of a substantial section of the people of Northern Ireland to pursue legitimately the goal of a united Ireland, so long as their methods were peaceful.
- It injected a maturity into political debate. Free from the threat of terrorism, democrats could accept that the aspirations of the other side were as firmly held as ever, but would no longer be imposed by violence. Without this recognition, any lasting peace would have been impossible.

But the GFA also contained much that was painful for each side. Perhaps the most difficult issue was the early release scheme for paramilitary prisoners. For victims to see their attackers or the killers of their loved ones at liberty in their own communities remains a source of real suffering.

Even at the most difficult times, however, the government has returned to the fact that the GFA received the endorsement of the vast majority of the people of Ireland. Over 70% in Northern Ireland voted in favour and over 94% in the Republic.

The Agreement therefore belongs to the people of Ireland.

4. THE SITUATION TODAY

Two fundamental parts of the Agreement subsequently threatened to destroy the whole edifice: namely the establishment of devolved government and the decommissioning of terrorist weapons.

Lengthy talks reached an impasse in July 1999 and Senator George Mitchell, who played

such an important part in the process from its very beginning, agreed to return to Belfast as a facilitator in a review of the Agreement. It was during these intensive talks that Senator Mitchell was reported to have said that "trust crept in". Unionists agreed to establish power-sharing institutions in the expectation of rapid progress on decommissioning.

On 2 December 1999, devolved government returned to Northern Ireland for the first time in 30 years. The assembly quickly got down to business and the new ministers, drawn from all major parties, approached their new roles with enthusiasm and energy. The government, however, had made it clear that if either side defaulted, whether on the establishment of the administration or the decommissioning of weapons, it would take the necessary action. Without progress on decommissioning, the political position of the Ulster Unionist Party became untenable and the institutions themselves were threatened.

It was therefore with a heavy heart that the Secretary of State, Peter Mandelson, took the decision to suspend the operation of the assembly and the executive on 11 February 2000.

There was intense disappointment, particularly in the nationalist community. But events have shown beyond doubt that this was the right decision. Intensive discussions between the two governments and political parties led to further statements on the implementation of remaining aspects of the GFA. The governments called on the paramilitary groups to respond positively. The following day, the IRA issued a statement promising an early confidence-building measure and a commitment to a process which would result in their arms being placed "completely and verifiably" beyond use.

In light of political events in Northern Ireland and Irish republicanism, this was an incredibly dramatic statement.

The Ulster Unionist Party found itself able to resume government in response to this statement and the institutions were set back to work at the end of May. A month later it was confirmed that the two independent inspectors, President Ahtisaari of Finland and Cyril Ramaphosa, had successfully carried out their first inspection of a number of IRA arms dumps.

This important development has raised confidence in the future of the restored institutions

and in the prospects of decommissioning. For the first time the public now has words and deeds to illustrate the IRA's good intentions.

5. THE BIGGER PICTURE

This whistle-stop history of the GFA tends to obscure the passions and crises which characterised the process. It perhaps also masks the real potential for further difficulties. But it is also important for us to be forced to see the bigger picture.

Looking at the Northern Ireland process from South Africa enables me to see the reality – almost incredible a few years ago – of a power-sharing government which will resume work next week. Also, an IRA statement on its weaponry which many said simply could not happen.

I am extremely hopeful that the people of Northern Ireland are beginning to see and feel the benefits of internal political stability just like the people of South Africa. Here there is a commitment to achieving a multiracial, multi-cultural, multifaith society. That broadly encapsulates what the government has tried to achieve in Northern Ireland – a political settlement which values and cherishes diversity of faith, culture and political aspirations.

6. SECURITY

For many people in Northern Ireland, the earliest and most tangible dividend to flow from the GFA was the reduction in security measures. A visitor returning now after 10 years away from Northern Ireland would hardly recognise the atmosphere. The paramilitary ceasefires and the reduced terrorist threat have allowed the Chief Constable to implement far-reaching reductions in security.

The process of normalisation is well under way, with troop levels at their lowest since 1970. A large number of military bases have been demolished or closed and all crossborder roads between Northern Ireland and the Republic have been reopened. Although parties may argue over the speed of this normalisation of security measures, the issue itself is relatively uncontroversial.

The same cannot be said of policing.

7. POLICING IN THE GFA

Indeed, the GFA acknowledged the central and highly emotive nature of the policing issue,

while at the same time handing it over to an independent commission.

That willingness to let a third party tackle the problem is itself an indication of how intractable and politically sensitive it was.

But the participants in the Agreement also saw that it provides an opportunity for a new beginning, with a police service capable of attracting and sustaining support from the community as a whole.

The Agreement laid out principles for a policing service which would be:
- professional, effective and efficient
- accountable in law and to the community it serves
- able to work in constructive and inclusive partnership with the community at all levels
- rooted in the protection of human rights and professional integrity
- fair and impartial and free from party political control
- representative of the make-up of the community as a whole.

These principles have informed our approach throughout. At their heart lies the determination to give ownership of the police service to the whole community, where previously the Royal Ulster Constabulary (RUC) tended to be identified with one section of the community.

8. THE PATTEN REPORT

Within weeks of the GFA, the government had appointed Chris Patten, former Governor of Hong Kong, to chair a commission of independent experts on policing. After extensive consultation over 15 months with political and community representatives, police experts and literally thousands of ordinary members of the public and numerous study visits – including to South Africa – the Patten commissioners reported in September 1999.

The report, which set out some 175 recommendations for sweeping structural change, was welcomed by the British and Irish governments and by the main nationalist party, the SDLP, in Northern Ireland. Of course, for some, the smallest change was a threat. For others, even the most radical transformation was not enough.

9. IMPLEMENTATION

The government consulted widely on the report and announced that it would implement the rec-

ommendations in full. But the report had to be translated into legislation, a process which Patten acknowledged would be a complex task involving fine judgements and interpretations of some of the report's more general recommendations.

This legislation is currently being processed through parliament and will come into effect later this year (2000).

The bill, and the implementation plan which has already been published, show that the government has accepted all but six of the 175 recommendations and of those six, two have been partly accepted and the other four are currently the subject of further consideration.

As Tom Constantine, former head of the US Drugs Enforcement Administration who has been appointed to independently oversee the implementation of change, has said, the reforms proposed are the most radical seen anywhere.

10. THE NEW BEGINNING
We turn now to the key points of the new beginning, a vision of a new police service shared by Patten and the government. "Ownership" of the police service by the whole community was central to Patten's thinking. In practical terms this translated into a radical emphasis on accountability, representation and human rights.

11. POLICING BOARD
The cornerstone of the Patten Report's accountability structures is the proposed policing board, independent of government, with the specific legal duty of holding the police service to account for its actions and performance. The new legislation will set up the 19 member board, a majority of whom – 10 in all – will be drawn from representatives to the Northern Ireland assembly in proportion to their elected political strength. The remaining independent members will be reflective of wider community interests, allowing them to have a voice in how policing is delivered.

The new board will be given powers of accountability and oversight unique to the UK or the Republic of Ireland.

It will monitor the performance of the police on human rights and many other areas. It will appoint the head of the police service, the Chief Constable, and other senior officers and act as their disciplinary authority. It will set the bud-

get and take a central role in the strategic direction of policing, setting objectives, priorities and targets and measuring police performance against a published policing plan.

Importantly, operational control and direction of the police will remain in the Chief Constable's hands. In short, the Chief Constable will be in charge of service delivery and the board will regulate the service provided in a publicly accountable way. The board will have exceptional powers to call for reports from the police and to launch inquiries into matters which are of grave concern. Again, these powers are unique in the UK or Ireland, and perhaps anywhere.

12. DISTRICT POLICING PARTNERSHIPS
This emphasis on accountability will be carried through to local level by the creation of district policing partnerships. They will provide a crucial link between the community and their police service. Membership of these bodies will be made up of local authority elected members and independent members appointed by the policing board to ensure that the partnerships are widely representative of the community.

The new beginning in policing is about making sure as many people as possible will play their part in the new policing structures, and see policing as being part of their community, not hostile to it.

13. OMBUDSMAN
To provide further reassurance of the integrity of the new service, the government has already enacted legislation to create a police ombudsman whose task will be to investigate complaints against the police. This new complaints system in Northern Ireland is, we think, without compare.

It provides the ombudsman with complete control and independence from both government and the police service. Crucially, it involves investigation not by the police service, but by the ombudsman's own staff who have been given powers of police officers for the purpose.

Far from feeling threatened by this new office, the police themselves have welcomed it because they can no longer be accused of partiality in investigating such complaints.

14. HUMAN RIGHTS
The process of building public confidence and

trust, of which the ombudsman is an important element, is further enhanced by a new emphasis on human rights. Indeed, the Patten Report concluded that the fundamental job of the police was to protect human rights.

The Chief Constable and the new policing board together will be responsible for full compliance with human rights requirements. New officers will be required to take a new human rights-based oath. All officers will receive human rights training, and will be required to behave in accordance with a new code of ethics. A new Human Rights Act will come into force in October, guaranteeing fundamental rights and freedoms throughout the UK.

15. COMPOSITION

Patten recognised, however, that new structures and accountability might not in themselves be sufficient to redress the balance of representation in the police service. As mentioned before, 40% of Northern Ireland's population is Catholic, yet only eight per cent of RUC officers have been drawn from the Catholic community. There are many complex reasons for this, from outright terrorist intimidation to a traditional alienation from the police in the Catholic/nationalist community.

Patten's radical solution requires the recruitment of an equal number of Protestants and Catholics, from a pool of candidates all of whom, will have *qualified on merit*.

The report envisaged that these measures would lead to a more representative police service within 10 years.

This is an ambitious programme: it took the New York Police Department (NYPD) 25 years to move from 12% of ethnic minority officers in 1974 to 33% in 1999.

The government has embarked on this programme in the face of severe criticism that it amounts to positive discrimination. But the government believes, with Patten, that these extreme measures are essential to achieve the necessary balance and community representation in the new service.

Of course, what is really needed is the support of the whole community in Northern Ireland to achieve a transformation in the composition of the police.

16. OVERSIGHT COMMISSIONER

There are many other sweeping reforms which are no less radical for being uncontroversial. The police service will undergo a transformation in management structures, information technology capability and training, indeed in every aspect of police activity.

Finally, to bolster this vast programme of change, and as an important confidence building measure, the Patten Report recommended that an eminent person, from a country other than the UK or Ireland, should be appointed as an oversight commissioner to supervise the implementation of the new approach to policing. Tom Constantine, former Head of the Drugs Enforcement Administration in the US and former Chief of Police for New York State, has already taken up this post. He will monitor and comment publicly on the progress of change. Once again a groundbreaking concept in policing reform, building confidence in the process of change.

17. EMOTIVE ISSUES

Given the scale of these changes, it is surprising to learn that none of them have generated as much pain and raw emotion as the issue of the name to be given to the new police service. Symbolic issues are hugely significant in Northern Ireland. How they are used is often interpreted as defeat or victory by one community or the other.

In the case of the RUC, many in the unionist community were deeply hurt by the Patten Commission's recommendation that this name should be replaced. They saw it as a criticism of the past record of the RUC, an insult to the terrible sacrifices made in the fight against terrorism. The government recognises the pain caused by this issue and utterly rejects any implied criticism of the remarkable service given by RUC officers over the past 30 years.

Patten's argument, however, that a new name was essential to achieve a new beginning is in the end, persuasive. If this goal could be achieved without changing the name then it would not be changed. But that is not possible.

The government has therefore determined that the new name will be the Police Service of Northern Ireland.

CONCLUSION

The government understands the desire of those nationalists who want to see a break with the past. Equally, it understands the emotional

attachment many people have to the existing name, symbols and emblems of the RUC.

The Patten Commission took a middle line between these two positions. It argued that the RUC should not be disbanded and that there should be no complete break with the past. At the same time, as mentioned above, it stressed the need for a new beginning – a fresh start. In short, the commission recognised, in the words of Chris Patten himself, that there are two histories in Northern Ireland and two experiences of policing. Each has legitimacy and each contains real pain and suffering.

This brings us back to the opening theme: the will to see the problem from the perspective of the other is an absolute prerequisite to progress. Unless the leaders of both communities understand the pain and difficulties created for their counterparts by their own demands on policing, the most difficult issues cannot be resolved.

It is, after all, this ability that paves the way for constructive compromise. And, of course, it applies to the wider political and social process as much as to policing.

One of the ironies of the conflict in Northern Ireland is that it has bred some of the greatest poets of the past 50 years, including the Nobel laureate Seamus Heaney.

The father of that movement of poets, Louis MacNeice, once wrote:

"And I envy the intransigence of my own
Countrymen who shoot to kill and never
See the victim's face become their own
Or find his motive sabotage their motives."

Some 60 years later we are moving beyond the violence. But in too many cases mindsets have yet to develop beyond the period of conflict.

The process of understanding one's own motives and the motives of others is still at an early stage. It may take generations. For those of us involved in the policing debate, this is an inevitable frustration. The logjams on policing reflect the logjams in society, in politics and in the minds of individuals. But neither can we afford to wait.

Indeed, policing is so central to any society that driving forward change in this area will certainly send ripples across society. Policing can become an engine of reconciliation and healing. It can help trust to creep in. That is why policing is so important and that is why the government is implementing the radical measures of the Patten Report, some of which are described above.

It will not be easy, but the prize to be gained is the greatest prize of all: a society at ease with itself, a society equipped to face the real challenges of criminality and social cohesion which other "normal" societies are facing in the 21st century.

With commitment, determination, and above all the will to understand others, we can achieve it and build a better future for the police and for the society they serve.

That, I trust, is an ambition we share with South Africans. We continue to watch your progress with interest and admiration. We know we can rely on your good wishes and continued support as we pursue the same goal in Northern Ireland.

South Africa: Crime and Policing in Transition

Steve Tshwete

INTRODUCTION

This conference is honoured to have as a speaker the Minister of State for Northern Ireland, Adam Ingram. While we are aware of the significant differences between South Africa and Northern Ireland, we have noted that both the Patten Commission on a new beginning for policing in Northern Ireland and the Criminal Justice Review which visited South Africa, drew on some of our own experiences in reaching their conclusions.

1. COMMON ISSUES AND COMPARATIVE RESEARCH

Police transformation and crime control have been key focus issues during the past few years in South Africa. The immediate aftermath of apartheid resulted in high levels of crime and a police agency not immediately able to counter the problem.

This experience is consistent with a number of other societies that have also been burdened by high levels of crime during periods of political transition or dramatic economic and social change.

These similarities highlight the importance of this initiative by the South African Institute of International Affairs to begin a process of comparative research aimed at drawing lessons from societies in transition. It is hoped that this conference, which is only the beginning of a longer term project, continues to draw together expertise from across the developing world.

South Africa tends to seek solutions too often from countries in Europe and North America. While this approach is important, these societies do not experience the same conditions,

social inequalities or history of authoritarianism as we do. There is much to learn from our own experiences and much that we can teach each other.

South Africa has taken some important steps towards fighting crime. We recognise that there is still much work to be done, but we remain committed to ending the scourge of lawlessness in our communities, thereby ensuring safety for all our citizens. We have learnt much, but there is still much to learn.

2. KEY LESSONS

Four key lessons can be drawn from South Africa's experience in this regard. These lessons relate to the issue of police legitimacy, the need to focus on specific priorities, the role of politicians and the necessity for regional action to counter crime. The following comments are by no means comprehensive, but may provide some initial observations which could be expanded upon during the course of the conference.

Firstly, it is often stated that the problem with policing in South Africa is one of legitimacy. The police are not accepted by all citizens as the enforcers of law and order. While this may be true, experience suggests that the issue should be examined further. It is not sufficient to simply urge citizens to accept the police as their own. Rather, in the new democracy, citizens expect the police to earn their legitimacy.

This can only be achieved through improved levels of service delivery and more effective operations. In particular, service delivery at local station level can be greatly improved. In

my tenure as Minister I have, and will continue to, visit police stations (often unannounced) when it comes to my attention that service is below acceptable levels. Improving levels of service delivery is therefore a key public confidence-building measure in societies where the police have in the past been repressive and prejudiced.

Secondly, and closely related to my initial point, is the necessity for focusing on key issues in a time of rapid change. One problem of police transformation within the South African context is that there always seems to be so many issues to deal with simultaneously. There is a real danger that too many priorities are set, which in the end becomes meaningless. In the past two years the police have actively concentrated on some of the key areas of policing. I have already mentioned service delivery, but we have, in addition, sought of late to concentrate our efforts on those areas where the majority of crime occurs. By focusing on these areas, it hoped that the national level of serious crime will be reduced. Greater focus is also required on improving intelligence collection as well as our ability to analyse and understand the extent of crime in some areas so that we can act effectively against it.

Thirdly, it is my own belief that politicians, at all levels of society, have an important role to play in consistently condemning the actions of criminals and supporting the police. Given the history of this and other countries, criminals are often seen as heroes and role models – people who have gained wealth quickly without undue effort.

It is the duty of leaders in our society to consistently condemn these practices and to demonstrate that, not only are these actions wrong, but that they are damaging to society as a whole. This aspect is often not sufficiently examined when considering the nature of divided or transitional societies with a history of conflict. I therefore urge the participants at this conference not only to examine detailed issues of anti-crime policy, but also the role that politicians play in managing this process and promoting the message that crime does not, and cannot, pay.

Finally, I wish to suggest that the majority of transitional societies, be they in Southern or West Africa, Latin America or Eastern Europe, are not in any way immune from ongoing developments in their regions. In particular, organised crime does not respect state borders, nor do organised criminals linger about to be prosecuted by one set of law enforcement authorities when they can find a safe haven elsewhere. In the longer term, more emphasis will therefore have to be placed on building stronger regional police cooperation. In Southern Africa, significant progress has been made in this regard. We will also continue, in partnership with our neighbours, to focus on this area in the longer term.

CONCLUSION

Policing in post-authoritarian and divided societies is not only a hotly debated issue, but one that is essential to ensure the long-term stability of democratic and peaceful governance. In Northern Ireland, for example, the outcome of the debate concerning the police seems to be a critical component of the peace process as a whole. While the societies we are all drawn from may be very different, it remains clear that many of the problems, as well as the solutions, are similar. By combining our energies we stand a greater chance of reducing crime and ensuring safety for our citizens.

The Nigerian Experience

David Jemibewon

INTRODUCTION

I am honoured and privileged to be part of this distinguished gathering of experts in safety and security, who have been brought together to share our experiences on the theme of *Crime and Policing in Transitional Societies*.

The country I represent, Nigeria, is today undergoing a fundamental and dramatic change having recently emerged from autocratic military rule on 29 May 1999. The police as an institution is not left out of this process. In spite of our untiring efforts to create a peaceful and crime-free society, the issue of crime, as is the case in most societies – still poses a serious challenge to us. In view of this, I believe the theme and timing of this conference could not have been more relevant to my country.

1. THE GENESIS OF VIOLENT CRIME IN NIGERIA

Policing is a universal concept. Consequently, the statutory responsibilities of any police force the world over are basically the same. These have to do with the maintenance of law and order, so that citizens can go about their lawful duties without let or hindrance.

Again, taking a cue from Nigeria, section 4 of the Police Act, CAP 359 Laws of the Federation of Nigeria 1990, clearly spells out the responsibilities of the Nigerian Police Force (NPF) as follows:

> "The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such

military duties within or without Nigeria as may be required by them by, or under the authority of, this or any other Act."

At independence in 1960, the NPF was small in size, well trained, disciplined and equipped. It was also well focused, effective and efficient, as a result of which it was highly respected by the public it served. It also earned international recognition having creditably discharged its responsibilities in international peace-keeping operations. Although it was regarded as a Force – considering the nature of the training as well as the democratic structure and environment of the police institution at the time – it could not but go about the discharge of its constitutional responsibilities in a highly civilised manner devoid of force. It was no surprise, therefore, that at the cessation of hostilities in the Congo, the NPF was invited to help in the training of the Congolese Police.

In 1966, Nigeria underwent a sudden change in government following the overthrow by the military of the then civil democratic administration. This led to a gradual but steady decline in the positive value for which the police were known. The morale of serving police officers was badly battered and vices such as corruption, indolence, greed and malpractices of various sorts crept into the police force and gradually overwhelmed the institution. Public confidence in the police force waned as some police officers became involved in heinous crimes such as arson, robbery and assassinations.

Before the advent of the military in politics, policing in Nigeria was not much of a challenge in terms of crimes. Most of the offences recorded were of a minor nature. These includ-

ed offences such as petty stealing, assaults and other lesser crimes, although occasional murders and burglaries were recorded. Violent crimes – particularly those perpetrated with firearms – were generally unheard of. However, this scenario changed for the worse after Nigeria fought a civil war that lasted from 1967 to 1970. During that period, the country began experiencing armed robberies, and this necessitated the constitution of special tribunals to try such cases, which then attracted the death penalty by firing squad for those found guilty. By the end of the war, some firearms ended up in the wrong hands. This was the genesis of violent crime in Nigeria.

The military's incursion into politics, and the resulting civil war, therefore led to a downward and degenerating spiral of crimes and violence, as well as the entrenchment of a culture of violence. The military had been in power for almost 30 of Nigeria's 40 years of independence. During that period, military rule affected every stratum of society and penetrated the psyche of the people.

By profession, the military are trained in violence and this progressively permeated their approach to governance. Thus any "offending" provisions of the constitution – such as that outlawing military coups – were suspended. Obnoxious decrees such as the State Security and Detention of Persons Decree, under which persons could be detained indefinitely and without trial, were promulgated. The rights of the citizenry were subordinated, opposition to government was steadfastly crushed and almost obliterated and the basic human rights of individuals were not only ignored, but abused. The judiciary cowed and, needless to say, the due process of law was thrown overboard.

2. TRANSITION AND ASSOCIATED PROBLEMS

Transition from autocratic rule to democratic government in Nigeria brought with it several changes and problems associated with managing change. Ordinarily, managing change even in a normal situation is no easy task. This is partly due to the uncertainty that is often associated with change and because – as observed by Peter Blau and W. Scott in their book *Formal organisation: a comparative approach* – "change, whether due to new external developments impinging on the organisation or to internal modifications, produces situations without

established precedents. Besides, some exigencies that may arise cannot be anticipated".

As should be expected there were those who wanted and fought for change, but there were also those who probably would have preferred the status quo and those who remained apathetic and therefore indifferent to change, not knowing how they would fare under the new system.

The sudden change – which the transition from the long years of military rule to a democratic dispensation brought on the country – was therefore monumental, and managing it was daunting. Virtually every institution had to undergo a learning process, having been militarised previously and having no standard to fall back on due to the absence of a constitutional democratic culture and the lack of democratic institutional structures.

The Nigerian police force that was inherited could be said to have suffered gravely from a lack of such regulatory institutions and a lack of focus. The police force was deprived of vital equipment and other logistics support needed to perform its functions effectively. Training was at its lowest ebb, while recruitment was halted for almost six years. Within the same period, the public grew apprehensive and almost lost confidence in the ability of the police to discharge its statutory functions.

Yet to ensure a viable, strong and effective constitutional government that could attract and stimulate domestic and foreign investments in the economy, an effective and modern police force is required to assist in crime detection and in the enforcement of the law. It was obvious that an articulate and conscientious plan of action directed at overhauling the existing system of policing was urgently needed to redeem the situation, with a view to re-establishing public confidence in the police institution, as well as helping the police to understand and appreciate its pivotal role in a democratic dispensation.

When Nigeria eventually shifted from autocratic military rule to democratic rule on 29 May 1999, Nigerians heaved a collective sigh of relief, so to speak, at the development as it guaranteed them the full exercise of their fundamental human rights. Regrettably, our newfound democracy has, to some extent, become a source of insecurity and lawlessness, as these rights were misconstrued and exercised without restraint. The past year under this administration has therefore seen an increase in crime

waves in various parts of the country. Views which were considered anti-government and hitherto suppressed out of fear under the military, were now freely expressed and often times violently too.

Militant groups that were agitating for one thing or another, often armed, sprang up in some parts of the country. The police force – which was not adequately prepared for the violent and criminal eruptions that heralded Nigeria's democratic rebirth – was therefore stretched to its maximum.

The weaknesses and inadequacies of the NPF in coping with its statutory responsibilities of maintaining law and order were aggravated by the systematic neglect and impoverishment of the force by successive military regimes. Also, the prolonged years of military rule had drastically affected and changed the hitherto civil disposition and orientation of the police to their duties. This, in itself, has been a major problem for policing in transition. It is, however, gratifying to note that we have embarked on a programme of national rebirth, re-orientation and retraining of the police force in line with democratic dictates and ideals.

3. REASONS FOR ESCALATION

The reasons for the increase in crime and violence can, to a great extent, be attributed to the emergence of democracy, which most people see as an opportunity to release their hitherto pent-up frustrations and feelings of dissatisfaction with the misdeeds of past military administrations. This reaffirms the view of South African Minister for Safety and Security, Steve Tshwete, that democracy can, and does, create opportunities for criminals. Tshwete has observed that the nature and magnitude of crime in South Africa has changed since 1994, when that country became "independent". This view was informed by the observed crime trend in that country. The police have had to deal with organised crimes, drug rings, fraud and other crime syndicates that were unheard of prior to the advent of democracy.

I would like to add here that Tshwete's observation on the relationship between crime and democracy is more true in democratic societies undergoing transition, such as Nigeria, which has in recent times witnessed an increase in police activities geared towards bringing the crime situations under control.

South Africa, like Nigeria, seems to have more than its fair share of violent crime, as can be gleaned from the Internet, print and electronic media. Through these media, we have heard of armed men and gangs killing police officers, shooting innocent persons and generally creating havoc, leading to uncertainty and insecurity.

In any democratic setting, policing is generally fraught with problems for law enforcement agencies, as the citizenry is usually aware and often insist on their rights. Nigeria is no exception. It is highly likely that many of the countries represented at this conference have similar or identical problems, and it is hoped that solutions to these problems will be discussed here.

4. SOLUTIONS OFFERED TO CHECKING CRIME

In the short-term, a number of strategies have been put in place in Nigeria with the aim of checking crime. These include motorised and motorcycle patrols, anti-crime patrols, stop-and-search operations involving the random search of suspect vehicles and persons, intensification of aerial patrol and surveillance, pre-emptive raids on suspected criminal hide-outs and black spots and increased criminal intelligence gathering by the Criminal Intelligence Bureau (CIB) and the Criminal Investigation Department (CID). The increased highway patrol activities have, for example, led to a drastic reduction in highway robberies in the country. Pre-emptive raids of suspected criminal hide-outs have resulted in a significant decrease in crime in the satellite towns of Lagos and Abuja, while the use of observation tents and posts in strategic locations has greatly assisted in bringing down crime in the cities. In addition to these measures, the police force is closely monitoring the activities of registered vigilante groups nationwide to ensure their full compliance with statutory rules and regulations.

The Ministry has had to initiate plans aimed at revitalising the NPF and has continued to pursue the implementation of these plans.

This includes improving the NPF's image, re-orientation, modernisation of the police force through re-structuring, re-equipping and the provision of logistics support, beefing up the strength of the police force as well as introducing better welfare packages. We have also had a series of discussions with donor countries and organisations, with the view to gaining assistance in the areas of manpower development

and logistics support. This is considered necessary because of the:

- growing trends in international crime, including drug and transborder crimes
- breakthroughs in information technology that have unfortunately impacted negatively on the internationalisation of crime
- enormous financial resources required for effective policing of the country
- belief that a blend of foreign expertise and local training is needed to provide a multi-dimensional approach to the training of an effective, modern police force, which will act as a bridge between the present and our future dream of a force that is a potent antidote to all forms of crime.

In order to rebuild confidence in the public and to enhance greater security and protection of life and property, we have established a special police vehicular patrol in Lagos and Abuja, where violent crimes were daily on the increase. Funds were obtained for the effective policing of the cities in this pilot project. Patrol cars purchased and equipped for the project were deployed, along with motorcycles equipped with communication equipment. The success achieved in checking the crime situation in Lagos and Abuja has today restored public confidence in the police.

Also, a case was made to re-organise the NPF from an eight-zone to a 12-zone structure, thereby enhancing command and control of force. The Nigerian President has recently approved this recommendation, and measures are being taken to implement the 12-zone structure. It is hoped that its full implementation will go a long way to improving the effectiveness of the NPF.

5. RECOGNISING LOCAL CONDITIONS

There is a tendency for countries in transition, including Nigeria, to compare the performance of their police forces with those of advanced or developed countries that have sophisticated systems of law enforcement. This approach is problematic. Critics also go so far as to proffer solutions to perceived problems from such advanced countries as Britain, France and the United States, without considering the resources available to the police in lesser developed countries, the socio-cultural background as well as the advancements made in these countries in terms of science and technology.

A comparison of policing in these societies without due cognisance of the constraints faced by each, cannot but produce an unreliable result. This error could also account for the failure often encountered in fully applying solutions derived from such developed economies to societies in transition. It is a known fact that the history of a people, their cultural and political background as well as economic development, impact greatly on crime, its nature and prevalence. It is also true that policing is a costly venture requiring huge financial outlays, which most African countries undergoing transition cannot easily afford.

Considering all the above, we believe that while all efforts should be made to provide more logistics support and training to improve police performance, solutions to the problem of crime and policing in societies undergoing transitions cannot be found in stable democratic societies wholesale. This is because the root causes and the nature of crime, as well as existing institutions for crime prevention and problem resolution, differ from society to society and especially between transitional societies and advanced stable societies. There is therefore a need for a comparative analysis across transitional and developing societies, to benefit from lessons learnt.

It such be noted that in this regard, Nigeria and South Africa – two countries which are considered to be going through transition – have been comparing notes with a view to learning from each other.

CONCLUSION

There is no doubt that the constraints to crime and policing in transitional societies are many, but with determination, efficient planning and prudent execution of programmes, they are surmountable. Nevertheless, managing and transforming a police force such as Nigeria's – which suffered from 15 years of decadence and deprivation under a despotic regime – to a service-oriented, modern and efficient organ of government capable of providing security for a nation, remains the greatest challenge of our transition from military to a democratic and constitutional government.

I hope that our shared experiences at this conference would be mutually beneficial and will herald the beginning of greater cooperation in policing. I wish you all fruitful deliberations.

The New Policing

Philip Heymann

INTRODUCTION

The purpose of this article is to examine the remarkable development in law enforcement: the exploration of new forms of policing by combinations of police leaders and academics. This examination focuses on three major cities – New York, Chicago and Boston – which have developed three different varieties of the combination of problem-solving and new forms of relationship with neighbourhoods that is together often called "community policing". As a result of these immense undertakings, we have seen a change in belief in the efficacy of policing. But the changed attitudes towards police functions are accompanied by certain risks.

1. THE EFFECTIVENESS OF THE NEW POLICING

I will begin by describing the weaknesses and the strengths of the case that new forms of policing have had a major effect on fear and safety in our cities and, through that, on the quality of life for millions of people. But, wholly aside from the amount of evidence for this belief, it exists and that in turn has changed the attitudes toward policing of citizens and political leaders alike.

It is important to look at New York, Chicago, and Boston separately, for they represent somewhat different approaches based on different theories supported by different police leaders and scholars. Their apparent successes explain the change in attitude towards police, but they are not the same along the two dimensions that many consider most important: reduction of crime and disorder, on the one hand; and an increase in trust in the police on the other.

I will describe generally the practices and theories of policing in each of these three cities and will provide some evidence as to what they are doing better or worse. But then it is worth departing from the broad models, each of which may hide too much that is important and particular under a single tent that feels almost as copious as an ideology. We should look much harder at the underlying operations. And, finally, we should consider the values affected by, and the risks associated with, the different forms of policing. The introduction concludes with these subjects.

1.1 The national decline in crime

Before turning to the changes in theory and practices of policing and their consequences, we should note the importance of the new belief that policing can make a big difference in the amount of violent crime, property crime, and troublesome disorder. In focusing on "the belief", I am not trying to raise doubts about the reduction in fear and the increase in safety throughout the United States (US). There may be some question as to the role of policing in bringing this about – questions that are not troubling most of our politicians and citizens – but there is little doubt about the reduction in fear and the increase in safety in most places throughout the US and particularly in two of the cities which we will be examining.

Figures on reported crime and surveys of citizens tell the same story. After a rapid increase in crime during the 1960s, there was long-term stability in the US during the following quarter century.[1] That stability included a homicide rate in the US that was three or four times as

35

high as other western democracies.[2] It was also widely believed that non-lethal violent crime was far in excess of comparably advanced countries.

Within this long-term trend, something dramatic first happened in the mid-1980s when the amount of youth violence, particularly killing, shot up dramatically, while violence by those over 25 was declining. In the early1990s the direction of change reversed and for the rest of the 20th century, crime, including violent crime, declined radically to levels we had not seen since the 1960s.[3] The trend has continued into the current year, although some major cities, including Boston, experienced an ominous spike in the first few months of 2000.[4]

Between 1993 and 1998, property crimes declined in the US by 32%, and violent crimes by 27%. The decline has been spectacular with regard to such non-violent crimes as motor vehicle theft or ordinary thefts of less than $50. Moreover, this decline has been about equally sharp for males and females, black and white, urban, suburban and rural.[5] Arrests of males under age 18 for violent crimes declined 26% between 1994 and 1999.[6]

One area of great public concern did not appear to follow this course. While the use of illicit drugs had peaked in the late 1970s, and the decline that followed in the mid-1980s was reversed by an epidemic of smokable crack cocaine, there was a great decline in use in the 1980s and, except for marijuana use, prevalence of use in the population continued at a relatively low level into the 1990s.[7] There is, however, little, if any, indication that the price of illicit drugs has risen or their purity declined, nor is there any reason to think that their availability has lessened. The crack cocaine epidemic has greatly abated; but that seems to have far more to do with the natural course of a drug epidemic, including the growing desire of young people to avoid the consequences they see in their addicted elders, than with any success in policing, despite mammoth increases in expenditure and in rates and duration of imprisonment since 1980.

Returning to the sudden reduction in violence, particularly in lethal violence, since the early1990s, we should note a number of consequences. Evidence ranging from the self-reports of mothers and children in Boston to the immense increase in optimism and tourism in

New York, documents the change in the quality of life that has been brought about by reduced violence, and perhaps also by reduced property crime and disorder. Cities as far away as Johannesburg, Moscow and Buenos Aires want to learn whatever there is to learn about the relationship of new forms of policing to a wonderfully improved quality of life in many American neighbourhoods and cities.

If it really is policing that is making that difference, we should be recognising that fact in terms of a variety of decisions about the expenditure of resources. Resources should be moving toward police from the immense human and dollar cost of the present rush towards ever longer sentences that has made the US one of the world's two leaders in percentage of population behind bars.[8] At the same time, the general public may be willing to bear new personal costs associated with intrusive policing measures if the benefits are as great as they seem. In Chicago, for example, tenants of housing projects have voted to authorise apartment searches without the pre--requisites of the Fourth Amendment, a move rejected by a federal court.[9]

1.2 Are the increase in safety and the reduction in fear results of the new forms of policing in the US?
The accelerating reduction in violent and other crime beginning in the early 1990s plainly coincided with a series of major changes in policing. The three cities we are examining – New York, Chicago and Boston – all began new programmes we shall describe shortly before 1995. As we shall see, there are also common sense and theoretical reasons to believe that the forms of policing have made a difference; but before awarding the credit to policing we should recognise the claims of other contenders to explain reduced crime.

1.2.1 Some other explanations of declining rates of crime
There are reasons to look for alternative explanations. Violent and other crime is decreasing in many cities throughout the US, including in cities where policing is very different from New York, Chicago or Boston. New York and Boston have enjoyed remarkable rates of decline, but so have several other cities, which are doing quite different things.[10] Moreover,

changing at the same time are other things which cannot be related to policing but are highly correlated with the conditions we associate with crime. Teenage pregnancy has gone down steadily during the past six or seven years.[11] The decline in birth rates between 1991 and 1996 among black teens between the ages of 15 and 19 is particularly striking.[12] There seems to be no obvious relationship between policing and teenage pregnancies, although there has always been a close relationship among crime, violence, pregnancy, drug use, and other forms of social breakdown. That suggests that a third factor may be at work.

Several candidates seem obvious. First, the drop in crime could be tied to the sustained economic boom. Not only has poverty been declining for juveniles under the age of 18 since 1993, but the proportion of black juveniles (whose involvement in dangerous violence as victim or perpetrator has been much the highest) who are living in poverty has also been declining sharply during that period.[13] Unemployment is at near-record lows; and by 1996, 86% of young black adults were completing high school.[14]

There are a number of other available explanations, besides new forms of policing, which supporters would claim have led to the reduction of crime and the fear of crime. During the past few years, we have seen the end of the crack epidemic in most cities, an epidemic which spawned drug-selling gangs of youth and the varieties of violent crime that we also associate with the prohibition era of the 1920s. Drug markets have stabilised. Dealers in stabilised industries do not kill each other; so dealers in illicit drugs may be particularly violent only at the early stages of a rapidly expanding market.[15]

Just as the use of crack declined with the generational learning from the degrading experiences of one's older brothers and sisters, the same learning – but this time about guns – may have happened as a result of the experience of the violence of the late 1980s. A very high percentage of young people in disadvantaged neighbourhoods had friends who had been killed.

The efforts of people, other than the police, to deal with youth violence also played a role. Prevention efforts by committed members of the community, including organisations such as churches and schools, efforts which increased

immensely in response to the burst of youth violence, made a difference.[16] Another, quite provocative explanation, recently advanced in a leading economics journal, is the rise of legalised abortion some 20 years prior to the beginning of the decline in crime rates. Indeed, the paper attributes roughly half of the decrease in crime to the government's newfound protection of the right to choose.[17]

Finally, there are those who would argue passionately, and persuasively, that the reduction in violent crime was traceable far less to policing and any increase in the numbers of arrests than to legislation and the longer sentences imposed with its consequent prolonged incapacitation of violent offenders. We know that a relatively small percentage of the people born in any given year are likely to commit a high percentage of the crimes and a very high percentage of the violent crimes. As we lock up a higher and higher percentage of the population for longer periods of time, a very high percentage of this particularly dangerous group is imprisoned because they offend and risk arrest so often. This reduces the level of violence on our streets, albeit at great cost. And, somewhat less plausibly, believers in increased deterrence resulting from the perceived threat of a very long sentence for whoever is successfully caught and prosecuted, have argued that the reductions in crime are directly traceable to that deterrent.[18]

1.2.2 The case for new forms of policing as a major cause of reduced crime

With so many other explanations, why is there reason to believe that new forms of policing are playing a significant role in the reduction of violence and fear? For one thing, some of the sharpest reductions in crime have taken place in Boston and New York where the new forms of policing have been most thoroughly explored and most enthusiastically implemented. For another, some of the connections between the new forms of policing and the reduction in violence are so plausible that it is hard to imagine their not having a major effect. Finally, some fairly rigorous evaluation of recent policing tactics supports the hypothesis of effectiveness.

We know, for example, that the increase in youth homicide was almost entirely attributable to homicides with guns; that there has been no significant increase in homicide with other weapons.[19] And the process has worked in

reverse. As Professor Blumstein of Carnegie Mellon University and Professor Rosenfeld of the University of Missouri-St. Louis have pointed out,[20] the reduction in national homicides in the mid-1990s was very close to the reduction in the number of gun homicides, suggesting again that control of guns has been an important tactic. We also know that many homicides take place because of quarrels and other events taking place on the streets. Policing strategies like those of New York, which greatly increase the risk of carrying a gun on the street, particularly among gangs or other groups that have more frequently engaged in violence, should therefore lead to reduced homicides with guns. In fact, those are the homicides which have been declining rapidly.

Similarly, we have believed for centuries that certainty and swiftness of punishment are critical to the effectiveness of deterrence. In Boston, the police are using their powers in new ways to make sure that the deterrent threat to particularly dangerous individuals is very certain and prompt, targeted specifically on a particular type of conduct such as violence, and directly communicated to those most likely to use violence. To determine who is most likely to use violence they have analysed data from reports or investigations and have used computers to compile information available by observation of associations on the street. Strategies, like those adopted in Boston, to assure that speed and certainty of punishment are present and are known to those likely to engage in violence, seem almost certain to reduce violence.

In both New York and Boston, creating social control and, relatedly, reducing fear, have been accomplished by using the powers of the police to take back the street from gangs. The Department of Justice's Office of Juvenile Justice and Delinquency Prevention estimates that, in 1996, almost 3000 homicides in large cities and suburban counties were attributed to gang members.[21] Reducing the apparent street power of gangs competing for status, turf or drug profits seems likely to reduce gang homicides. For all these reasons the importance of new policing to reduced violence seems highly plausible; indeed, likely.

1.2.3 A closer look at what we know about police tactics and reduced crime
There is another way to look at developments

in policing – one that does not rely so exclusively on the theories of a few academics and police commissioners. We can usefully disaggregate the broad models of policing in cities like Chicago, New York and Boston, identifying first the critical powers of the police and, then, what is new about the way these powers are being used. It is well to begin with a reminder of the powers, legitimate and borderline legitimate, we have given the police in the US. It is through using those powers in a particular set of tactics that street crime may be reduced, either by creating deterrence, or gathering intelligence, or establishing a feel of police or neighbourhood control of the streets. What we know about the use of these powers to reduce crime should be reviewed, before turning to the broader and more complex strategies that have characterised policing in Chicago, New York, and Boston. The present powers of the police are relatively well-known:

- To arrest, search or engage in electronic surveillance if there is probable cause to conclude that the person has committed a crime.
- To seek or give a suspect concessions in exchange for information or evidence useful against others.
- To "stop" if there is reasonable suspicion to believe that the person is about to commit a crime or has just committed a crime and to frisk if there is reason to fear the person may be armed.
- To "stop" cars on the ground that they are being operated in any way, however minor, in violation of local ordinances or state laws.
- To seek consent to search the stopped car or, alternatively, to search without consent by either arresting the driver for a traffic violation or developing a reasonable suspicion that the driver might be armed.
- To take advantage of even obvious confusion by a suspect about whether he/she has a right to say "no" to a search of his/her home or car or person or to answer questions when not formally under compulsion not to leave.
- To imply, deceitfully, that they intend to exercise powers of arrest or restraint that they in fact do not have, in order to gain leverage to force a recalcitrant witness or suspect to cooperate.
- To suggest a possible use of force even though its use would be illegal.
- To engage in any of these activities in a way

that is designed to interfere with the subject's personal or business relations.

• To analyse material obtained in reports or investigations of individual crimes and to gather useful intelligence from these reports.

Police in the US have long had a tool kit that included at least the powers described above. Exceeding these considerable powers by imposing summary punishment or by using unnecessary force to arrest or by disregarding someone's privacy and property rights without probable cause is generally a violation of local and federal law. To ignore the conditions limiting the use of one of these powers – even by actions that would not be a crime if carried out by ordinary citizens but which misuse the apparent powers and authority of the police – is an occasion for department discipline.

What do we know about the success of various tactics using these powers, reserving for later a discussion of the broad strategies that are a collection of tactics in Chicago, New York and Boston? There is much guesswork in this. But we also know from fairly rigorous recent experiments a good deal about what forms of policing actually reduce crime, and as we shall see, many of these are embedded in the broad strategies described in the chapters that follow. A review of evaluations done by a team at the University of Maryland for the Congress and the Department of Justice tells us a good deal about what "works."[22]

In *Policing for Crime Prevention*, Professor Lawrence Sherman of the University of Maryland evaluates the evaluations of policing strategy. Here are his conclusions. Sherman finds, first, that, although the evidence is inconsistent, the more convincing studies show that an increase in the number of police causes reductions in crime in the following year, especially in higher crime, larger cities. This is supported by the evidence of epidemics of crime when the police are on strike[23] and by the obvious logic that the presence of more police increases the risk that an individual committing a crime will be apprehended, with both a deterrent and an incapacitive effect.

On the other hand, Sherman finds that rapid response to calls from victims does not have a significant effect, in terms of the resources it requires, on crime reduction. Too many crimes are discovered after the fact and even a crime that is discovered promptly is not affected by

rapid response if the time between the commission of the crime and the initial contact with the police exceeds nine minutes. The average reporting time for such crimes was 41 minutes later.[24] Nor did random patrol deter crime by creating a sense of police omnipresence. Among a group of studies, none of which Sherman deemed especially rigorous, the stronger studies suggest that there is no such effect.[25]

What does make a difference, careful evaluations show, is focusing patrol resources on places and times that have the most crime. The idea is supported by epidemiological research that has shown that crime tends to be very localised,[26] and by careful studies in Minneapolis which suggest that twice as much police presence led to half as much crime in the hot spots, including when the police were not present.[27] It also often led to increased neighbourhood calls for service in the hot spot areas. As to the time of day, not enough is known yet to determine whether curfews, particularly for juveniles, are an effective way of reducing crime.

In a related way, concentrating limited police resources on an identified band of particularly dangerous individuals or crimes also reduces crime. We know that a small fraction of a total birth cohort commits a very high percentage of crimes in any group. Targeting the more dangerous people had the hoped-for effect of reducing crime in Washington and Phoenix.[28] The case is less clear with regard to targeting dangerous crimes, with two notable exceptions: seizing guns and drunk driving.[29] Efforts to detect and seize guns has proven to be immensely effective in Kansas City. When gun seizures in a target area rose by 60%, gun crime dropped by almost 50%.[30]

There are at least short-term effects of focusing policing on activities that create a sense of disorder in a neighbourhood – tending to support the "Broken Windows" theory that is described later. But, as in the case of making additional arrests for misdemeanors and for other crimes for which an individual might not previously have been arrested (even if caught in the act), the deterrent and incapacitive effects may be significantly offset by long-term effects. Studies show that recidivism of juveniles increases following arrest.[31] The same is true of some other categories of offenders, for example, unemployed men guilty of domestic

violence.[32] There is a reminder in all this that the long-term effects of invoking the criminal justice system for relatively minor behaviour can be to increase rather than reduce crime by its effect on the life prospects or psychology of the individual.

As to the specific crime-reduction benefits claimed for conscientious efforts to improve police relations with neighbourhoods, Sherman has this to say. "Neighbourhood watch" groups seem to be almost wholly ineffective, perhaps because cooperation is least likely to be found in high crime areas where distrust is widespread, although community meetings can help mobilise citizen participation in reducing crime. Making visits to citizens' homes is also helpful for policing, at least among non-minority groups, through gathering intelligence and otherwise eliciting support. Providing information to the neighbourhood rather than eliciting information from the neighbourhood showed no sign of affecting or reducing crime where it was tried in Newark and Houston.[33] Finally, research consistently demonstrates that individuals who believe that the police treated them fairly in their previous encounters, and showed respect, are more likely to obey the law in the future. A Milwaukee experiment in dealing with those arrested for domestic violence is the leading example.[34]

Such specific, fact-based arguments are more persuasive than exclusive reliance on the broader contentions that large changes in violence must be attributable to changed policing simply because there was no parallel in the form of dramatic changes in social conditions that could explain the drop in violence. In fact, as we have seen, there have been dramatic changes in factors from the availability of jobs to an end to the growth of the crack market that could explain a rapid reduction in violent crime.

Moreover, even small changes in social conditions can result in dramatic differences in crime or other social phenomena when there is a contagion effect. A small increase in the availability of guns, for example, could readily result in a geometric increase in the number of young people feeling they need guns and these increases could in turn lead to still further geometric increases. We simply cannot assume that big changes in criminal behaviour can only be brought about by dramatic changes of some other sort.

1.3 Changes in public and political attitudes toward policing

However strong one may find the evidence that new forms of policing are far more successful in reducing crime of almost every sort, other than the sale of drugs, the case has been strong enough and made persuasively enough to create a very substantial change in expert, official and public expectations about the crime-reduction and other functions of policing. One way of illustrating that change is to examine the change in notions about what the police should be held accountable for.

South Africa is one of many countries that measures the effectiveness of its police by their capacity to solve crimes that have been committed and the speed with which police can respond to calls. South African police claim, unreliably, to have reduced response time to an average of a very few minutes. They are now concentrating on improving what happens next: detective work relying extensively on questioning of witnesses and suspects and on forensics. In this framework, it makes sense that, in late 1999, the South African police would only reluctantly take a report from my friend, a driver whose rear window had been bashed with a brick long enough ago that suspects would not still be there. And my friend could not herself provide a useful description of the suspects. There was simply no way to solve such a crime, and the police in South Africa are considered accountable for solving crimes that have occurred.

Police in the US have learned that most victims do not call promptly enough to catch the perpetrator at the scene of the crime and that detective work cannot be relied on to solve the great mass of street crimes. With that awareness, our policing strategies in the past decade have turned heavily towards prevention of crimes before they occur, using the help of those in a neighbourhood and focusing on problems rather than individual events.

Faced with a situation like the attempted car hijacking in South Africa, a problem-solving police department would very much want to record and analyse the information; for, together with information on recent and similar events at nearby locations, it would suggest a set of ways that the hijacking activity could be stopped. Some of these would be imaginative devices for making arrests and getting convic-

tions, such as sending undercover operatives to the location or using leverage on people arrested for other crimes in that area to gather information. A problem-solving police department would also consider changing traffic patterns, eliminating the stop signs that make it possible to bash the window of a stopped car and immediately reach in, etc. And it might try to build a community's support for lawfulness, trust in the police, internal coherence and "social capital" to the point that bystanders in the neighbourhood would help deal with the problem.

Problem-solving policing has received a great deal of credit for reduced crime. As this has happened, the public and elected officials have come to hold the police responsible for reducing crime and particularly violence by dealing with the problems that create the opportunity or temptation to safely commit crimes that are dangerous and create fear. In terms of accountability, we have come to assume that the work of the police can be measured by the crime rate, not the arrest or conviction rate. Both New York and Boston have met that standard of accountability remarkably.

If reducing crime is what the police are coming to be held accountable for, there is disagreement with regard to another question: to whom are they accountable? The South African Constitution requires a national police force, accountable to the nation as a whole. City police departments are held accountable for the crime figures of cities as large as Boston, Chicago and New York. But we also believe that they are accountable to local communities and for developing ways that local communities can impose social control themselves, assist the police, and focus the efforts of police and neighbourhoods on what concerns the neighbourhood most. New York attempts to focus responsibility at the level of each of its 75 precincts. Chicago tries to devolve responsibility down to the level of a beat officer within a precinct. In short, we are coming to accept the fact that police are accountable to neighbourhoods as well as to cities and for providing what the neighbourhood wants as well as for assuring reduced danger and fear in the city at large.

2. THE NEW POLICING STRATEGIES

All this is the setting for a more detailed exploration of what is changing in policing with a particular focus on three major cities at the forefront of change: Chicago, New York and Boston. Each has developed its own variation of the new strategies of policing. Each has claimed that its variation is best; and deserves the most credit either in terms of reduced crime, increased public acceptability of the police, or reduced fear. And we will compare their strategies with contemporary developments in the United Kingdom (UK).

2.1 Chicago and New York

Chicago and New York have taken dramatically different directions in policing. It is revealing that both would claim to be operating in the mode of "community policing", a claim that is required if a city is to get funds from the federal government to increase the number of its police.[35] Both grow out of the same historical rejection of three approaches to policing that had taken on primary importance: random car patrol, rapid response to calls for assistance, and skilled investigation of individual crimes.[36] Both rejected what had become the accepted measure of success: arrest rates.

Not everything about the older model of policing is wrong. Rapid response is in fact necessary when the danger of violent crime is continuing. Reactive policing and skilled detective work are in fact necessary if the same perpetrator is likely to attack the same or related victims again. One of the top priorities of policing is, in the language of Scotland Yard, "preventing repeat victimisation".[37] Some significant measure of success in solving dramatic crimes is important to maintaining social mores, public morale, and confidence in the police and government. Still, conceding all this, the limits of reactive policing and particularly the failures of the hopes of random patrol, rapid response and detective work, required new strategies.

The author has travelled with the police rapid response team ("flying squad") in Johannesburg as it speeds from emergency call to emergency call, generally reporting burglaries. There, as we have found in the US too, the perpetrator was always gone by the time the few minutes it took the police to arrive was added to the few minutes it took the householder to call after the departure of the burglar. The South African police could not use detective work to solve the attempted hijacking described

above, or many, many other crimes. Something different is needed.

In the US the ineffectiveness of traditional modes of policing, which had been established by careful experiments, came to be reflected in experiments in neighbourhood-based crime control.[38] The latter also addressed the dangers of friction between police and youth in crime-infested areas, dangers that had exploded in riots in the late 1960s. The new movements were conceptualised in 1979 in a seminal article by Professor Herman Goldstein[39] calling for the police to go beyond merely fighting crime and responding to emergency calls for help and to assume the responsibility to find solutions to help prevent and reduce a broad range of problems faced by the community. Communities across the country began experimenting with various applications of problem-solving policing.

Three other scholarly developments in the 1980s encouraged the problem-solving aspect of what was to become the new policing: the development of clear evidence linking disorder to fear of crime; the concept of "situational prevention"; and the notion of "hot spots". The first will be discussed in connection with New York. The concept of situational prevention, which originated in England, is that taking measures, tailored to particular crimes and locations that make the commission of the particular crime more difficult, risky, or less rewarding, will discourage the commission of that crime.[40]

The theory of "hot spots" developed from research and observations indicating that a disproportionate percentage of crime is usually concentrated in small geographical areas, even specific addresses or locations.[41] Identifying hot spots was found to have two benefits. First, identifying hot spots may allow police to apply the concept of situational prevention to increase the stakes for criminal or disorderly behaviour in the hot spots, through increasing police presence in a particular area or increasing community efforts to watch an area. Next, identifying hot spots allows policing analysts to use computer technology that can combine the hot spot locations with detailed maps of the surrounding area to attempt identification of location features that may help explain the reason for the high rate of crime.[42]

Under the leadership and sponsorship of

Professor Mark Moore and then-Attorney General Edwin Meese, a distinguished group of police chiefs, mayors, academics and others met for five years beginning in 1988 and further developed the "twin poles of modern policing": encouragement of the participation at every stage and in almost every way of the neighbourhood being policed; and addressing crime as a problem to be solved prospectively, not as an event to be explained as history by retrospective investigation and, to whatever extent possible, then remedied by trial and punishment.[43]

2.1.1 Chicago

The Chicago Alternative Policing Strategy (CAPS) started operating in prototype districts in April 1993. Chicago emphasised the first pole – neighbourhood involvement – more completely and enthusiastically than almost any other city. The immediate scholarly background for this has been the work of Professor Wesley Skogan.[44] The more remote scholarly support is the Chicago criminological tradition of emphasising the relation of the demographic and sociological conditions of a neighbourhood to its rate of crime.[45]

Current studies by Sampson and Earls[46] have added greatly to this tradition. They show convincingly that the disparity in crime rates within areas of Chicago can be largely accounted for by measurable neighbourhood differences, including prominent differences in those forms of "social capital" reflected by constructive involvement in the concerns of neighbours – particularly the willingness to assist in the upbringing of children. The development of social capital can be encouraged by working with neighbourhood organisations or helping to develop them. It can be discouraged by allowing fear to force individuals within their own houses, away from groups and public places.

The form of policing in Chicago relies extensively on the neighbourhood to define the focus of police activities as they attempt to support social control. If the neighbours are most concerned about gangs gathering on the street or noise at night, then these should become police priorities. There is, of course, a risk that the concerns expressed by the neighbours are shaped by assumptions about what the police can do, including doubts about police capacity to reduce many forms of violence. Still, there is

a powerful democratic claim that neighbourhood concerns should be respected as well as an instrumental argument that respecting them empowers the neighbourhood, building social capital and, with that, social control.

This has not been just philosophy. One of the unique characteristics of CAPS was the extent to which there was actual, sustained police-community involvement in identifying problems[47] of concern to the community. Community involvement took two forms. The most fundamental form of neighbourhood involvement involved the formal practice of regular meetings between residents and police officers in every police "beat".[48] The practice of regular neighbourhood meetings was taken far more seriously than in most cities with community policing where public meetings were limited mostly to initial, kick-off meetings and occasional, poorly-attended successors.[49]

Beat meetings, designed to identify problems of concern to the particular community and to formulate solutions to the problems, were generally held once a month in church basements and park buildings.[50] The CAPS programme encouraged participation of neighbourhood organisations such as block clubs, community organisations, umbrella organisations, client-serving organisations, churches, and merchants' associations in the monthly beat meetings, as well as participation by individual residents. Research of the CAPS programme indicates that different communities do, in fact, have different priorities and concerns.[51] Different communities also had major differences in their willingness to become engaged with the CAPS efforts.

An additional way CAPS attempted to use the community to identify problems, define priorities, identify resources and solutions, and to evaluate the effectiveness of local CAPS efforts, was through establishing district advisory committees. In addition to meeting with district commanders and staff on a monthly basis, committees were intended to establish sub-committees to help with the identification and evaluation roles of the committees, concentrating on specific needs or areas. In keeping with the flexible, community-tailored focus of the CAPS vision of community policing, the make up of the committees was not established centrally. Committees were established by district commanders, based on their view of the most appropriate membership for the district.

Committee members included those active in neighbourhood schools, businesses, churches, and other institutions active in each neighbourhood. Procedural guidelines such as selection of officers, term limits, and voting rights, however, were established by the CAPS management team.

There are organisational implications of an emphasis on accountability to neighbourhoods. The Chicago policing pushes much of the responsibility in the organisation down to the beat officer, with an expectation that other department resources and personnel will assist beat officers in their new role.[52] One of the first responsibilities of the beat team[53] is to collect beat-specific information that is compiled as a tool for problem-solving and new officer orientation, known as a "beat profile". A beat profile includes information on community organisations and resources; descriptions of problem areas and abandoned buildings; identification of 24-hour businesses, bars, banks and schools; and other relevant information gathered from specialised units, such as special gang units, with knowledge of the beat.[54]

Another new responsibility shared by a beat team is documenting in a "beat plan" the three or four key problems they will focus on in a particular beat, in order to focus attention on the issues until they are resolved, as well as the officers' plans for solving the problems.[55] In formulating the beat plans, officers are expected to consider resident input that the officers garner from attendance at beat meetings (another new responsibility). While the advantages of the "beat" focus are obvious, one great disadvantage, compared to New York, is that the instruments the beat officer can control may be too few to address a crime problem which may be much larger than a single beat.

At the same time, the Chicago approach invites the police to address non-crime problems as well as crime. The beat officer and his/her superiors are to focus on problem-solving, including community problems that are not initially the responsibility of the police but are within the control of the city government. The police officer is a form of ambassador from the central government of Chicago, able to call on other parts of the government for a variety of services that can improve the quality of life in the neighbourhood and build social capital at the same time.[56]

This notion of problem-solving, which is addressed to a wide range of problems of the neighbourhood as defined by those living there, contrasts importantly with a sharp focus on rates of crime. Focused more broadly, Chicago is likely to have results less dramatic in terms of violent crime rates but more satisfactory in terms of community acceptance and, through that, on rates of fear.

Evidence measuring acceptance by the community and the effectiveness of the CAPS programme is mixed. Wesley Skogan led a research effort to evaluate the CAPS programme, focusing on 15 of the 279 police beats.[57] In terms of implementation of problem solving, the overall assessment by the evaluation team was that of the 15 beats, "four were doing an excellent job, five were fielding reasonable programmes, two were struggling to make the grade and four failed to implement much problem solving at all".[58] The reasons for relative success or failure seem inextricably connected to factors such as the personalities, enthusiasm, and leadership capabilities of the officers.

The variations between the attitudes and efforts of the officers in the "worst" and "best" beats, in terms of implementation of problem-solving, are dramatic. The officers and sergeant in the beat that the evaluation labelled as the "best", actively participated in beat team and community meetings; developed, implemented, and followed through with problem-solving strategies; utilised CAPS procedures and city resources; and responded to community priorities. Interestingly, the beat's population ranked last of all the beats in terms of being supportive of the police.[59] In great contrast, the "worst" beat team's sergeant and officers had negative or apathetic perspectives on their capacity to effect change; the role of community beat meetings (seeing them as a forum for complaining about the police); CAPS paperwork requirements; and community policing in general (viewing it as public relations). Participation and attendance at beat team meetings were sparse and unproductive and they did not utilise the resources available to them. CAPS procedures were utilised only nominally, if at all.[60] These patterns are consistent with the other "best" and "worst" beats.[61] Other evidence of citizen reactions is discussed after describing New York's strategies.

2.1.2 New York

Wesley Skogan also had played an important role as an intellectual father of one of the three central characteristics of New York's policing. It was his argument in the 1990 book *Disorder and Decline* that gave credibility to a groundbreaking article by James Q. Wilson and George Kelling, "Broken Windows," in the *Atlantic Monthly* almost two decades ago.[62] The central argument of Broken Windows was that disorderly conduct on public streets, something which the police can certainly control, can undermine social control by frightening, or otherwise discouraging, responsible citizens from being in public places and, at the same time, can encourage criminals to believe that crime would be safe because "obviously, no one at the scene of disorder cares". The exaggerated perceptions of danger created by disorder were, in themselves, a costly source of fear that disturbed urban living.

As a matter that was secondary in theory but, perhaps, primary in practice, Broken Windows policing also justified very large numbers of "frisks" and misdemeanor arrests which had the twin benefits of making the illegal carrying of guns far more risky and picking up dangerous people who were wanted for other reasons. The case for Broken Windows policing thus relies on both the fact that disorder creates fear and fear eliminates social control, inviting activities that may only take place in the absence of social control, and the fact that focusing on disorderly offenses allows and invites aggressive street policing.

This is a form of problem-solving policing, intended to build social control as well as to use the capacities that the police already have to deal with dangerous people, but it is unlike the Chicago plan in its lack of dependence on any form of fact-finding to determine a neighbourhood's definition of problems or any major effort to encourage community participation in their solution. The New York–style of policing involves far more independent problem solving by the police than Chicago's policing, although one of its pillars is the belief, deeply embedded in the Broken Windows theory, that disorder is a major concern of most responsible people in any neighbourhood.

While the Broken Windows theory that undergirds this strand of New York's strategy has won nearly universal acclaim among schol-

ars,[63] it has not been without detractors. One especially effective critic has been Professor Bernard E. Harcourt. In a 1998 article in the *Michigan Law Review*, Harcourt replicated Skogan's analysis and took issue with many of his conclusions. Specifically, he found that certain types of crimes, including rape, purse-snatching, and pickpocketing, are simply not significantly related to levels of disorder.[64] Moreover, most other types of crime were not related at a statistically significant level when poverty, stability and race were held constant.[65] Harcourt similarly took issue with other empirical evidence cited by proponents of the Broken Windows theory,[66] concluding that the data simply do not support the hypothesis.[67]

A second major strand in New York's strategies is the energetic, imaginative use of the full range of police powers and capacities to deal with crime problems as they arise. Deputy Commissioner Maple described the four crucial steps of an effective police strategy as: accurate and timely intelligence; rapid deployment; effective tactics; and relentless follow-up and assessment. A crime problem might be solved by moving more officers into the area, by addressing its causes, by putting pressure on people subject to arrest and conviction to provide evidence, by reducing safe opportunities for crime, or in any of a dozen other ways. The object of this second strand of New York policing is to be sure that every alternative use of every available police capacity is considered in addressing what has been identified, promptly after it arose, as a significant crime problem.

The third notable strand of New York policing is the much admired and, in fact, remarkable system of management by results called CompStat.[68] To assure the conditions of the second strand – early identification of the problems, careful and imaginative review of tactics involving all police capacities, and very prompt response – requires assisting precinct commanders with ideas and, in the New York strategy, motivating them powerfully by the risk of embarrassment or, worse, loss of the command of a precinct. Both of these objectives are accomplished by requiring each of the 75 precinct commanders to appear at a very large meeting of headquarters staff, other precinct commanders, and prosecutors and be prepared to be examined on any adverse change in crime statistics in the precinct and to discuss what is

being done about it. The pressure is substantial, and may be unnecessary. (Boston's management system examines what is happening and what could be done in a far less confrontational way.) Part of New York's message may be simply that the precinct commander should take steps to release and encourage the natural inclinations of the police officers to go after crime aggressively. But imagination and intelligence is shared at the same time.

Although close cooperation with neighbourhood groups and reliance on neighbourhood leadership has not been a focus of the new policing in New York, there have occasionally been experiments in these areas. Even at its most responsive to communities, however, it never approached the aims or practices of Chicago's CAPS programme.

2.1.3 Results in New York and Chicago
What do we know about the results in New York and Chicago? Both cases remind us that results on the street may depart from strategies. Sometimes Chicago could not develop neighbourhood policing in one beat, although it was successful in an adjacent beat. New York has experienced a number of very dramatic and inflammatory instances of police abuse which were certainly not planned as part of its strategy. And its efforts at developing creative community relations in the 75th precinct also seem exceptional – far from integral to its core strategies.[69] Moreover, in each case, the studies were done within a very few years of the initiation of the strategy; that may be too soon to know the long-term consequences. But it is important to look at what we know now about two dimensions: effectiveness in reducing crime and the ability of the police to develop trust within the community being policed.

In 1998, two arms of the Department of Justice (the Office of Community-Oriented Policing Services and the Bureau of Justice Statistics) produced a groundbreaking victimisation survey of residents of 12 cities, two of which were Chicago and New York. Questions went both to the level of crime, fear, and disorder and to the attitudes of citizens toward the police.

New York had the more serious crime problems but was making more progress in dealing with them. In 1998, there were in Chicago 68 violent victimisations per 1000 residents 12-

years-old or older; in New York, there were far more at 85 per 1000. The black violent victimisation rate in Chicago in 1998 was 50 per 1000 citizens for violent crime; in New York it was 123 per 1000. A violent victimisation in New York was almost twice as likely to involve a weapon. But during the period 1993–1997, homicides in Chicago decreased by about 10%. In New York, homicides declined by more than 60% from 26.5 per 100 000 to 10.5 per 100 000.

In both Chicago and New York in 1998, residents were far more likely to fear crime in their city than in their neighbourhood or on their street. Obviously, fears are more exaggerated as first-hand evidence declines. Along each of these dimensions, there was slightly more fear in Chicago then in New York. Moreover, 25% of the respondents in Chicago said they were more frightened than they had been a few years earlier and only 15% in New York were more frightened.

As might be expected with Broken Windows policing, a slightly smaller percentage of the population in New York reported public drinking or drug use, public drug sales, vandalism, graffiti, prostitution and panhandling in their neighbourhood. In Chicago, 36% of the residents said that conditions of disorder or, activities of the sort just described, made them feel less safe. This was true of only 29% in New York.

Seventy-four per cent of the residents in Chicago reported themselves either very or somewhat fearful of crime in their city. Only a somewhat smaller figure, 68%, reported the same in New York. While most people in both cities felt that their fear had not changed much, there was a somewhat greater percentage of those who felt reduced fear in New York.

Reports on trust-building relations with the police were also revealing, but cut the other way. Sixty-seven per cent of residents in Chicago and only 51% of New York residents said the police were doing community policing. Thirty-eight per cent of Chicagoans, compared to 23% of New Yorkers, had heard about a meeting concerning crime in their neighbourhood in 1998. Along all the following dimensions, a somewhat higher percentage of those from Chicago, than from New York, had contact with the police: casual conversation, calling the police for service, providing information to the police, reporting a crime to the police, asking for advice from the police, and participating in community activity with the police. A significantly higher percentage of New York residents felt there was an increased police presence in their neighbourhood; it just took a different form.

The Chicago police elicited more satisfied reactions from the victims of violent crimes than New York police and a significantly higher percentage of Chicago residents said that the police were doing a lot of work with the residents of the neighbourhoods to prevent crime and safety problems. This is far more at the heart of the Chicago strategy than the New York strategy. Seventy-three per cent of the residents of Chicago were familiar with the term "community policing". Only 50% of New York residents were, a revealing fact in itself.

One figure combined concern about crime and concern about the police. Residents in both cities were very satisfied with local police. Not surprisingly, blacks in both Chicago and New York were less satisfied with the local police than were whites. But despite several notorious incidents of police brutality in New York, blacks there were more satisfied with the local police than were blacks in Chicago, by a margin of 77% to 69%.[70]

2.2 Boston

Boston was not part of the Department of Justice survey of 12 cities. We do know that its strategies, which will be described presently, are different from those of both New York and Chicago – different not only in an attempt to combine parts of each of the other city's strategies, but also in making very different use of problem solving than New York and a very different use of neighbourhood cooperation than Chicago. The rate of homicide reduction in Boston during the past decade was nearly as dramatic as that in New York.[71]

It is worth reviewing the events that led Boston to embrace the community policing model. Already widely criticised for overly aggressive street patrols, in the late 1980s the Boston Police Department encountered public outrage when it was revealed that officers, faced with the sudden emergence of crack cocaine, were indiscriminately stopping and searching young black men. The "stop and frisk" scandal came to a head in the fall of 1989. Based on widespread suspicion that

police routinely used unconstitutional searches and seizures, a Dorchester judge suppressed evidence he believed had been obtained improperly.

That same year, Carol Stuart, a pregnant white woman, was murdered near a largely African-American part of Boston. Her husband Charles, a witness to the crime, reported that a black male committed the murder. Based on this account, the Boston Police Department aggressively pursued suspects from the area, eventually eliciting witness statements that incriminated a local black resident. These charges turned out to be false when Charles Stuart was later implicated as the murderer. Stuart killed himself before the investigation could be completed. The widespread reports of police abuse, coupled with the appearance of racism within the department, exacerbated public hostility towards the police, particularly within the African-American community.

Recognising that they needed approaches that were effective and less divisive, the Boston Police Department implemented a variety of problem-solving and community-policing strategies. The most notable "problem-solving" strategy in Boston is what David Kennedy, of Harvard University's John F. Kennedy School of Government, has called "Pulling Levers."[72] In contrast to Broken Windows, it has not made misdemeanor arrests, stops, and frisks a key to reduced homicides by increasing the risks of carrying guns, the most lethal weapon. Pulling Levers is instead based on a form of deterrence that is new and yet grounded in a very old theory.

For some centuries, it has been accepted that certainty and swiftness of punishment is more likely to be effective in changing conduct than longer penalties imposed without certainty or speed. This may be particularly true of youthful, violent offenders who are likely to discount sharply both the chance of getting caught and the costs of future punishment and who may know little about actual punishments. Working with the Boston police, Kennedy found, from a careful review of homicide files, that violence in Boston was heavily concentrated, on both the perpetrator's and the victim's side, in gang members and among those with long arrest records. Kennedy also found, not surprisingly, that the identities of youth with these characteristics were well-known to the police. (Police in

many cities believe that the number of dangerous perpetrators is relatively small and that their identities are known.)

The Boston police discovered that youth in the dangerous categories were subject to a large number of sanctions and inconveniences of one sort or another. In Kennedy's words:

"The Boston Gun Project Working Group observed that gangs and gang members left themselves open to an enormous range of sanctions, exactly because they were so highly criminal. Gang members committed large numbers of crimes that were open to ready police enforcement: they sold drugs on the street and they committed large numbers of disorder offenses like drinking and using drugs in public, trespassing, and the like. Gangs and gang members were often the subject of longer-term enforcement attention, such as undercover drug investigations. They were frequently on probation, sometimes on parole, and they routinely violated their conditions of probation and parole, which could include curfews, area restrictions, restrictions on how many and which people they could associate with, abstinence from alcohol and other drugs, and the like. They were often out on bail awaiting trial or sentencing, with similar conditions which were similarly frequently violated. Juvenile offenders were often under formal Department of Youth Services (DYS) supervision but still living in the community. And gangs and gang members were often implicated in large numbers of 'cold' cases such as unsolved assaults and homicides."[73]

The threat of use of these sanctions could be conveyed in person to the individuals whose conduct had to be changed. Absent evidence of a serious crime, which could be hard to come by, the police might not be able to stop all the anti-social or criminal conduct of an individual specifically warned of the amount of attention and the range of sanctions to which he would be subject. But the sanctions were adequate to prevent any particular type of conduct, for example, violence. Indeed, violence may often be something that young people would like to avoid if they could without losing face. In any event, it was less important than profit-making activities, which would be threatened by police attention.

Thus, the overall strategy is clear and persuasive. If, as was true in Boston, an identifiable group of individuals is known or reasonably believed to be responsible for a large percentage of a particular type of crime, and if they are individually subject to a wide range of sanctions, then it should be possible to prevent them from engaging in any type of criminal behaviour which is not of central importance to them by making clear, in face-to-face contact, that all available sanctions will be brought to bear if they engage in the prohibited conduct. Violent youth could be shown to fall into that category, as could the crimes of violence that Boston was determined to stop. The strategy would work so long as the critical neighbourhoods – those that were home to the youth subject to highly specific and threatening orders to give up violence – were supportive and did not regard the policing strategy as unfair or discriminatory. Finding that support, which New York had done much less well, was one of the objectives of the other, neighbourhood-based half, of Boston's policing strategy.

Critical to Boston's efforts to develop community support was the police department's partnership with the Ten Point Coalition, a prominent group of local black clergy who had made a name for themselves by taking their ministries to Boston's most dangerous streets. Despite historically tense relations, the two groups began to work together once they recognised their mutual need: the ministers' attempts to reach at-risk youth were undermined by committed offenders who continued to run the streets, while the police department's plans to implement community-based strategies depended on the participation and acceptance of community members who did not trust them. Much of Boston's success in lowering crime and developing community support arises from the credibility the department developed by virtue of its association with the Ten Point Coalition. This credibility has endured in large part because the Coalition, while cooperative, has remained a distinct entity not afraid to criticise police action. As a community watchdog, Ten Point has helped keep the police accountable and deterred abuses akin to those that have plagued New York in recent years.

The community-based activities, which are very much part of Boston's strategy, can be illustrated by the Dorchester neighbourhood, a policing precinct of which the Boston police are particularly proud. They take two forms:

- modes of serious and continuous consultation with citizens
- demonstrations of concern for the well-being of young people getting in trouble, not just recrimination.

Serious consultation began with city-wide strategic planning with local priorities to be set by teams in each police district led by the district commander but whose membership was divided between police and concerned, involved citizens. Real power was devolved from headquarters to the district commander in close association with citizen stakeholders. In the Dorchester district, for example, Captain Dunford gives his neighbourhood advisory council significant influence, even over budget allocations and patrol plans. Within each district, "team leaders" are assigned special responsibility for the special problems of a particular beat.

The neighbourhood orientation in Dorchester is maintained on a daily basis by four community service officers each of whose assignment is to interact with neighbourhood groups in a particular beat – explaining, learning, relaying concerns and recruiting participation in a shared "Project Safeguard" to provide neighbourhood safety.

Finally, even prosecution is made subject to community influence in still another programme: the Dorchester Safe Neighbourhood Initiative whose Advisory Council includes local residents as well as police and prosecutors.

The second strand in Boston is a demonstrated concern for the well-being of youth already getting into trouble. What the Boston police avoid is a sense that they are the dangerous enemies of all but the well-behaved among youth in struggling neighbourhoods. Adopting the mixed concerns of relatives of youth who form much of the community, the police are determined to make the life of salvageable youth better, not harder. Thus Commissioner Evans uses a federal block grant to pay for clinical social workers, who are attached to police districts such as Dorchester, to advise and support and introduce to useful programmes, youth referred to them by police. They maintain confidentiality and appear in court for the youth where this seems appropriate to the case.

Districts like Dorchester also have juvenile justice "roundtables" that involve the police, district attorney, schools, social services, and others in regular discussions of what is happening in the lives of a list of troubled youth in an effort to find help for them and to coordinate governmental responses.

The Boston strategy had organisational implications. While some New York precinct commanders found CompStat meetings harsh and threatening, Commissioner Evans expected district commanders in Boston to carry out their plans in highly decentralised ways. His role was to decide whether to approve a plan and then support and monitor it.

2.3 England and Wales
One final strategy, distinct but related to the three described above, deserves attention as well, for it combines central elements of all three strategies outlined. Like Chicago's strategy, the crime legislation introduced by Tony Blair's Labour Party relies powerfully on the wishes of the neighbourhood residents and depends upon their initiating action. Like New York, it focuses attention on disorderly and fear-generating actions that are threatening to individuals; but instead of using statutes that broadly prohibit a type of conduct (such as drinking alcoholic beverages on the street), Britain has turned to far more specific requirements that are addressed only to certain named individuals.

Like Boston, the new provisions are specifically targeted on individuals whose behaviour has shown them to be troublesome and who are not subject to present prosecution because of lack of evidence of an immediate crime. But the British prohibitions include efforts to deter behaviour far less serious than the lethal violence that concerned Boston.

The Crime and Disorder Act of 1998,[74] for England and Wales, creates something called an "anti-social behaviour order". Either the police or the local government can apply for such an order from a magistrate's court. The defendant does not have to be present at the proceedings, which are civil and operate under a "preponderance of the evidence" rule, not requiring proof "beyond a reasonable doubt." If the defendant is found to have acted "in a manner that caused, or was likely to cause harassment, or alarm, or distress to one or more persons not of the same household as himself" and if the defendant cannot establish that his or her behaviour was reasonable in the circumstances, a court order to protect the people in the local government area for a minimum of two years (and no maximum) is to be issued, prohibiting the individual from doing anything or being anywhere described in the order. Violating the order without a reasonable excuse is an indictable offense, which carries as much as a five-year term.

There is no requirement that the defendant had intended to harass or to cause alarm and distress. Nor is there any requirement that the alarm or distress be "serious." Moreover, the activities giving rise to the order are intended to be broader than the acts prohibited by the criminal law. In effect, a magistrate's court can deal with people it finds to be engaged in frightening behaviour by developing an injunctive law of its own, a violation of which is punishable criminally. The primary explanation for bypassing general requirements of the criminal law in this way is that there are courses of conduct which involve an accumulation of events, none of which is itself criminal but which together, as an extended course of conduct, warrants severe measures. The deterrence is even more specific and focused than Boston's Pulling Levers.

3. THE PROBLEM OF LEGITIMACY
How could anyone complain about such imaginative and apparently successful policing as has taken place, for example, in New York? The answer is that, in exchange for quite remarkable improvements in personal security, we are accepting reductions in the democratic control and thus the legitimacy of the purposes for which the powers of the police can be used. And we are endorsing significant reductions in control over the discretion of the police in choosing specific targets.

We are moving toward a regime of policing where the notions of equal protection, of probable cause and reasonable suspicion as predicates for detention and search, and the very determination of what conduct will be permitted and what form of disorder is subject to prompt sanctions is left in far larger part to the police.

We must count the costs as well as the considerable benefits of the new policing.

3.1. The problem of the democratic legitimacy of the goals for which police powers are used

In describing the successes of the new policing, we have implicitly assumed that the goal was to reduce serious crime on a city-wide basis. It is time to examine whether this is in fact accepted as the goal of the new policing and, if not, what is? Indeed, a prior question remains unanswered: who is to set the goals?

3.1.1 The inevitability of discretion

To be clear at the start, the police have many responsibilities beyond reducing crime. They prevent fights, regulate demonstrations, enforce traffic regulations, engage in rescue or other assistance, and much more. I have focused on the crime reduction benefits of the new policing or the neighbourhood trust that it can induce because these have been the major subjects of attention in bringing about the changes that have occurred since 1990, not because they are the only significant functions of a modern, urban police department. Second, unavoidably there are critical choices to be made as to goals, even in the more limited area of dealing with the effects of crime on continuing danger, public fear, social control in neighbourhoods and public resentment of disorder.

Civil law countries from Argentina to France and Germany sometimes pretend that there is not a serious question as to the purposes for which police powers like those described above can be used, contending that the police officer is obligated to arrest whenever he sees a crime and then to take investigative steps at the order of a judge whom the officer, carrying out another legal obligation, must notify immediately of the crime and the suspect.

Thus, in 1999, Klaus Hubmann, the senior public prosecutor in Nuremberg, Germany, explained that he had to investigate a failed attempt 53 years earlier by two Jewish survivors of the Holocaust to poison members of the SS.[75]

Political or moral aspects could play no part in the decision, he explained. Civil law countries deny that their police have the discretion, so readily accepted in the US, not only to decline to arrest in very sympathetic situations but also to develop imaginative uses of police powers for such purposes as reducing disorder, preventing violence, building social control,

carrying out whatever are the wishes of members of a community, and more.

This denial of discretion is surely fiction in almost every country in the world. The police officer is forced to decide on what occasions he or she should use these powers for two major reasons. First, in every country, what crimes an officer will be in a position to act upon depends upon where he/she is and what he/she is looking for and this involves discretion. Second, if he/she comes upon a minor matter that is criminal, he/she has to decide whether it is worth his/her time, and the time of prosecutors and judicial officials, to process the matter. In the US we are very frank about such uses of judgement or discretion by individual police officers or, sometimes, by the police department in the form of directives to officers.

In short, it is wholly implausible to assume that the goal in the US is to enforce all of the criminal statutes enacted by state and federal legislatures. The larger part of violations of the law by 270 million Americans must be ignored by less than one million police who do not have the time to investigate matters they consider unimportant, and who know that prosecutors and judges will lack the capacity to try cases if all the small matters are brought to court and that juries are likely to reject the use of the criminal law as excessive in those cases. We have come to assume that even statutes recently passed by a concerned legislature will be applied with discretion as to their use.

3.1.2 Traditional understandings and new choices

It is how this discretion is used – not any novelty or recognition of the need for it – that has taken new shape as policing has changed. Until a few decades ago it was understood that police discretion – use of limited police resources – would be rationed by the seriousness of the conduct that was being investigated. This seriousness was in turn dictated by the people's representatives in the legislature, who used sentencing levels to express their relative disapproval of criminal conduct. The assumption, in other words, was that there was a direct correlation between the sentence imposed and the citizenry's view (as expressed through its elected representatives) of the relative seriousness of the conduct. As long as police employed sentences as guidelines to seriousness – and, for

the most part, they did – there was a strong democratic component to their enforcement decisions. Thus, police ignored minor, regulatory offenses or left them underpoliced and, therefore, underdetected. The measures of police performance we developed, focusing on Federal Bureau of Investigation (FBI) statistics as to a few serious crimes, also reflected that judgment. In recent decades, the focus has come to include, besides punishing individual crimes, incapacitating dangerous criminal groups ranging from organised crime to terrorists to street gangs. But what qualified a group for attention was still the seriousness of the conduct in which it engaged: political violence, organised street violence, corruption of officials, intimidation and extortion.

Both traditional assumptions about the goals or ends of policing and assumptions about how the available means or powers will be used to accomplish whatever goals are chosen have been brought into question by the new policing. Leaving changes in assumptions about means until later, we should focus first on the question of legitimacy of goals.

Consider the issues presented by "problem-solving" policing. What problems should be given priority? The menu of possible "problems" of street crime the police might decide to address includes:

• Forms of particularly harmful violence such as homicides, rape or regular intimidation by organised crime, a gang, or individuals.
• All violence.
• Activities that create fear in many people or otherwise discourage social control such as the disorder coming from open-air drug markets.
• All forms of drug trafficking.
• The security of property against even non-violent theft.

Moreover, these and perhaps other categories of crime are more or less important, depending on the place, time and victims of the crime. So the choice is among at least five categories of crime with at least three variations of each. In fact, after some discussion, one might well want to increase the number of choices to well beyond 15.

3.1.3 Whose views should priorities reflect?
With these reasonable contenders for priority in policing, a critical question becomes: whose

views of the importance of each category should control? Again, there are a number of alternatives. Whatever category the police leadership considers most important might be critical. To set limits on acceptable goals, we might want to forbid decisions that seem intended to favour or disfavour the interests of an identifiable group or class, such as failing to investigate powerful political figures or concentrating police effort in wealthy neighbourhoods and failing to provide adequate policing in poor neighbourhoods, or – a contentious issue – projecting the views of the police, without any popular basis for the choice, as to such issues as freedom from fear or what suppressing disorder requires.

A second alternative is that the categories of crime most deserving of priority are whatever the police think that the majority of the citizens of the city want addressed, regardless of the views of the people in the immediate neighbourhood where the problem exists and the policing is to occur. A closely related alternative is that priority should go to whatever problems the mayor wants addressed, for he/she is the duly-elected supervisor of the police.

Another alternative is to give priority to whatever problems the police believe the people in the particular neighbourhood want addressed. This could be defined several different ways: "the respectable leadership of the neighbourhood" (where the definition of "respectable" may amount to police selection of acceptable behaviour); those in the neighbourhood who volunteer to work with the police; or the majority of residents of the neighbourhood, although there is generally no available process for determining majority views in a neighbourhood.

Some of these ways of setting priorities are more democratic than others, either in the effort by the police to decide whose concerns are to be valued or in the making of the actual choice by one or another of the different groups. But even in the more democratic methods, deep problems lurk. The police may not be very good at determining the views of the majority of the public, however we define the relevant public.

As always, the size of the constituency also matters. We know by surveys that people generally believe their own neighbourhoods to be far safer than they believe the entire city to

be.[76] The people outside a neighbourhood area are thus more likely to be influenced by fear, even if exaggerated, and by the immense effect of rare but dramatic crimes as described by the media. Neighbourhood majorities are likely to have different attitudes than majorities of a far larger, entire-urban jurisdiction.

Even if the decision is made to focus on the views of local communities that are smaller than entire cities, the result is likely to depend on how one defines a neighbourhood. (Chicago is redrawing borders of neighbourhoods for these purposes.) But the hardest problem is deciding whose views matter. The fact is that different groups want different things. The young and the old are likely to have different attitudes toward disorder. Minorities in a city are likely to have different attitudes than majorities. Most dramatically, the problem can be illustrated by the question: What value should be given to the concerns of rebellious minority youth in an urban slum. Some have treated this group as entitled to concern; others have regarded this group as the object, not the beneficiary, of policing.

In sum, problem-solving policing, whether or not it takes its goals from those living in a particular neighbourhood, requires choice among a variety of goals. Even assuming that the objective is to choose goals democratically, so that the police are acting in the name of those affected by their policing, there is no agreed upon definition of whose concerns are to be valued, how they are to be determined, and what is to be done when those affected have inconsistent concerns.

It may not be possible to resolve these questions persuasively in terms of some political philosophy. But it is certainly dangerous, in terms of democratic values, to leave these questions unaddressed. That is a dangerous characteristic of the "new policing".

3.2 The abuse of police powers
For many people, the police represent not only protection against the predatory conduct of one's neighbour but also a source of fear themselves. The fear may be of brutality by the only legitimate armed force in the community or of the embarrassment of being treated, particularly publicly, without dignity or respect by members of an organisation (the police) that represents the authority and the power of the state.

Or the fear may be of intrusiveness into areas of privacy that one wanted to reserve for oneself and intimates. Owing to these fears, we have come to expect more from the police than effectiveness in pursuing even carefully chosen goals.

We expect, first, a concern about maintaining a healthy relationship between the citizen and the authority and power of the state; i.e., a respect for the liberty and privacy of individuals. Second, we demand an absence of bias in the use of the powers described above, for assertions of police authority and force that are systematically biased against a racial, religious or ethnic group convey a powerful message of second-class citizenship. Bias against political opponents of the police or their political supervisors is also a terrible threat to a vital democracy. We expect, third and most broadly, to be accorded the respect that a citizen deserves in a citizen-ruled democracy – respect displayed in the way individuals are addressed and handled, particularly in front of others. To protect all these expectations, we depend on the visibility and reviewability of significant decisions by police officers.

In some conflict with these three expectations the new policing, in many of its manifestations, involves tactics and strategies which are likely: to increase the power of the state at the expense of the capacity of citizens to avoid or resist that power; to invite the use of discretion in ways that are more likely to reveal bias than the older forms of policing; and to increase the likelihood of particular groups of people being subjected to embarrassment, and treated without respect on the streets. At the same time, the new forms of policing are almost designed to be carried out beneath the radar of visibility on which accountability depends. Thus, there is a price to be paid for the great potential of the new forms of policing, but the price can be reduced by addressing it carefully.

3.2.1 Citizen and state: civil liberties
Consider the effect of the new policing on the efforts of the past half-century to control the relationship of the state to the individual and, in particular, of a police officer to a citizen. The specific fears during that period focused on police abuse of the powers to search, arrest and interrogate. In the 1960s, the US Supreme Court insisted that all of these powers, even

when exercised by local police officers, must satisfy specific conditions – probable cause or reasonable suspicion and the Miranda rules – or else any evidence flowing from the action would be excluded from trial.[77] The assumption was that there would be little incentive to violate the Court's rules if the information could not be used at trial. A somewhat more lenient standard was enough to stop or frisk an individual (reasonable and articulable suspicion), and a somewhat stricter standard was applicable to electronic surveillance.[78]

Because these standards required the police to show that, before acting, they had evidence of a crime (and since the focus of policing was on very serious crimes), there has been practically no use of the equal protection clause to guarantee that minorities are not treated differently; they could not be subject to these police powers at all unless there was an adequate basis to believe they had committed what was generally a serious crime. And there was a final protection of which we were very proud: the police could not arrest or search at all if the basis for that activity – the definition of the criminal conduct of which the police needed evidence – was so general and encompassing in its coverage or so vague in what it forbade, that it left the police officer with the widest discretion in deciding whose conduct and what conduct should be made the basis of arrest and, perhaps, trial.[79]

It is true and important that these efforts to limit the powers of the police and to regulate the relations between citizen and state in a way that respects the primacy of the citizen were based on two suppositions that were, at least, shaky. The first was that police conduct on the street would very largely be motivated by the desire to gather evidence for trial, and thus could be regulated by excluding evidence obtained in violation of the restrictions on police behaviour. Second, and equally important, the rules did not provide protection against, or regulate in any significant way, some very powerful investigative techniques: the use of informants; the use of grand jury powers to compel testimony prior to trial; police offers to engage in illegal transactions in order to develop evidence; a variety of types of physical surveillance; a variety of techniques for eliciting "consent" to a form of detention or search; threats to prosecute an individual who

has committed a crime in order to get evidence; and, perhaps most dramatically, the constitutional power to arrest some individuals, and not others, for minor offenses in order to take advantage of the power to search, within a limited area, in connection with an arrest.[80] Seeking greater freedom of action, a police officer or department could emphasise these unregulated powers. And even the regulated powers could be violated without much fear of consequences if the purpose was not to suppress evidence.

The new policing is intended, in many instances, to greatly increase the effectiveness of the unregulated powers and to find ways to avoid judicial enforcement by the exclusionary rule of even such regulated powers as "stop and frisk". Findings by the Attorney General of the State of New York suggest that there has been no adequate effort by the New York police to restrict frisks or stops to the situations where the Constitution permits that activity.[81] The result of many tens of thousands of such stops has undoubtedly been a sizeable reduction in the carrying of guns and thereby of homicides. But there is a price for abandoning this part of the system of accountability for detentions and searches. A rapid increase in misdemeanor arrests or the use of a variety of other formal or informal sanctions in situations where the average citizen would not be subjected to that police power recreates the very capacity to target specific individuals, gangs and other groups – particularly minority youth – that the Supreme Court had tried to forbid by outlawing the use of vague statutes.

In a number of situations in a number of cities, a major component of the new policing strategy is to rely increasingly on that set of police powers which are substantially unregulated by law and to take advantage of the inability of courts to hold the police accountable by recourse to the exclusion of evidence – all in order to focus unreviewable police discretion on those forms of conduct and those individuals that the police somehow determine are most dangerous. This conscious use of the weaknesses in the control system built up since 1950 has had dramatic and beneficial results in handling crime, but not without significant risks of changing the relationship of the citizen to the state, of the police to individuals on the street. It may well be that most people in most

neighbourhoods regard the trade-off as highly favourable to the new policing.[82] It is nonetheless dangerous to democratic values.

3.2.2 Equal protection: civil rights
There has been only extremely rare use of the equal protection clause to regulate police conduct, on the theory that important intrusions such as arrest and search are adequately regulated by the requirements of probable cause and that minor intrusions, which have not been regulated by the Constitution or statute, hardly deserve special attention. But the second part of this judgement has proven to be inadequate in a number of ways. Stopping more blacks and Hispanics than white non-Hispanics either without the justification of reasonable suspicion or with the justification of having observed a violation of the law – albeit one that is generally ignored in the case of others – may be relatively unimportant in its immediate effects on an individual but of immense importance in what it says about the place of black or Hispanic Americans in the society and in terms of the felt reality of the promise of equal protection of their government they have been given by the US Constitution. Moreover, it may be the embarrassment and resentment of being singled out as a suspect, far more than the intrusion on one's privacy that needs protection, as Chief Justice Warren recognised in writing the opinion in *Terry v. Ohio*[83] sustaining "stop and frisk". Finally, what may be a minor intrusion, if it occurs on a single occasion, may be a major problem if it occurs regularly enough to fuel the fears and affect the conduct of members of a suspect class (for example, minority youth in a high-crime area).

Beyond the costs of these largely unreviewable uses of powers against those the police believe, often correctly, to be more likely to be engaged in a particular type of crime, there is the problem of spillover to clear violations of the rules with respect to arrest or search or interrogation. The brutality and the excessive force displayed in the Louima and Diallo cases in New York City increase the sense of insecurity and the reluctance to exercise the liberties of other citizens of African-Americans.[84]

To the extent that the new policing encourages the police to focus investigative attention on the earliest signs of criminal behaviour or even on disorder alone, it invites using even weak evidence as a basis for finding "reasonable suspicion" and for the invocation of powers that do not ordinarily require any justification or form of accountability. Thus, a review of 175 000 forms detailing "stop and frisk" activity in New York city by New York State's Attorney General, Eliot Spitzer,[85] showed that even police records reflect about nine stops of blacks and Hispanics and eight stops of whites for each resulting arrest. In its focus on problem solving, the new policing also emphasises the steps that can be taken against an individual without any individualised basis in fact. A frequent example is stopping a driver and searching his/her car for drugs under the pretext of concern that the car's taillight is not working or its speed is excessive, and that the car is being operated therefore in violation of a local ordinance. Such forms of policing allow and encourage the use of guesses and probabilities that are far less dependent on evidence, compared to what has traditionally been required for a stop or an arrest or a search to gather information.

Weaker requirements of justification for police action almost invariably invite more bias. The Spitzer study showed that "even when crime is accounted for statistically, minorities still were being 'stopped' at a higher rate than whites"; blacks were 23% more likely and Hispanics 39% more likely than white non-Hispanics to be stopped by police.[86]

Generalisations about the greater likelihood that a particular group will be involved in a particular criminal activity, such as dealing crack cocaine, are now more likely to be made the basis for substantial disparities in treatment than they were before strategic emphasis was put on the unregulated areas of police conduct. Then, even if members of group X were more likely than others to be selling crack cocaine, the likelihood of any particular member of X being engaged in that conduct is generally so small that it could not satisfy probable cause or reasonable suspicion.

Questioning someone (for example, a Hispanic youth) on a corner in a way that suggests they are not free to leave, which the Supreme Court has allowed,[87] or searching a car, or making a street stop of a pedestrian are all likely to be based, to some extent, on the racial or ethnic characteristics that the police believe more frequently accompany crimes of

concern.[88] A focus on types of dangerous or criminal behaviour, rather than on the behaviour of specific individuals, invites these generalisations. It is also at the heart of much of the new policing. It is in this context that we should understand the debate about racial profiling.

3.2.3 Respect and civility

Sara Stoutland argues, on the basis of an ethnographic study of the reactions of youth and their older family members in Boston, that neighbourhoods which are subjected to the new policing in Boston are pleased with the safety it has provided but concerned about the absence of respect shown to the citizens it confronts. One can detect this disparity in the review of attitudes towards policing in New York and Chicago.

This issue is related to, but different from, concerns about equal protection and legally defined civil liberties. An absence of respect may be the source of much of the offense given by a failure to treat certain stigmatised groups of citizens equally with other groups; but the issue of respect is broader and is applicable to police interactions with any group of citizens. The difference in treatment between groups may be attributable to the political influence of one group which elicits respectful handling by the police, while the absence of such influence may invite less respectful relations for the other. Ethnic or racial bias may not be the issue. An absence of respect also often reflects a sense that the individual is without rights against the state. But here, too, there is a difference. An officer making a "stop" and then frisking a citizen on a crowded street may be acting well within the parameters of reasonable suspicion that the law imposes, yet the way the stop is made may convey humiliating contempt for the suspect.

It is becoming very clear that the cause of much violence by youth against other youth is a sense of being treated without respect. The resulting attack is a distorted form of insistence on being treated with dignity and as "an important person". Distinguished police commissioners, such as Commissioner Evans in Boston, contend that even forcible encounters like a stop or arrest can, in most cases, be handled in a way that reflects respect for the suspect.

Police officers in the housing projects of Chicago report that they can make arrests without danger to themselves or others if they treat the suspect with respect. All of these are practical reasons from the point of view of law enforcement for insisting on at least the appearance of a respectful attitude toward those who are confronted with real or apparent powers of the police.

The issue is at least equally important from the point of view of many law-abiding residents in a neighbourhood for whom a continuing question is whether the police are there to support them or to protect people in other areas from them or their children. Citizens who feel themselves and their children the object of policing intended to protect others and who feel that the steps taken reflect a lack of respect for them as citizens and individuals, are made to feel like second-class citizens, used rather than valued. They are also taught to fear the police rather than to value their services, an attitude that creates sympathy for youth in revolt and frustration for their elders who need protection but insist on respect.

Some significant forms of the new policing involves dealing with individuals through implicit coercion. In New York, signalling that it is the police who control the streets by "zero tolerance" policing, claiming to decide what is acceptable conduct and what is disorderly behaviour, and gathering information by "leaning on" those who are vulnerable to revocation of parole or probation – all these may be extremely useful steps in creating security but extremely costly in denying respect. In Boston, the gathering of information by relatively coercive questioning on the streets, accompanied by conveying some notion of the power of computerised retrieval of such information, can have the same beneficial and harmful effects.

All of this activity is designed to take place beneath the radar screen of judicial review, another consequence that Chief Justice Warren anticipated when reviewing powers to stop and frisk. The effects on the citizens in the neighbourhood and on their attitudes towards the police are captured in the statistical assessments of policing in Chicago and New York.

3.2.4 The Task of the future: keeping the security advantages of the new policing while reducing its risks to civil liberties

There is every reason to believe that the great majority of people in almost every city and the

clear majority of those in the neighbourhoods most threatened by both insecurity and the risks to civil liberties would, if forced to choose, prefer the new forms of policing. The advantages of personal security are that great. Indeed, as noted above, a majority of the residents of some Chicago housing projects were prepared to give up their right to refuse to have their apartments searched without probable cause in the interests of greater personal security.[89]

But the choice should not be so stark. Uses of discretion that are beneath the level of visibility to courts can be the subject of departmental regulation. The reliance on the exclusionary rule as a primary sanction need not mean that it is the exclusive sanction. What we need, in short, is a regulatory system with other sanctions and new rules. We must find ways to have both civil liberties and security.

Consider some examples of new forms of regulation. The problem of changed relationships between the citizen and the state, between the resident and the police officer, could be addressed, in part, by requiring the police to make clear when they are asserting authority and when they are simply making a request to stop or submit to a search. The Supreme Court has ruled that this is not required by the Constitution.[90] But the practice of taking advantage of a citizen's ignorance of his/her rights or his/her unfounded fears remains subject to political review and it is unwise in light of an increasing emphasis on control of the streets and the gathering of information by informal means. Efforts to keep track of the percentage of black, Hispanic, and white, non-Hispanic drivers of cars that are stopped and to make those figures available publicly are regulatory steps that can have major consequences on a sense of discrimination.[91] Keeping track of the number of complaints against any officer for disrespectful behaviour can be an important step in encouraging respect, particularly if it is accompanied by appropriate training.

Most rules require some sanctions if they are to be taken seriously. For behaviour that is not generally designed to elicit evidence for criminal trials – the situation with regard to much of the new policing – the exclusionary rule is plainly an inadequate sanction. Nor is there much promise in the form of civil law suits, which are likely to be much too costly for remedying the risks to civil liberties in the multi-

tude of "low visibility" occurrences that are at issue. Administrative discipline under rules that are more manageable is one likely solution.

Regulatory schemes require credibility and credibility often requires some form of external oversight, not of individual administrative determinations but of the adequacy of the functioning of the administrative system, as New York's Mollen Commission suggested some years ago. In the past decade independent partnerships like that between the Boston Police Department and the Ten Point Coalition have benefited both organisations and the city as a whole. By blending criticism with approval, the Coalition has helped cultivate the police programmes that are responsible for Boston's remarkable success. Significantly, the fruits of this effort – the drop in youth homicide, drug use, and overall crime – are nowhere more apparent than on the streets of Dorchester and Roxbury, where furore over police abuse first erupted.

Relationships like this one help fill the void left by the erosion of judicial oversight. They are, however, comparatively rare. An unfortunate series of events, coupled with an unprecedented willingness by Boston's police chiefs and black ministers to work together, brought about this unlikely partnership. Its enduring nature testifies to their commitment and mutual dependence. As in other cities, there are still tensions between officers and the minority residents whom Ten Point represents. This friction assures each organisations' independence. What remains to be seen is whether cities like New York, in the wake of outrage over assaults like those on Abner Louima and Amadou Diallo, will be willing to reach out as Boston did following the Carol Stuart murder and the "stop-and-frisk scandal" in the early1990s.

These suggestions are meant to be illustrative, far from comprehensive. The central idea is that new rules are required to regulate the new policing and that these cannot take the form of judicial review of the admissibility of evidence. They probably cannot depend primarily on any form of judicial sanctions for violations of the rules, both because the rules will be developed administratively and because they will regulate forms of behaviour that have long been considered too subtle to justify judicial review. What we need is the acceptance of new forms of responsibility for civil liberties by

police agencies involved in the forms of new policing. Credible oversight must involve those outside of the police but it would be of processes and structures, not of individual cases.

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ENDNOTES

1) See Bureau of Justice Statistics, US Dep't of Justice, Homicide Trends in the United States § 2 (2000) (visited February 27, 2000) http://www.ojp.usdoj.gov/bjs/homicide/hmrt.htm

2) See Global Report on Crime and Justice 313–14 (Grame Newman ed., 1999) (listing homicide rates for more than three dozen industrial countries as reported in five United Nations surveys between 1974 and 1993).

3) See Bureau of Justice Statistics, U.S. Dep't of Justice, Homicide Trends in the United States § 3 (2000) (visited February 27, 2000) http://www.ojp.usdoj.gov/bjs/homicide/oage.txt

4) See, e.g., Tom Farmer, Violent Crimes Plunge in U.S., _Boston Herald_, Aug. 28, 2000, at 1 (noting that Boston had already surpassed its 1999 murder total, and that police had reported a 13% increase in shootings); Brett Martel, Murder on Rise in Major Cities, _Chicago Sun-Times_, June 23, 2000, at 26 (reporting that murders had increased over 1999 in Baltimore, Boston, Dallas, Los Angeles, New Orleans, New York, and Philadelphia); Don Terry, In a Turn of the Tide, Bloodshed Rises in Los Angeles, _N.Y. Times_, July 11, 2000, at A14 (reporting a 7.5% increase in violent crime over 1999 in Los Angeles, including more murders, rapes, and robberies, but noting that "with only a few exceptions, violent crime is down nationwide"). But

see, e.g., Eric Lipton, Giuliani Pulls His Charts out for a Review of New York, _N.Y. Times_, Sept. 15, 2000, at B9 ("In the first six months of this year, crimes in the seven major categories fell 7.8%" in New York City); Terry, supra (noting that "with only a few exceptions, violent crime is down nationwide" as of July 2000).

5) See Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Victimisation Survey, 9tbl.7 http://www.ojp.usdoj.gov/bjs/pub/pdf/cv98.pdf (reporting sharp decline in property crimes); see id. at 11 & 11 tbl.8 (reporting decline for specific demographic groups).

6) See Keith Bradsher, Fear of Crime Trumps the Fear of Lost Youth, _N.Y. Times_, Nov. 21, 1999, at D3

7) See Bureau of Justice Statistics, U.S. Dep't of Justice, _Sourcebook of Criminal Justice Statistics_ – 1997, at 245 tbl.3.82 (1998).

8) See Bureau of Justice Statistics, U.S. Dep't of Justice, _Sourcebook of Criminal Justice Statistics_ – 1996, at 528 tbl.6.30 (1997).

9) See _Pratt v. Chicago Hous. Auth._, 848 F. Supp. 792, 796 - 97 (N.D. Ill. 1994); Tracey L. Meares & Dan M. Kahan, Law and (Norms of) Order in the Inner City, 32 _L. & Soc'y Rev._ 805, (1998).

10) Compare Bureau of Justice Statistics, U.S. Dep't of Justice, Criminal Victimisation and Perceptions of Community Safety in 12 Cities, 1998, at 9 (1999) (reporting that

New York's murder rate fell 65.8% between 1990 and 1997), with id. (reporting that San Diego's murder rate fell 53.3% during the same period), and id. (reporting that Los Angeles's murder rate fell 42.2% during the same period).

11) See Marc Lacey, Teen-Age Birth Rate in U.S. Falls Again, *N.Y. Times*, Oct. 27, 1999, at A16.

12) See Judith Havemann, Birthrate Drops for Teens of All Races, *Wash. Post*, May 1, 1998, at A1 (reporting a 20.6% drop for black teens during that period).

13) See Bureau of the Census, U.S. Dep't of Commerce, U.S. Census Bureau Historical Poverty Tables – People tbl.3, (visited Mar. 23, 2000) http://www.census.gov/hhes/poverty/histpov/hstpov3.html.

14) See National Center for Education Statistics, Digest of Education Statistics 1998 at 17tbl.8 (1998).

15) See Fox Butterfield, Drop in Homicide Rate Linked to Crack's Decline, *N.Y. Times*, Oct. 27, 1997, at A12 (reporting on a Justice Department study finding that the "waning of the crack cocaine epidemic" was the "most important reason" for the drop in homicide rates through the 1990s).

16) The Boston case study set out in this volume provides an excellent example.

17) See John J. Donohue III & Steven D. Levitt, Legalised Abortion and Crime, 115 *Q. J. Econ.* (forthcoming 2000).

18) See, e.g., Daniel Kessler & Steven D. Levitt, Using Sentence Enhancements to Distinguish Between Deterrence and Incapacitation, 42 *J.L. & Econ.* 343, 346 (1999) (employing a novel approach to separating incapacitation effects from deterrence effects, and finding that the latter were "nontrivial" for a series of 1982 sentence enhancements in California).

19) See Alfred Blumstein & Richard Rosenfeld, Explaining Recent Trends in U.S. Homicide Rates, 88 J. *Crim. L. & Criminology* 1175, 1196 (1998); see also id. at 1194 fig.6b, 1195 fig.6c.

20) See id. at 1196.

21) See *Office of Juvenile Justice and Delinquency Prevention, 1996 National Youth Gang Survey* 32 (1999).

22) Lawrence W. Sherman, Policing for Crime Prevention, in *Preventing Crime: What Works, What Doesn't, What's Promising: A Report to the United States Congress* (Lawrence W. Sherman et al. eds., 1997).

23) Evidence of epidemics of crime when police are on strike.

24) See Sherman, supra note 22, at 8-11.

25) See id. at 8-11 – 8-13 (citing, e.g., Robert Trojanowicz, Evaluating a Neighbourhood Foot Patrol Programme: The Flint, Michigan Project, in *Community Crime Prevention: Does It Work?* (Dennis Rosenbaum ed., 1986).

26) See id. at 8-3 – 8-4 (citing epidemiological studies showing that crime is localised).

27) See id. at 8-15 (citing Lawrence W. Sherman & David A. Weisburd, General Deterrence Effects of Police Patrol in Crime "Hot Spots": A Randomised, Controlled Trial, 12 *Just. Q.* 625 (1995)).

28) See id. at 8-20 – 8-21 (citing Susan Martin & Lawrence W. Sherman, Selective Apprehension: A Police Strategy for Repeat Offenders, 24 *Criminology* 55 (1986) (Washington); Allan F. Abrahamse et al., An Experimental Evaluation of the Phoenix Repeat Offender Programme 8 *Just. Q.* 141 (1991) (Phoenix)).

29) See id. at 8-24 (citing James W. Shaw, Community Policing Against Crime: Violence and Firearms (unpublished Ph.D. dissertation, University of Maryland (College Park)) (guns); Ross Homel, Random Breath Testing and Random Stopping Programmes in Australia, in *Drinking and Driving: Advances in Research and Prevention* (R.J. Wilson & R. Mann eds., 1990) (drunk driving)).

30) See id. at 8-31 (citing Lawrence W. Sherman et al., *National Institute of Justice, The Kansas City Gun Experiment* (1995)).

31) See id. at 8-16, 8-18 (citing, e.g., Malcolm Klein, Labelling Theory and Delinquency Policy: An Empirical Test, 13 *Crim. Just. & Behav.* 47 (1986)).

32) See id. at 8-19 (citing several studies).

33) See id. at 8-25 – 8-26.

34) See id. at 8-26, 8-29 (citing an unpublished study).

35) See 42 U.S.C. § 3796dd (Public Safety Partnership and Community Policing Act of 1994, Pub. L. 103-322, Title I, Sept. 13, 1994, 108 Stat. 1807).

36) NIJ Papers (ordered).

37) Report of the Commissioner of Police of the Metropolis 6 (1999).

38) This sense that traditional modes of policing were ineffective also coincided with the rise of privately funded security. The causal link between the former and the latter is certainly open to question, however, as privately funded security has grown inexorably for many years now. See David A. Sklansky, The Private Police, 46 *UCLA L. Rev.* 1165, 1175 (1999).

39) See Herman Goldstein, *Problem-Oriented Policing* (1990).

40) See Ronald V. Clarke, Situational Crime Prevention: Its Theoretical Basis and Practical Scope, in *Crime and Justice: An Annual Review of Research*, vol. 4, (Michael Tonry and Norval Morris, eds. 1983).

41) Lawrence Sherman et. al, Hot Spots of Predatory Crime: Routine Activities and the Criminology of Place, 27 *Criminology* 27 (1989).

42) Wesley G. Skogan, et al. *On the Beat: Police and Community Problem Solving* 16-18 (1999).

43) NIJ Papers 1993.

44) See, e.g., Wesley G. Skogan & Michael G. Maxfield, *Coping With Crime: Individual and Neighbourhood Reactions* (1981) WID-LC HV6791.S56; Wesley G. Skogan, *Disorder and Decline : Crime and the Spiral of Decay in American Neighbourhoods* (1990) HV 6791.S57 1990.

45) See, e.g., Clifford R. Shaw & Henry D. McKay, *Juvenile Delinquency in Urban Areas* (1942); Robert E. Park, Human Ecology, 42 *American Journal of Sociology* 1 (1937); Ernest Burgess, The Growth of the City, in *The City* (Robert E. Park & Ernest Burgess, eds., 1925).

46) R. J. Sampson, S. W. Raudenbush, & F. Earls Neighbourhoods and violent crime: A multilevel study of collective efficacy, 277(5328) *Science* 918–924 (Aug. 15, 1997); R. J. Sampson, J. Morenoff, & F. Earls, Beyond Social Capital: Spatial Dynamics of Collective Efficacy for Children, 64 *Amer. Sociol. Rev.* 633–660 (Oct. 1999).

47) In the CAPS model, a "problem" is understood as a recurring situation or series of related incidents (unlikely to be resolved on their own) that affect a significant portion of the community and can possibly be affected by the resources of the community and the police. See Skogan, et al., *On the Beat*, at 35.

48) For CAPS purposes, the city's 25 police districts were divided into 279 beats, with 9 to 15 beats per district. In 1990, the average beat included 3600 households, or about 9500 residents. See id. at 58.

49) Wesley G. Skogan and Elizabeth M. Hartnett, *Community Policing, Chicago Style* 113 (1997).

50) See id. at 55.

51) Skogan, et al., *On the Beat* at 30 ("Latinos were distinctly concerned about gangs and poor people about the physical decay of their neighbourhoods. Concern about social disorder was highest in the middle of the income distribution–above the neighbourhoods that were blighted by drugs and gangs but below the best-off places, which had fewer problems of all kinds to report.").

52) Together We Can: A Strategic Plan for Reinventing the Chicago Police Department 17 (1993); Skogan, et al., *On the Beat* at 59.

53) Beat teams consist of the officers who work in the same beat covering all three, eight-hour shifts. Each team has roughly nine officers. See id. at 59.

54) See id. at 60.

55) Skogan, et al., *On the Beat* at 41, 47.

56) See id. at 36, 41.

57) See id. at 30.

58) Id. at 191.

59) See id. at 192–94.

60) See id. at 194–95.

61) Id. at 195–205.

62) James Q. Wilson & George L. Kelling, Broken Windows, *Atlantic Monthly*, 29–38 (March 1982).

63) Bernard E. Harcourt, Reflecting on the Subject: A Critique of the Social Influence Conception of Deterrence, the Broken Windows Theory, and Order-Maintenance Policing New York Style, 97 *Mich. L. Rev.* 291, 293 (1998) ("[I]t is today practically impossible to find a single scholarly article that takes issue with the quality-of-life

initiative. It stands, in essence, uncontested – even in the legal academy.")

64) Id. at 327.

65) Id. at 327 – 28 (identifying this relationship between disorder and both burglary and physical assault). Indeed, the only crime significantly related to disorder once poverty, race, and stability were held constant was robbery. But when Harcourt removed a cluster of five Newark neighbourhoods from the data, and held poverty, race, and stability constant, he found no relationship between disorder and robbery victimisation. Id. at 328 – 29.

66) Id. at 329 – 31 (finding inconclusive a similar study on the relationship between crime and disorder, Robert Sampson & Jacqueline Cohen, Deterrent Effects of the Police on Crime: A Replication and Theoretical Extension, 22 *Law & Soc'y Rev.* 163 (1988)); id. at 331 – 39 (suggesting a number of factors, as alternatives to the quality-of-life initiative, to explain the decline in New York City's crime rates).

67) Id. at 329.

68) See David C. Anderson, Crime Stoppers, N.Y. Times, February 9, 1997, at Section 6, page 47 (describing the CompStat system).

69) See Harvey Simon & John Buntin, The East New York Urban Youth Corps and Community Policing: A New Initiative in the "Dead Zone", Kennedy School of Government Case Programme (1999); John Buntin, The Community Security Initiative Gets Underway, Kennedy School of Government Case Programme (1998).

70) See Bureau of Justice Statistics, U.S. Dep't of Justice, Criminal Victimisation and Perceptions of Community Safety in 12 Cities, 1998, at 25 tbl. 34 (1999.

71) See Fox Butterfield, Cities Reduce Crime and Conflict Without New York-Style Hardball, *N.Y. Times*, Mar. 4, 2000, at A1 (noting that according to Professor Blumstein, New York's homicide rate fell 70.6% from 1991 to 1998, while Boston's fell 69.3%).

72) See David M. Kennedy, Pulling Levers: Chronic Offenders, High-Crime Settings, and a Theory of Prevention, 31 *Val. U. L. Rev.* 449 (1997).

73) Id. at 461 (footnote omitted).

74) Crime and Disorder Act of 1998, (31 July 1998), Royal Assent 27 July 1999.

75) See Louise Potterton, Germany Pursues Holocaust Avengers, *London Sunday Telegraph*, October 10, 1999.

76) U.S. Department of Justice, Bureau of Justice Statistics, Criminal Victimisation and Perceptions of Community Safety in 12 Cities, 1998, NCJ 173940, at 12, 18 (May 1999).

77) See *Mapp v. Ohio*, 367 U.S. 643, 655 (1961).

78) See *Terry v. Ohio* 392 U.S. 1, 21 (1968).

79) See *Papichristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972).

80) *United States v. Robinson* 414 U.S. 218 (1973).

81) Eliot Spitzer, The New York City Police Department's "Stop & Frisk" Practices: A Report to the People of the State of New York from the Office of the Attorney General, at 69–72, 160–74, December 1, 1999.

82) Tracey L Meares & Dan M. Kahan, Law and (Norms of) Order in the Inner City, 32 *Law & Society Review* 805, 830 (1998).

83) 392 U.S. 1 (1968).

84) See Joseph P. Fried & Blaine Harden, The Louima Case: The Overview–Officer is Guilty in Torture of Louima, *N.Y. Times*, June 9, 1999, at A1 (conviction); Jane Fritsch, The Diallo Verdict: The Overview–4 Officers in Diallo Shooting are Acquitted of all Charges, *N.Y. Times*, February 26, 2000, at A1 (acquittal).

85) See Spitzer, supra note 81 at 111.

86) Id. at 119, 123.

87) See, e.g., *United States v. Mendenhall*, 446 U.S. 544 (1980); *Florida v. Royer*, 460 U.S. 491 (1983);); *Florida v. Bostick*, 501 U.S. 429 (1991).

88) *United States v. Weaver*, 966 F.2d 391 (1992).

89) See Tracey L. Meares & Dan M. Kahan, When Rights are Wrong, *Boston Review*, 4 April/May 1999.

90) See *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973); *Florida v. Bostick*, 501 U.S. 429 (1991).

91) See Police Tactics in Question: 'Stop and Frisk' in New York, *N.Y. Times*, December 4, 1999, at A16.

Crime, Justice and the Legacy of the Past

Adrian Guelke

INTRODUCTION

In deeply divided societies, whether they have been subject to minority or majority rule, the question of justice tends to be hotly debated. How institutions for the maintenance of law and order are viewed in any society has a large bearing on how they function. Thus, in a society where the authorities are viewed almost universally as legitimate, it is possible for the law to be enforced effectively by a police force that uses a minimum degree of physical coercion in the vast majority of cases. This is due to the fact that police officers will be able to rely on the cooperation of most members of society, and their authority will rarely be challenged when they are required to use it to compel obedience. The very fact that the authorities are able to maintain order effectively, usually without violating the rights of members of the society or, to put it more simply, without routinely meting out rough treatment to possible suspects and witnesses, tends to reinforce their legitimacy. By contrast, in any situation where the authorities are not seen as legitimate by a section of society, it is very difficult for the law to be enforced without resorting to physical coercion. Furthermore, the brutal enforcement of law and order by means of such actions tends to reinforce its lack of legitimacy. This perspective will affect both those on the receiving end of such treatment as well as those who feel threatened by it.

1. THE RULE OF LAW MODEL

In relatively homogeneous or moderately divided societies, what can conveniently be labelled the "rule of law" model for maintain-

ing order is possible. This model provides a mechanism for the criminalisation of violence, as that term is understood by most members of a society. It requires a judicial authority that stands over society, employing the resources of the state to enforce its judgements which are directed against individuals. Thus, for the purposes of judicial authority, society consists of individuals and, if any individual transgresses the rules of society, he or she is punished. For example, in a simple case of A attacking B, the state, through the criminal justice system, takes action against A which concludes the matter. In reality, society may be faced with victim B, but will have difficulty in establishing the identity of A. The system has to be sufficiently reliable in punishing the guilty without transgressing the rights of innocent people if it is to retain general public confidence.

Also important to the functioning of the rule of law model is the principle of "equality before the law". This principle is, however, often not universally upheld in practice, precisely because no society is composed of a set of equal individuals. The rich and the well-connected generally fare better than the poor and/or those from groups with low status in society. In both the United States (US) and mainland Britain, racial minorities have consistently been poorly treated by the criminal justice system. The Rodney King case in the US and the Stephen Lawrence case in Britain have highlighted the persistence of this problem during the 1990s. No effective solutions were arrived at following these incidences, despite the outward political consensus in both societies that people should be treated equally

before the law, regardless of race. For the most part, however, in moderately divided societies, cross-cutting cleavages of one kind or another tend to limit the influence of group loyalties on the function of the criminal justice system, enough for the rule of law model to retain its credibility.

2. HORIZONTALLY DIVIDED COMMUNITIES

In the case of deeply divided societies, a distinction needs to be drawn between societies divided horizontally between a dominant and a subordinate community, and those divided vertically. The former case will be considered first. Where a society is polarised between a dominant and a subordinate community, an individual's membership of one or the other group is a matter of critical importance and will affect how he/she is treated. The simple case of A attacking B typically results in four different possibilities, which give rise to four very different outcomes. If A and B are both members of the dominant community then something approximating to the process of justice under the rule of law model is likely, with A being criminalised as an individual. If A and B are both members of the subordinate community, the most likely response of the authorities is one of indifference since servicing the needs of the subordinate community tends to be a low priority.

In the case where A – the perpetrator – is part of the dominant community and B – the victim – is from the subordinate community, the bias of the criminal justice system towards the dominant community will operate in favour of the accused, should matters even reach that point. Almost regardless of the precise circumstances of the case, the accused can expect lenient treatment. It will be judged, not in the context of the interaction of individuals, but in the light of the dominant community's fear of resistance by the subordinate community to its status. Any evidence that B was behaving in a provocative manner, from the standpoint of members of the dominant community, will usually be sufficient to ensure A's acquittal.

By contrast, if A – the perpetrator – is a member of the subordinate community and B – the victim – a member of the dominant community, the accused can expect to be extremely severely punished. Every dominant community's nightmare is that the most vulnerable mem-

bers of its community will be physically assaulted by members of the subordinate community. When such instances occur there is invariably a call for exemplary punishment – both to assert the dominant community's power and to deter further attacks.

Apartheid South Africa abounds with examples of differential justice as described in the four examples above. The relative indifference of the authorities to crime in the townships explains one of the paradoxes of the apartheid era: that South Africa had a relatively small police force in relation to its population, notwithstanding the image of the country as a police state.[1] Under apartheid, the townships proved a breeding ground for self-help and informal methods of justice, precisely because of the ineffectiveness of state efforts to combat crime. The priorities of the police were to protect the white suburbs against crime and the state against political subversion. Punishment in rape cases hinged critically on the race of perpetrator and victim, with the death penalty applied to black rapists. Thus, from 1911 to 1968, only two of the 132 people executed for the crime of rape, were white. In both these cases the victims were also white.

The unequal enforcement of the law provides one of the principal means by which a dominant community maintains its hegemony over a subordinate community. As long as the dominant community is able to maintain its hegemony, such societies may appear orderly and politically stable, even to the outside observer. Indeed, dominant communities frequently associate the condition of peace with acquiescence by the subordinate community which holds an inferior social position. The initial reaction of members of the dominant community to challenges from "subordinates" is therefore frequently a desire to restore tranquillity by suppressing the insurgents. Reform in these circumstances is fraught with difficulty. This is particularly so if, in the context of attempting to establish the principle of equality before the law, the legal authorities are perceived as failing to punish sufficiently severely violent acts by members of the subordinate community directed at those above them. The danger then exists that some members of the dominant community will take the law into their own hands. In circumstances where the balance of power is shifting from one community to another, such

reactions may set off a vicious circle of retaliation and retribution.

3. VERTICALLY DIVIDED COMMUNITIES

Frank Wright coined the expression "representative violence" to describe violence in situations where the victims of violence are perceived as being chosen, not because of their individual characteristics, but because they are identified as representing a group of people.[2] Societies that are vertically divided rather than horizontally may also be prone to the creation of cycles of violence and the institutionalisation of representative violence. The effects of conflict among vertically segmented groups can be just as devastating as those that arise due to the breakdown of a dominant group's hegemony. The case of the former Yugoslavia, where no single community occupied a dominant position during the years of Communist rule, demonstrates this tendency. Indeed, the strength of ethno-nationalism in each ethnic group was a reflection of a perception common to all of Yugoslavia's nationalities: that members of each group had been disadvantaged in one way or another under Communism.

Subordination of all indigenous communities under colonial rule also tends to produce vertical lines of division. Even when one group is much larger than the other – as in the conflict between Greeks and Turks in Cyprus and that between Sinhalese and Tamils in Sri Lanka – the larger ethnic group does not see itself, or in practice constitute, a dominant group. In fact, a dominant group may constitute a minority of the population, as the example of South Africa under apartheid demonstrates. In the case of both Northern Ireland and Israel/Palestine, the dominant community forms a majority of the population. However, in both these instances a factor contributing to the fearful, siege mentality of the dominant community is the perception that it forms a minority within a wider framework: that of the island in the case of Northern Ireland Protestants and that of the Middle East as a region in the case of Israeli Jews.

Deeply divided societies are characterised by a lack of consensus on the framework for decision making, and a contested political process in which the legitimacy of its laws is challenged by one segment of society. In the case of a vertically divided society, the strategy of the disaffected community (or communities) is

likely to be directed primarily at an exit from the state through secession, partition or union with another state. In the case of horizontally segmented societies, the issue of equality often becomes a priority among the subordinate community. Northern Ireland provides an interesting instance in which the subordinate community maintains an aspiration to a united Ireland, but in which its political representatives have been willing to accept arrangements guaranteeing its equality within the existing contested boundaries, as the basis of a historic compromise with the dominant community. Ironically, it has been the dominant community that has been the more reluctant to accept the settlement contained in the Belfast Agreement, even though it involves acceptance of separation from Southern Ireland until/unless there is a majority vote in favour of a united Ireland.

4. VIGILANTISM

A common characteristic of deeply horizontally divided societies is that the state's monopoly of legitimate violence is contested by the subordinate community. At best, members of a subordinate community may acquiesce in the operation of the state's institutions on the grounds of their community's powerlessness. Just as important within a horizontally divided community is the fact that the dominant community often has different attitudes towards issues of force and violence to those found in societies where a consensus on these issues exists. This stems from the dominant community's perception of the existence of a serious challenge to the legitimacy of the state from the subordinate community. Rosenbaum and Sederberg use the term, "vigilantism"[3] to describe pro-status quo violence which differs from force or legitimate violence in that it operates openly, counter to the law. What is characteristic of vigilantes is their distrust of the process of maintaining order through the criminalisation of individual perpetrators following a fair trial in the courts.

Vigilantes appear from time to time in politically stable liberal-democracies when the criminal justice system appears ineffective in dealing with ordinary crime. The Guardian Angels patrolling the subway in New York are an example. In deeply divided societies, however, fighting crime may form a nominal justification for the activities of vigilantes, but their real – and, often openly declared – aim is to quell the

political assertiveness of the subordinate community. In any event, a feature of deeply divided societies is that maintaining order, including combating crime, tends to be seen as synonymous with keeping members of the subordinate community "in their place". The greater the perceived threat from the subordinate community, the more aggressively violent vigilantes from the dominant community tend to be. At the height of Northern Ireland's troubles, Loyalist paramilitary organisations engaged in a campaign of random sectarian assassinations. A widely used slogan was "Any Catholic will do". Members of the Afrikaner Weerstandsbewing (AWB – Afrikaner resistance movement) in South Africa were responsible for a number of random attacks on black civilians in the period leading up to and including the country's first democratic elections. But by far the best known example of white supremacist vigilante organisations is the American Ku Klux Klan, which fiercely resisted the civil rights movement in the 1960s, particularly in the Deep South.

5. COMMUNAL DETERRENCE

Vigilantism is the most extreme form of a much larger pattern of behaviour by members of dominant communities in deeply divided societies, as is encapsulated by Frank Wright's term, "communal deterrence".[4] Historically, another such mechanism was segregation, which was not just an assertion of racial prejudice or even primarily intended to satisfy atavistic attitudes in the dominant community. Rather, its chief purpose was to disempower the subordinate community through denying its members access to the full resources of society. One of the milder forms of communal deterrence is the summer parades of the Orange Order in Northern Ireland. Originally, these parades were a method by which Protestants asserted their dominance over Catholics in north-east Ireland, using marches that purposively traversed Catholic areas. While the marches were ritualistic displays of aggression, they served the purpose of uniting Protestants and underlining sectarian divisions. However, their primary objective was to remind Catholics of their subordinate position in society. The fear behind this objective was encapsulated in the Orange song which called on "Croppies" to "lie down". Croppies is a colloquial expression

for Catholics derived from the rebellion of 1798 when the rebels earned this nickname because of the way they cut their hair. The parades of the Orange Order are still a cause of immense civil disturbance in Northern Ireland today, although they now only pass through Catholic areas in a relatively small number of instances. Nevertheless, controversy over the routes of Orange marches was the cause of rioting in Northern Ireland in the summers of 1995, 1996, 1997, 1998 and 2000.

Metropolitan authorities (whether one is referring to the Federal government of the US in relation to the Deep South, the government in London in relation to Northern Ireland or an imperial centre in relation to the activities of settlers on a periphery) generally condemn mechanisms of communal deterrence. They rightly see them as obstacles to the integration of members of a subordinate community as full and equal citizens of the state, and to the establishment of the "rule of law" model of ordering society. Communal deterrence is also an obstacle to the efforts of reformers when the hegemony of a dominant community can no longer be sustained due to demographic or other reasons. Even when the mechanisms of communal deterrence themselves are, however, dismantled, the mentality that underpins them may survive. This is illustrated by the penal policies of the southern states of the US, particularly the political support within the white community for capital punishment. In fact, the siege mentality of dominant communities or formerly dominant communities often remains remarkably persistent, even after radical political change has taken place.

6. THE LEGACY OF THE PAST

The political representatives of subordinate communities usually emphasise that their goal is equality of status between members of different communities, rather than a reversal of roles in which the formerly subordinate community becomes the dominant community and vice versa. Of course, in practice, if the subordinate community outnumbers the dominant community, equality will result in representatives of the former wielding the majority of the political power. This may be balanced by the continuing influence of the dominant community in other fields, particularly economic. Partly for that reason, even if the ideology of the new ruling

party rejects the old lines of societal division, the subordinate community's experience of discrimination, and of being on the receiving end of aggressive coercion by the dominant community in the past, is likely to colour its attitude in the new status quo. The furore created by the Nicholas Steyn case in South Africa is a good illustration of this point. The polarisation of opinion on the case along racial lines demonstrates how difficult it is to escape the legacy of the past in relation to attitudes towards the justice system.

CONCLUSION

Inter-communal violence creates "force fields", the effects of which can be very resilient. Violence in the Balkans during the 1990s owes much to the revival of "force fields" created during the Second World War. In particular, memories of the mass killing of Serbs in Croatian concentration camps in the 1940s has had a major influence on Serbian resistance to the re-drawing of boundaries in the Balkans. The new boundaries would leave Serbs as minorities in a number of independent states dominated by other ethnic groups. From the perspective of other ethnic groups, however, the blame for conflict in the Balkans lies with the aggressive attempts by Serbs, led by Milosevic, to carve a Greater Serbia out of the break-up of the former Yugoslavia. In reality, these views are simply different sides of the same coin. However, one should not underestimate the importance of interpretations on the initiation of violence. Perceptions of who threw

the first stone may have a profound bearing on external views of the legitimacy of contending parties in a conflict.

The language used to justify violence provides a strong indication of the existence of a "force field". Terms commonly used in the context of inter-communal conflicts include "retaliation", "deterrence", "pre-emptive strikes", "holding the line", "clearing the decks", "collective punishment", "tit for tat", "exemplary actions", "exacting a price" and "reprisal". The terminology is similar to that used by states in the context of war. It is also worth noting that the language used when the killing stops also tends to follow that which is used during war, so there is a "cease-fire", "a truce", "a cessation", "a pause" or "a suspension of hostilities". The image is one of two armies facing each other and ready to re-engage. Unfortunately, this may not be far from the truth. When a society has been magnetised by the existence of a "force field", a single incident may trigger a cycle of violence, re-igniting the conflict. In situations in which irreversible political change has taken place and a new order established, the danger is somewhat different. The possibility then exists that the effectiveness and legitimacy of the new dispensation will be undermined by responses that continue to reflect the "force field" that existed under the old order. In addition, if the era of transition is characterised by both continuing and freshly created social and economic inequalities, the difficulties of establishing a "rule of law" justice model are increased.

ENDNOTES

1) See, for example, Gavin Cawthra, *Policing South Africa: The South African Police and the Transition from Apartheid*, Zed Books: London and New Jersey, 1993, p.4.

2) See Frank Wright, *Northern Ireland: A Comparative Analysis*, Gill and Macmillan: Dublin, 1987, pp.11-2.

3) H. Jon Rosenbaum and Peter C.Sederberg, Vigilantism: An analysis of establishment violence in H. Jon Rosenbaum and Peter C. Sederberg (eds), *Vigilante Politics*, University of Pennsylvania Press: Philadelphia, 1976, pp.4-29.

4) Wright, op. cit., pp.13-20.

The Growth, Extent and Causes of Crime: International Crime Overview

Anna Alvazzi del Frate

INTRODUCTION

International comparisons of crime statistics have always been considered a difficult task. Not only are criminologists and statisticians driven by the desire to compare data on crime in different countries, but policy makers also need to obtain reliable information on how their respective countries rank with respect to neighbouring and/or comparable ones.

Over time, many attempts at developing international crime statistics have been undertaken, but the final objective still remains unmet. Direct comparisons between countries are very difficult and require extreme caution in order to avoid serious mistakes.

Among the most important problems related to the comparison of international crime statistics one should consider:

- differences in legal systems and definitions of crimes
- levels of efficiency of criminal justice systems in preventing and controlling crime
- different modalities and performance in collecting and recording reported crimes
- propensity of victims to report crimes to the police
- economic, political and cultural differences among countries as well as different levels of development, education, urbanisation, etc.
- geographic and climatic differences that may in part determine lifestyles in different countries
- the difficulty in obtaining data referring to the same time period from different countries.

Crime statistics from different countries cannot therefore be directly compared. For example, it is impossible to take crime rates from country A and compare them with crime rates from country B without a process of standardisation of data. This requires the formulation of standard definitions of crimes that should be compatible across all the countries to be compared.

Official crime statistics reflect only a portion of all crimes that occur, namely those being discovered by the police or reported by victims or witnesses. For a number of reasons, many crimes are not reported and are therefore not included in crime statistics (*dark figure*). For example, lack of insurance may mean that property crime is not reported, while fear of reprisal may play a crucial role in preventing victims from reporting assault or extortion.

Such an apparent failure at effective comparison of crime statistics may on the one hand have frustrated researchers, but on the other hand has stimulated them to explore new methods for estimating the scope of crime. Official data may be integrated with surveys on population (*victim surveys*) that may provide additional information on crime, crime victims and their attitudes toward the police, reporting rates and reasons for not reporting, fear of crime and crime prevention measures. Victim surveys were initially mainly confined to developed countries, where their assimilation was relatively rapid, becoming more focused and regular, while their presence in the developing world was meagre. Several countries regularly collect information through surveys such as the British Crime Survey and the National Crime Victimisation Survey in the United States (US).

Surveys on victims of crime, and to a great extent official crime data, however, deal pri-

marily with so-called ordinary crime, as opposed to organised crime, crimes against the environment, trafficking in persons, money laundering and corruption. This type of crime is not only notoriously under-reported, but is also statistically recorded using considerably different methods in different countries. Organised crime remains vaguely defined and to a large degree subjective, and there is little uniformity across countries in the relevant statistical categories.

Such crime phenomena are becoming more and more important and require suitable instruments to assess their scope. The development of new research methods applicable to "non-conventional" crime will provide additional information on the extent and impact of crime on citizens and may assist in revealing trends in transnational crime. Integration of data sources may be considered as one of the most promising areas in research on crime statistics (Jehle Lewis, 1995; Alvazzi del Frate et al., 2000).

1. INTERNATIONAL DATA SOURCES
1.1 Administrative statistics
The most important international sources on administrative crime data are the Interpol statistics and the United Nations (UN) Crime Surveys. Rates per 100 000 population are calculated from data provided by each responding country.

Since data recorded in each country relates to crime categories as defined by respective criminal codes, if definitions do not match, it will be impossible to compare data. Both sources provide for standard definitions of crimes. Accounting of crime in these surveys – thus their potential comparability – is as accurate as the typology of crime is unambiguously defined.

1.1.1 Interpol
Since 1950, Interpol compiles crime statistics from a number of countries (presently 115). The data collection form includes broad categories of crime departing from legal definitions envisaged by criminal codes. Interpol warns that such statistics are not intended for international comparisons because of different definitions, reporting and recording methods. Despite major difficulties and gaps in research, Interpol statistics represent a valuable source of information.

1.1.2 United Nations Survey on Crime Trends and Operations of Criminal Justice System (UN Crime Survey)
The United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN Crime Survey) since 1976 provides comparable information on recorded crimes from a number of responding member states. Standard definitions of crimes include homicide, assault, rape, robbery, theft, burglary, fraud, corruption and drug-related crimes. Government agencies in each responding country provide official data adjusted to standard definitions. Data on the fifth UN Crime Survey (referring to 1994, with 91 responding countries) are available on the Internet,[1] while responses to the sixth survey are presently being validated. Ample analysis of the fifth survey results is published in the *Global Report on Crime and Justice* (Newman, 1999). Further analysis can be found in Kangaspunta et al., 1998.

1.1.3 Other international sources: European Sourcebook on Crime and Criminal Justice Statistics
A group of experts convened by the Council of Europe at the beginning of the 1990s has developed a model for the collection of comparable crime and criminal justice statistics in all Council Member States. The first model was finalised in 1995 and a report containing 1990–96 data was released in 1999 (Council of Europe, 1999) with data from 34 European countries. The *European Sourcebook* not only makes use of official statistics, but expands information to include victim surveys and self-report studies performed in the participating countries using standard methodology (International Crime Victim Survey - ICVS and International Self-Report of Delinquency Study).

1.2 Survey data
1.2.1 International Crime Victim Survey (ICVS)
The First International Survey (1989) covered 15 developed/industrialised countries, one Eastern European and only one developing country. Starting from the second (1992) survey, a growing number of countries joined the project. As of today, approximately 70 countries have been involved at least once, included 20 developing countries.[2] The ICVS database contains a wealth of information that has no precedents in the developing world.

The questionnaire includes sections on 13 types of crime, of which each question provides a standard definition. Furthermore, the questionnaire explores whether crimes were reported to the police, reasons for not reporting, attitudes toward the police, fear of crime and crime prevention measures.[3]

2. AN OVERVIEW OF CRIME IN THE WORLD: ON CRIME AND DEVELOPMENT[4]

The relationship between crime and development has been the object of many studies over the years, but no clear conclusion with regard to the effects of socio-economic growth on crime has ever been reached. On the one hand, traditional belief suggests that technological progress and a more equal distribution of economic wealth should reduce social conflict. Other theories, however, envisage that socio-economic growth and modernisation necessarily involve an increase in overall crime rates, in particular, crimes against property.[5] This theory is supported by the observation that developed countries generally show higher theft rates and lower homicide rates than developing countries.[6]

However, such conclusions have usually been reached on the basis of official administrative data. A country's ability to produce reliable crime statistics also depends on its level of development. Lack of resources and technology may be the cause of scarce capacity and efficiency of the police in recording crimes. At the

Figure 1: Development and Crime. Correlation between the Human Development Index, UN Crime Survey and International Crime Victim Survey (ICVS) for selected types of crime

UN Crime Survey official rates countries = 28		ICVS victim survey data countries = 53	
Homicide	–0.204	Assault	–0.113
Theft	0.596	Theft	–0.560
		Burglary	–0.543

Sources: Fifth United Nations Survey on Crime Trends and the Operations of Criminal Justice System, UNCJIN (rates elaborated by UNICRI); Human Development Report 1997, United Nations Development Programme, Oxford University Press, Oxford/New York, 1997; ICVS.

same time, victims may also be more reluctant to spend time and money in reporting crimes. Finally, "in many developing countries, victims, especially those from lower classes, want to have as little contact with the police as they can. Victims would rather suffer the loss or injury, resort to private or informal initiatives, or report only with great reluctance and fear".[7] These problems related to the reporting of crimes are particularly likely to affect proper recording of property crime.

The analysis of the results of the UN Crime Survey provides comparable information on recorded crimes from a number of responding Member States. In 1990, a study on the findings of the First and Second UN Crime Surveys[8] showed that, as development increases (as measured by gross domestic product per capita), so does property crime, while the relationship for violent crime is inversed.

The Fifth UN Crime Survey provided compatible data for 1994 on intentional homicide and theft[9] from 28 countries ranging from the most to the least developed according to the Human Development Index (HDI).[10] By correlating data for homicide and theft with the HDI for the respective countries, a positive correlation with theft rates is found again (r 0.596 N = 28), while a negative correlation between homicide rates and HDI is also found, albeit weaker (r -0.204 N = 28).

It should be taken into account that homicide is the type of crime that is least sensitive to official recording procedures. On the other hand, the recording of theft depends on the propensity of citizens to report and the efficiency of the police in registering the crime. In many affluent societies minor thefts are reported only if the property was insured.

Victim surveys have shown that property crime is more frequent in developing countries than in the rest of the world. In this respect, it can be said that the correlation found above between official rates of theft and HDI indicates rather the existence of a correlation between level of development and efficiency of the police in recording. In conclusion, the higher the level of development, the more frequently property crime is recorded in official statistics. There is also no strict relationship between homicide rates and development.

Another indication of the need to complement administrative statistics of crime with sur-

Table 1: Total recorded crime, 1997 – rates per 100 000 population

Sweden	13 516	Chile	4396	Fiji	2719	Romania	1601
New Zealand	12 591	Italy	4000	Poland	2568	Japan	1507
Denmark	10 051	Czech Republic	3917	Tonga	2498	Latvia	1496
Belgium	8035	Greece	3591	Ireland	2482	Belarus	1251
Germany	8025	Portugal	3234	Argentina	2275	Ukraine	1162
Finland	7273	Korea, Rep. of	3041	Lithuania	2046	Croatia	1155
Norway	6995	Andorra	3027	Slovenia	1872	Lesotho	1078
Bahamas	6688	Bahrain	3011	Singapore	1833	Hong Kong	1070
Israel	6276	Bulgaria	2909	Spain	1764	Jordan	1053
South Africa	5106	Zimbabwe	2856	Slovakia	1716	Kazakhstan	1047
Hungary	5066	Estonia	2809	Tanzania	1688	Moldova	926
Switzerland	4769	Maldives	2725	Russian Fed.	1627	Kyrgyzstan	804

Source: UN Centre for International Crime Prevention, "Total recorded crime per 100 000 population".
This table includes selected countries.

vey data in order to get accurate information on crime levels can be obtained through the analysis of the category "Total crime per 100 000 population" as a result of the UN Crime Survey (*Table 1 provides 1997 data*). These crime statistics indicate what is recorded as a crime and show huge variations among countries. For example, Scandinavian countries traditionally lead the group with the highest rates per 100 000 population. Again, a positive correlation is observed between the data in this table and HDI (r 0.467 N = 48).

In conclusion, the quality and comparability of data sets on crime statistics is still relatively low. A straightforward comparison of official statistics may reveal the following two scenarios:

Figure 2: Aggregate victimisation rates for selected crimes over a one-year period in cities and urban areas (>100 000 pop.). Percentage of population victimised by type of crime.

Source: ICVS

- Countries with less ability to record crime may rank lower on crime levels (and thus look "good").
- Over time, countries improving their ability to record crime may rank higher on crime levels (and thus look "bad").

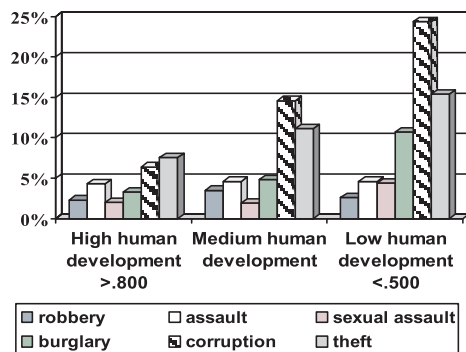### 3. ANALYSIS OF THE ICVS FINDINGS

The ICVS reveals that the levels and effects of victimisation are more pronounced in developing countries than in the rest of the world. The overall victimisation risk of citizens in developing countries is higher for all property-related types of crime, while the risk of assault with force is equal in industrialised countries, countries in transition and the developing world.

Apart from corruption (actual requests for bribes to be paid to public officials for services that should normally be provided for free), theft of personal property was the most frequent type of victimisation.

The ICVS data on victimisation rates for corruption, theft of personal property, burglary and assault all reveal a negative correlation with the HDI. The more developed the country, the less frequent are people victims of corruption (r -0.585 N=53), theft (r -0.560 N=53), burglary (r -0.543 N=53) and, to some extent, robbery and assault (r –0.119 and -0.113, respectively N=53).

Moreover, the reduced capacity to minimise the effects of victimisation, through insurance, replacement or victim support, increases the burden of crime on victims in the developing world. These findings support the hypothesis that crime indeed has a greater effect on citizens in developing countries.

Figure 3: Percentage of crimes reported to the police and level of satisfaction with overall police performance, by groups of countries.

Source: ICVS
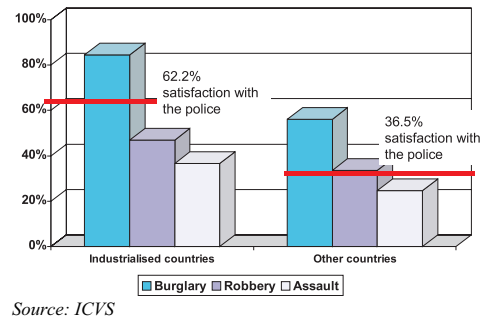
4. REPORTING TO THE POLICE

A marked difference between groups of countries was observed with regard to reporting levels for various types of crime. As an example, Figure 3 shows that higher reporting rates were consistently observed in industrialised countries for burglary, robbery and assault. It was also noted that the level of satisfaction with the police is on average higher in industrialised countries. This finding may support the theory that administrative statistics actually reflect the performance of the various systems in recording crime.

CONCLUSION

Due to the gaps in the data series currently available, it is difficult to provide unique conclusions. However, it appears that a few statements may hold true:

• Crime heavily affects developing countries:

international victim survey data show a negative correlation between HDI and victimisation rates for all types of crime.
• Reporting levels vary across countries and in particular, less than 50% of crimes are reported to the police in the developing world.
• Taking into account the extent of the "dark figure", official records of crime do not present the entire crime picture.
• It is necessary to integrate police records of crime with survey data in order to monitor crime and crime prevention strategies.
• International cooperation is necessary for the harmonisation of data and indicators, the standardisation of concepts, definitions and classifications and the dissemination of internationally comparable data sets for policy analysis.
• A coherent strategy in this regard should involve national statistical institutes, ministries, specialised agencies, and international organisations.
• Trends over time should be monitored carefully: higher crime rates may depend on improved ability of the police in recording crime.

Above and beyond research and policy needs for good statistics, there are further concerns with regard to a country's standing in a comparative perspective. Higher crime rates in official statistics may reflect in negative media reports, which may generate fear of crime across the population and negatively affect the propensity for foreign investments and tourism. On the other hand, poor statistics do not help either researchers or effective crime prevention and control.

ENDNOTES

1) http://www.uncjin.org/stats/stats.html
2) This group of developing countries includes surveys conducted in the capital cities of Argentina, Bolivia, Botswana, Brazil, China, Colombia, Costa Rica, Egypt, India, Indonesia, (Lesotho), (Nigeria), Paraguay, The Philippines, South Africa, (Swaziland), Tanzania, Tunisia, Uganda, Zimbabwe. Countries in brackets have not been included in the analysis presented here because of unavail-ability of data at the time of preparation.
3) Analysis of the ICVS results was published in van Dijk et al. 1989; Alvazzi del Frate et al. 1993; Zvekic and Alvazzi del Frate 1995; Alvazzi del Frate 1998; Hatalak et al. 1998; Mayhew and van Dijk, 1997; Zvekic 1998. The ICVS website address is www.nscr.nl/icvs
4) Parts of this section have been published in Alvazzi del Frate, 1998.

5) See, for example, Shelley (1981).
6) For example, a study published in the early 1970s (Wolf 1971) observed that, distribut-ing a list of countries according to a series of development indicators on a continuum, developed countries showed homicide rates lower than six and theft rates higher than 600 per 100 000 population. The develop-ment indicators used included urbanisation, economic development, literacy, etc. Crime rates considered in the study referred to official statistics as presented by Interpol.
7) Marenin (1997) p. 470.
8) Newman (1990) pp. 69-102.
9) The UN Crime Survey categories used here are "total intentional homicide" and "total theft".
10) The 1994 Human Development Index for the responding countries is taken from UNDP (1997).

REFERENCES

ALVAZZI DEL FRATE A., ZVEKIC U., VAN DIJK J.J.M. eds. 1993. *Understanding Crime: Experiences of Crime and Crime Control.* UNICRI, Rome.

ALVAZZI DEL FRATE A. 1998. *Victims of Crime in the Developing World*, UNICRI, Rome.

ALVAZZI DEL FRATE A., HATALAK O., ZVEKIC U. eds., 2000. *Surveying Crime: A Global Perspective*. ISTAT/UNICRI, Rome.

COUNCIL OF EUROPE. 1999. *European Sourcebook of Crime and Criminal Justice Statistics*, PC-S-ST (99) 8 DEF, 18-10-99.

ICVS. 1999. *International Crime Victim Survey – international database.*

INTERPOL. 1997. *International Crime Statistics.*

JEHLE J.-M., LEWIS C. 1995. *Improving Criminal Justice Statistics – National and International Perspectives*, Wiesbaden, KUP.

KANGASPUNTA K., JOUTSEN M., OLLUS N. 1998. *Crime and Criminal Justice Systems in Europe and North America*, European Institute for Crime Prevention and Control affiliated with the United Nations, HEUNI, Helsinki.

MARENIN O. 1997. Victimisation surveys and the accuracy and reliability of official crime data in developing countries, in *Journal of Criminal Justice*, 25:6, pp. 463-475.

MAYHEW P., VAN DIJK J.J.M. 1997. *Criminal Victimisation in Eleven Industrialised Countries*. WODC, Ministry of Justice of The Netherlands, The Hague.

NEWMAN G. 1990. Crime and the human condition, in *Essays on Crime and Development*, edited by U. Zvekic, UNICRI Publ. No. 36, Rome.

NEWMAN G. ED., 1999. *Global Report on Crime and Justice*, United Nations Office for Drug Control and Crime Prevention, Centre for International Crime Prevention, Oxford University Press.

SHELLEY L. 1981. *Crime and Modernisation: Impact of Industrialisation and Urbanisation on Crime*. Carbondale, Ill.

UNDP. 1997. *Human Development Report 1997*, United Nations Development Programme, Oxford University Press, Oxford/New York.

VAN DIJK J.J.M., MAYHEW P., KILLIAS M. 1990. *Experiences of Crime Across the World*. Kluwer, Deventer.

WOLF P. 1971. Crime and development. An international comparison of crime rates, *Scandinavian Studies in Criminology*, pp. 107-120.

ZVEKIC U. 1998. *Criminal Victimisation in Countries in Transition*, UNICRI, Rome.

ZVEKIC U., ALVAZZI DEL FRATE A. EDS., 1995. *Criminal Victimisation in the Developing World*, UNICRI, Rome.

Crime, Violence and Political Uncertainty in Brazil

Paulo de Mesquita Neto

INTRODUCTION

This paper focuses on the growth of crime and violence in Brazil since the transition from authoritarianism to democracy, demonstrating that this growth is unequally distributed and concentrated in specific geographical areas and social groups. The paper suggests that the institutional conflicts and political uncertainty regarding the role of the state, civil society and the private sector in public security since the transition to democracy, has contributed to the growth of crime and violence in the country. Organised crime, particularly the illegal commerce of drugs and arms; police ineffectiveness; corruption and violence; and social and economic inequalities – frequently seen as responsible for the growth of crime and violence – reinforce this trend within particular areas and groups.

The growth of crime and violence, however, also reflects the institutional conflicts and political uncertainty regarding public security. These conflicts and uncertainties contribute to the absence or weakness of institutions and practices to ensure the accountability of public and private security services and their responsiveness to the law, the community and the citizens.

1. THE GROWTH OF CRIME AND VIOLENCE

Information available in Brazil does not adequately reflect the magnitude and distribution of crime and violence in that country. The most reliable information involves homicides and other forms of violence resulting in death. The Ministry of Health provides information on the number of deaths resulting from homicide or aggression and other forms of violence registered in all Brazilian states since 1979. This data is based on the analysis of death certificates.[1] However, a significant number of violent deaths are still registered as resulting from "events whose intention is undetermined".[2] Furthermore, according to a recent study, the Ministry of Health does not register 20% of the total number of deaths occurring throughout the country.[3]

Since the transition to democracy, the state government began providing information on crimes registered by the police. However, the methods for registering crimes and the quality of the information vary significantly across different Brazilian states.[4]

A series of victimisation surveys were conducted since the transition to democracy indicating that a significant percentage of crimes are not reported to the police. These surveys include the following: IBGE conducted one in 1988 (IBGE 1990); UNICRI in 1992 (Zvekic and Frate 1995); PHO in 1996 (Briceño-Leon et al 1999); CPDOC-FGV/ISER in 1995-96 (Pandolfi et al 1999; CPDOC-FGV/ISER 1997); ILANUD/DataFolha in 1997 (Kahn 1998); SEADE in 1998 (www.seade.gov.br); NEV-USP in 1999 (Cardia 1999).

Most surveys, however, focus attention on the cities or states of Rio de Janeiro and São Paulo. The survey conducted by NEV-USP in 1999 focused attention on ten state capitals. The survey conducted by IBGE in 1988 was the only one that had a national scope.

Despite these limitations, the available information is sufficient to demonstrate that in Brazil crime and violence, particularly homi-

cides, has grown since the transition to democracy.

The number of violent deaths or deaths resulting from external causes increased from 70 212 in 1980 to 117 603 in 1998 (+67.5%). In the same period, the number of deaths resulting from homicide or aggression increased from 13 910 to 41 916 (+201.3%). The percentage of the number of deaths resulting form aggression in relation to the total number of violent deaths increased from 19.8% to 35.6%. The homicide rate increased from 11.7 homicides per 100 000 inhabitants in 1980 to 25.90 per 100 000 in 1998 (121.4%).[5]

In addition, there has been significant growth in the rate of homicides committed with firearms. According to a recent study, the homicide rate in Brazil increased from 11.7/100 000 in 1980 to 23.7/100 000 in 1996 (102.5%), while the rate of homicide with firearms increased from 5.1/100 000 to 14.0/100 000 in the same period (174.5%). The percentage of homicides committed by firearms in relation to the total number of homicides increased from 43.6% to 59.0%.[6]

1.1 Unequal distribution

The available information also indicates that the risk of violent crime is unequally distributed in different geographical areas and social groups. Furthermore, even though the risk of violent crime has increased in all Brazilian states, the growth rate has varied significantly across different geographical areas and social groups.

In 1998, the Federal District and nine states registered homicide rates higher than the average homicide rate for Brazil. Five of these states are in the north and centre-west frontier: Roraima (51.02), Rondônia (38.71), Amapá (38.71), Mato Grosso (35.64), Mato Grosso do Sul (33.57). Four of the states have large or growing metropolitan regions in the south-east and north-east: Pernambuco (58.77/100 000), Espírito Santo (57.85), Rio de Janeiro (55.52) and São Paulo (39.64). The homicide rate for the Federal District was 32.91.[7]

Seventeen states registered an average homicide rate lower than the average homicide rate for Brazil. Six states registered homicide rates lower than 10/100 000: Bahia (9.89), Minas Gerais (8.84), Rio Grande do Norte (8.46), Santa Catarina (8.11), Maranhão (5.17) and Piauí (5.23).[8]

Comparing the periods 1980–84 and 1990–95, the average homicide rate increased in the Federal District and 24 states and declined in only two states. The states of Mato Grosso (+165.3%) and Sergipe (+161%) registered the highest increase. The states of Minas Gerais (–10%) and Piauí (–2.3%) registered a decline in the average homicide rate.[9] The average rate of homicides with firearms increased in the Federal District and in all 26 states. The greatest increases were registered in the states of Roraima (2.600%), Sergipe (333%) and the Federal District (268%).[10]

The growth of violence is, to a significant extent, concentrated in urban areas and metropolitan regions. While the total number of deaths resulting from homicide or aggression increased from 13 910 in 1980 to 41 916 in 1998 (201.3%), the number of deaths resulting from homicide or aggression in the 27 state capitals, increased from 4947 in 1980 to 15 286 in 1998 (209.0%). In the 12 metropolitan regions, the number of deaths resulting from homicide or aggression increased from 6552 in 1980 to 23 770 in 1998 (262.8%).

In 1998, the 12 metropolitan regions registered 56.7% of the total number of deaths resulting from aggression, whereas the population of these areas represented 36.7% of the total population in Brazil.

The two largest metropolitan regions (São Paulo and Rio de Janeiro) registered 15 896 homicides or 37.9% of the total number of homicides in Brazil. The two largest cities, São Paulo and Rio de Janeiro, registered 8826 homicides or 21% of the total number of homicides in the country.

Regarding the distribution of violent crime across different groups in society, it is clear that the majority of victims of homicide are men. The homicide rate for men increased from 21.2/100 000 in 1980 to 43.5/100 000 in 1996 (+105.2%). However the homicide rate for women also increased substantially from 2.3/100 000 in 1980 to 4.4/100 000 in 1996 (+91.3%).[11]

Regarding age group, there has been a significant increase in the homicide rate for the population aged between 15- and 22-years-old. In the state of Rio de Janeiro, the average homicide rate for youths aged 15–17 increased from 15.2/100 000 in 1980–84 to 55.5/100 000 in 1990–95 (+265%). For youths aged 18–21, it

increased from 38.4/100 000 to 99.0/100 000 in the same period (+157%).[12]

In the state of São Paulo, the average homicide rate for youths aged 15–17 increased from 18.3/100 000 in 1980–84 to 38.3/100 000 in 1990–95 (+109%). For youths aged 18–21, it increased from 38.3/100 000 to 73.3/100 000 over the same period (+91%).[13]

In 1995, the homicide rate for the population aged between 18–21-years-old reached 139.0/100 000 in Rio de Janeiro, the state with the highest homicide rate for this age group, followed by Amapá (94.0), Federal District (90.0), Roraima (86.0), Espírito Santo (84.0) and São Paulo (78.0).[14]

1.2 Social inequality

Crime maps have indicated that the highest homicide rates are registered on the periphery of large cities and metropolitan regions. It is in these regions that the problems of poverty, unemployment and the lack of adequate housing and basic services, including health, education, transport, communication, security and judicial services, are particularly acute. It is also in these areas where, despite the transition from authoritarianism to democracy in the 1980s, major human rights violations continue to occur. Typical violations include summary executions, torture and arbitrary detention by the police, private security and criminal organisations or groups.[15]

In the city of São Paulo in 1999, the homicide rate varied from 4.11/100 000 inhabitants in Moema (a wealthy neighbourhood in the central region of the city) to 116.23/100 000 in Jardim Angela (an underprivileged neighbourhood in the southern part of the city). In the city of Diadema, in the metropolitan region of São Paulo, the homicide rate reached 149.76/100 000 in 1999.[16] Similar contrasts are present in the cities and metropolitan areas of Rio de Janeiro (RJ), Salvador (BA) and, to a lesser extent, Curitiba (PR).[17]

In rural areas, homicides and gross human rights violations tend to be concentrated in regions that are distant from urban centres. In these regions the state and civil society are absent or weak and intense and violent conflicts between landowners, landless workers, miners and indigenous groups exist. It is, however, far more difficult to obtain information regarding homicides and gross human rights violations.

The press and non-governmental organisations (NGOs) are frequently the major source of information in these areas.[18]

2. EXPLANATIONS AND INTERPRETATIONS

Studies on the causes or reasons for the growth of crime and violence are still in progress in Brazil. These studies shape and are shaped, not only by academic/theoretical, but also by public/political debate. In part, this is a result of the growing importance of crime and violence as public/political issues. It also reflects the large role played by social scientists in governmental organisations and NGOs during the processes of democratic transition and consolidation (Zaluar 1999; Paixão 1986; Adorno 1983).

Most analysts agree that the quality of information regarding crime and violence has improved since the transition to democracy. It is clear that improvements in the capabilities for registering crime have resulted in increases in crime rates in many states. However, it is also clear that increases in crime rates cannot be attributed simply to improvements in crime registration, but result from actual increases in crime and violence.

There are multiple factors contributing to the growth of crime and violence in Brazil. Analysts from different disciplines, theoretical backgrounds and political positions tend to emphasise different factors and propose different solutions to the problem. There are, however, three major approaches for analysing the growth of crime and violence. These approaches could be characterised as follows: economic, political and social.

Analysts positioned to the left of the political spectrum tend to emphasise the contribution to the growth of crime and violence of economic factors like poverty, unemployment, economic inequalities and class conflicts (Maricato 1995; Oliven 1980; Weffort 1980). This approach focuses attention on the destabilising and negative impact of economic crises, the processes of capitalist development and, more recently, globalisation. It explains crime and violence as strategies for survival and struggle in a society characterised by high levels of economic inequality and class conflict.

This approach has been particularly instrumental in analysing political violence and violence across classes or groups as practiced by members of dominant groups and state agents

against members of subordinate groups, and vice-versa, in rural and urban areas. However, it has been less useful in analyses of interpersonal violence and, particularly, variations in the level of violence within the same class or group.

Analysts to the right side of the political spectrum tend to emphasise the contribution to the growth of crime and violence to factors undermining the state's capability to maintain law and order and to prevent and repress illegal and violent actions. More specifically, they emphasise the weakness of state institutions and organisations responsible for the maintenance of law and order, and the strength and international status of criminal organisations (Cardoso 2000, Silva Filho 2000; Flores 1992; Vidigal 1989).

This approach focuses attention on the destabilising and negative impact of the processes of modernisation, democratisation and globalisation. It explains crime and violence as strategies for maximising gains in a society characterised by low levels of social control and high levels of impunity. This approach has been particularly constructive in analysing crime and violence associated with organised crime but is less useful in analysing interpersonal crime and violence.

Analysts at the center of the political spectrum tend to emphasise the contribution of factors undermining societies' capability to ensure the rule of law and basic civil, political and social rights for the majority of the population. More specifically, they emphasise the weakness of the institutions and practices for securing citizenship and human rights and the legal and peaceful means for conflict resolution. (Pinheiro 2000 and 1996; Cardia 2000; Caldeira 2000; Adorno 1999 and 1998; Pandolfi et al. 1999, Soares 1996).

This approach focuses attention on the long history of authoritarianism, racial discrimination and social inequality in Brazil. It also focuses attention on the nature of the process of democratic transition and consolidation; the persistence of uncivil relations within society; socially established authoritarianism; and the culture of violence in Brazil.

Finally, this approach focuses attention on the limited capacity of democratic governments and civil society organisations to strengthen the rule of law and the institutions and practices

necessary for securing citizenship and human rights.

From this perspective, crime and violence tend to be seen as strategies for solving conflict in a context characterised by profound racial discrimination, social inequality and weak democratic institutions and practices. This approach has been particularly useful in analysing interpersonal violence within the same class, group or community and gross human rights violations.

Additional factors contributing to the growth of crime and violence, emphasised by many analysts, are the dissemination of drugs and firearms within society and the growth of criminal organisations associated with the illegal commerce of drugs and firearms. This factor has been considered particularly important in Rio de Janeiro (Zaluar 1999; Soares 1996).

3. RESPONSES TO CRIME AND VIOLENCE

The first response to the growth of crime and violence was an increase in the number of agents employed in public and private security services. Public and private spending on security services was also increased.

Brazil operates on a federal political system whereby the individual states control the main police forces, namely the military police and the civilian police. The military police are responsible for ostensive policing and order maintenance. The civilian police are responsible for criminal investigation. The federal government controls the armed forces, the federal police and the federal highway police. The armed forces, under the control of the Ministry of Defence since 1999, are responsible not only for external defence but also for the maintenance of law and order. The federal police and the federal highway police are both relatively small forces. The federal police are responsible for border control and the investigation of federal crimes (including, for example, drug trafficking). The federal highway police are responsible for policing the federal highways. In addition to these security agencies, the 1988 Federal Constitution authorised municipal governments to employ municipal guards.[19]

The number of people employed in the military police increased from 185 000 in 1981 to 234 700 in 1985, 243 000 in 1991 and 339 762 in 1995. The number of people employed in civilian police forces (including mainly the

civilian police, the federal police, the federal highway police and the municipal guards) increased from 105 200 in 1985 to 154 400 in 1995. From 1985 to 1995, the number of police agents and municipal guards increased from 339 900 to 494 162 (+45.4%).[20]

In the year 2000, Brazil had 472 803 police officers (368 900 in the military police, 103 903 in the civilian police and 20 220 in independent military firefighter corps).[21] In the state of São Paulo, which has the largest population and the largest police forces in the country, the number of agents in the military police increased from 54 767 in 1982 to 82 021 in 2000 (+49.8%). The number of agents employed by the civilian police increased from 16 265 in 1982 to 36 883 in 2000 (+126.8%). The total number of police agents increased from 71 032 agents in 1982 to 118 904 agents in 2000 (+67.4%).[22]

Despite the transition to democracy and the virtual absence of external threats, the number of soldiers in the armed forces also grew from 272 550 in 1981 to 296 700 in 1991 and 336 800 in 1994 (219 000 in the army, 58 400 in the navy and 59 400 in the air force).[23]

Responding to pressures from conservative groups, the Federal Constitution of 1988, and more recently the complementary law of 97/99, established that, not only the police but also the armed forces, are responsible for the maintenance of law and order in Brazil. The National Defence Policy adopted in 1996 decreed that the armed forces should be prepared to protect the country from armed groups and criminal organisations in neighbouring countries, particularly in the Amazon region, or within the national territory.[24]

In addition to the increase in the number of people employed in public security, the number of people employed in private security services increased from 640 500 in 1985 to approximately one million in 1995.

This figure does not include the police officers that hold down second jobs with private security companies and other people that are not legally or regularly employed in private security.[25]

Accordingly, private investment in security has surpassed public investments. A recent study estimated that the public sector spends R$18 billion (approximately US$10 billion), while the private sector spends R$22 billion

(approximately US$12.2 billion) a year on security services.[26]

The expansion of the police forces and the investments in security services was followed by an increase in the number of people imprisoned from 28 538 in 1969 to 88 041 in 1988, 126 152 in 1993 and approximately 170 000 in 1997 and 204 000 in 2000.[27]

Questions remain as to whether this growth of investment in pubic and private security has been excessive, sufficient or insufficient for the control of crime and the maintenance of law and order. However, if the statistics are examined, it is clear that these investments have not resulted in the reduction of violent crime.

In Brazil, despite the growth in the number of police agents and municipal guards from 339 900 in 1985 to 494 162 in 1995 (+45.4%), the homicide rate increased from 14.9/100 000 in 1985 to 23.9/100 000 in 1995 (+60.4%).

In the state of São Paulo, despite the growth in the number of police agents from 71 032 in 1982 to 116 564 in 1998 (+64.1%), the homicide rate increased from 16/100 000 in 1982 to 36.1/100 000 in 1996 (+125.6%).

Conservative groups argue that the investment in security services has not been sufficient to contain the growth of crime and violence. They also argue that the control of crime and violence requires not only additional investment in security services, but also the expansion of the authority and the power of the police, the criminal justice and, if necessary, the armed forces to maintain law and order.

Groups to the left of the political spectrum argue that investment in security services is too high. They maintain that the control of crime and violence requires changes in economic and social policies to reduce poverty and inequality. From this perspective, economic and social policies focusing mainly on the process of economic stabilisation have undermined the impact of security services and created favourable conditions for the growth of crime and violence.

Groups to the centre of the political spectrum argue that the problem is not so much the magnitude of the investment, but the quality of security services and the absence or weakness of democratic controls over security services. In particular, they argue that the reduction of crime and violence requires reform to improve the quality of security and criminal justice services. In addition, access to these services must

be expanded and their accountability and responsiveness to the law, the community and the citizens needs to be ensured.

The above political debate is very important. However, the problem remains that the growth of crime and violence results not only from social and economic inequalities, insufficient or inadequate security services and/or the dissemination of arms and drugs. It also results from political uncertainty and institutional conflicts not resolved during the transition from authoritarianism to democracy. These factors undermine the efforts to improve the quality of security and criminal justice services.

4. POLITICAL UNCERTAINTY AND INSTITUTIONAL CONFLICT

Since Brazil's transition to democracy, there is a great deal of uncertainty regarding the structure of the public security system. This uncertainty centres particularly on the roles of the federal government, the state governments, the municipal governments, civil society and the private sector in crime control and prevention.

The 1988 Federal Constitution promoted very limited changes to the structure of the public security system established under the authoritarian regime. There has, however, been a resisted, contested, but progressive tendency towards the reform and decentralisation of the public security system, including:
- the limitation of the role of the armed forces and the expansion of the role of the police forces in the matter of public security[28]
- the adoption of community policing by the military police in the federal states[29]
- the creation of municipal guards
- the expansion of private security services.

This process of decentralisation has contributed to narrowing the gap between the providers of security services and the communities or the citizens that use and pay for these services. It has, however, increased inconsistencies between the 1988 Federal Constitution and the structure and functioning of the public security system. The result is that conflict over the constitutional rules regulating the structure and functioning of the public security system has intensified. Some of the issues involved include the following:
- There are groups defending the expansion and groups defending the limitation of the role of the armed forces in public security.

- There are groups in favour and groups against the creation of a national guard.
- There are groups in favour and groups against the unification of the military police and the civilian police.
- There are groups in favour and groups against the development of community policing.
- There are groups in favour and groups against the creation of municipal police forces.
- There are groups in favour and groups against the expansion of private security services.

These conflicts weaken and de-legitimise the constitutional rules regulating the structure and functioning of the public security system. They render it more difficult, if not impossible, for government officials and police authorities to implement these rules and exercise control over security services, ensuring their effectiveness, efficiency, impartiality, accountability and responsiveness to the law, the community and the citizens.

Political uncertainty and institutional conflict in the matter of public security since the transition to democracy are not directly associated with the growth of crime and violence. They are, however, major obstacles to the improvement of the quality of security services, which are essential to the control and prevention of crime and violence within society.

5. PROSPECTS FOR THE FUTURE

Research has made it increasingly clear that multiple factors contribute to the growth of crime and violence in Brazil. The problem of controlling crime and violence cannot be solved simply by reducing economic inequalities and/or increasing the states capability to punish illegal and violent actions. It is necessary also to improve the quality of security and criminal justice services, their accountability and responsiveness to the law, the community and the citizens.

Research centres and NGOs, particularly in São Paulo, Rio de Janeiro, Minas Gerais and Rio Grande do Sul, have intensified their support of reforms to improve the quality and increase the accountability of security and criminal justice services.

Responding to this movement, the federal government announced the National

Programme for Human Rights in 1996 and the National Programme for Public Security in the year 2000.[30] These programmes are extremely important, but they are only initial steps in a long-term process of change. Furthermore, public opinion, state governments, the judiciary and the legislative have been divided and less supportive of reform within security and criminal justice services.

It remains to be seen, however, if these programmes, with the support of the federal government, research centres and NGOs, will be capable of reducing the level of political uncertainty and institutional conflict, promoting reform and improving the quality of security and criminal justice services. Perhaps, though, they will not be able to overcome the political uncertainty and institutional conflict that have undermined government programmes and policies since the transition to democracy.

Table 1: Violent deaths resulting from aggression and events whose intention is undetermined, Brazil and the Federal States, 1998

	Aggression	Undetermd.	Population	Aggression/ 100 000	Undetermd./ 100 000	Uncertain/ Aggression
Brazil	41 916	13 117	161 790 311	25.91	8.11	0.31
Rondônia	494	46	1 276 173	38.71	3.60	0.09
Acre	110	79	514 050	21.40	15.37	0.72
Amazonas	534	65	2 520 684	21.18	2.58	0.12
Roraima	133	1	260 705	51.02	0.38	0.01
Pará	772	194	5 768 476	13.38	3.36	0.25
Amapá	160		420 834	38.02	0.00	0.00
Tocantins	129	34	1 107 803	11.64	3.07	0.26
Maranhão	277	535	5 356 853	5.17	9.99	1.93
Piauí	142	52	2 714 999	5.23	1.92	0.37
Ceará	946	179	7 013 376	13.49	2.55	0.19
Rio G. Norte	222	271	2 624 397	8.46	10.33	1.22
Paraíba	420	24	3 353 624	12.52	0.72	0.06
Pernambuco	4 422	292	7 523 755	58.77	3.88	0.07
Alagoas	582	13	2 688 117	21.65	0.48	0.02
Sergipe	175	566	1 684 953	10.39	33.59	3.23
Bahia	1 271	1 308	12 851 268	9.89	10.18	1.03
Minas Gerais	1 511	2 499	17 100 314	8.84	14.61	1.65
Espírito Santo	1 675	84	2 895 547	57.85	2.90	0.05
Rio de Janeiro	7 596	2 457	13 681 410	55.52	17.96	0.32
São Paulo	13 985	2 196	35 284 072	39.64	6.22	0.16
Paraná	1 624	319	9 258 813	17.54	3.45	0.20
Santa Catarina	408	172	5 028 339	8.11	3.42	0.42
Rio Grande Sul	1 520	588	9 866 928	15.40	5.96	0.39
Mato Grosso Sul	670	144	1 995 578	33.57	7.22	0.21
Mato Grosso	831	31	2 331 663	35.64	1.33	0.04
Goiás	703	890	4 744 174	14.82	18.76	1.27
Distrito Federal	633	78	1 923 406	32.91	4.06	0.12

Source: Ministry of Health/Datasus/SIM

ENDNOTES

1) Information available on Datasus' website www.datasus.gov.br
2) In 1998, the Ministry Health registered 117 603 violent deaths or deaths resulting from external causes. Within this universe, there were 41 916 deaths (35%) as a result of aggression and 13 117 deaths (11%) resulting from events whose intention is undetermined and therefore could eventually be the result of aggression or homicide. See Table 1.
3) See Catão 1999: 9. The percentage is higher in the regions north (41.3%) and north-east (44.9%) and even higher in some states like Maranhão (70.6%) and Piauí (68.9%).
4) The state of São Paulo publishes the statistics of the crimes registered by the police every three months in *Diário Oficial do Estado de São Paulo* www.imesp.com.br and every year in *Anuário Estatístico do Estado de São Paulo* www.seade.gov.br
5) Information available on Datasus' website www.datasus.gov.br
6) See Table 2.
7) See Table 1.
8) These six states have a relatively high number of deaths that are not registered and/or are registered as resulting from

events whose intention is undetermined. See Table 1.
9) See Table 3.
10) See Table 4.
11) See Table 5.
12) See Table 6.
13) See Table 7.
14) Catão 1999: 18.
15) For an overview of the problem, see Pinheiro 2000, Pinheiro et al 1998 and Cardia 2000.
16) See Tables 8 and 9.
17) CEDEC 1997a, 1997b, 1996a, 1996b.
18) Among the non-governmental organisations registering and reporting cases of violence and gross human rights violations in rural areas are Movimento Nacional de Direitos Humanos, Movimento dos Trabalhadores Rurais Sem Terra, Comissão Pastoral da Terra and Conselho Missionário Indigenista.
19) See 1988 Federal Constitution, articles 142 and 144.
20) Information for 1981 and 1991, Mesquita Neto 1995 and IISS 1994. Information for 1985 and 1995, from Garotinho 1998.
21) Ministry of Justice, National Secretary of Public Security.

Table 2: Homicide rate and firearms, Brazil, 1980–1995

	Homicides	*Homicides by Firearm*
1980	11.7	5.1
1981	12.9	5.3
1982	12.9	5.1
1983	14.1	5.0
1984	15.6	6.1
1985	14.9	6.3
1986	15.5	6.5
1987	17.1	7.8
1988	17.0	7.6
1989	20.5	9.4
1990	22.0	11.4
1991	20.8	10.6
1992	19.1	9.9
1993	20.3	12.3
1994	21.3	14.3
1995	23.9	14.0
1996	23.7	14.0

Source: Ministry of Health/Datasus/SIM, in Catão 1999: 38 and 60

22) With a population of approximately 35 million, the state of Sao Paulo has one police agent for 294 habitants. The ratio is comparable to that in Italy, i.e. one police agent per 286 habitants. For purposes of comparison, Spain has one police agent per 276 habitants. France has one police agent per 270 habitants. The United Kingdom has one police agent per 407 habitants. Monet 1993: 124-125.

23) Mesquita Neto 1995 and IISS 1994.

24) Àlvares 2000.

25) Garotinho 1998: 87.

26) See "Aumento da violência faz setor privado gastar mais que Estado" [roughly: a growth in violence results in the private sector spending more than the state], in *Valor*, July 4, 2000. According to a study conducted by the Interamerican Development Bank, the annual cost of violence in Brazil can be as high as US$65 billion.

27) Information on the number of people in prison is not readily available in Brazil. I thank Fernando Salla, from the Centre for the Study of Violence, at the University of São Paulo, for the information provided above. The sources are IBGE 1972, the journal *Revista do Conselho Nacional de Política Criminal e Penitenciária* 1:2 (1994) and the weekly magazine *Veja*, February 23, 2000.

28) Mesquita Neto 2000 and 1998.

29) Mesquita Neto 1998 and Muniz et al 1997.

30) Both programmes are available at the Ministry of Justice's website www.mj.gov.br. On the National Programme for Human Rights, see Pinheiro e Mesquita Neto 1999, 1998 and 1997.

Table 3: Change in homicide rates, Brazil and the Federal States, 1980–1995

	Average Rate 1980–1984	*Average Rate 1985–1989*	*Average Rate 1990–1995*	*Change (%) 85–89/80–84*	*Change (%) 90–95/85–89*	*Change (%) 90–95/80–84*
Brasil	14.8	18.3	22.6	23.6	23.5	58.0
Rondônia	24	45.5	38.6	89.6	−15.2	60.8
Acre	10	20.2	22	102.0	8.9	120.0
Amazonas	10.3	11.6	17.3	12.6	49.1	68.0
Roraima	17.7	23.2	40.2	31.1	73.3	127.1
Pará	10.8	13.2	14.2	22.2	7.6	31.5
Amapá	9.7	11.9	24.7	22.7	107.6	154.6
Tocantins	na	7.2	8.4	na	16.7	na
Maranhão	3.5	6.2	8	77.1	29.0	128.6
Piauí	4.4	4.6	4.3	4.5	−6.5	−2.3
Ceará	9.6	8.7	10	−9.4	14.9	4.2
Rio G. Norte	8.5	7.3	9	−14.1	23.3	5.9
Paraíba	12	13.6	12.3	13.3	−9.6	2.5
Pernambuco	23.8	32.6	37.2	37.0	14.1	56.3
Alagoas	21.1	27.1	25.9	28.4	−4.4	22.7
Sergipe	7.7	5.9	20.1	−23.4	240.7	161.0
Bahia	4.1	6.6	9.7	61.0	47.0	136.6
Minas Gerais	8	7.1	7.2	−11.3	1.4	−10.0
Espírito Santo	16.8	25	38.5	48.8	54.0	129.2
Rio Janeiro	20.7	26.3	47	27.1	78.7	127.1
São Paulo	18.8	26.9	30.4	43.1	13.0	61.7
Paraná	12.9	11.9	14.3	−7.8	20.2	10.9
Sta. Catarina	7.4	6.9	7.8	−6.8	13.0	5.4
Rio G. Sul	8.3	11.3	15.9	36.1	40.7	91.6
Mato G. Sul	19.5	18.9	25.2	−3.1	33.3	29.2
Mato Grosso	7.5	21.5	19.9	186.7	−7.4	165.3
Goiás	17.1	17.7	17.8	3.5	0.6	4.1
DF	14.3	21.6	33.7	51.0	56.0	135.7

Source: Ministry of Health/Datasus/SIM, in Catão 1999: 37   na = not available

Table 4: Change in rates of homicide by firearm in Brazil and the Federal States, 1980–1995

	Average Rate 1980–1984	Average Rate 1985–1989	Average Rate 1990–1995	Change (%) 85–89/80–84	Change (%) 90–95/85–89	Change (%) 90–95/80–84
Brasil	5.4	7.6	11.7	40.7	53.9	116.7
Rondônia	13.0	24.7	21.0	90.0	−15.0	61.5
Acre	3.8	10.0	11.6	163.2	16.0	205.3
Amazonas	3.9	5.6	8.7	43.6	55.4	123.1
Roraima	0.6	0.8	16.2	33.3	1925.0	2600.0
Pará	5.7	7.2	8.5	26.3	18.1	49.1
Amapá	3.8	4.6	11.3	21.1	145.7	197.4
Tocantins	na	4.1	3.5	na	−14.6	na
Maranhão	1.3	2.6	3.5	100.0	34.6	169.2
Piauí	1.3	1.5	1.4	15.4	−6.7	7.7
Ceará	3.3	2.8	4.1	−15.2	46.4	24.2
Rio G. Norte	4.2	3.7	5.1	−11.9	37.8	21.4
Paraíba	4.4	5.5	6.4	25.0	16.4	45.5
Pernambuco	13.5	21.9	25.8	62.2	17.8	91.1
Alagoas	10.5	13.1	13.4	24.8	2.3	27.6
Sergipe	2.7	2.7	11.7	0.0	333.3	333.3
Bahia	1.8	3.4	6.1	88.9	79.4	238.9
Minas Gerais	2.8	2.5	3.2	−10.7	28.0	14.3
Espírito Santo	6.0	10.8	19.1	80.0	76.9	218.3
Rio Janeiro	13.3	17.1	37.9	28.6	121.6	185.0
São Paulo	4.3	8.0	11.3	86.0	41.3	162.8
Paraná	6.0	5.5	7.5	−8.3	36.4	25.0
Sta. Catarina	2.9	3.2	3.6	10.3	12.5	24.1
Rio G. Sul	3.0	5.0	10.0	66.7	100.0	233.3
Mato G. Sul	10.5	9.8	14.3	−6.7	45.9	36.2
Mato Grosso	2.9	10.0	9.6	244.8	−4.0	231.0
Goiás	7.4	8.9	9.4	20.3	5.6	27.0
DF	6.0	12.6	22.1	110.0	75.4	268.3

Source: Ministry of Health/Datasus/SIM, in Catão 1999: 57   na = not available

Table 5: Homicide rate and gender, Brazil, 1990–1995

	Homicide Rate Total	Homicide Rate Men	Homicide Rate Women
1980	11.7	21.2	2.3
1981	12.9	23.4	2.5
1982	12.9	23.4	2.5
1983	14.1	25.6	2.7
1984	15.6	28.8	2.7
1985	14.9	27.3	2.6
1986	15.5	28.6	2.7
1987	17.1	31.7	2.8
1988	17.0	31.4	2.9
1989	20.5	38.1	3.3
1990	22.0	40.9	3.5
1991	20.8	38.3	3.6
1992	19.1	35.3	3.2
1993	20.3	37.4	3.4
1994	21.3	39.3	3.7
1995	23.9	44.0	4.2
1996	23.7	43.5	4.4

Source: Ministry of Health/Datasus/SIM, in Catão 1999: 38

Table 6: Change in homicide rate and age, Rio de Janeiro, 1980–1995

	Average Rate 1980–1984	Average Rate 1985–1989	Average Rate 1990–1995	Change (%) 85–89/80–84	Change (%) 90–95/85–89	Change (%) 90–95/80–84
Total	20.7	26.3	47.0	27.05	78.71	127.05
0–9	0.6	0.6	0.9	0.00	50.00	50.00
10–14	1.9	2.4	4.8	26.32	100.00	152.63
15–17	15.2	22.4	55.5	47.37	147.77	265.13
18–21	38.4	52.3	99.0	36.20	89.29	157.81
22–24	44.6	54.3	100.7	21.75	85.45	125.78
25–29	44.5	55.3	85.4	24.27	54.43	91.91
30–34	37.7	51.0	70.1	35.28	37.45	85.94
35–39	30.4	38.4	57.9	26.32	50.78	90.46
40–44	24.5	26.8	43.7	9.39	63.06	78.37
45–49	19.8	22.0	35.0	11.11	59.09	76.77
50–59	14.4	14.6	22.6	1.39	54.79	56.94
60 and +	10.1	9.9	11.4	–1.98	15.15	12.87

Source: Ministry of Health/Datasus/SIM, in Catão 1999: 51

Table 7: Change in homicide rate and age, São Paulo, 1980–1995

	Average Rate 1980–1984	Average Rate 1985–1989	Average Rate 1990–1995	Change (%) 85–89/80–84	Change (%) 90–95/85–89	Change (%) 90–95/80–84
Total	18.8	26.6	30.4	41.49	14.29	61.70
0–9	1.0	1.0	1.0	0.00	0.00	0.00
10–14	2.2	3.8	3.5	72.73	–7.89	59.09
15–17	18.3	33.6	38.3	83.61	13.99	109.29
18–21	38.3	62.4	73.3	62.92	17.47	91.38
22–24	39.6	55.3	69.8	39.65	26.22	76.26
25–29	36.3	50.6	61.7	39.39	21.94	69.97
30–34	33.3	45.4	48.7	36.34	7.27	46.25
35–39	27.9	38.0	40.8	36.20	7.37	46.24
40–44	23.3	29.1	31.3	24.89	7.56	34.33
45–49	19.4	21.3	24.4	9.79	14.55	25.77
50–59	14.6	16.2	16.0	10.96	–1.23	9.59
60 and +	9.0	9.9	8.4	10.00	–15.15	–6.67

Source: Ministry of Health/Datasus/SIM, in Catão 1999: 51

Table 8: Change in homicide rate, City of São Paulo, 1996-1999

District	1996	1999	Dif.%	District	1996	1999	Dif.%
Jardim Angela	94.42	116.23	23.10	Vila Leopoldina	37.77	49.61	31.37
Sé	89.42	107.62	20.35	Pirituba	41.58	49.23	18.38
Cidade Ademar	90.79	106.06	16.82	Cidade Líder	41.72	49.02	17.50
Jardim São Luis	69.90	103.75	48.42	Limão	36.92	48.88	32.40
Iguatemi	54.56	100.11	83.47	Bom Retiro	36.00	48.69	35.27
São Rafael	60.10	96.16	60.00	Jaraguá	46.36	48.56	4.76
Grajaú	60.17	95.62	58.93	Ermelio Matarazzo	37.08	48.40	30.51
Campo Limpo	80.23	93.83	16.96	Cangaiba	24.52	47.95	95.52
Brás	37.52	93.47	149.16	Vila Prudente	38.85	47.84	23.16
Capão Redondo	86.39	93.02	7.67	Vila Sônia	42.88	47.51	10.79
Brasilândia	80.34	92.31	14.90	São Lucas	26.28	47.24	79.74
Parelheiros	66.66	91.52	37.29	Aricanduva	29.54	46.89	58.76
CidadeTiradentes	54.12	88.88	64.22	Ponte Rosa	31.49	45.45	44.35
Pedreira	65.87	82.09	24.61	Vila Guilherme	29.90	45.01	50.55
Morumbi	77.85	81.71	4.96	Campo Grande	51.87	44.41	−14.38
Cidade Dutra	70.37	80.64	14.58	Barra Funda	34.88	43.46	24.59
Cachoeirinha	68.17	77.75	14.05	São Domingos	39.78	42.12	5.88
Sapopemba	46.70	77.68	66.35	Santo Amaro	55.58	42.02	−24.41
Itaim Paulista	63.09	76.82	21.77	Freguesia do Ó	33.03	41.78	26.50
Jaçanã	47.98	76.39	59.21	Tucuruvi	24.53	38.44	56.74
Rio Pequeno	66.40	74.51	12.20	Casa Verde	37.12	38.15	2.79
Parque do Carmo	48.10	72.70	51.14	Penha	24.43	37.71	54.40
Guaianazes	92.16	72.62	−21.21	Anhanguera	31.55	36.01	14.13
Sacomã	63.19	67.45	6.74	Belém	32.89	32.10	−2.41
Artur Alvim	47.99	66.83	39.26	Mandaqui	23.55	30.77	30.69
Vila Jacuí	58.01	65.67	13.19	Butantã	28.04	30.74	9.65
Vila Maria	38.88	64.48	65.85	Cambuci	12.47	29.41	135.85
Itaquera	58.54	64.47	10.12	Tatuapé	16.78	28.99	72.74
Lajeado	63.23	64.45	1.93	Lapa	22.24	28.06	26.15
São Miguel	43.36	63.96	41.02	Vila Matilde	27.17	28.01	3.10
São Mateus	65.60	62.35	−4.95	Vila Formosa	32.83	26.91	−18.02
Jaguaré	44.33	61.95	39.73	Campo Belo	43.59	26.88	−38.33
Jardim Helena	57.43	61.79	7.59	Mooca	23.50	26.11	11.11
José Bonifácio	33.69	60.98	81.03	Bela Vista	38.54	25.49	−33.86
Socorro	54.74	59.70	9.07	Agua Rasa	15.00	21.42	42.78
Vila Curuçá	49.73	59.08	18.80	Consolação	17.07	19.60	14.82
Tremembé	30.72	57.80	88.18	Pinheiros	12.95	19.49	50.57
República	40.28	57.11	41.78	Santana	29.55	19.27	−34.80
Jabaquara	69.69	57.05	−18.14	Itaim Bibi	22.59	19.18	−15.09
Vila Medeiros	35.07	55.69	58.81	Saúde	21.23	19.16	−9.75
Pari	51.85	54.16	4.45	Carrão	25.19	18.19	−27.78
Perus	46.89	53.79	14.71	Liberdade	13.99	18.04	28.95
Ipiranga	30.86	53.55	73.52	Alto de Pinheiros	15.80	16.49	4.37
Jaguará	31.10	53.02	70.45	Perdizes	9.64	14.73	52.82
Raposo Tavares	47.03	50.74	7.89	Santa Cecília	27.70	13.75	−50.35
Marsilac	80.94	50.70	−37.36	Vila Mariana	15.30	11.55	−24.53
Cursino	48.05	50.09	4.25	Garden Paulista	6.72	8.22	22.30
Vila Andrade	38.80	50.07	29.05	Moema	14.84	4.11	−72.26

Source: Seade Foundation

Table 9: Change in homicide rate, metropolitan region of São Paulo, 1996-1999

City	1996	1999	Difference %
Diadema	129.49	149.76	15.65
Embu-Guaçú	61.68	136.57	121.41
Itapeceria da Serra	111.19	105.70	−4.93
Itapevi	54.87	93.76	70.88
Barueri	49.90	92.59	85.55
Francisco Morato	51.04	86.56	69.59
Jandira	45.26	83.29	84.02
Itaquaquecetuba	66.05	82.89	25.50
Embu	105.19	81.50	−22.53
Taboão da Serra	64.80	78.09	20.51
Guarulhos	56.66	72.13	27.30
Osasco	58.69	69.41	18.28
Mauá	57.30	67.64	18.05
Rio Grande da Serra	34.63	66.40	91.73
Cotia	30.81	59.70	93.79
São Bernado do Campo	56.02	58.86	5.07
Santana do Parnaíba	33.39	57.89	73.35
Santo André	44.29	53.84	21.55
Carapicuíba	47.08	53.68	14.02
Ferraz de Vasconcelos	39.51	47.97	21.41
Cajamar	44.92	44.01	−2.03
São Lourenço da Serra	29.74	43.57	46.54
Aruja	35.66	43.52	22.05
Juquitiba	32.09	43.44	35.40
Mairiporã	50.30	42.94	−14.62
Suzano	36.04	41.87	16.16
Franco da Rocha	64.23	41.54	−35.33
Poá	29.54	37.96	28.51
Caieiras	24.50	33.00	34.67
Ribeirão Pires	28.77	28.58	−0.65
Santa Isabel	33.89	27.64	−18.44
Pirapora do Bom Jesus	47.85	25.03	−47.70
São Caetano do Sul	17.86	23.60	32.15
Guararema	22.23	22.20	−0.12
Vargem Grande Paulista	37.80	21.75	42.45
Mogi das Cruzes	29.17	21.42	−26.57
Biritiba Mirim	24.95	14.01	−43.85
Salesópolis	7.55	–	−100.00

Source: Seade Foundation

REFERENCES

ABRANCHES, S. 1994. A Alienação da Autoridade: notas sobre violência urbana e criminalidade. In Reis Velloso, João Paulo (ed.), *Governabilidade, Sistema Político e Violência Urbana*. Rio de Janeiro: José Olympio Editora.

ADORNO, S. 1999. Insegurança versus Direitos Humanos: entre a leie a ordem. *Tempo Social* 11(2): 129-153.

ADORNO, S. 1998. Consolidação Democrática e Políticas de Segurança Pública no Brasil: rupturas e continuidades. In Zaverucha, Jorge (ed.), *Democracia e Instituições Políticas Brasileiras no Final do Século XX* Recife: Edições Bagaço.

ADORNO, S. 1983. A Criminalidade Violenta urbana no Brasil: um recorte temático. *Boletim Informativo Bibliográfico* 35: 3-24.

ÀLVARES, ÉLC. 2000. O Ministério da Defesa e a Segurança Pública. In Reis Velloso, João Paulo e Albuquerque, Roberto Cavalcanti (eds.), *Pobreza, Cidadania e Segurança*. Rio de Janeiro: José Olympio Editora.

BRICEÑO-LEON, R., CARNEIRO, L. AND CRUZ, J. M. 1999. O Apoio dos cidadãos à ação extra-judicial da polícia no Brasil, em El Salvador e na Venezuela, in Pandolfi et al. 1999.

CARDIA, N. 2000. *Urban Violence in São Paulo*. Washington, DC: Woodrow Wilson Center.

CARDIA, N. 1999. *Atitudes, Valores e Normas Culturais em Relação à Violência*. Brasília: Ministério da Justiça, Secretaria de Estado dos Direitos Humanos.

CATÃO, Y. 1999. *Mortes Violentas: Um Panorama dos Homicidios no Brasil*. Manuscript. Rio de Janeiro: IBGE.

CEDEC. 1997a. Mapa de Risco da Violencia - Cidade do Rio de Janeiro.

CEDEC. 1997b. Mapa de Risco da Violencia - Cidade de Salvador.

CEDEC. 1996a. Mapa de Risco da Violencia - Cidade de Curitiba.

CEDEC 1996b. Mapa de Risco da Violencia - Cidade de São Paulo.

CPDOC-FGV/ISER. 1997. *Lei, Justiça e Cidadania - direitos, vitimização e cultura política na Região Metropolitana do Rio de Janeiro*. Rio de Janeiro: CPDOC-FGV/ISER.

FLORES, M. C. 1992. *Bases para uma Política Militar*. Campinas: Editora da Unicamp.

GAROTINHO, A. 1998. *Violência e Criminali-dade no Estado do Rio de Janeiro*. Rio de Janeiro: Hama.

IBGE. 1988. *Participação Político-Social 1988, volume 1: Justiça e Vitimização*. Brasília: Ministério da Economia, Fazenda e Planejamento.

IBGE. 1972. *Anuário Estatístico* 1972.

IISS. 1994. *The Military Balance*, 1994-1995.

KAHN, T. 1998. Pesquisas de Vitimização. *Revista do ILANUD* 10.

MARICATO, E. 1995. *Metrópole na Periferia do Capitalismo: ilegalidade, desigualdade e vio-lência*. São Paulo: Hucitec.

MESQUITA NETO, P. 2000 (Forthcoming). Police, Armed Forces and Democracy in Brazil. In Amir, Menachem and Einstein, Stanley (eds.), *Policing, Security and Democracy*. Huntsville, TX: OICJ Press.

MESQUITA NETO, P. 1999. Fuerzas Armadas, Policias y Seguridad Publica en Brasil: insti-tuciones y politicas gubenamentales. In Rut Diamint, (ed.). *Control Civil y Fuerzas Armadas en las nuevas democracias lati-noamericanas*. Buenos Aires: Universidad Torcuato Di Tella e Nuevohacer.

MESQUITA NETO, P.1999. Policiamento Comunitário: A Experiencia em Sao Paulo. *Revista Brasileira de Ciencias Criminais* 7(25): 281-292.

MESQUITA NETO, P. 1995. From Intervention to Participation: The Transformation of Military Politics in Brazil, 1974-1992. Ph.D. Dissertation. Columbia University, New York.

MUNIZ, J. ET AL. 1997. Resistências e Dificuldades no Programa de Policiamento Comunitário. *Tempo Social* 9(1): 197-213.

OLIVEN, R. G. 1980. A Violência como mecan-ismos de dominação e como estratégia de sobrevivência. *Dados - Revista Brasileira de Ciências Sociais* 23(3): 371-376.

PAIXÃO, A. L. 1986. Crime, Controle Social e Consolidação da Democracia: As Metáforas da Cidadania. In Reis, Fábio Wanderley and O'Donnell, Guillermo (eds.). *Democracia no Brasil: Dilemas e Perspectivas*. São Paulo: Edições Vértice.

PANDOLFI, D. C., CARVALHO, J. M., CARNEIRO, L. P. AND GRYNSZPAN, M. (EDS.). 1999. *Cidadania, Justiça e Violência*. Rio de

Janeiro: Fundação Getúlio Vargas Editora.

PINHEIRO, P. S. 2000. Brazil: The Burden of the Past; The Promise of the Future. *Daedalus* 129(2): 119-143.

PINHEIRO, P. S. 1996. O Passado não está morto: nem passado é ainda. Em Gliberto Dimenstein, *Democracia em Pedaços: Direitos Humanos no Brasil*. São Paulo: Companhia das Letras.

PINHEIRO, P. S. AND MESQUITA NETO, P. 1999. *Primeiro Relatório Nacional sobre os Direitos Humanos no Brasil*. Brasília: Ministério da Justiça.

PINHEIRO, P. S. AND MESQUITA NETO, P. 1998. Direitos Humanos no Brasil: Perspectivas no final do século. *Pesquisas 11 - Cinquenta Anos da Declaração Universal de Direitos Humanos*.

PINHEIRO, P. S. AND MESQUITA NETO, P. 1997. Programa Nacional de Direitos Humanos: Avaliação do Primeiro Ano e Perspectivas. *Estudos Avançados* 30.

PINHEIRO, P. S. ET AL. 1998. *São Paulo Sem Medo* (Rio de Janeiro: Garamond).

SILVA FILHO, JOSÉ VICENTE. 2000. Reflexões para uma política nacional de segurança pública. In Reis Velloso, João Paulo e Albuquerque, Roberto Cavalcanti (eds.), *Pobreza, Cidadania e Segurança*. Rio de Janeiro: José Olympio Editora.

SOARES, L. E. ET AL. 1996. *Violência e Política no Rio de Janeiro*. Rio de Janeiro: ISER e Relume Dumará.

VIDIGAL, A. F. 1989. Las Nuevas Fuerzas Armadas y los Nuevos Problemas de La Seguridad. *Documentos de Trabajo* 8. Santiago, Chile: Comision Sudamericana de Paz.

WEFFORT, F. 1980. Atitude diante da violência. *Ciência Penal* 1: 122-130.

ZALUAR, A. 1999. Violência e Crime. In Miceli, Sérgio (ed.), *O que ler na Ciência Social Brasileira, 1970-1995 - Antropologia, Volume 1*. São Paulo e Brasília: Editora Sumaré e Capes.

ZVEKIC, U. & FRATE, A. ALVAZZI DEL (eds.). 1995. C*riminal Victimisation in the Developing World*. Rome: United Nations Interregional Crime and Justice Research Institute.

Web Sites

Fundação Seade [Seade Foundation]: www.seade.gov.br
Ministério da Justiça [Ministry of Justice]: www.mj.gov.br
Ministério da Saúde/Datasus [Ministry of Health, Datasus]: www.datasus.gov.br

The Growth, Extent and Causes of Crime: Moçambique

Luis Antonio Mondelane

INTRODUCTION: SOCIETY IN TRANSITION

This paper addresses the growth, extent and causes of crime in Moçambique. An updated reading of the social and cultural realities of the country is essential for a comprehensive understanding of the causes of crime and, consequently, for the search for an adequate remedy to tackle the problem. Such a reading is, however, not possible in this context, but a brief overview shall be given.

The growth of crime is a matter of great concern to all who are confronted with the increasing rate of crime, violence and fear in our societies. It is a phenomenon that is not exclusive to industrialised societies but also affects developing countries. Pressures arising from the globalisation process are, among others, factors of crime development in quantity, variety and complexity. Globalisation brings with it, or at least gives way to, a new scenario: namely, international and organised crime.

The growth of crime is associated with rapid economic development, consumerism, the growth of cities and a degeneration of the social fibre.

It is therefore a common concern of people of good will to try to understand the growth, extent and causes of crime, in order to find adequate mechanisms for fighting both crime and violence.

Moçambique is a society in transition, since the time of independence – 25 June 1975 – until the present day. As a result, the nature and extent of crime is characterised by transition. Two different phases should be highlighted when examining the transition period: first is the revolutionary phase when the socialist pro-

ject in the country was being implemented – from 1975 to 1987. The second, starting from 1987 and extending to the present, is the transformation from a planned to a market economy, from one-party state democracy to multi-party and plural democracy. The first phase is the transition from a colonial-capitalist society to socialism and the second, from socialism to market democracy.

The revolutionary period corresponds with the last stage of development of African nationalism that culminated in the independence of former colonial territories on the continent. Regardless of limited resources, the state still had strong capacity to fulfil the role of leading social transformation through law. The state was almost omnipresent through mechanisms of social representation such as community organisations for self-defence, popular vigilance and crime fighting. Similarly, the people's justice system was an important instrument for the assurance of peace and tranquillity in society.

In a society in transition, crime is also of a transitional character. Pillage, sabotage of economic infrastructures and the system of distribution of goods and food, appropriation of state funds and property, were the most frequent economic and financial crimes. Considering that private property was an exception, one can easily understand the reason for the high figures in this field. Crimes against life or physical integrity must also to be taken into account. They were, however, under the control of the state and society due to existing mechanisms of crime prevention. Those mechanisms were assured through people's participation in the

decision-making process and its implementation – through permanent contact and accountability of state agents to their governors. The latter had power to control those in charge of running public affairs. The late Samora Machel, while addressing members of the transitional government, wisely stated that power can corrupt even the most honest man.[1]

Development factors associated with the demographic explosion as an enabling environment for the growth of crime were reinforced in the Moçambican context by a civil war that was waged from 1976 to 1992. The war cost millions of lives and destroyed vital economic plants and infrastructure.

As a consequence of the war, thousands of citizens were forced to abandon their homes seeking refuge in neighbouring countries. Others were internally displaced and forced to live in main urban centres, thus overwhelming social services such as health, education, transport and basic food distribution. The collapse of economic and social infrastructures was worsened by the deterioration of social ethics and moral values, giving way to a criminal mentality. Also, a growth in crime does not necessarily result in increased capacity building for law enforcers, particularly for police and the courts.

The praised values of African and social solidarity were replaced by individualistic, selfish principles like easy money and making fast fortunes without the requisite work or sacrifice. Some years ago, young people would say they aspired to be doctors, lawyers, military men or professors. Today, the youth simply say they want to be rich, revealing a materialistic and selfish trend in society. This assertion is made without taking into account the need for any reasonable professional activity in order to realise such an expectation. One can argue that this is a natural expectation, without any negative elements within. However, considering that such an aim is to be achieved at any price, by whatever means and as quickly as possible, we come to understand that a rich man is now the elected hero of society – the new hero. (Ferreira 1993: 124).

This is the main characteristic of the second period where society is going through a process of transition from a planned to a free market economy. From a situation where the state was providing basic services and basic needs to the population at a symbolic price, we have moved

to a situation where the state holds the symbolic role of guaranteeing law and order. The slim presence of the state and the absence of social pressure against antisocial behaviour provide fertile conditions for the continuous growth of crime.

Corruption is now becoming a problem demanding careful attention. It is a social cancer affecting the state apparatus, the judiciary and the society *en masse*. Corruption can seldom be seen overtly, but it is still present. Due to its bilateral nature, active and passive agents of crime tend to compromise. Disclosure of such agreement only takes place when one part is seriously harmed by another's miscarriage. Bribery, nepotism and the appropriation of public property, for example, are mentioned in private, but seldom brought to court.

1. THE EXTENT OF CRIME

"I made the land safe, so that a lone woman could go her way freely, and none would molest her. I rescued the humble from their oppressors. I made every man safe in his home. I preserved the lives of those who sought my court of justice. The people were well content under my rule" (Ramses III, 1200 BC).[2]

There is no clear-cut system for measuring the increasing rate of crime.The perceived level of insecurity, the disturbance of public order, fear to walk in the streets or to travel in places in towns and rural areas, are all clear indications of the presence of criminal activities. For scientific purposes, however, these indications cannot provide a reasonable instrument for measuring the level of crime. This is the place of statistics, regardless of the circumspection and scepticism surrounding the analyses.

Such scepticism is justified on the grounds that statistics cannot reflect the real complexity of crime. Sometimes, only a small percentage of criminal activity can be perceived through statistics; that is, crimes reported to the police, passed on to the public prosecutor and referred to the courts.

With this in mind, we will review Moçambique's criminal records for the past decade. The number of cases entered into the court system increased from 18 914 cases in 1990, to 22 8853 the following year. From 1992 with 20 210, the number of cases dropped to 10 510 in 1996. In 1997, the data almost doubled from

Table 1: Criminal cases in provincial courts

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Not decided	51 992	61 048	70 249	78 270	84 560	76 468	82 426	81 323	91 831	98 915
Entered	18 914	22 853	20 210	16 744	13 230	12 146	10 510	21 564	14 491	14 712
Decided	9858	13 652	12 189	10 454	21 322	6188	11 613	11 056	7407	7387
Transferred	61 048	70 249	78 270	84 560	76 468	82 426	81 323	91 831	98 915	106 240

the previous year to 21 564, then decreased over the following years to 14 491 in 1998 and 14 712 in 1999. (*See Table 1.*)

Again, one clarification has to be made. The above analyses have considered only cases brought to the court system. They therefore do not include the large number of crimes reported to the police but for whatever reason (lawful or not) were not taken further, or cases referred to the public prosecutor's office and not transferred to the courts. Moreover, they do not include data of so-called "grey crimes" – i.e. the considerable amount of crimes not reported to the competent authority and rather dealt with by alternative mechanisms of dispute resolution (e.g. at family level, or by local, traditional or religious authorities).

Regarding the extent of crime, it is not possible to enumerate here on all the categories of crime as prescribed by law. Crimes against property, life and physical integrity are, however, the most frequent cases. In addition, economic crimes are increasingly evolving. Fraud resulting in the withdrawal of large quantities of money from the state system, public or private banks, armed robberies and motor vehicle robberies, are frequently reported, especially in the major cities such as Maputo, Beira, Nampula and Nacala.

Drug trafficking cases are also reported almost every year. Several factors have led to this situation, an important factor being the strategic location of Moçambique: its long coastline and the existence of many natural ports makes the country a preferable transship-

ment spot for the large quantities of drugs produced in and exported from the Asian continent, destined for sale in Africa and Europe.[3]

Drug trafficking is associated with corruption and money laundering. A considerable amount of money is generally used in bribery aimed at removing barriers. From migration and customs officers to police of any kind, public prosecutors and judges are elected targets of this new criminal activity.

When examining cases submitted to the courts, it is clear that a diligent effort has been made to sabotage the legal process. In many cases, judges are confronted with incomplete or tampered with files. The responsible persons are often permitted to leave the country, even when caught in the act. In most cases only people with minor responsibility – e.g. those used in the process of transportation or simple guards of the premises – are arrested and charged. Drug trafficking is, however, a crime where the victim is the whole society.

2. CAUSES OF CRIME
For the purpose of clarity and objectivity, the causes of crime can be grouped into exogenous and endogenous causes. Exogenous factors are externally determined factors which create an adequate environment for crime. Endogenous factors are those generated within society.

The new world economic order, represented by globalisation and the imposition of market economy and structural adjustment through polices of the Bretton Woods institutions, has placed tremendous pressure on peripheral

Table 2: Evolution of criminal cases

	1991/90	1992/91	1993/92	1994/93	1995/94	1996/95	1997/96	1998/97	1998/98
Not decided	117.4	115.1	111.4	108.0	90.4	107.8	98.7	112.9	107.7
Entered	120.8	88.4	82.9	79.0	91.8	86.5	205.2	67.2	101.5
Decided	138.5	89.3	85.8	204.0	29.0	187.7	95.2	67.0	99.7
Transferred	115.1	111.4	108.0	90.4	107.8	98.7	112.9	107.7	107.4

economies and on social life, thereby negatively affecting developing countries. The shift of decision centres from the state to economic monopolies or transnational entities has debilitated the state. Economic globalisation has rendered national control meaningless, especially in developing countries.

> "It has made the decision-making autonomy of governments vulnerable to choices made elsewhere, over which they have little influence or power" (Faria 2000).[4]

Additionally, the privatisation process removed the self-funding capacity of the state, thereby affecting social programmes like providing for basic needs such as health care, education, housing and social security. Furthermore, privatisation has resulted in vast numbers of unemployment and a large number of complaints over compensation that have erupted in labour disputes.

The new economic order is therefore an external imposition to developing countries resulting in large numbers of jobless that, associated to the ever-growing cost of living, is conducive to criminal activity.

Endogenous causes comprise a combination of distinct elements. We do not aim here to provide a scientific or even a systematic set of causes, nor do we intend to provide an analysis of the individual causes. Rather, we shall refer to some general social factors leading to crime. As referred to above, an up-to-date reading of the current social reality is essential for identification of the causes, especially after the violent and large-scale displacement as a consequence of war.

This being said, it has been pointed out that excessive consumption of alcohol is often associated with crime: most reported murders are committed after the abusive use of alcohol. This is a problem affecting both urban and rural areas. The consumption of alcohol is traditionally pervasive and socially acceptable. It may be argued that it is not a cause per se, but rather a factor that creates an enabling environment for crime.

Another endogenous factor is the considerable weight of tradition regarding sorcery. Witch doctors alleging that a particular person has caused misfortune to someone have inspired a significant number of crimes. As globalisation strips away social and moral values, replacing them with values attached to a

market economy, sorcery is increasingly gaining popularity in society. The reason may be that people seek refuge in what has remained in terms of African identity.

Moçambican society is still in the process of mending its war wounds. The war generated large quantities of arms that are now being used either for trafficking or violent crimes.

Moreover, large caches of weapons and ammunitions are found in the forests, providing a permanent source for arms dealers. The government has instituted a project to transform guns into farming tools. Considerable amounts of armament were located and destroyed as a result, but there is still a long way to go in the struggle to remove weapons from the wrong hands.

Another important cause of crime is the fact that, for long periods, people were subjected to violence and war. The consumption of marijuana by combatants has created a "readiness" to resort to crime and violence, especially when associated with alcohol. In regions deeply affected by war in the past, violent murders are frequently reported. The situation calls for a careful examination of the process of social reintegration of former combatants, especially child soldiers.

3. COPING WITH CRIME

It is important to mention current developments in Moçambique that are aimed at tackling the increasing crime rate. Education is regarded as fundamental for achieving good results in fighting crime. It is in this spirit that a police academy was created to train police members, including criminal investigation officers. Similarly, an institution for judicial education was set up and is currently preparing its first course. Judges (magistrates), public attorneys, defenders, clerks and other justice officials and prison guards will attend the centre. Due to a serious shortage of trained personnel, the centre will primarily provide basic training courses for judges and attorneys serving district courts, and who have no legal education. The centre will also provide induction courses for lawyers embracing the judiciary.

Joint training programmes for all those involved in the administration of justice are regarded as highly important. These programmes enhance friendship and good cooperation in the course of work.

Drug trafficking is also associated with the consumption of drugs. To tackle this problem a central body was created, tasked with coordinating efforts aimed at combating crime.

Even assuming that well-trained personnel are available in the country, a shortage of resources will still present a great problem. It is clearly understood that Moçambique cannot cope alone with highly organised international crime. As a result, solid cooperation in combating crime is fundamental among countries in the region and at international level. A single country, especially in the developing world, cannot eradicate organised and cross-border crime. It requires joint efforts, good cooperation, law enforcement and crime combating endeavours. Countries need to meet regularly to exchange information and technology so that positive results can be achieved. Different legal systems, languages and sometime cultures should not deter the creation of meaningful relationships. Friendship, when inspired by the same ideals and goals such as fighting crime and developing peace and stability in societies, is achievable.

CONCLUSION

Is there a better society; a society without misery, abject poverty, joblessness, violence and crime? The well-known assertions that every society has its deserving criminals (Lacassagne) or that society has the criminals that it wants (H Becker) are no longer accurate. Societies are now part of a global network. As referred to above, exogenous factors play an important role in creating an enabling environment for crime. The disintegration of the traditional family, of the social fibre and of solidarity are also elements conducive to crime.

Globalisation has blurred national boundaries. Cross-border criminal organisations are flourishing and operating in various regions simultaneously. In addition, products of crime are transported from one country to another, within the region or transhipped to distant places. Furthermore, it can be asserted that the media and movie industry, which exposes scenes of violence and crime, are unfortunately inspiring criminals.

The crime rate is growing quantitatively and in complexity, but it is not followed by a respective strengthening of the institutional capacity to combat it. The police, the first line enforcers, public attorneys and the court system are not equipped with adequate tools for combating crime. Providing the police and the court system with well-trained personnel and the necessary resources, is vital for tackling crime in a society in transition.

Finally, corruption is a social cancer that demands immediate eradication. A global problem requires a global solution. Industrialised and developing countries must combine efforts if good results are to be expected.

ENDNOTES

1) Samora Machel, 1983: 12 *A luta contra o subdesenvol vimento*, "Material, moral and ideological corruption, bribery, the search for self comfort, nepotism – that is, favours on the grounds of particular friendships or preferences in job allocation favouring family members, friends or people from one's own area are part of the system of life that we want to destroy … Everyone who diverts from our political line will have no tolerance from us. We will be intransigent … We will not hesitate in exposing him to people harmed by his behaviour."

2) John Henry Wigmore, The Egyptian Legal System, 1, *A Panorama of the World's Legal Systems,* 14-15 (West Publ:1982).

3) To illustrate the ever-growing number of cases of narcotraffic, the following examples are offered:

   Case A: 1993 – 10 containers of goods (clothes) imported from India, were apprehended by police – 50 000 metaquolon, mandrax pills were found.

   Case B: 1995 – 40 tons of haxixe (drug extracted from cannabis sativa) in two containers were apprehended by the police. The product was packed in boxes normally used for cashew nut exports. The man escorting the truck was arrested. Another, arrested and charged, was found innocent. Similarities of names (with the real owner of goods) led to his arrest.

   Case C: 1996 – a drug plant for the fabrication of mandrax was dismantled by police in Matola and 10 Pakistanis were arrested. The public prosecutor assigned to the case was expelled after freeing detainees.

   Case D: 1998 – 12 tons of haxixe was transshiped in Quissanga, in the northern province of Cabo Delgado. Many were arrested and charged in connection with the crime. Again, the real owners were not found.

4) José Eduardo Faria, Judicial power in law and society: draft for discussion on comparative judicial policy 2000: 1.

The Growth, Extent and Causes of Crime: Ukraine

Igor Zhdanov

INTRODUCTION

This paper will address the characteristics of the current fight against crime in Ukraine, the major problems facing Ukrainian law-enforcement agencies, factors affecting the fight against crime and potential crime-fighting activities.

Many of the statistics quoted below are derived from the work and surveys conducted by the Ukrainian Centre for Economic and Political Studies (UCEPS), which I represent. The UCEPS is a public non-governmental organisation engaging in studies in the fields of foreign and domestic policy, national security and defence.

1. CHARACTERISTICS OF THE CURRENT FIGHT AGAINST CRIME AND MAJOR PROBLEMS FACING UKRAINIAN LAW ENFORCEMENT AGENCIES

In 1999 and early 2000, the UCEPS managed to consolidate positive trends that have showed up over the past few years. From 1996 to 1999, the number of registered criminal offences decreased by 100 000. There were fewer registered intended murders, including assasinations, with the proportion of murders disclosed increasing from 13% in 1995 to 89% in 1999. Juvenile crime has shown a declining trend.

The fight against organised crime is ongoing: 870 tough criminal groups involving 3200 members were neutralised in 1995, while in 1999, 1160 criminal groups numbering 5000 active members were disclosed by law enforcement agencies.

If we compare the crime rate calculated per 10 000 people, we find that Ukraine is in a better position than its neighbours. In 1999, this figure for Poland was 290 criminal offences per 10 000 people; for Russia – 205; Romania – 157; Belarus – 117; and for Ukraine – 111. However, the problem of combating crime continues to challenge law enforcement agencies and is of great concern to society as a whole.

According to an All-Ukrainian sociological survey conducted by the UCEPS in June 2000, combating crime is a problem of the greatest concern to 47.4% of Ukrainian citizens; while 31% of the respondents worry about bribery and corruption in agencies of state power and administration.

It should be emphasised that the above-mentioned problems rank five and six respectively according to priority and rank just after problems of declining standards of living, wage and pension arrears, unemployment, etc.

We turn now to the major problems facing law enforcement agencies and that contribute to the high crime rate.

The first major problem is the unacceptably high proportion of serious crimes. In 1999, this figure amounted to about 33% of the total number of registered criminal offences. This figure increased almost 2.5 times over the past 10 years. There is no decrease in the number of criminal offences committed by recidivists (22.5%). In 1999, some 1000 criminal offences involved the use of firearms and 123 crimes were committed with the help of explosive devices.

The second major problem is corruption and bribery, which is growing at an alarming rate. In particular, corruption affects the formation and functioning of state authorities, as well as the implementation of state policy, and it is

Number of registered acts of corruption

1000	1900	2200	2400	2600
1990	1995	1997	1998	1999
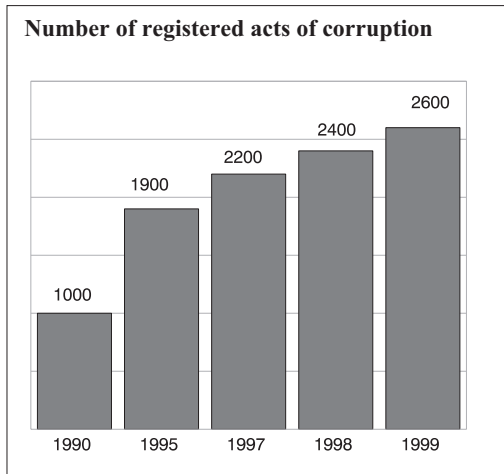
used in political rivalries. The 1990–1999 period saw registered corruption cases growing 2.6 times (*see graph*). According to data of the Procuracy General of Ukraine, in 1999, 2600 acts of corruption were revealed; 768 criminal cases were initiated in court, including 200 concerning grafts accepted by high-ranking civil servants.

The statistics mentioned do not, however, reflect the full situation. The application of the Law of Ukraine "On Corruption" resulted in 5162 administrative law cases being initiated against 4300 civil servants in 1999. During the first quarter of 2000 alone, 2000 protocols on corrupt offences were referred to the courts. The pervasion of corruption is evidenced by the fact that, as indicated by various assessments, entrepreneurs in Ukraine spend 6.5% of their average monthly income to bribe officials. World Bank experts assess the annual sum of bribes in Ukraine to be at the level of a two-month trading turnover of the country.

A serious problem is corruption in the sphere of privatisation. Failure to fulfil investment obligations following the privatisation act creates favourable conditions for corruption. Today, almost every third privatisation agreement is not being fulfilled.

Pervasive corruption in the energy sector may bring this strategically vital industry outside the control of the state. In the first quarter of 2000, 600 criminal offences were disclosed in this sector, with related losses amounting to 60.4 million hryvnias.

A third problem is the growth of crime in the economic sector. In the year 2000, 18 300 economic crimes were disclosed, up 34% from

1999. The crime rate is growing in the banking sector as well: in 1999, violations were found in 713 Ukrainian banks and 88 criminal cases were initiated. In the first quarter of 2000, 37 criminal cases were brought against bank employees.

A fourth major problem is that criminal groupings consider Ukraine as an advantageous route to transport drugs as well as a lucrative drug market. Some 42 000 criminal offences were registered in 1999 (up 2000 compared to 1998), which were connected with illegal drug trafficking; 759 illegal drug-producing sites were eliminated. According to a United Nations assessment, drug sale profits run at $00 annually.

A fifth problem is the growth in illegal migration. In 1999, 14 646 illegal migrants were detained, of whom 11 000 were apprehended on the western border, with the remainder being caught on the Ukrainian–Russian border. Ukraine is clearly becoming a transit route for migrants travelling from Asian countries (Afghanistan, Pakistan, Vietnam, China and Bangladesh) to Western Europe.

In terms of the current fight against crime, it should be noted that in spite of certain positive changes, the problems facing law enforcement agencies in Ukraine are acute and require adequate responses.

2. FACTORS AFFECTING THE FIGHT AGAINST CRIME

UCEPS experts believe that, in particular, the following factors obstruct crime-fighting efforts.

- The legislative regulations for combating crime do not meet the needs of the time. The Ukrainian Criminal Code in force today was adopted in 1961, some 40 years ago. Some of its provisions are outdated and are no longer applied. The Code was prepared under conditions of a plan-based socialist system and does not contain provisions concerning *corpora delicti* of many criminal offences. In particular, it does not apply to criminal offences connected with the peculiarities of market relations, as well as with new crimes involving the use of information technology. (According to assessments presented at the 10th Congress on Crime Prevention that took place in Vienna, April 2000, "computer piracy" generates profits of $00 million annually.)

- Law enforcement agencies are not trained to work under the new conditions. Militia and procuracy officers are not experienced to fight crime in the banking sector or that which is occurring in the privatisation of state property. They have had to learn on-the-job, so to speak, creating specific subdivisions to match current requirements (in particular, subdivisions to fight crime in the economic sector, organised crime, illegal drug trafficking, corruption, etc.).
- Logistical and financial support to law enforcement agencies is not sufficient. On average, monthly remuneration for militia officers stands at $60, which is barely higher than the official minimum wage; wages arrears owed to employees of the Ukrainian Ministry of Internal Affairs stands at 63 million hryvnias (some $2 million) as of 1 July 2000. Law enforcement agencies are short of transportation means, computers and modern communication facilities.
- Faced with the expansion of transnational crime, Ukrainian internal affairs bodies have failed to establish efficient cooperation with their counterparts in other countries. The collapse of the Soviet Union entailed a breakdown of a single system of law enforcement bodies, while criminal elements did not lose their established links and even enhanced the efficiency of their activities due to the "transparency" of borders between the Commonwealth of Independent States (CIS) countries. Furthermore, in the early 1990s Ukrainian crime began its active expansion towards the countries of Western and Central Europe. This factor was not taken into full consideration by law enforcement agencies, lagging behind the growth in crime both in Ukraine and beyond its borders. The Ukrainian Interlope Bureau was only established several years ago.

The above mentioned factors exert a negative influence on the fight against crime, contributing to its expansion.

3. PERSPECTIVES OF THE FIGHT AGAINST CRIME IN UKRAINE

We will now address perspectives on the fight against crime, specific measures taken by law enforcement agencies intended to counteract the above-mentioned negative factors, as well as proposals made by UCEPS experts.

Regarding crime-fighting legislation, the Verkhovna Rada has received a new Criminal Code that takes into consideration present trends in the evolution of crime and that embodies advances make in law science. Draft laws are being prepared to provide for criminal liability in terms of money laundering and to ensure a better reflection of the particularities in the banking sector and the protection of intellectual property rights.

The Ministry of Internal Affairs is developing further cooperation with its counterparts in other CIS countries: the Council of Ministers and the Interstate Anti-terrorist Centre have been established. In 1999, 26 people were extradited based on demands made by the Interlope Bureau. Relevant cooperation agreements have been concluded with Western neighbours, including the Czech Republic, Poland and Hungary.

Ukraine and the European Union have stated the need to extend cooperation in the field of law enforcement, in particular, in the fight against illegal migration, organised crime, and money laundering. A programme entitled Ukrainian–American Cooperation in Combating Corruption and Organised Crime for the 2000–2005 period was signed in July 2000. According to the Ukrainian Ministry of Internal Affairs, this programme is expected to result in fewer wilful murders, assaults, robberies and theft of citizens' private property in the first quarter of 2000.

UCEPS experts believe that necessary and fundamental conditions to counteract corruption include political will on the part of high-ranking state leaders as well as transparency in terms of state power. The absence of these conditions stultifies such counteracting efforts. It is also necessary to solve the following problems:
- Reducing the number of so-called "bribe-inclinable" functions of state administration (issuance of permits, licences, certificates, etc.).
- Defining, through legislation, procedures for taking administrative decisions.
- Ensuring transparency of the decision-making process with the use of competitions, tenders, etc.
- Raising criminal liability for corrupt practices.

To fulfil these tasks, the UCEPS experts suggest the following measures be taken:

- It is necessary to approve legislatively a code of civil servant behaviour, which would embody a system of principles and values of civil service and models of a civil servant's behaviour in certain situations. In particular, such a code should include recommendations in respect of a functionary's proper actions in the event that his/her pecuniary self-interest arises or somebody attempts to offer a bribe to him/her, etc.
- It is necessary to define legislatively and to make transparent the procedure for granting credits guaranteed by state authorities, as well as to make transparent the use of budget funds and to ensure the implementation of laws already enacted.
- Governmental guarantees regarding foreign credits for enterprises (institutions, organisations) should be granted by way of exception and only with Parliament's consent. It is expedient to introduce mandatory public reports by the head of the government on the effectiveness of using such credits (including such reports before Parliament), with detailed information being published in the media.
- Conditions and restrictions in respect of planning Cabinet ministers' spending of the

reserve fund should be clearly determined by law, with a practice of regular reports on the use of such funds introduced.
- Leaders found chargeable with misusing budget funds should be subject (in addition to other sanctions) to penalties which, for example, could amount to 5–10% of the budget expenditures used for inappropriate purposes.
- It is necessary to introduce a practice of declaring gifts received (worth, for instance, more than $0). This would mean fewer opportunities for illegal enrichment on the part of civil servants. UCEPS experts suggest that the media should publish lists of functionaries convicted of corrupt practices, misfeasance, peculation, excess of powers, etc. It would be appropriate to impose a life ban on such persons from taking civil service offices.

CONCLUSION

The fight against crime can only be effective if the political will on the part of state leadership exists and if there are highly proficient law enforcement agencies that interact with society.

I believe this conference will contribute to the cause of combating crime.

The Growth, Extent and Causes of Crime: Northern Ireland

John Brewer

INTRODUCTION

There is a common sense notion in Northern Ireland, permeating the police and sections of the media, which claims that crime is related to "the troubles" only in that paramilitary violence has siphoned off criminals, and once peace comes, the former terrorists will become gangsters for real. Ordinary crime will thus escalate in the future, much as it has in other societies undergoing democratic transition. In this paper, I challenge this common sense view. I briefly outline the pattern of crime trends in Ireland between 1945 and 1995, with particular reference to Northern Ireland. Some of the unique features of crime trends in Northern Ireland will be identified, which help to explain the relatively low level of ordinary crime despite years of civil unrest and communal violence. Stress will be laid on the structures of informal social control that have survived through the conflict, which both help to suppress crime and manage it locally. Contrasts will be made with the structures of informal social control under apartheid, which help to explain the higher levels of crime in South Africa. The paper will end by speculating on the effect the current peace process has on these structures of informal social control in Northern Ireland, and thus the likely patterns of crime that could accompany Northern Ireland's transition.

1. CRIME TRENDS IN IRELAND, 1945–95

Official crime statistics reveal several trends in Irish crime since the Second World War (for greater detail see Brewer, Lockhart and Rodgers, 1997):

- An exponential increase in gross levels of crime in both parts of Ireland from the 1960s. This occurred a decade or so later than in Great Britain and most other industrialised societies.
- A lower crime rate per head of population in both parts of Ireland than in neighbouring British and European countries.
- Historically, a lower crime rate in the north of Ireland compared to the south, despite its higher levels of industrialisation and urbanisation.
- An increase in the crime rate in Northern Ireland a few years before the onset of "the troubles".
- Northern Ireland's crime rate is now higher than the Irish Republic's.
- The persistence of relatively low levels of ordinary crime in Northern Ireland throughout the years of "the troubles" compared to Great Britain and other European and industrialised societies.

These trends pose conundrums both for criminology and commentators on "the troubles" (conundrums addressed explicitly in Brewer, Lockhart and Rodgers, 1999). Of greater interest here though, is the structure of informal social control that persists in Northern Ireland and helps to explain these trends. This structure is such that Northern Ireland was, and in many respects remains, a traditional society and its crime trends need to be set against this cultural backdrop.

Northern Ireland's industrialisation took on traditional forms, being structured by two solidaristic communities segregated by religion. Modernisation expressed itself in traditional

form because it was structured by Northern Ireland's sectarian divide. Religious differences ensured the survival of separate communities. Through such processes as endogamy, residential segregation, distinct cultural and political associations and a segregated school system, the social organisation of the two communities ensured their effortless self-perpetuation in traditional forms. Industrialisation helped sustain these traditional forms by reproducing sectarian division through largely segregated workforces and communal patterns of recruitment. This was often reinforced by the fact that industrial development was mostly located in one or other of the segregated communities. Industrial development in Northern Ireland thus took place in a way that helped to reproduce two close-knit, homogeneous, traditional communities divided by religion.

During the 1950s, however, Northern Ireland's industrial sector changed significantly with the decline in Northern Ireland's old staple industries and the growth of the service sector. With the decline of the traditional industries during the 1950s and 1960s, there simultaneously began an erosion of the traditional communities they helped to reproduce. The forms in which industrialisation had up to that point occurred began to be replaced in the 1960s by a service and public sector that did not so readily reproduce close-knit, segregated traditional communities. Recruitment patterns were not so communally based and tended towards the employment of women and part-time labour. The religious and social boundaries that defined these traditional communities also started to change as sectarian patterns were challenged in the 1960s by the rise of the Catholic middle class, improvements in Catholic access to higher education and the emergence of campaigns for civil rights. This challenge to tradition in the 1960s coincided with social changes of other kinds. The North was receptive to the influence of British mass popular culture delivered by television and other media and cultural links with Britain, and thus also to the social changes influencing Britain's own crime increase in the 1950s.

Once civil unrest broke out in Northern Ireland at the end of the 1960s, the escalation in ordinary crime provoked by the violence increased the crime rate. Paradoxically, the continuance of sectarian strife ensured that the remnants of these traditional close-knit communities survived, reducing the criminogenic effect of civil unrest. Civil unrest intensified some types of ordinary crime, but not all. However, in certain working class areas "the troubles" help to reinforce and reproduce social tradition, thereby protecting the communities from the social dislocation and breakdown occurring elsewhere in Ireland and Britain under the impulse of social and economic change. The survival of traditional social forms in some local contexts mediates the social deprivation that also characterises these same areas, further protecting them from the escalation in crime seen in similarly deprived areas elsewhere.

Civil unrest, in short, has helped to sustain structures of informal social control, reducing the otherwise criminogenic effect of communal violence (this is addressed in greater detail in Brewer, Lockhart and Rodgers 1998).

2. CRIME AND INFORMAL SOCIAL CONTROL

Sociological theories of crime causation are characterised by focusing on the range of social forces that impinge upon and constrain people. Since Robert Park outlined what has become known as the social disorganisation theory of crime causation, senses of community, stability and tradition have been associated with lower levels of crime. The causes of crime are linked to the erosion of social control as a result of social disorganisation, revealing itself in the loosening of neighbourhood, community, family and religious bonds.

These notions are central to the work of Hirschi (1969) and what is known as "control theory". Controls, however, can be formal, as with the courts and police, and informal, where they reside in the social structure of the community.

Unlike formal sanctions, which originate in the deliberate effort to control crime, informal social controls emerge as by-products of role relationships established for other purposes (Kornhauser 1978: 24). This can be seen mostly in the family and local neighbourhood, and the role reciprocity involved in a shared community identity.

A great deal of the informal social control literature focuses on the role of the family in supplying surveillance and control of crime. The family, however, is not the only locus of infor-

mal social control. Bursik and Grasmick (1993) recognised three levels: private (family and close friends); parochial (local neighbourhood and nearby acquaintances); and public (larger communities and external agencies). Recent research by Taylor (1996, 1997) suggests that the parochial level is particularly important in encouraging feelings of social involvement and attachment, and that crime is affected by the emotional investment people place in their neighbourhood and their social integration into it.

A sense of community and the existence of a shared local culture form a third dimension of informal social control. For example, Foster (1995) examines the role of informal social control in an east London housing estate with statistically high levels of crime, to show its effects on residents' perception of the area as not having a "crime problem", which was itself a form of crime prevention. Her work challenges the stereotype that communal structures, in which informal social control is embedded, are absent in poorer neighbourhoods. Hope and Foster (1992) placed value on the culture of a "problem estate" in influencing levels of disorderliness and criminality, and Wilson (1991) argued that the criminogenic effects of poverty in inner-city ghettos was mediated by the different cultural experiences of residents. According to Hope and Foster (1992: 501), community dynamics in a neighbourhood consistently affect the crime it experiences (also see Foster 1990).

It is in this sense of community and shared culture that Braithwaite (1989) locates his discussion of shame in deterring crime and in reintegrating the offender afterwards, which reduces the likelihood of recidivism. Strong social cohesion, with its feelings of mutual trust, group loyalties, and densely enmeshed interdependencies, is one of the chief defining characteristics of the communitarian society in which he sees reintegrative shaming working to reduce crime (1989: 85-6). Shame is less effective as a sanction in a highly mobile and anonymous society where people lack social bonds with their neighbours. While Braithwaite sees reintegrative shaming as being undercut by urbanisation (1989: 101), it can survive in the "urban villages" found in some localities in large cities where strong senses of local community survive.

3. STRUCTURES OF INFORMAL SOCIAL CONTROL IN BELFAST

Part of the study that colleagues and I undertook on crime in Ireland in the 50 years following the end of the Second World War, involved an ethnographic study of crime in two parts of Belfast. It is perhaps counter-intuitive today to argue that inner-city neighbourhoods in industrial cities have a sense of community (cf Foster 1995). This sense of community, however, is very localised, contingent upon the frames of reference people use, the locality in which they live and personal experiences of the quality of relationships that exist in their neighbourhood. These variations are not successfully captured by objective statistical measurements for broad geographical areas. There are several micro social worlds or social structures co-existing locally in Belfast, which statistical data cannot tap in to because they are so localised.

The qualitative data in our study showed that local experiences of community were mediated by class, being stronger in the inner-city and working-class neighbourhoods in our study areas, and by experiences of social transformation locally. Social change, population relocation and housing redevelopment have affected localities in varying degrees, but have not destroyed a sense of community and local identity everywhere. Nor is it the case that these respondents were seeking symbolically to recreate a sense of community because of the experience of individualisation in their daily lives. People's accounts of their sense of community incorporate the changing way in which they experience community in modern society compared to the past, and in how they describe the experience of their daily lives rather than a symbolic recreation of past senses of community. People's accounts of senses of community described their experiences of several social processes locally, such as neighbourliness, the survival of an extended family kinship network and high levels of participation in community associations and organisations. The social processes of neighbourliness, extended family and community identity that describe the local social structure in some areas of Belfast provide mechanisms of informal social control. In criminological literature, informal social control is understood in two ways: surveillance by local residents; and norms of conduct by which residents are regulated (see Greenberg, Rohe

and Williams 1985; Rosenbaum 1988). In Belfast, communal structures provide for several mechanisms of informal social control, which either facilitate surveillance or socially disseminate norms of conduct.

The first mechanism of informal social control is a local moral economy. The values of this moral economy were expressed most frequently in the form that "you don't steal from your own". This finding contradicts data from the regular British crime surveys which shows that the class fraction which performs the most crime, at least in volume terms, is also the most victimised. However, members of a mother and toddler group on a large housing estate in West Belfast explained that "you would get people in the private estates to talk more about crime, they're more burgled than we are. Off the record, we are sort of cocooned from criminals, they don't steal from their own". This moral economy therefore rules out crime in certain close-knit areas, at least by its own local criminals, displacing it elsewhere. It also rules out crime against certain categories of people who are protected by the local moral economy. Thus, several people identified that crimes against children, the elderly and Church property were defined as beyond acceptable bounds locally. An East Belfast community worker said of his neighbourhood:

> "This is a parochial community around here and if the crime is against a pensioner, nobody will be spared. I have known a case where a parent actually contacted the police when they found out that their son had broken into a pensioner's house."

This moral economy only works for criminals who are from the area and who share the code. Local crime is often perpetrated by outsiders who are escaping the constraints of the moral economy in their area or by people who do not subscribe to the code. The anti-social behaviour by local youths inflicted on elderly people, for example, seems to suggest that the values are not shared by all. Changes are occurring as structural adaptations to the altered circumstances young unemployed people find themselves in. Some people comment on the decline in the ethical code of local lags. However, even if local criminals defy the code, the existence of a moral economy results in greater outrage at crimes performed, with its knock-on effects of increased effort to apprehend the perpetrators

by the community itself or by the paramilitaries. This sense of outrage can sometimes successfully overcome resistance to police involvement in official crime management.

Another mechanism for local crime management that arises from the survival of community structures is the existence of a "local grapevine", a network of informal contacts which passes on knowledge about perpetrators, the whereabouts of stolen property, and of the sorts of people who can best apprehend or provide immediate satisfactory justice in the absence of reporting it to the police. The grapevine is also the mechanism by which the local moral economy is socially disseminated and by means of which gossip is transmitted locally. Such gossip imposes social constraints upon offenders arising from shame and is a means of reintegrating them once their shame and contrition is talked about by others down the grapevine (on gossip in reintegrative shaming see Braithwaite 1989: 76). As a resident from West Belfast said, "if a crime happened against an old person or a child, maybe if it happened in [name of area], everybody would be talking about it". A young adult from West Belfast indicated how the grapevine worked even on a large estate:

> "Although this is a large estate, there is always somebody who knows something, always somebody. There is not too many people that keep things to themselves. There is always 'did you hear about that', and then it works its way around the grapevine."

The grapevine ensures that knowledge is passed on to victims or even the relatives of perpetrators. This is where neighbourliness and an extended family kinship network become particularly useful in local crime management.

This system permits do-it-yourself policing as an alternative to formal social control by the state. Many respondents told of how they reacted as victims when they knew the perpetrator as a result of the local grapevine. Some went straight to the paramilitaries, some to the police, but others used the neighbourhood's network of informal contacts to confront the parents. A member of a women's group in West Belfast, who was opposed to the paramilitaries, explained how she would respond: "you wouldn't like to see a child get punished in a beating, you wouldn't like to see your own

harmed, so we went around and let the parents know." There are many cases of this occurring in the project's research data. A woman from East Belfast said the same for a Protestant area: "You would just go to the family."

Do-it-yourself policing thus depends for its efficacy precisely on the survival of community structures. Where a sense of community survives, some neighbourhoods are able to be readily mobilised to manage crime locally. One of the resources that can be mobilised is the remnant of legitimate authority that community representatives still possess. These representatives, including teachers, priests and pastors, and community and youth workers, often become alternatives to the RUC. Youth workers and priests, for example, explained how local people came to them to deal with specific incidents rather than go to the police. A priest in West Belfast said he was like a policeman sometimes, being called out before the RUC: "The people wouldn't ring the police, they'd ring you directly, you got out and you went and dealt with it." Other community resources that can be mobilised in local crime management are the skills, finances and manpower of community organisations involved in the development and servicing of local initiatives against crime.

The role that paramilitary organisations play in informal social control is also significant and is itself heavily conditional upon the survival of community structures. These social processes disseminate the information that makes paramilitary policing possible and efficacious, and provide the push for paramilitary organisations to engage in it in the first place. Paramilitary policing is thus embedded in the local social structure that survives in some neighbourhoods of Belfast. In West Belfast, some respondents extolled the contribution made by the paramilitaries to the relatively low crime rate in the area: "I think it is to the credit of the IRA that crime has been kept so low, because it has nothing to do with the RUC, absolutely not." A middle-aged man from a large estate, otherwise deeply critical of the IRA, described matter-of-factly the situation in his neighbourhood: "The paras would have been very much a big force here in curbing any sort of crime." Reflecting the code of the local moral economy, he explained that the paramilitaries allowed repeated offences outside the area, but if

offenders were active in West Belfast "well then, they were fair game to be shot, but if they were outside the area, they weren't hurting their own people, and that was OK". In East Belfast several people described the paramilitaries as the unofficial police force. "The paras get things done", said one youth worker.

4. CRIME AND DEMOCRATIC TRANSITION

Civil unrest might appear to make Belfast a prime example of a city experiencing social disorganisation, but informal social controls have survived. The role of paramilitary policing in popular crime management illustrates that civil unrest has played its part in differentiating people's experiences of disorganisation in Belfast.

Paramilitaries offer an alternative system of social control. But paramilitary policing is only one of the ways in which civil unrest has facilitated popular crime management, since civil unrest has also contributed to local senses of community in some neighbourhoods. Some residents used civil unrest as the key factor in their account of the survival of community structures. "The troubles have acted", said one West Belfast resident, "as a unifying force in various communities." "This community", said another, "if there is an attack on it, you make a stand. There has always been strong links in the community, it is due to the troubles that have kept the community together."

Conflict with out-groups always reinforces the sense of solidarity of the in-group, which is why residents from enclaves encircled by another community always articulate the strongest sense of community. The following view, from a Protestant estate in West Belfast, is typical of all residents in enclave situations. He described the area as "like a very small village". A resident from a Catholic area in East Belfast, said much the same: "It is like a small village community here, about three thousand people living in a half-mile radius, everybody knows everybody else, it is very tight knit."

In certain neighbourhoods, "the troubles" have therefore not resulted in social disorganisation but have instead had the effect of inhibiting the processes of social dislocation and community breakdown. In areas where it is most intense, civil unrest has produced a voluntary ghettoisation by restricting geographic mobility and population relocation, producing socially

homogeneous districts in religious, ethnic and class terms. In-group solidarity has been reinforced by conflict with an out-group. This cohesion is reflected in social processes such as the survival of extended kinship networks, close-knit neighbourhood structures and a sense of living in solidaristic communities, with their own local moral economy. Other ethnographies of crime in working class neighbourhoods, for example, show them to be less vibrant and communal than equivalent localities in our study area (see, for example, Robins's study of "Borough" in South London, 1992 and Williams's study of New York, 1989). Some of this is due to benevolent housing policies (Northern Ireland has not seen the infamous tower block to any great extent) or employment restrictions on geographic mobility. Northern Ireland is also small, so families tend not to be disrupted even where geographic mobility occurs. However, civil unrest has also played its part.

The contrast with South Africa could not be greater. Apartheid essentially destroyed the patterns of informal social control that might have developed in the black townships, and the brutalising effect of apartheid far exceeded anything in Northern Ireland. Moreover, apartheid's form of policing (see Brewer 1994a) was essentially to control race relations, leaving crime unfettered in the townships so long as it did not spread to "white areas". In the absence of informal social control structures and without much official crime management by the police, crime levels were astronomical in the townships during the apartheid era (see Brewer 1994b). In fact, crime was often seen as a rational economic choice in the face of apartheid's economic restrictions. With South Africa's democratic transition, crime could no longer be contained in the townships by the Group Areas Act and it spread to "white areas". Crime did not necessarily increase with South Africa's democratic transition, but it was certainly displaced. It is this displacement to formerly rela-

tively crime-free areas that explains the country's obsession with crime and the perception among whites that crime rose dramatically with the ending of apartheid.

Police and the media in Northern Ireland showed a similar moral panic about crime with the introduction of the IRA cease-fire in 1994, although the crime figures showed little increase between 1994 and 1995. This reflected their key assumption about crime causation in Northern Ireland: the paramilitaries are hoods and fronts for organised crime, and once no longer involved in political violence, paramilitaries will turn to ordinary crime. This was never an accurate view of most paramilitary organisations (the UDA excepted). While there has been some increase in the crime rate since the cease-fire, it is not exponential, nor larger than one might expect in any annual time series of crime data, although certain ordinary crimes have increased, especially violence against the person.

CONCLUSION

The reason that crime levels have not exploded in Northern Ireland is because democratic transition has not damaged the structures of informal social control. Whatever breakdown is likely to occur in these structures with the arrival of peace will be slow, and crime is not expected to escalate in the future. Even if the voluntary ghettoisation diminishes with peace, Northern Ireland is very small geographically, so that population relocation is unlikely to cause any commensurate family breakup. There is no large homeless population for much the same reason, reducing the criminogenic effect of homelessness.

Ordinary crime will increase – this is a truism of modern industrial societies – but will not escalate in the same way as other societies undergoing transition. Time series data is needed to confirm this and we only await the figures.

REFERENCES

BRAITHWAITE, J. 1989. *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

BREWER, J.D. 1994a. *Black and Blue: Policing in South Africa.* Oxford: The Clarendon Press.

BREWER, J. D. (ed). 1994b. *Crime and control. Restructuring South Africa.* London: Macmillan.

LOCKHART, B. AND RODGERS, P. 1997. *Crime in Ireland 1945-95*. Oxford: The Clarendon Press.

LOCKHART, B. AND RODGERS, P. 1998. Informal social control and local crime management in Belfast. *British Journal of Sociology*, 49: 570-585.

HEATH, A., BREEN, R. AND WHELAN, C. (eds.). 1999. Crime in Ireland 1945-95. *Ireland: North and South.* Oxford: Oxford University Press.

BURSIK, R. AND GRASMICK, H. 1993. *Neighbourhoods and Crime*. Lexington: Lexington Books.

FOSTER, J. 1990. *Villains: Crime and Community in the Inner City*, London: Routledge.

FOSTER, J. 1995. Informal social control and community crime prevention. *British Journal of Criminology* 35: 563-83.

GREENBERG, S., ROHE, W. AND WILLIAMS, J. 1985. *Informal Citizen Action and Crime Prevention at the Neighbourhood Level.* Washington DC: US Department of Justice.

HIRSCHI, T. 1969. *Causes of Delinquency.* Chicago: University of Chicago Press.

HOPE, T. AND FOSTER, J. 1992. Conflicting forces: changing the dynamics of crime and community on a "problem" estate. *The British Journal of Criminology* 32: 488-504.

KORNHAUSER, R. 1978. *Social Causes of Delinquenc*y, Chicago: University of Chicago Press.

ROBINS, D. 1992. *Tarnished Vision: Crime and Conflict in the Inner City*. Oxford: Oxford University Press.

ROSENBAUM, D. 1988. Community crime prevention: a review and synthesis of the literature. *Justice Quarterly* 5: 323-95.

TAYLOR, R. 1996. Neighbourhood responses to disorder and local attachments. *Sociological Forum* 11: 41-74.

TAYLOR, R. 1997. Social order and disorder of street blocks and neighbourhoods. *Journal of Research in Crime and Delinquency* 34: 34-65.

WILLIAMS, T.M. 1989. *The Cocaine Kids: The Inside Story of a Teenage Drug Ring.* Reading, Mass: Addison-Wesley.

WILSON, W. 1991. Studying inner-city social dislocations. *American Sociological Review* 56: 1-14

Crime in Russia at the Turn of the 21st Century

Vitali Kvashis & Michael Babaev

INTRODUCTION

During the past several years, the crime situation in Russia has remained somewhat complicated due to several destructive factors that have negatively affected the maintenance of law and order. In addition, criminals are often protected by certain public institutions. Studies have shown that the rate of growth in general crime figures during 1999 reflected previous tendencies. The number of criminal offences increased by 16% and, for the first time in many years, exceeded the three million mark. By the beginning of 2000, the crime rate had reached 2053 per 100 000 people. This increase is the result of negative developments within Russian society that occurred in previous years, but whose full effect is only now apparent.

Indicators of victimisation support the concept of the complexity of the current crime situation in Russia. This is despite the fact that these indicators are far from comprehensive, and do not begin to reflect the reality of the situation, even in general terms. However, even official statistics indicate that the level of victimisation increased by 20% during 1999 alone, with 1512 victims reported per 100 000 of the population. These figures are evidence of the unacceptably high level of victimisation in Russia, even disregarding high latency.

1. PAINS OF TRANSITION

The cost of Russia's rejection of its totalitarian past has proved to be high. The transition to democracy has been painful, and the surge in crime has been accompanied by an increase in drug addiction, alcoholism and psychiatric disorders. Such has been the reaction of Russian society to social change in the post-Soviet era.

Another problem experienced during this transition phase is that of public corruption. Corruption has, for many years, met with very little resistance, which has allowed it to develop into an independent and somewhat influential social phenomenon. It now, together with crime and ethnic conflict, poses a clear and present danger to public security.

Despite significant reform in the management of the economy, corruption will remain a critical problem in the foreseeable future. This is largely due to the fact that, although the formula for political power is different today, managerial structures, mechanisms and, more importantly, social psychology remain unchanged. Extortion of bribes by bureaucrats for all manner of permits, registrations, licensing, loans, etc., has reached epidemic proportions.

If we believe the maxim that crime is a normal reaction to an abnormal situation, then one can at least understand bribery. However, the time has come for society to recognise the gravity and consequences of corrupt behaviour.

2. FACTORS AFFECTING CRIME LEVELS IN POST-COMMUNIST RUSSIA

It is accepted that any phenomenon should be viewed within the context of social realities and historical conditions. From that point of view, we should note that the crime situation in Russia is negatively affected by two main groups of factors:

- *External factors:* These include economic, socio-political, psychological, medico-social and ecological factors. Economic and socio-political factors are consequences of the

1998 economic crisis, which in many ways predetermined:

– a general lowering of the standard of living

– an increase in the economic divide, ie., the rise of a new stratum of super-rich, and the descent of part of the middle class into indigence

– the deformation of Russia's economic structure, and a growing disparity in social and economic development between regions

– the de-industrialisation of the country, evidenced in the destruction of industrial potential and a shift of investment to the raw materials sector of the economy

– the growing corruption in government agencies and the increase in white-collar crime.

Previously planned positive transformation of the main macroeconomic indicators could not prevent the significant increase in social tension. The number of people earning below the minimum income level has increased over the past decade. By the beginning of 2000 the figure had risen to 23% of the population (33 million people).

- *Internal factors:* These include high levels of criminal recidivism and criminal professionalism; the organised nature of criminal associations; underworld customs and traditions, etc. The impact of these two groups of factors is clearly reflected in the growth of violent crime:

  – The increase in violent crime (with the use of weapons) is connected to the increased incidence of arms trafficking and the accessibility of weapons. This was, of course, promoted by military conflicts in Russian territory and in the former Soviet Republics. As a result, the number of murders, hostage takings and terrorist acts has increased.

  – The perceived benefits of the material comforts gained through the use of violence have grown rapidly. This is connected, not only to the rapid increase in robbery and extortion, but to the assassination of competitors and persons who have political or economic power.

  – During the past five to eight years, a new category of violent crime has been formed, namely terrorism. Its characteristics are not only the elimination of competitors or other

"undesirable" persons, but also the intimidation of people and society in general.

– The number of serial murders and sexual torture crimes has grown significantly.

– Acts of violence committed by women and juveniles has increased noticeably.

As a result of these factors, violence has expanded into spheres of public life where it was not previously found, such as politics, finance, industry and commerce.

3. THE ROLE OF ORGANISED CRIME AND ETHNIC CONFLICT

If one assesses the crime situation in Russia with specific reference to the problem of organised crime, the following should be noted:

The main area in which organised crime in Russia is currently developing, is the economy. Further criminalisation of the economy is closely related to the corrupting influence of power.

- Local criminal elements have crossed Russian borders, establishing contacts both with criminal structures and legitimate businesses abroad. The integration of organised crime in foreign business is apparent.

- The scope of illicit trade transactions in sources of power, strategic materials and raw materials has increased.

- The material and financial foundations of criminal structures has been significantly reinforced, due to the expansion of international contacts.

- The activity and influence of ethnic criminal groups that have close ties abroad are growing. The "shuttle" criminal *modus operandi*, language barriers and cultural uniqueness make such formations difficult targets for law enforcement agencies.

- The involvement of criminal factions in drug trafficking reinforces their organisations and increases interaction with the analogous structures abroad. This involvement is expanding.

- Trade in contraband firearms and ammunition, and their leak from military installations and military conflicts zones, has reached menacing proportions.

- The corruption of government agency representatives and the infiltration of "underworld" representatives into such agencies is purposefully undertaken.

Organised crime has therefore become one of the most dangerous factors influencing Russia's

current crime situation. The proportion of organised crime within general crime structures is increasing each year. During the past seven years the number of registered crimes committed by organised groups and associations has increased by a factor of 8.5.

The growth of ethnic conflicts, generated by the struggle for power and the re-distribution of property, has contributed to an increase in criminal activity and a surge in the number of ethnic criminal groups in Russia. Ultimately, ethnic criminal associations have become a permanent factor, significantly affecting the development of the crime situation in the country. They use acts of terrorism as a means to achieving political and economic goals. This is precisely why the fight against terrorism is becoming an important priority for Russia's law enforcement agencies.

The Russian crime situation has been extremely complicated over the past few years . The scope and the rate of growth in criminal activities are the main factors impeding social reform, instilling a fear for their lives and safety in the citizens of the country, and lowering the level of trust in the government and its policies. The aggressiveness of crime and the consequent damage to society have grown and continue to grow. Criminals are increasingly able to avoid detection. More and more people are involved in criminal activities.

The most remarkable trend among modern criminals in Russia has become the aspiration to establish themselves within the economy, politics and government. Tough competition over lucrative business opportunities has motivated criminal elements to organise and arm themselves, draw government managerial staff into their activities and infiltrate the legislative and executive branches of government. The absence of an effective government and public control over the origin and movement of capital, finance and other resources, contributes significantly to this.

CONCLUSION

The communist system of crime prevention and control relied on an established social structure that regulated and restricted all forms of crime. This system has now disintegrated and new structures and procedures that may provide a breakthrough in the fight against crime, have not yet been established.

Predictions concerning future trends in crime levels provide little comfort, as experts envisage that crime will continue to grow in Russia. However, this is not inevitable. The situation can still alter if the dangers of crime to society are fully realised, and adequate measures are adopted to stem the tide. Recent political decisions and practical steps adopted by the new Russian government do provide encouragement. After all, we all know that any disease activates the immune system. This is our hope.

Police Transformation: The Palestinian Authority Perspective

Assad Mubarak

INTRODUCTION

Generations of political and military occupation have significantly divested the civilian justice process in Palestine, which derives from two different legal systems, enforced before the 1967 Israeli occupation.

1. TWO LEGAL SYSTEMS

Jordanian law, which is still applicable in the West Bank, is based on the Continental system, while in the Gaza Strip, the judicial structure follows the Anglo-Saxon system that applied during the British Mandate. After the Israeli occupation of 1967, over 2000 military orders were issued in the West Bank and Gaza.

Before the 1987 Intifada uprising, judgements passed by the Palestinian courts were executed through the police. Palestinian police in the West Bank and Gaza were considered part of the Israeli police. These Palestinians were responsible for investigating offences where there was no Israeli interest, such as regulating traffic and inter-Palestinian crimes. They were also charged with executing judgements of the civil courts.

Once the Intifada began in December 1987, the Intifada leadership called upon Palestinians working in the Israeli police force to resign (almost all of them did so). Police stations and functions were subsequently taken over by the military. The execution of judgements passed by the civil courts therefore suffered as Palestinians did not ask the Israeli military to execute a civil judgement against other Palestinians. Courts and police activities were thus paralysed.

After the Intifada, alternatives to the courts became the most effective procedure. These included local and traditional techniques, such as reconciliation and arbitration in disputes arising in the Palestinian community.

A variety of economic, political and social problems provide significant obstacles to the rule of law and to law enforcement in the West Bank and Gaza Strip.

As a direct result of occupation and the Intifada's boycott of governmental institutions, citizens in the West Bank and Gaza continue to harbor deep distrust of regulations, public order, courts, police and their formal legal processes. Police therefore have neither the will nor recourse to resume their tasks in the community or to execute civil judgements.

2. POST-OSLO ACCORD

Referring to the changes that have taken place following the peace agreement between Israel and Palestine – the Oslo Accord – it is worth noting that certain new facts have arisen, resulting in problems and challenges regarding implementation on the ground. Public order is required as a guarantee of peace and with this comes the importance of obedience on the part of citizens in applying the rule of law.

Even practically, it is difficult for the West Bank citizen to determine which is the relevant authority in, for example, territories "C" and "B" of the accord. The Palestinian police cannot take precautions or actions in such areas if an incident or a crime takes place, except after lengthy communications and coordination through the DCO liaison joint committee.

Palestine has a large number of newly trained police officers who were formerly Palestinian

Liberation Organisation (PLO) military personnel. These recruits, however, need legal, investigative and technical training in order to curb reliance on confessions. The police should be given the resources and training to execute civil judgements.

Careful studies are needed of the recommendation that administrative liaisons between the police and the courts be appointed to criminal cases in order to ensure police compliance with the law. Moreover, to establish the rule of law and to deal with the legacy of the past requires a great deal effort.

3. UNIFYING THE SYSTEM

During the first phase of the peace treaty – the Gaza and Jericho accords – Palestinian police were trained to implement criminal procedures according to the Anglo-Saxon system as well as according to the Egyptian procedures of investigation. After the second redeployment of the Palestinian Authority (PA) in the West Bank, the PA has had to deal with the fact that two different legal systems are applicable in Palestine. It is therefore difficult for judges, prosecutors and police officers to mobilise Palestinian police activities in accordance with legal procedures.

As a result, a plan was implemented by the Ministry of Justice to unify the legal system in Palestine, with the assistance of various Arab and foreign countries. Several drafting law commissions were formed and a number of drafts were transferred to the Palestinian

Legislative Council for discussion and endorsement.

During this transition period – that began in 1994 – police have been confronted with certain criminal issues that were not handled before. One of the most frequently mentioned areas of legal interaction between Israelis and Palestinians is the surrender of fugitive criminals. Moreover, police also have to deal with organised crime in terms of the illegal possession of weapons, explosives, car theft, traffic accidents, drug trafficking and drug sales, white-collar crime and money laundering.

CONCLUSION

As the legitimate leader representing the Palestinian people, the PA is looking ahead to self-determination and, as a consequence, to the declaration of an independent state. In all respects, this new model of transition must therefore ensure efficiency and must comply with the obligations to safeguard peace. The PA must also ensure its citizens display self-discipline, obedience and restraint in harmony with human and fundamental basic rights.

The Israeli-Palestinian declarations of agreement in principle have created a critical opportunity for Palestinians to build a society based on discipline and democracy. It is appropriate that we begin a new era in the Palestinian-lsraeli dispute, as well as in the political, social and economic lives of the Palestinian people, if this newly born society is to thrive as a healthy, free and democratic nation.

Police Reform and South Africa's Transition

Janine Rauch

INTRODUCTION

At the time of Nelson Mandela's release from prison in 1990, there were 11 police forces in South Africa, each constituted under its own piece of legislation, and operating within its own jurisdiction. The largest of these was the South African Police (SAP) with approximately 112 000 members, the other 10 were the "homeland"[1] police forces. Among these, the most significant group were the police agencies of the four "independent homelands"[2] – Transkei, Bophuthatswana, Venda and Ciskei.

These agencies operated with less interference from the SAP than those in the "self-governing" homelands of KwaZulu, Lebowa, QwaQwa, KwaNdebele, KaNgwane and Gazankulu. In total, there were over 140 000 police personnel[3] in South Africa. The homeland police forces were created during the 1970s and 1980s, with the core members being drafted from the SAP.

These members were either black members of the SAP, who were identified on the basis of their ethnicity, skill and perceived loyalty to the apartheid model;[4] or more senior white officers who were "seconded" to the homelands on the basis of lucrative fixed-term contracts.

Apart from the financial benefits of being deployed to the homelands, the founder members of the homeland forces found themselves the beneficiaries of rapid promotions, and were able to operate with unusual autonomy from the police headquarters in Pretoria.

This freedom often allowed the creation of networks of patronage and corruption which came to characterise the homeland forces.

Despite nominal political independence, the ethnic homeland forces were subject to significant control[5] by the SAP, which continued to dictate access to financial and technical resources.

By the early 1990s, (all) the police in South Africa had acquired a reputation for brutality, corruption and ineptitude. Police organisations were militarised, hierarchical and ill-equipped to deal with "ordinary crime". Street-level policing was conducted in a heavy-handed manner, with bias against black citizens and little respect for rights or due process. Criminal investigations were largely reliant on confessions extracted under duress, and harsh security legislation provided for, or tolerated, various forms of coercion and torture. Policing techniques were outmoded, partly as a result of the campaign for international isolation of the apartheid government. However, despite their lack of skill in dealing with crime, the SAP was notoriously effective against their political opponents.

It never occurred to the leaders and members of the African National Congress (ANC) – the main democratic opposition party – that the police, who had been so ruthlessly effective against them, would be any less effective against criminals in the new era. However, coping with the political transition and adapting to policing in a democratic society have been difficult for the police service.

In this paper we review the process of transforming an illegitimate police organisation into one that is legitimate; and we reflect on some of the possibilities for, and implications of, rapid change.

1. ORGANISATION AND CONTROL OF THE POLICE IN SOUTH AFRICA

1.1 The beginning of reform

During 1991 the main police force in South Africa, the SAP, embarked on an internal reform initiative. This was predominantly a response both to the changing political environment signalled by the release of Nelson Mandela and the unbanning of the liberation movements in 1990, and to the pressure of changing crime trends and international scrutiny. The SAPs 1991 Strategic Plan highlighted five areas of change:

- depoliticisation of the police force
- increased community accountability
- more visible policing
- establishment of improved and effective management practices
- reform of the police training system (including some racial integration)
- restructuring of the police force.

The 1991 plan indicated the force's intention to "manage change itself, in the hope of ensuring that it would not have change thrust upon it later".[6]

1.2 The National Peace Accord

The National Peace Accord is a multiparty agreement (subsequently enacted as legislation) created in 1991 to address high levels of political violence in the early transition period. The Peace Accord introduced a range of structures and procedures to prevent and deal with intergroup conflict. Many of these structures and procedures focused on policing:

- A "police board" made up of equal numbers of police generals and civilian experts on policing matters, nominated by the signatory parties to the Peace Accord. The board was to "advise" the Minister of Law and Order on policy matters.
- Local and regional peace committees,[7] made up of representatives of signatory parties to the accord. These were the primary implementation bodies, and were supported by full-time regional peace secretariats.
- Police reporting officers, civilian lawyers, who would receive and investigate complaints against the police. They would then make recommendations to the SAP about steps to be taken in respect of each incident.
- A code of conduct for police and one for members of political parties, to enable free political association and to reduce police misconduct.
- A system of monitors, whose task was to observe and report on the conduct of signatory parties and security forces.

The most significant contribution of the Peace Accord in terms of policing was to create new procedures for the handling of actual or potential political violence, and to introduce the notions of independent monitoring of police action and of multi-agency problem solving. While the presence of peace monitors did lead to improvements in certain aspects of policing (notably the policing of public gatherings), the Peace Accord code of conduct and the mechanisms for dealing with reported misconduct had little impact.

1.3 New political arrangements

The first post-election Cabinet consisted of ministers and deputy ministers drawn from the three main political parties: the majority ANC, the National Party (NP), and the Inkatha Freedom Party (IFP). The Ministry responsible for policing[8] was renamed the Ministry of Safety and Security, a symbolic move away from the previous title – Law and Order. At provincial level, each provincial cabinet appointed a minister responsible for safety and security.

The various components of the police command structure were accustomed to operating under the dictates of undemocratic administrations. The implications of a democratic style of governance for policing were profound. Apart from the political significance of now being in control of the police service, one of the ANC's key policies was to institutionalise civilian oversight and control, thereby separating (civilian) policy functions from the operational command function of police management. This, however, remains an area of some debate and fluidity. With the new police leadership appointed after 1999 having greater credibility, less emphasis is placed on the need for civilian monitoring and policy making.

1.4 The new legal framework: SAPS Act

After a lengthy drafting and consultation phase, the South African Police Service (SAPS) Act was passed late in 1995. Among the significant innovations contained in the Act were:

- The restructuring of the police service into national divisions; provincial demarcations to

match the new provincial boundaries; "areas" (groups of stations in a district) and stations. These new divisions functioned under various forms of command with public scrutiny at each operational level.

- The creation of national and provincial "secretariats for safety and security", which would advise the provincial political executives on police policy matters and would monitor the adherence of the police to new policy. This was motivated by the ANC's desire to see policy control of the police in civilian hands.
- The requirement that the National Commissioner of Police should every year publish his plans, priorities and objectives for the year. This was intended to enhance transparency in police policy-making and to enable monitoring of the efficiency and effectiveness of the police service.
- The creation of statutory "community–police forums" where local police station commissioners would liaise with, and account to, the local community.
- The creation of a statutory "Independent Complaints Directorate" which would receive and investigate public complaints of police misconduct. The directorate would be independent of the police and would report directly to the Minister of Safety and Security.

Although certain aspects of the Act have been amended, and the entire piece of legislation is currently under review to ensure congruence with the final Constitution of South Africa, major changes to the Act are not envisaged in the foreseeable future.

2. CREATING A NEW POLICE SERVICE OUT OF THE OLD

The task of the police force under apartheid was to enforce laws of racial segregation, to secure the minority government, and to protect the white population from crime and political disruption. This did not require traditional policing skills. Instead it rewarded political loyalty and allowed large-scale abuse of power. The new government faced the mammoth task of transforming the police service into one that would be both acceptable to the majority of the population, and effective against crime.

2.1 The campaign for police legitimacy

The ANC recognised the importance of trans-

forming the police service before the election, and embarked on a "confidence-building" campaign with the security forces during the negotiations period. This entailed building the confidence of the police in the ANC as the likely future leaders of the country, and also building the confidence of the populace in the hitherto alienated police forces. President Mandela, in his inaugural address in 1994, paid special tribute to the good work done by the police in helping to ensure the success of the election.

Following his appointment as Minister of Safety and Security, Sydney Mufamadi embarked on a nation-wide series of mass meetings with police personnel. These meetings were intended to reassure personnel regarding the ANC's intentions to reform the police gradually, rather than radically. They also wished to spread the message that, although the ANC would not tolerate abuses of human rights, it would not victimise perpetrators of such abuses committed in the past, if the perpetrators abided by new government doctrine. This series of meetings was also critical in presenting the human face of the new ANC government, and identifying the ANC as the stable political authority during the insecure period of police force amalgamation.

The appointment of George Fivaz as the first National Commissioner of the new SAPS was a crucial moment in the transformation process. At the time of his appointment, Commissioner Fivaz emphasised the need to establish the new SAPS as legitimate and acceptable in the eyes of the majority of citizens, and for the SAPS to make a "clean and definite break with the past". These goals were to remain one of the themes of his leadership. He identified a number of other challenges for his new management team, to:

- curb crime and improve levels of safety and security
- improve police–community relations
- remove all forms of discrimination within and by the police service
- adopt a new "mindset" within the police forces
- restore discipline and morale among police personnel
- establish a culture of fundamental rights within the police organisation.

With the establishment of the Truth and Reconciliation Commission (TRC), the ANC

government also had to emphasise its position on previous abuses by police officials. President Nelson Mandela insisted[9] that his government was opposed to, and had no intention of conducting, a witch-hunt against the police as a result of activities arising from orders given to the police by the apartheid regime. He urged police officers not to dwell on possible investigations by the TRC, and instead to get on with the job of law enforcement and community policing.

Less than two years after South Africa's first democratic election, the politicians felt that the transformation of the police service was well under way. In a speech to the top police commissioners in late 1995, Minister Mufamadi acknowledged that, despite the huge pressures they faced, the police leadership had achieved a great deal. Less than two years previously, the police service was regarded as a possible threat to democracy. "Today, the relative credibility and legitimacy enjoyed widely by the police service is one of the more clear indicators of the successful transition to democracy which our country has made."[10]

The discourse of politicians and government regarding policing has taken on a rather different tone since South Africa's second democratic election in 1999. The new Minister for Safety and Security, Steve Tshwete, has emphasised the crime fighting role of the police, and has encouraged a more strong-arm approach to criminals, with far less emphasis on the internal problems of police reform. This discourse has found favour with the South African public, which is increasingly concerned about crime and a police service which felt disempowered by the period of police transformation following the first election.

2.2 Symbols of a new order
The new government moved swiftly to change some of the symbols associated with apartheid policing after the 1994 election:
- The name was changed to the South African Police Service, to symbolise the shift "from a force to a service", which was a key component of the ANC's policy approach.
- A new police leadership was appointed, with the National Commissioner appointed directly by the President.
- The rank system was changed from the previous military ranks to a rank system based on

the British model. For example: general became commissioner; brigadier became director; and colonel became senior superintendent.
- This change did encounter some resistance from within the police organisation, and to this day, informal use of the old ranks continues in many areas.
- The uniform was changed. In the old dispensation, each of the 11 police forces had its own uniform and insignia. A new uniform was designed for the SAPS, which was slightly less militaristic.
- A new insignia was created for the SAPS, to replace that of the 11 former police forces. The new badge consists of the image of an aloe (an indigenous South African plant with healing properties) with nine spikes, to symbolise the nine new provinces.
- The colour of police vehicles changed, with all new vehicles being painted white with blue lettering, instead of the bright yellow which had become associated with fire-brigade-style police in armoured vehicles.
- In some provinces, the names of police stations were changed, where they had previously been named after apartheid-era politicians or police leaders. The most notable was the John Vorster Square police station, where numerous detainees were tortured and killed by Security Police. It is now named the Johannesburg Central police precinct.

These symbolic changes, while superficial, did contribute to changing public perceptions of the police service. They also required a great deal of internal negotiation and had quite severe financial implications for the new police service.

2.3 A new profile for the police service
Perceptions of the racial profile of the police during apartheid South Africa were constructed around the iconic image of a rather brutish, uneducated, working-class, white, Afrikaans-speaking policeman. In fact (viewed together), the police agencies were, at the time of the 1994 elections, fairly representative of the racial make up of the South African population – 64% of the combined personnel of the police organisations was black. Even the SAP alone (which contributed 80% of the total personnel), was not as dramatically unrepresentative as many observers had believed – 55% of its

members were black. What did characterise the SAP, however, was the dominance of white Afrikaner males in its senior ranks. The upper echelons of the smaller, homeland police agencies were dominated by members of black ethnic groups, according to the ethnic composition of each of the forces. In 1995, personnel holding the rank of brigadier[11] were 80% white, with only one female brigadier out of the 202 brigadier posts in the combined police forces. Women constituted 18% of the total police strength, and only 11% of the officer ranks. In 1998, women made up 20% of the police service, and 16% of the officer ranks.

Even though the issues of race and gender composition of the police service were not discussed during the pre-election negotiations, the new Constitution, with its requirements for equality and affirmative action for "previously disadvantaged" groups, has profound implications for the new police service. These implications have become more real to police organisations in recent years, with the imposition of government-wide targets for a more representative composition of the senior ranks of the public service. By mid-2000, the SAPS had achieved most of its targets, with management ranks now being over 50% black.

2.4 Working with the enemy
One of the agreements reached in the negotiations process was to incorporate members of the former liberation movements' armed forces[12] into the new South African security forces. This was a key dimension to negotiations around the future of the military, but was far less significant in negotiations concerning the police, for a number of reasons:
- While the liberation movements had trained soldiers and intelligence operatives, they did not train any exiled members in police work.
- The main political concern of most of the liberation movements was with the possibility of a right-wing coup from within the military; and thus with the transformation of the defence force.
- Traditional alienation of the police from the black majority made the prospect of working in the police a far less attractive one than working in, say, the army or the intelligence services, which was likely to have employed some senior officers from the former liberation movements.

The ANC and the Pan Africanist Congress (PAC) reached agreements with the NP government negotiators with regard to the number of their members who would be integrated into the police service. The following groups entered the police:
- Approximately 200 bodyguards were integrated into the VIP Protection Service.
- A number of ANC intelligence personnel were posted to the Crime Intelligence Department of the SAPS – the reformed Security Branch. This department, and the police intelligence component responsible for Internal Security, were both placed under the command of ANC appointees. The entry of trusted ANC personnel went some way to re-establishing public credibility for these hated units.
- A small number of young people who had been members of the ANC's self-defence units (SDUs) and the IFP's self protection units (SPUs) were integrated into a community constable group.
- A small number of civilians were recruited into middle and senior posts in the SAPS during the competitive senior appointments process. These individuals, largely from legal, academic or non-governmental organisation (NGO) backgrounds, took positions in the police legal service, human resources and training components. Although some of these "lateral entrants" were ANC supporters, lateral entry was not fully exploited by the new government as an opportunity to alter the composition of the SAPS senior ranks, until 1999. This was partly due to the historical resistance of the police leadership to the notion of civilian lateral entry, and partly to the lack of policing expertise in South Africa outside of the ranks of the apartheid police agencies. The relatively low salaries offered by the SAPS, and the unpleasant image of the police, meant that the ANC government was unable to recruit high-calibre civilians into influential managerial positions in its new police service until long after 1994.

3. IMPROVING POLICE–COMMUNITY RELATIONS
The role of enforcing unpopular laws, assigned to the police agencies during the apartheid years, created a profound crisis of legitimacy for the police in South Africa. In many respects, the police played a military role,

crushing popular protest and engaging in South Africa's *de facto* domestic civil war as well as being deployed in support of white regimes in independence struggles in neighbouring states. This resulted in large-scale alienation of the police from the majority black population. Police officers were not just unpopular, they were the targets of abuse and violence from pro-democracy quarters.

Notions of "community policing", gleaned from contact with the international police fraternity, gained currency in enlightened SAP circles in the late 1980s. It was, in part, the influence of international policing models[13] on both the SAP and on local academics, which led to the introduction of the first community policing structures in the early 1990s. The SAP established a Division for Community Relations in late 1992. This division then set about establishing police–community forums at local level in all areas of SAP jurisdiction.[14] However, the fact that the SAP deployed a large number of former Security Branch officers[15] into the new division generated immediate suspicion among black communities regarding the initiative.

The Interim Constitution, which came into effect in April 1994, contained a detailed requirement that the new police service should establish a Community Police Forum (CPF) at every police station. Some local peace committees were still functioning at this time, after their formal disbandment, and these formed the core of the new CPFs. Unlike peace committees, membership of CPFs was not limited to political parties, but could include any community group and interested individual. The role and function of the CPFs was not laid down in official policy – other than the SAPS Act, which basically repeated the wording of the Interim Constitution – until April 1997.[16] The community policing policy is currently under review, and it is expected that regulations governing the functioning of CPFs will be issued in the near future.

4. ENSURING POLICE ACCOUNTABILITY

The apartheid police forces were notoriously unaccountable and unconstrained in their use of force. Most of the research and advocacy work performed on police reform prior to the1994 election focused on human rights violations by the police. Numerous international human rights bodies highlighted the violations com-

mitted by the various police forces in South Africa.[17] As a result of this focus, the agenda of the ANC (the main negotiating party in the transition) focused on establishing satisfactory mechanisms for police accountability in the post-election period. The ANC wanted to ensure police accountability on five fronts:
- the Constitution, and in particular the Bill of Rights
- legislation governing the police
- the elected government
- communities
- internationally accepted notions of police professionalism.

The emphasis of the ANC's policies during the transition period lay on community-level accountability. This is unsurprising, given that the ANC did not yet have control over executive or legislative functions, but could rely on the support of the majority of South African communities. The ANC also emphasised the need for independent structures to deal with the abuse of power which had come to characterise policing under apartheid.

By 1997, the discussion regarding police accountability had become far more sophisticated. The Draft White Paper released in 1998 proposed that performance against crime, and accountability for expenditure, should be used as devices for holding the police leadership accountable to the government.

With the appointment of a new National Commissioner from the senior ranks of the ANC in 1999, the pressure for police to be seen to be accountable to the government has been dramatically reduced. There is now a strong relationship between the new Minister and the National Commissioner. Police accountability is no longer an issue for concern, except perhaps to human rights watchdogs and organisations concerned with rising levels of police brutality in recent years.

5. DEALING WITH CRIME

The imperatives of the early transition period were to build the legitimacy of the police, to introduce a culture of human rights into the police force, and to improve relations between the police and the black community in South Africa. Ironically, after four years of image-building, the South African police once again found themselves facing a crisis of public confidence. Surveys[18] conducted in South Africa's

major cities prior to the second election found that public attitudes towards, and satisfaction with, the police remained low.

Levels of reported crime rose significantly during the 1990s. During this same period, conviction rates in criminal trials were dropping, and a crisis of confidence began to undermine the entire criminal justice system. The situation was also compounded by a steady stream of media stories concerning police corruption.

Early attempts to tackle the growing crime problem were bifurcated into an attempt to emphasise crime *prevention* and to reform the *criminal justice system* (as contained in the 1996 National Crime Prevention Strategy [NCPS]). In addition, increasingly authoritarian policing operations were conducted with the assistance of the South African National Defence Force, as was first evident in the 1996 Community Safety Plan.

Feeling the effects of a devastating post-transition crime wave, the South African public began to demand tougher action against criminals. In this regard, the Bill of Rights became a popular scapegoat for police inadequacy. Even the rhetoric of former human rights advocates in the Cabinet began to harden, and the political language of "war on crime" began to pervade official discourse around crime in the later 1990s. This "tough on crime" language has become standard government issue in the post-1999 period. It has had the effect of increasing public confidence in the police and in the government's policy approach, but some of its negative consequences are beginning to be evident. These include:

• lengthy delays in the criminal courts
• massive overcrowding in South Africa's prisons,
• an ever-increasing number of awaiting-trial prisoners
• increasing numbers of deaths as a result of police action and in police custody
• rising xenophobia resulting from the notion that "foreigners" are responsible for South Africa's growing crime problem
• increasing numbers of arrests in certain crime categories, resulting in a rise, rather than a decline, in official "crime figures" (recorded police statistics).

Recent policy approaches to the problem of crime have largely abandoned any commitment to social crime prevention by the police, attempting to shift this responsibility instead to the "social" cluster of government departments such as housing, health, welfare and education. The government's two-pronged crime reduction approach now revolves around sustained heavy policing operations (currently known as Operation Crackdown), and ongoing reform of the criminal justice system.[19] The "heavy" policing approach is underpinned by an ongoing process of internal police reform, most notably an emphasis on improved service delivery to the public. However, this is no longer as vehemently marketed to the public as police reform was in the early days of South Africa's new democracy.

CONCLUSION

In recent years, the police have experienced a severe lack of resources, which has had the positive effect of forcing some long-overdue prioritisation in policing strategies, but has also had many negative effects. The loss of person-power in key areas has had a profound impact on police performance (for instance in criminal investigations, criminal records and crime intelligence).

However, the police have succeeded in communicating their resource constraints to the public and the politicians, and, as a result, there is some sympathy and understanding for poor police performance. In line with its "tough on crime" policy, it seems likely that the new government will be allocating more resources to policing (and criminal justice in general) in the near future.

ENDNOTES

1) One of the most visible symbols of grand apartheid was the creation of the "homeland" system, which segregated black South Africans into ethnic groups, assigned each group a small piece of land, and created some form of administration for each "homeland". This system was brutally enforced, and fiercely resisted. The end of apartheid entailed the abolition of the homeland system and the re-incorporation of the homelands into a united South Africa.

2) These homelands had acquired "independent" status through the logic of grand apartheid, which saw Africans not as citizens of a common South Africa, but as a collection of separate ethnic nations which were to be led to full and separate statehood. The goal of this approach was to force all Africans to exchange their citizenship for that of an "independent state", thus ensuring that there would be no black South African citizens. The "independent" homelands were entitled to issue passports, create defence forces, attempt "foreign affairs", etc.

3) This figure excludes traffic police employed by various municipalities. The regular police do not deal with traffic or by-law offences.

4) Marais 1992:5.

5) Marais 1992:7.

6) Shaw M, (1994) Point of Order: Policing the Compromise in *South African Review* 7 Ravan Press, Johannesburg.

7) First termed "Dispute Resolution Committees".

8) There are ministries of Safety and Security (police), Justice and Correctional Services.

9) President Nelson Mandela, Address to the Opening of Parliament, 17 February 1995.

10) Minister Sydney Mufamadi, Address at the SAPS Leadership Development Programme, 10 November 1995.

11) Brigadier was then the fourth highest rank in the police organisation.

12) Also referred to as the "non-statutory forces".

13) In particular, the United Kingdom model of police–community consultative groups.

14) This precedent was not followed by the homeland forces.

15) The motivation for using former Security Branch (political intelligence) personnel was that these were often the "cream" of the SAP personnel. They were politically aware and had the political skills to deal with black communities.

16) Community Policing: Policy Framework and Guidelines, SAPS 1997.

17) c.f. Amnesty International, Human Rights Watch, The International Committee of Jurists.

18) Institute for Security Studies Victim Surveys 1997/8 in Johannesburg, Durban, Cape Town and Pretoria found that the public image of the police is generally poor, and that negative views of the police are held equally by victims of crime and non-victims, although blacks are more likely to have negative views than whites.

19) Criminal justice reform, through the inter-departmental "integrated justice system" programme, is the only surviving component of the 1996 National Crime Prevention Strategy in terms of national government programmes. Most of the more "social" aspects of crime prevention have been assigned to other government departments or to provincial and local spheres of government.

Police Transformation in Nigeria: Problems and Prospects

Innocent Chukwuma

INTRODUCTION

In a constitutional democracy, the police are expected to rely on public goodwill and cooperation to carry out their duties. They are expected to operate within the limits of their legally defined powers and are particularly answerable to the judiciary for any excess in the exercise of their powers.[1] In Nigeria, however, the colonial origin of the police and decades of military rule, have produced a militarised force that has acted as instruments of oppression at the service of the government and is largely alienated from the civil population it should serve.

With the installation of a civilian elected government on 29 May 1999, efforts have been made aimed at reforming the Nigerian police to meet the demands of a democratising society. The reason for this is not far-fetched. The police in Nigeria, as elsewhere in the world, are the most visible agency of government. Their ability to relate to the people in a respectful manner, devoid of egregious brutality and hostility, is a critical indicator of whether the Nigerian society is, indeed, undergoing a democratic transformation.

The aim of this paper is to review ongoing efforts at police reform in Nigeria. After giving a brief history of police–community disconnection in Nigeria and an analysis of the nature of the current democratisation process, the paper will focus on critical issues that must be dealt with if the police and policing in Nigeria are to transform. It is hoped that this may give insights to individuals and groups who wish to contribute to police transformation in a country that is still in its early stages of democratisation.

1. BRIEF HISTORY OF POLICE–COMMUNITY DISCONNECTION IN NIGERIA

Before the advent of British colonial rule, the various ethnic nationalities that make up Nigerian society had some form of community-based police services. This ranged from the highly developed age-grade system among the Igbos of south-eastern Nigeria, the "secret societies" – such as the Ogboni and Oro cults found in several Yoruba communities of the south-west – to the Ekpe cult among the Efiks of the south. All these societies, rooted in the communities, helped to maintain law and order as well as general community development.[2]

The idea of the modern Nigerian police, however, armed and distinct from civil society, is a creation of colonial rule. It began its history and functions in serving the interests of the British colonial government. The period between 1861 and 1904 witnessed British colonialists subjecting the estimated 400 nationalities[3] to their domination. As each of the nationalities were subjected to colonial rule, the British established police forces and constabularies to protect its interests.[4] These forces and constabularies were armed and organised as quasi-military squads. Such forces in different territories comprised officials who were strangers in the communities where they were employed. The purpose of this practice of alienating the police from the communities they served, was to ensure that such officials, when deployed to execute punitive expeditions, would act as an army of occupation[5] and deploy maximum violence on the communities.

An example of this was in 1863, when the Colonial Governor of Lagos Colony, HS

Freeman, wrote a letter to the Duke of New-castle in which he highlighted the advantage of an estranged police for the colonial government. According to him, deploying policemen to areas where they were aliens would foster effective deposit of violence in the community policed. Consequently, Freeman reported that:

> "The men [Hausamen recruited into the force in Lagos Colony] being from the interior and professing the mussulman [Muslim or Islam] religion are hated by the natives of these parts who have hitherto only known them as their slaves. They [Hausas] are disliked also by the Europeans as being of a more independent character than the Lagos people. They thus have only the government to depend on, and if properly managed will prove a valuable resource to this settlement."[6]

The arrangement did "prove a valuable resource" to the colonial government. As a result, 30 years later in 1893, another colonial governor, in a letter to London, reported that:

> "In our Hausa force we have a body of men dissociated from the countries immediately around Lagos both by birth and religion, and who are as a matter of fact the hereditary enemies of the Yorubas. This is such an enormous advantage in any interior complication [opposition to colonial rule] that I should be sorry to see it abandoned if it were possible to obtain a supply of recruits in any other way."[7]

In essence, there was a colonial interest in ensuring hostility and violence between the police and the citizens. The colonial government organised the police as instruments of riot, opposition and suppression. They were not established as agents for promoting the rule of law, human rights, community safety or for delivering social services.[8] The colonial police forces were therefore used in punitive expeditions to further the goal of colonial annexation of territories,[9] namely to suppress opposition against colonial exploitation.[10] This marked the beginning of police–community disconnection in Nigeria.

Police–community disconnection with civil society did not end with Nigeria's independence from colonial domination and oppression. When Nigeria gained political independence in 1960, there were expectations that the police would be reorganised and reoriented from a colonial occupation force to serve the people. This did not happen. The parties that were elected into government found it more convenient to retain all colonial structures of coercion in dealing with the people. Therefore, instead of a major reorganisation of the police to serve and protect the Nigerian people, what was witnessed was a ceremonial oath, transferring allegiance of the Nigerian Police Force (NPF) from the British Crown to the Federal Republic of Nigeria, and a change of their former crests bearing the symbol of the British Crown to the Federal Coat of Arms. All other features of the police that made them widely feared and despised under the colonial government were left untouched.[11]

The situation worsened due to persistent seizure of political power by the Nigerian military, which prevented the development of a democratic culture and adherence to the rule of law in the country. The military takeover of government in 1966 and the subsequent appointment of the Inspector General of Police and his deputy as members of the then Federal Executive Council under General Ironsi, led to a marriage of convenience between the police and the military, which endured throughout the period of military rule in Nigeria.[12] Speaking on the impact of military rule on the police in Nigeria – in an acceptance speech for an honorary doctorate award from Imo State University in March 1998 – Alhaji Ibrahim Coomassie, former Police Inspector General, noted:

> "The Force (NPF) has been torn between the civil populace and the military, so much so that its civil traditions are almost lost to military authoritarianism."[13]

This was the state of the police before the present elected government came to power.

2. NATURE OF DEMOCRATIC TRANSITION IN NIGERIA

Democracy in the contemporary world, according to Philip B Heymann, is sustained by two primary forces:

> "It can be the result of the rather powerful demand of the population ... Democracy can also be largely the result of international pressures, especially with the end of the Cold War."[14]

When democratic transition is driven by a strong national movement for change, it could

be described as a "strong" democratisation process. Whereas, when it depends essentially on external support from powerful countries and donor agencies, it could be called a "weak" democratisation process.[15]

The Nigerian democratic experiment, unlike the processes that led to the new South Africa, could be said to fall within the latter category. Two recent developments in the country buttress this assertion. A weekly newsmagazine in Nigeria has published two cover stories on the plot to remove President Obasanjo, this year. In its most recent cover story titled, "Plot to remove Obasanjo deepens", the magazine reported countermeasures being adopted by the government to arrest the alleged plot. Quoting an anonymous presidency source, the magazine reported:

> "Apart from routine surveillance measures, there has been an effort to sensitise Nigeria's traditional friends (abroad) about the threat to democracy. This has led former United States (US) President, Jimmy Carter, and Assistant Secretary of State, Thomas Pickering, to make statements, during their recent visits to Nigeria, urging restraint on the Nigerian Armed Forces."[16]

There was no mention of mobilising Nigeria's people, who ostensibly voted for the government, to resist any move by the military to forcefully take over government. Another incident which demonstrates the fragility of the democratisation process in Nigeria, is the ongoing face-off between the National Assembly and the Executive. This came to a head on 21 August 2000, when the Legislature threatened to pass a vote of no-confidence on the President. According to newspaper reports, the lawmakers had to soft pedal when Clinton threatened to cancel his scheduled state visit to Nigeria, beginning 26 August 2000.[17] These two incidents, in my view, mirror how weak the Nigerian democratic experiment is and how heavily dependent it is on external forces. The question is: How long can these external forces sustain the country's democratic experiment without the cultivation of a home base, and what are the implications for police transformation?

Since the focus of this paper is on police transformation, we shall concern ourselves with the latter part of the question. David H Bayley, in the article "Developing democracy through police reform", offers an insight. According to him, "during transition to democracy, democratic reform of the police is likely to be less important to emerging democratic governments than security".[18] Explaining why this tends to be the case, he stated:

> "Democracy requires stability and order, yet transitions to it, are often accompanied by violence and disorder. Threats to regimes always take priority over threats to the ... public [subversion over crime]. At the same time, the legitimacy of government requires providing internal order for the population."[19]

The Nigerian situation not only offers a good example of Bayley's thesis, but also shows how the dilemma of management of security and reform faced by transitional democracies, can lead to the growth or stagnation of the democratisation process. The current democratisation project in Nigeria began on 20 July 1998, when General Abdulsalami Abubakar – who assumed power on 9 June 1998, the day after General Abacha died – announced his own transition to a civil rule programme. The programme culminated in the election and induction of the government of President Olusegun Obasanjo on 29 May 1999, making it the shortest of all three transition programmes so far attempted since the second coming of the military on New Year's Eve, 1984.[20]

In spite of the electoral flaws observed by local and foreign observers before, during and after the election,[21] everybody endorsed it. At least, it offers a new beginning for a country that has been devastated socially, politically and economically by more than 15 years of military rule. There was euphoria in the country that the "second coming" of Obasanjo, the darling of Western governments, would bring the much desired succour to the people. They did not know, however, how difficult the journey ahead was going to be.

The installation of democracy as a peaceful transition could not be presumed. Widespread mayhem ensued in various parts of the country. Violence in its goriest form broke out, from the Niger Delta – where restive youths fighting decades of neglect had perfected the act of abduction and hostage-taking of oil company workers – to the south-west, where ethnic militia from the Odua Peoples' Congress (OPC) swore to defend Obasanjo, whom they did not

elect. The north and eastern parts of the country were included as Sharia violence in Kaduna and its reprisals in Aba and Umuahia, left hundreds, if not thousands, dead. Naturally, the government had to respond, since democracy requires stability and order to strive. The government started by sending the military to invade Odi in Bayelsa State, where youths abducted and killed 12 policemen. After the complete destruction of the town, however, it was the police, and not soldiers, that were able to arrest the suspects. The second was the shoot-on-sight order given to the police against members of OPC and other ethnic militias involved in one conflict or another.

Since then the "panic" response to civil disturbances has been extended to any dissenting view from that of the President, even from members of the party under which he was elected. The new phrase in our political lexicon is "enemy of democracy", which is loosely used to lump together all kinds of people including those who share a different view from the government. In line with Bayley's thesis, investment in security forces for the protection of Obasanjo's government has taken precedence over investment in needed reforms that would bring democracy dividends and the services of the police closer to the poor and vulnerable segment of the population – who are daily tormented by the rise in unemployment and property crime. In Nigeria today, the democratisation process has been personalised to the extent that President Obasanjo is democracy, and democracy is President Obasanjo.

3. TRANSFORMATION OF THE NPF

With the foregoing as a background, the government appears rather keen on pursuing ad hoc and panicky responses to glaring cases of police inadequacy. The usual response, especially with the upsurge of violent crime and armed banditry, is discussions about the enlistment of more personnel and the provision of superior fire power to the police, to match those of violent property criminals – as if guns alone would enhance police performance. There is no serious effort to work for transformation of the NPF, from a "regime police" to a democratic police.

According to Bayley:

"Whereas regime police are primarily concerned with what government requires, democratic police are responsive to the needs of the citizenry and are held accountable for their deeds and omissions through multiple political and civil mechanisms."[22]

A possible exception to this ad hoc approach to police reform in Nigeria is reports in newspapers that the Ministry of Police Affairs – the supervisory ministry of the NPF – has drafted a five-year development plan for the police. The major plank of the plan, which had no input from civil society in the country, is the recruitment of an average of 40 000 police personnel a year for the next five years, which would bring their numbers from the current 140 000 to 340 000. This measure, it is hoped, will bring the ratio of the police to the population from the current figure of one policeman to 714 people (1:714) to one policeman to 294 people (1:294) in five years' time.

There is certainly a need to build up police numbers in Nigeria, given the embargo placed on recruitment into the force for the five years of General Abacha's regime. There does not, however, seem to have been preparation for the absorption of the impact of such a massive influx of personnel into the police. It has already had an effect at police colleges and training institutions where recruits are now undergoing the mandatory six- to nine-months' training for enlistment of constables into the force.

Most of the police colleges and training institutions were practically abandoned during the Abacha regime, given the embargo on recruitment, and are presently over-stretched beyond capacity due to the influx. Many of the trainees are made to bring bedding and toiletries from their homes. Some could not even get accommodation from the institutions. There are no books in their libraries and to compound matters, they are still using the curricula and syllabi developed in the 1970s for their training.

To assist in the reorganisation of the force, 22 civil society groups in Nigeria came together and formed the Network on Police Reform in Nigeria (Noprin) to work with the Ministry of Police Affairs, the NPF, the National Assembly, the private sector, donor agencies and other stakeholders on safety and security issues in the country – to ensure that police transformation in Nigeria, benefits from the input of civil society. We have identified six critical areas that should be reformed. These are:

- police legislation and standing orders
- community–police relations
- police operations and accountability
- human resources, training and development in the police
- gender and policing
- police welfare and conditions of service.

3.1 Police legislation and standing orders

The Nigeria Police Act was enacted in 1943 by the British colonial government. From 1943 until today, there has been no major review of the Police Act to bring it in line with the dictates of policing a democracy. Over the years, successive inspectors general of police have adopted measures to enhance the work of the NPF, but the fact remains that unless these measures are backed by law, they cannot endure. A typical case that comes to mind is the directive by Etim Iyang – Inspector General of Police in 1984 – raising the minimum educational requirement for enlistment into the police force from secondary class four to school certificate. His successor, Alhaji Gambo Jimeta, did not back this measure and reverted it to secondary class four. His argument was that some states of the federation would not be able to fill their quota in the police force if the enlistment educational requirement was school certificate!

Some of the provisions in the Act have become anachronistic and in urgent need of review. Examples are police training, code of conduct and discipline, superior orders, access of the public to police records, enlistment of women police and conditions of service. The Act also needs to be reviewed to provide for, among others, civil oversight of the police and accountability to the community.

3.2 Police–community relations

Police–community relations in Nigeria are characterised, at best, by deep suspicion and, at worst, by violence. Although the NPF has more contact with citizens than any other law enforcement agency in Nigeria, the nature of such contact is involuntary and occurs in the course of police discharge of their law enforcement functions. These types of contact situations provide little or no opportunities for non-coercive interaction between the police and citizens.

Police authorities are not unaware of the negative public image the agency has acquired over the years, due to the activities of some of its officers, men and women. In the mid-1980s, the Inspector General of Police established police–community relations committees (PCRCs) in all police divisional, area and state commands in the country. The PCRCs are supposed to serve as liaison bodies between the police and the communities they serve, and thus be in a position to build confidence and cooperation between the police and civil society in the country. They have, however, not been able to play this role effectively, due to the non-representational nature of the PCRCs' composition in the communities where they operate, and the fact that they are a police initiative – not accountable to any civil authority. There is therefore a need to reorganise the PCRCs and to make them a committee of local government councils, with a majority elected membership. Their composition should also be broadly representative of the local council areas in terms of religion, gender, age and cultural background. The PCRCs should represent the consumer of police service, voice the concerns of the citizens and monitor police performance.

3.3 Police operations and accountability

Nigeria is perhaps one of the few countries in the world where the police is allowed to police itself. Unless an aggrieved citizen has the money to proceed to a law court to challenge abuse of his/her rights by the police, he/she has no alternative but to report his/her case to police authorities for redress. On occasion, police authorities at state and federal level have intervened by disciplining erring members through internal disciplinary procedures, but the whole idea of the police, policing itself in a democratic system of government, calls for review. In theory, the Ministry of Police Affairs is the supervisory ministry of the police in Nigeria. However, the ministry only has an office in Abuja – the federal capital – whereas the police has a presence in the 774 local government councils in Nigeria. One can imagine the type of oversight the ministry would have on the police. There is a need to establish civilian review boards at local, state and federal levels to deal with complaints of abuse of power by the police.

3.4 Human resources development and training

The selection and screening process for recruit-

ment into the Nigerian police, especially at the junior level (constable and inspector) and the curricula for training of all levels of the police are narrow in scope and should be reviewed. For a constable, the selection process emphasises physical stature and stamina. Rigorous tests for psychological and emotional stability and social relations skills are not given adequate attention.[23] The curricula emphasise police duties, drill, physical exercise and limited knowledge of criminal law and procedure. The content of the training is limited and is deficient in liberal subjects such as sociology, psychology and political science.

Furthermore, refresher courses for officers are infrequent. These inadequacies associated with selection, screening, testing and refresher training for police personnel before promotion at different times in their careers, adversely impact on discipline, orientation, attitude, performance and conduct of Nigeria's police and should be addressed.

3.5 Gender and policing
The gender question in Nigeria has over the years become an important issue recurring in all aspects of our national life – especially in the area of law enforcement. Although women constitute over 50% of the Nigerian population, they make up less than five per cent of the NPF. Research has also established that women police officers in Nigeria face many discriminatory laws and practices in their daily work, which in turn impact on police services to women in the larger society. The curriculum for police training should be reviewed to include training on the handling of domestic violence cases. There is also a need to establish an office to provide special care for women and children who are victims of domestic violence, as well as other forms of gender-based abuse in police stations in Nigeria.

3.6 Police welfare and conditions of service
Police welfare and conditions of service should be improved to enhance staff morale, which is presently at a low ebb.

CONCLUSION
To summarise: the current ad hoc and limited reform measures being adopted by the government and the police force may fail unless a fundamental reorganisation of the force is embarked upon.

ENDNOTES

1) SA Asemota, Policing under civilian and military administration, in TN Tamuno; IL Bashir; EEO Alemika and AO Akano (eds), *Policing Nigeria* (Lagos: Malthouse Press, 1993) p.59.

2) IC Chukwuma and Akin Ibidapo-Obe (eds), *Law Enforcement and Human Rights in Nigeria* (Lagos, Civil Liberties Organisation, 1995) p.66.

3) O Otite, *Ethnic Pluralism and Ethnicity in Nigeria* (Ibadan: Shaneson, C.I. Ltd, 1990).

4) EOO Alemika (1993a) Colonialism, state and policing in Nigeria, *Crime, Law and Social Change*, 20:187-219.
   The police forces and constabularies were: McCorsky Police/Consular Guard (1861); Armed Police Force (1863); Gold Coast Constabulary (1876); Lagos Constabulary (1886); The Lagos Police (1895-1897); Annesly Police (1889); Oil Rivers Irregular (1892); Court messengers (1892); Niger Coast Protectorate Constabulary (1894); Niger District Police (1900-1905); Southern Police Force (1902); Southern Police Force (1917); Royal Niger Company Constabulary (1888); Northern Nigeria Constabulary (1903); Northern Nigeria Police (1917) and Nigeria Police Force (1930).
   For details of these forces, see the encyclopaedic historical work of TN Tamuno (1970) *Police in Modern Nigeria* (Ibadan: Ibadan University Press) and EEO Alemika (1930a). From 1914–1966, there was a dual police system – those established by colonial forces and local police forces that were managed by colonial surrogates, traditional rulers and native authorities. For a detailed discussion of these latter forces see Kemi Rotimi (1993) and PT Ahire (1993) both in TN Tamuno, IL Bashir, EEO Alemika and AO Akano (eds) *Policing Nigeria: Past, Present and Future*, (Lagos: Nigeria Police Force and Malthouse Press).

5) EEO Alemika (1993a) ibid and EEO Alemika (1998) Policing and Perceptions of Police in Nigeria, *Police Studies* 11 (4): 161-176, and PT Ahire (1991) *Imperial Policing* (Milton Keynes: Open University Press.)

6) Letter from Governor HS Freeman to the Duke of Newcastle, 31 December 1863 – National Archives, Ibadan: cso /i/i/i. This force was also known as the Armed Hausa Police Force, because it consisted largely of Hausas who had been freed from slavery around Lagos. Creating enmity between the public and the police was therefore a colonial policy implemented through recruitment and employment, in order to achieve effective containment of opposition to colonial rule. See EEO Alemika (1988) ibid, Tamuno (1970), Chapter 1, op cit for further discussion.

7) Denton and Rippon, 2 August 1893 at the National Archives, Ibadan: cso/1/1/14, quoted in *Police–Community Violence in Nigeria*, Centre for Law Enforcement Education, Lagos, January 2000 and also cited in Tamuno (1970) op cit p.28 and also in Alemika (1988) op cit.

8) See Alemika (1988) ibid; Alemika (1993a) op cit and F Odekunle (1979) The Nigerian Police Force: a Preliminary Assessment of Functional Performance, *International Journal of Sociology of Law* 7 61-83.

9) Examples include the activities of the colonial constabulary police in the pillage of Benin Kingdom (1897), Opobo nation and the battle for Niger confluence, occupied by various ethnic nationalities such as Abinu (Bunu land), Bassa Nge, Oworo, Kakanda, Egbura etc. between 1895 and 1900. The "victory" of the British force led to the formation and proclamation of the Protectorate of Northern Nigeria with Lokoja as headquarters on 1 January 1900.

10) Such instances include women anti-tax riots in the east (1929-1930); in Warri Province (1927-1928); in Abeokuta (1948); industrial labour strikes in Burutu (1945); Enugu (1949) and the general strike (1945). Scores of unarmed men and women were killed or maimed in these incidents by colonial forces.

11) Innocent Chukwuma, Police Powers and Human Rights in Nigeria, *Law Enforcement Review*, Lagos, January-March, 1998, p.26

12) SA Asemota, Policing Under the Civilian and Military Administration, in *Policing*

Nigeria, Malthouse Press Limited, Lagos, 1993, p.396.

13) Innocent Chukwuma and Ogaga Ifowodo (eds), *Policing a Democracy*, Centre for Law Enforcement Education, Lagos, 1999, p.2.

14) Philip B Heymann, Principles of Democratic Policing, in *US Department of Justice, Policing in Emerging Democracies: Workshop Papers and Highlights*, NIJ Research Report, October 1995, www.ncjrs.org/txtfiles/167024.txt

15) Op cit.

16) John Okafor, Plots and counter plots, *Tell Magazine*, Lagos, 21 August 2000, p.24

17) Cosmos Akpunobi, Clinton stops reps, *Daily Champion*, Lagos, 24 August 2000, p.1

18) DH Bayley, Who are we kidding? Or developing democracy through police reform, in *US Department of Justice, Policing in Emerging Democracies: Workshop Papers and Highlights*, NIJ

Research Report, October 1995, www.ncjrs.org/txtfiles/167024.txt

19) Op cit.

20) Adewale Maja-Pearce, *From Khaki to Agbada: A handbook for the February 1999 elections in Nigeria*, Civil Liberties Organisation, Lagos, 1999, p.33.

21) For further reading on this refer to the report on the election produced by the Transition Monitoring Group, a coalition of 63 human rights and civic organisations in Nigeria, that monitored the elections.

22) David H.Bayley, The contemporary practices of policing: A comparative view, quoted by Mark Malan in *Police Reform in South Africa: Peace Building Without Peacekeepers.* http://www.iss.co.za/Pubs/ASR/8.3/Police%20reform.html (8/16/2000), p.1

23) Etannibi Alemika and Innocent Chukwuma, *Police Community Violence in Nigeria*, Centre for Law Enforcement Education, Lagos, February 2000, p.10

Reform of the Police in Ukraine: The Need for Cooperation Between the Police and Public in Tackling Crime

Alexey Povolotskiy

INTRODUCTION

From the moment of its establishment as an independent state in 1991, Ukraine has chosen the road of democratic development. Since 1991, all state institutions have faced the challenge of reform – moving from a situation where they were closely allied to the needs of the state, to one where they respect the rights of the individual and protect citizens from abuse. One of the key state bodies facing this challenge is the Ukrainian police.

Among the most important tasks of police reformation in Ukraine is improving the relationship between the police and the public, creating a relationship based on trust, mutual understanding and goodwill. This is essential as the police cannot successfully tackle crime alone; public cooperation is vital in this process. To date, the process of police reform in Ukraine has been slow, although a number of legislative acts have been adopted by parliament, by the President and by the Ministry of Internal Affairs.

I would like to consider some of the problems facing the Ukrainian police and to look specifically at a project currently under way in the city of Kharkiv, which aims to improve the relationship between the police and the public. The project – funded by the United Kingdom's (UK's) Foreign and Commonwealth Office and in partnership with the Scarman Centre at the University of Leicester in the UK – adopts a research-based approach to addressing the problem. I would like to draw upon data recently collected as part of this project from the police and the public in the two research areas selected within the city. The areas were selected to reflect differing socio-economic groups within the city and therefore provide vastly different settings for attempting to introduce schemes which may improve relations between the police and the public. One area, Komintemovski, is within the heart of the city and has a high population density, together with a mix of residential and industrial usage. The second area, Solonitsevka, is on the edge of the city and is a much more rural area with a mix of residential and agricultural land use.

1. PUBLIC ATTITUDES TO CRIME AND POLICING

I would like first to present some brief research results.

In terms of how the public views the work of the police, the views of the public were evenly split between those who thought they did a good job (34%), those was thought they did a bad job (32%), and those who did not have an opinion (32%). In other words, just one-third of the population currently believe that the police do a good job in terms of solving crime and maintaining public order in their area.

When asked about their knowledge of the police in their area and the extent to which they came into contact with them, those surveyed showed a significant gulf in contact between the police and the public. More than 80% did not know the telephone number of the local police station – the number most familiar to them was "02" (equivalent to 911 in the United States [US] and 999 in the UK). More than 90% had not been in contact with either a beat or patrol officer in the past 12 months, while a similar proportion stated that a beat officer had not visited them during the same period.

When members of the public had been stopped in the street by a police officer, almost half had had their pockets searched and in three-quarters of cases, the police officer conducting the search did not explain to the respondents the reason why they had been stopped.

Information from the police themselves showed that they had little time to carry out "patrols" or felt a need to prioritise making contact with the public. When they did, it was to carry out searches or to find somebody willing to be a witness.

Further data from the survey showed the extent to which the public had a very negative impression of the Ukrainian police. A large proportion of those interviewed expressed the view that the police take bribes, regularly exceed their powers and act with indifference or hostility when asked for help by members of the public. Very often respondents described the police as "rude", "hard" and "unsympathetic". The public also thought that the police were selective in their patrols, avoiding those areas which were considered to be dangerous. One of the respondents elaborated this point with a local joke: "Excuse me officer, is this area considered dangerous?" To which the officer replies, "If it were dangerous, I wouldn't be here!"

It is obviously easy to focus on the negative findings from the survey, however, some of the results were very positive. For instance, almost 83% of respondents could not remember a case when the police did not respond to their call for assistance. What was even more encouraging was that when members of the public were asked whether they were willing to cooperate with the police in the future, some 39% answered yes, with a further 21% saying probably yes and an additional 21% who did not know. If we aggregate the first two responses, then we have nearly two-thirds of the population willing to cooperate, with perhaps a further quarter who might be persuaded if the circumstances were favourable. This is vitally important data which clearly identifies willingness on the part of the public to work with the police.

The survey did show marked differences in opinion between those residents living in the city (Kominternovski) and those in the more rural area (Solonitsevka). Those in Solonitsevka were generally more familiar with their beat officer, the chief of the police and other police officers working in the area. This difference is partly explained by the increased stability and length of tenure of those living in this area – people tend not to move very often from this area and therefore had an opportunity to "get to know" the local police. It also meant that "strangers" in the area were often quite noticeable and the public were more willing to work with the local police and certainly had a higher level of contact than their compatriots in the Kominternovski area. This situation was further facilitated by the fact that many of the officers working in the Solonitsevka area had grown up there and therefore had much closer ties to the community than officers in the Kominternovski area, who on the whole did not come from that part of the city.

In terms of particular concerns about crime within the two areas, problems of burglary, street robberies and general "hooliganism" were highlighted. There were also concerns about "youth crime" and their involvement in illegal drinking and drug taking.

2. PROBLEM OF POLICING IN UKRAINE

Most would agree that the level of remuneration for police officers and other state officials is woefully low. In the past few years, police officers have only received approximately 30% of their pay and the average salary is in the region of US$30–50 a month. Clearly, such a small salary can hardly support a family or inspire officers to fully commit themselves to the changing role now required in the "new" Ukraine. Equally, funds are not available for equipment to help officers carry out their duties. Many do not have radios and stories of officers not being able to respond to calls since their patrol cars were out of petrol are common. Given this, it is perhaps hardly surprising that the rate of officers leaving the police is rapidly rising or that those who do remain engage in "other" activities to bolster their monthly salary. Within the Kominternovski area, the entire police force has changed in the past two years. This is hardly conducive to the successful development of "community policing".

There is certainly a problem of inertia within the Ukrainian police and a lack of will to change. This is partly understandable – don't get rid of the old until something new has been developed to replace it – but it is also a reflection of self-interest on the part of senior officers

within local and regional police forces and within the Ministry of Interior who benefited from the old regime. This can be seen in the way in which the police continue to be managed with an emphasis on centralised control. Information generally flows from the centre out, and from the top down. Most ordinary and middle ranking police officers do not participate in discussions about police policy or local needs for policing. To show initiative is seen as neither positive nor desirable.

Training of future police officers is also an area which requires review and change. To date, the emphasis has been – certainly for those entering the police at officer level – on training officers in the minutia of the law. Surely what is required after four years of education is trained police officers, not trained lawyers. There is little within the current curriculum which highlights the need to provide skills-based training, focusing on developing the individual, such as communication skills, arbitration and negotiation, time management and the use of initiative and discretion. Little use is made of role play or of practical work placements to improve the skills of those being trained to enter the police.

Finally, there is still too much emphasis on reacting to crime rather than on crime prevention. Certainly, the public quite rightly expect the police to respond as quickly as possible to their calls for assistance and this will remain a key part of policing. Crime prevention, however, is also important and can be much more effective in terms of dealing with particular crime problems.

3. THE WAY FORWARD

So, what needs to be done? Given the title of this paper, improving the relationship between the police and the public is a vital prerequisite. As stated earlier, the public are ready to help if they are given the means to do so. As part of the project now under way, a number of different schemes are due to be introduced. These include organising local meetings whereby the community can discuss with the local police their problems and priorities. In addition, it is planned to set up consultative committees with representatives from the police, the community and local government to enable them to discuss common problems and, more importantly, to develop ways of tackling the problem together.

It is also planned to set up an anonymous telephone line along the lines of "CrimeStoppers" in the UK, to enable members of the public to offer information anonymously. Other ideas include changing the patrol patterns of officers to focus on known problem areas, to arrange crime prevention visits by local beat officers, to provide specialist advice to "at risk groups" such as the elderly and the youth and to redevelop links between the police and local schools, where such links were abandoned during the break-up of the Soviet Union.

Second, it is important to look at ways of reorganising the police – for example, decentralisation, making the police more accountable to local needs. The data from the two experimental areas in Kharkiv show that each area has quite different policing priorities, with the profiles of crime and public concern varying markedly. It is very difficult for a centralised policing structure to respond effectively to local needs.

Third, the type of training given to police officers needs to be reviewed. Large doses of law training does not create an effective police officer. Officers need training in how to work with the public – how to organise a local police–community meeting, how to interact with the public in the street, how to arbitrate between different groups, etc. Training is also required for senior officers as well who need to develop people-management skills, including motivation, leadership and appraisal.

Fourth, it cannot be ignored that a central problem is the low level of remuneration and the lack of resources available to Ukrainian police officers. It is very difficult to persuade an officer to increase his/her level of commitment to the job when his/her salary is reducing in real terms. Undoubtedly, this is a political decision although it could be one taken at local level.

Currently, local taxes are used towards partly paying for the police in an area and this context could be extended in the future. In the UK, funding for the police is now evenly split between the Home Office – equivalent to the Ministry of Interior in Ukraine – and local government. Certainly local funding could be used to focus police priorities on local problems. Ultimately, without a significant increase in the level of funding for policing, many of the schemes mentioned earlier will have great diffi-

culty getting off the ground more broadly across Ukraine.

CONCLUSION

It is worth stating that crime is not only a police problem, but should be seen as a societal problem requiring a range of groups to act together in partnership – police, non-governmental organisations, local government, community groups, the media, etc. Only by adopting a partnership approach can we begin to meet the challenges facing Ukraine in the 21st century.

Crime as a Development Issue

Ted Leggett

INTRODUCTION

Historically, with a few notable exceptions,[1] the disciplines of criminology and development studies have had very few areas of convergence. Most criminological research has been focused on generating universal theories of deviance based almost exclusively on work based in the developed world. Development studies, on the other hand, have focused on the nuts and bolts process of alleviating poverty and creating sound economies in marginalised nations. It is only with the recent occurrence of major crime problems in Eastern Europe, Latin America, Asia, and Africa that an area of common concern has emerged.

These local crime problems have appeared at a time of increasing globalisation, including the growth in international organised crime. The process of globalisation has also challenged our understanding of development. There is now new emphasis on the importance of attracting investment and developing export-oriented economies that can flourish in a competitive global marketplace. International lending institutions, which have tremendous influence in shaping government policy in developing nations, have insisted that this can only be accomplished by downsizing state bureaucracies and opening local markets to international competition. While the long-term effects of this policy are still unclear, it has certainly resulted in immediate hardship for many emerging nations.

In addition to this major economic transition, many developing countries are simultaneously undergoing radical political transformation. Driven in no small part by economic globalisa-tion, authoritarian or statist regimes have given way to new democracies. In many cases, this has meant the surrender of ideologies that have dictated everything from the structure of national government to the nature of private life for decades.

The entire world, but especially developing nations, is in a state of flux. Like the heat generated by the shifting of tectonic plates, rapid change necessarily creates friction. The stress of attempting to survive and grow in a world where the rules are constantly changing has taken its toll on the delicate fabric of social cohesion. It is therefore not surprising that this has manifested itself in many individuals, groups, and whole nations "falling out of the loop" altogether.

This brief paper will broadly survey the relationship between crime and development. It will initially examine some of the general ways in which crime can impede the development process, and will then consider whether a lack of development necessarily generates crime.

1. CRIME IMPEDES DEVELOPMENT

The following news article appeared in South Africa's *Mail & Guardian* national weekly newspaper on March 19, 1999:

"*Thieves make off with PE school*
THIEVES in Port Elizabeth's Kwazakhele township this week stole Sophakama High School.
On Tuesday its 11 classrooms were still there, but when pupils arrived on Wednesday morning, they had vanished, along with the surrounding security fence. The only evidence the school had ever been

Castells[7] argues that local "identity" and quality of life are among the most important features in attracting investment in an increasingly undifferentiated global marketplace. As the global economy becomes more service-based, value can be generated anywhere there is a concentration of highly skilled people, and these people are likely to congregate at those points with the greatest local character and living standards. Crime destroys all this.

When local living conditions become intolerable through fear of victimisation, the wealthy soon follow their money out of the country. In a poll of emigrating South African managers, 60% mentioned crime and 47% mentioned violence as their reasons for leaving.[8] This "brain drain" represents a greater loss than just the prospective productivity of the emigrating talent. It also means a loss of national investment in education, which will have to be replaced at the expense of the taxpayer. No less than the expropriation of natural resources under colonialism, this siphoning of human capital represents a form of looting of the third world by the first. Ironically, the developing world has become a human capital resource for the developed nations in highly skilled as well as unskilled occupations. The poor pay their taxes to train the doctors of the rich.

With the advancing integration of markets and the entry of the massive low-wage workforce of China into the international scene, one of the few areas of comparative advantage left to poorer countries is their local culture and geography. Global tourism employs 7% of the total global workforce[9] and represents one of the few growing sources of lesser skill jobs. Tourism was identified by the United Nations (UN) Conference on Trade and Development as the industry most likely to attract foreign investment into Africa in the early 21st century, outpacing the food and textiles industries.[10] However, people don't like to be robbed and raped on holiday, and high crime levels can scotch a local tourist industry, regardless of how attractive the local culture and landscape may be.

While local artists may be slightly more attached to the source of their inspiration than other skilled workers, they too can be frightened out of their homeland. With this exodus, the generation of distinctive local culture – an internationally marketable commodity – can

grind to a halt. The entertainment industry is not a trivial source of income generation. It is one of the pillars of the United States (US) economy, and "entertainment" amounts to little more than the export of American culture and arts products. America has learned to expand profits in this area beyond the price paid for the creative work itself to include the "merchandising" of related style-products, from the generically American Levi's jeans to the range of Hollywood derivative toys and games. It has even learned how to manipulate its criminal cultures into to an internationally marketable product, from movies celebrating the American Mafia to the ubiquitous beat of "gangsta" rap.

Outside the US, there is also money to be made from crime, but this process is not without its complications. One of the few areas where global profits continue to flow from the developed to the developing world is illegal drugs. Estimates of the size of the international drug economy vary widely,[11] but most dwarf the legitimate annual incomes of the world's poorest countries. Countries where drug crops are produced or processed (like Pakistan), as well as those used as transit points (like South Africa), have a strong tendency to develop their own substance abuse problems. The proliferation of addictive drugs leads to an increase in prostitution and an overall deterioration of conditions for sex workers. An increase in the number of sex workers pushes down the rate for sex, compelling sex workers to increase volumes and accede to customer demands for unsafe sex.[12] Thus, both drug use and sex work have links to another great barrier to development – HIV/AIDS.

While little research has been performed on the psychological implications of being HIV positive in a developing country, preliminary work indicates that the burden of disease and poverty can drive young people into a kind of violent nihilism.[13] Gender violence has also been linked to HIV/AIDS.[14] It is estimated that half of all children in South Africa who are now 15-year-olds will die of AIDS, many leaving children of their own behind.[15] In Botswana, the figure is two out of three. South Africa will face an estimated 800 000 AIDS orphans by 2010, young people with troubled upbringings and many with no means of support besides crime.[16] These children will have great difficulty in gaining an education since,
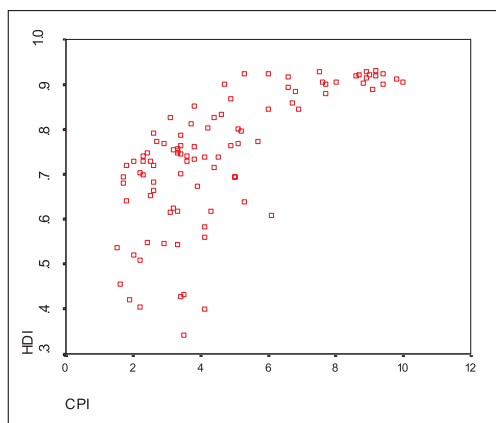
assuming their schoolhouse has not been stolen, there may soon be a shortage of teachers. Countries like Botswana are already beginning to feel the effect of teacher losses to AIDS. Thus, in a convoluted but indisputable way, drugs lead to HIV, which in turn derails the development process.

Drugs represent just one aspect of a diverse global criminal economy, which is deeply intertwined with mainstream commerce. Money laundering has also become one of the few ways in which tiny nations can generate profit on their sovereignty, although international conventions are increasingly eroding this independence. Crime has become a way in which poor countries can trade on their marginal status. The increasing demand for extraterritorial law enforcement, spearheaded by the US Drug Enforcement Administration via the war on drugs, may destroy even this advantage. Even within the criminal economy, the developed world continues to promote its own market interests.

Individuals within the government have also learned to capitalise on national marginality. Corruption is facilitated by the new, scaled-down state, and whole nations can fall prey to predatory "kleptocracy".[17] Aside from the direct costs to the taxpayer (which can be considerable), officials may allow the looting of local resources and the exploitation of local labour by outside interests in exchange for private kickbacks. Leaders like the former Zaire's Mobutu Sese Seko may intentionally sabotage a well-developed national infrastructure in order to facilitate further theft.

As might be expected, the less developed the country, the greater the perception of corruption, and perceptions determine investment decisions. A World Bank study indicated that counties with high levels of corruption and low predictability of payments and outcomes had a gross investment to GDP ratio of 12.3%, compared to 28.5% for less corrupt and more predictable countries.[18] Using Transparency International's 1999 Corruption Perception's Index (CPI), ratings for 96 countries can be seen to be positively correlated with their Human Development Index (HDI), as the following scatterplot suggests.[19]

Aside from these arguments, the costs of violent and property crime in terms of direct medical costs, lost assets and productivity and gen-

eral demoralisation cannot be adequately tallied. It is impossible to determine how many businesses have folded and how many jobs have been lost as a consequence of the burden of crime. The impact of crime on individual lives – the premature deaths, the lingering traumatisation – is beyond reckoning.

The costs of maintaining a large police force, prosecution service, and corrections system must also all be added to the tally. In South Africa, where most citizens would agree that the criminal justice system is not adequately resourced, government expenditure on crime-related services could account for as much as a sixth of the non-interest budget.[20] This is more than is spent on any other single area and is money that is not being spent on developing the country.

Thus, it becomes clear that crime and the fear of crime can impede development in a variety of ways. If it is true that a lack of development, or perhaps the development process itself, is responsible for the crime problem, we may find ourselves in a very difficult position indeed.

2. DOES LACK OF DEVELOPMENT PROMOTE CRIME?

It stands to reason that a traumatised populace, suffering in poverty and cut off from legitimate means of income generation, might well be expected to engage in a range of crimes. But it is generally acknowledged that the poorest countries are not the most crime ridden, and relatively affluent ones, like the US, have serious crime problems. Thus, it is pretty clear that crime has a negative impact on development, but does the lack of development really cause crime?

The relationship between poverty (and the

social problems related to it) and crime has been thoroughly explored in the field of criminology. The three major schools of classical criminology (anomie/strain, learning/differential association, and control theory) all deal with the issue. Each of these theories has found empirical support among it proponents and has been empirically contested by detractors. Each of these theories predicts an increase in crime in countries undergoing the process of development.

The anomie/strain theory was first advanced by Merton in 1938. It is based on Durkheim's coinage of the term "anomie" to describe the state of "normlessness" that he witnessed in France during its industrial period. Generalising from this experience, he postulated that:

> "During periods of rapid social change, traditional norms may be viewed as no longer applicable to behaviour, leaving people free to pursue any ends by any means."[21]

Anomie/strain theory has come to focus on the pressures experienced (especially among young males) when society promotes a goal that is not attainable by a segment of the population. This has been especially applied to ghetto youth in a materialistic America, but has also been applied to wealthier people in situations of "relative deprivation". The core idea is that people fed a materialistic value system without being supplied with the means of attaining material goals are likely to engage in crime, including property crime, instrumental violent crime and frustration violence. This is clearly a scenario applicable to countries entering the world of globalised capitalism.

Many observers of international development have objected to the way the Western marketing machine has pushed consumerism in countries where the means of achieving material objectives are limited. An entire movement of academics and activists have rallied to contest this type of cultural imperialism,[22] though generally without reference to the possible effects it might have on local crime. It is disturbing that Western commercial interests are relentlessly promoting a value system that Western scientists acknowledge contributes to increasing crime across the planet.

The learning/differential association theory was founded on the work of Sutherland,[23] but is also associated with the work of the Chicago School.[24] The central idea behind this theory is

that people living in areas of anonymity and heterogeneity, particularly poor urban youth, generate their own subcultures of crime. Youths brought up in these areas learn to become criminals by association with others subscribing to these subcultures. Rather than simply defying the rules to attain prescribed goals, they generate their own "rule of the streets", where qualities not sanctioned by mainstream society (such as a capacity for violence) are valued. By labelling those who engage in crime as "criminals" and excluding them from the mainstream, society forces these individuals to become "secondary deviants", fully embracing the alternative value system.

The fragmented and heterogeneous nature of many developing countries makes them prime candidates for the growth of alternative criminal cultures. In countries emerging from many years of civil war or political oppression, the veneration of violence may already form part of the dominant culture. In development theory, the "social exclusion" hypothesis was advanced in France to explain how many aspects of "poverty" could persist despite widespread access to state provided income, housing and health care.[25]

For a variety of reasons, certain segments of society can find themselves excluded from participation in the political, economic and social mainstream of a country. This can result in the excluded group engaging in a range of antisocial and even self-destructive behaviour, including criminal activity.

Control theory is probably best articulated by Hirschi.[26] Control theory posits that human beings naturally break the law when sufficient social bonds do not constrain action. Hirschi describes social bonds enforcing conformity to law as consisting of four elements: attachment, commitment, involvement and belief.

"Attachment" promotes conformity for emotive reasons, out of sensitivity for the feelings and opinions of others in one's social network. "Commitment" is defined as the rational decision not to risk social investment by deviance. The extent of individual "involvement" in mainstream activities also limits opportunities for crime, due to simple time constraints. Finally, and perhaps most powerfully, "belief" in social norms places strong internal controls on behaviour. All of these elements are threatened by rapid social change, including democ-

ratisation, economic development and adjustment to globalisation.

In development theory, the notion of "social capital" has risen to prominence.[27] This theory acknowledges that the intangible networks of trust and exchange that develop within stable communities have a very real economic value. Recognition of the cost of losing this capital due to the social disruption caused by global capitalism provides an economic dimension to strain theory.

While the development process disrupts social control on individuals, it also limits the capacity of the state to provide deterrents for criminal activity. States investing in basic education, infrastructure development, and industrial support may lack the necessary resources to support an effective criminal justice system. States may find themselves torn between working towards crime prevention by provision of employment and social services on the one hand, and establishing social order as a foundation for economic development on the other.

In addition to these classic theories, a number of analysts have viewed criminality from a purely economic perspective.[28] Crime becomes a rational choice where the benefits to be gained outweigh the risks. This is certainly the case in many developing countries, where state law enforcement apparatus is insufficient to provide real deterrence, and where other economic opportunities are limited. Countries in transition are often emerging from authoritarian regimes, where the brutalised populace had positive political motivation for discovering how to circumvent the mechanisms of social control. However, when a more democratic government takes power, new restrictions are placed on law enforcement, while the law-breaking skills acquired by the populace remain. Unlike the situation in developed countries, where most crime is centred on depressed inner city areas, in developing countries rapid population movement has caused similar instability in large rural areas. Policing techniques that work well in the developed world may be useless in this context.[29]

Empirical testing of the predictive capabilities of these theories is fraught with difficulty. Contradictory evidence has even emerged in studies conducted exclusively within the developed world. All these theories predict that many of the classic indicators of social depriva-

tion are positively correlated with criminality, but there remain many discrepancies and contradictions. For example, unemployment has, in many studies, been found to be negatively correlated with delinquency.[30]

Attempting to perform cross-national quantitative comparisons on the basis of development indicators and crime statistics would seem to be a relatively straightforward procedure. Standardised, development-related national statistics are collected by a number of organisations, including the UN and the World Bank, and most countries keep some sort of record of crime. However, different countries define different crimes in different ways and collect different types of information regarding crime. In addition, some developing countries lack the capacity to assemble reliable national figures.

Many interpersonal crimes, such as rape and assault, are severely underreported in most countries. However, the degree of underreporting varies greatly according to the stigma attached to victimisation in the local social context.[31] Even if crimes are reported, different jurisdictions have differing policies on the importance of recording these reports if there appears to be insufficient evidence to merit an investigation or prosecution. Instances of some property offences that are well reported, like automobile theft, vary greatly in accordance with local access to resources. There is very little auto theft in countries with very few motor vehicles, for example. Other types of crime, such as drug crimes and prostitution, are entirely reliant on police initiative for enforcement. Thus, the international crime figures published by the United Nations Development Programme (UNDP)[32] provide the following counterintuitive results:

- Canada has one of the highest recorded rape rates in the world (267 per 100 000), second only to Estonia in the UNDP figures.
- The rate of drug crimes in Switzerland (574 per 100 000) is more than 10 times that in Columbia (40 per 100 000).
- The rate of total reported crimes in Denmark (10 508 per 100 000) is more than five times higher than in the Russian Federation (1779 per 100 000) and more than 100 times that of Indonesia (80 per 100 000).

There also exists much literature (primarily in economics) dedicated to manipulating these sorts of dubious figures in various arcane ways

to arrive at ambitious conclusions regarding the universal nature of crime. Most of this is disregarded by specialists, who focus instead on the one crime variable that seems fairly unambiguous – homicide.

Unfortunately, even homicide is not as clearcut as it may seem. Interpol defines the crime "murder" as "any act performed with the purpose of taking human life," which, of course, includes attempted murders. There is some sense to this broad definition since, for the purposes of international comparison, an assault producing a given injury may be disproportionately lethal in countries with poor or inaccessible medical facilities. However, the decision to class a crime as an attempted murder rather than a serious assault is highly discretionary, even within a single jurisdiction. As a result, many of the figures collected for global comparison contain attempted murders as well as actual killings. In addition, the criteria used for defining attempted murders are by no means standardised. Using South Africa as an example, including attempted murders would more than double the murder rate, while adding in all serious assaults would multiply it by 10.

Perhaps partly due to this ambiguity, attempts to correlate various social and economic indicators with homicide rates have produced mixed results for nearly every variable screened. According to Neapolitan,[33] correlations have been found in some studies, and not found in others, for each of the following variables:
• GDP per capita
• urbanisation
• proportion of youth in population
• population density
• infant mortality
• unemployment levels
• cultural integration
• religion
All of these studies confronted the problem of determining what constitutes a "representative sample" of nations, and most focused on countries where statistics were most accessible and most reliable (i.e., developed countries). Neapolitan attempted to rectify this bias by focusing on a large sample of developing countries. In his analysis, one of the most promising explanatory variables – income inequality – failed to show a significant correlation with homicide rates. Other "social deprivation" indicators also failed to show a correlation. The

single best predictor of homicide rates in the study was religion. The greater the percentage of Christians in a developing county, the higher the homicide rate. The greater the percentage of Muslims in a developing country, the lower the homicide rate. While the deterrent effect of sharia law seems to provide the most obvious explanation of this finding, Neapolitan explains it by referring to the instability generated by colonisation, where Christian missionaries undermined the social cohesion provided by traditional religions. He also posits, along anomie/strain lines, that cultural integration and traditional values are stronger in Muslim countries and that individualism and materialism may be higher in Christian nations.

The relationship between Westernisation and crime was also explored by Huang,[34] who examined what Durkheim terms "moral individualism" and murder rates. This characteristic, perhaps the flip-side of the individualism intended by Neapolitan, is defined as the respect for individual rights found in the collective morality of a modern society. Using a quantitative measure of political and civil rights, Huang established a negative relationship between "moral individualism" and murder rates. He concludes that, "concern for individual rights and personal dignity have decreased levels of murder in the countries we studied".

Without even careful examination of the manner in which civil rights are quantified, it should be noted that Huang did not use data from countries experiencing rapid transition. None of the former Soviet states or Eastern Bloc countries were included, nor was South Africa – all countries that have, arguably, experienced crime booms since individual rights were officially recognised. Instead, 12 of the 29 counties are in Western Europe and all but five are considered countries of "high human development" by the UNDP. This sort of convenience sampling undermines the slight correlation on which Huang hangs his conclusions.

Another exploration of the impact of "westernisation", this time limited to a single country across a certain time span, is the work of Deng and Cordilia in China.[35] Since economic reform was initiated in 1979, China has experienced several distinct crime waves, the most recent climaxing in 1991 and settling at a plateau of approximately 140 crimes per 100 000 from

1992 to 1995. There has also been an increase in the number of serious violent and property crimes between 1988 and 1995. Deng and Cordilia attribute this change not only to a decline in social control, but also to the active assertion of Western materialist values, encapsulated in the official slogan "to get rich is glorious". They thus draw on, and expand, traditional control and anomie/strain theories. They point out several ways in which the Chinese system of social control was unique, and suggest that theoretical understanding of the causes of crime will have to be expanded to encompass the reality of non-Western nations.

CONCLUSION

It is likely that the Chinese scenario, with local variations, will be played out in other countries in transition. Rapid social change is ubiquitous, capitalism is competitive, and not everyone can be a winner. These problems may become chronic, as free market capitalism is based on the necessity for constant change and innovation, and demands high levels of mobility and flexibility from its workforce.

The process of development in the globalised world can be expected to create consumerist desires in those least capable of satisfying them, inevitably leading to fragmentation and the generation of deviant subcultures. It is likely to undermine whatever community and familial social structure still remains without providing alternate structures for social investment and meaning. Involvement in crime may become a rational decision where legitimate employment is not forthcoming and state law enforcement apparatus is not sufficient to provide real deterrents. Developing countries may find themselves caught in a vicious cycle in which the more rapidly they try to develop, the more the costs of social transition stunt development.

ENDNOTES

1) See, for example, Clinard, M and D. Abbot (1973) *Crime in Developing Countries*. New York: Wiley, and the more recent Sumner, C (1982) *Crime, Justice, and Underdevelopment*. Aldershot: Gower.

2) Jacobson, C (1998) Power surge wreaks havoc: Thieves steal copper wire worth R40 - and cause R1m damage in Joburg suburb. *Sunday Times*, 7 September.

3) African Eye News Service (2000) Crime keeps low cost houses empty. *Electronic Mail and Guardian*, August 25. "More than half the houses in a R17.9 m low-cost housing project in Northern Province are standing empty because beneficiaries don't like the location and are afraid of crime in the area."

4) Munusamy, R (1999) Net closes on rings ripping off province. *Sunday Times*, 7 November.

5) Pelton, R., C. Aral, and W. Dulles (1998) *Fielding's The World's Most Dangerous Places*. Redondo Beach, Fielding's International. Pelton states: "In 1996, there were a reported 1439 cases of kidnapping [in Columbia], a 35% increase over 1995. About a third of the abductions were carried out by rebel groups, while common criminals attached to kidnapping gangs snatched 885 victims ... Kidnapping has become a US$350 million industry in Colombia ... In 1996, at least 45 foreigners were abducted and more than US$160 million paid to kidnappers in Colombia ... Fewer than one in 30 kidnappers are ever caught and sentenced. Fewer than half the kidnappings that actually take place are ever reported."

6) World Bank (1997) *World Development Report*. New York: Oxford University Press, p 5.

7) Castells, M (1998) *The Power of Identity*. Oxford: Blackwell Press.

8) Mittner M (1999) Why SA managers are packing for Toronto. *Finance Week*, 16 April.

9) Castells, M (1998) *End of the Millennium*. Oxford: Blackwell Press, p 151.

10) Bennett, J (2000) Tourism can do won-ders, but it isn't exactly a holiday. *Sunday Times*, August 14.

11) Ibid. p 169. Castells mentions the estimate of $500 billion, more than the global trade in oil. According to the UNDP *World Development Report 2000*, the total gross national product for all of sub-Saharan Africa was just $311 billion.

12) Leggett, T. (1999) Poverty and Sex Work in Durban, South Africa. *Society in Transition* 30(2).

13) LeClerc-Madlala, S. (1997) Infect one, infect all: Zulu youth response to the AIDS epidemic in South Africa. *Medical Anthropology* 17.

14) Pendry, B (1998) The links between gender violence and HIV/AIDS. *Agenda*, 39.

15) *Pretoria News*, 28 June 2000; information from UNAIDS, June 2000.

16) Whiteside, A. and K. Michael (1998) AIDS and development. *Indicator South Africa*, 15(3).

17) Bayart, J, S. Ellis, and B. Hibou (1999) *The Criminalisation of the State in Africa*. Oxford: James Curry.

18) World Bank (1997) *World Development Report*. New York: Oxford.

19) A high CPI index is indicative of low corruption, while a high HDI is indicative of high development. CPI data are taken from the 1999 Transparency International Corruption Perceptions Survey: http://www.transparency.de/documents/cpi/index.html. HDI data from the United Nations Development Programme's Human Development Report 1999, CD-ROM edition. The CPI is generated by weighing data from a variety of survey sources, including the International Crime Victims' Survey. The HDI is calculated by weighing three variables: gross domestic product per capita, adult literacy, and life expectancy. Pearson's correlation is significant at the .01 level (2-tailed), as are the correlations for all three HDI component variables.

20) Department of Finance, Republic of South Africa (1999) National Expenditure Survey. Pretoria: Government Printers.

21) Elliott, D., S. Ageton, and R. Canter (1979) An integrated theoretical perspec-

tive on delinquent behaviour. *Journal of Research in Crime and Delinquency*, 16.

22) While not directly concerned with cultural imperialism, see, for example: Smart, B (ed) (1999) *Resisting McDonaldisation*. London: Sage.

23) Sutherland, E and D Cressey (1960) A theory of differential association. *Principles of Criminology*. Dix Hills, New York: General Hall.

24) Shaw, C. and H. McKay (1942) *Juvenile Delinquency in Urban Areas*. Chicago: University of Chicago Press.

25) Bhalla, A. and F. Lapayre (1997) Social exclusion: Toward an analytical and operational framework. *Development and Change*, 28 (3).

26) Hirschi, T (1969) Social bond theory. *Causes of Delinquency*. Berkeley: University of California Press.

27) Putnam, R (1995) Bowling alone: America's declining social capital. *Journal of Democracy*, 6 (1).

28) For example, see Becker, G (1968) Crime and punishment: An economic approach. *Journal of Political Economy*, 76.

29) Leggett, T (2000) Law enforcement and international gun trafficking. In Lumpe, L (ed.) *Running Guns: The Global Black Market in Small Arms*. London: Zed Books.

30) Ploeger, M (1997) Youth employment and delinquency: Reconsidering a problematic relationship. *Criminology*, 35 (4).

31) Van Dijk , J. and P. Mayhew (1993) Criminal victimisation in the industrialised world: Key findings of the 1989 and 1992 International Crime Surveys. In A. Alvazzi del Frate, U. Zvekic, and J. van Dijk (eds.) *Understanding Crime: Experiences of Crime and Crime Control*. UNICRI: Rome.

32) United Nations Development Programme (2000) *Human Development Report.* Oxford University Press: New York.

33) Neapolitan, J (1997) Homicides in developing nations: Results of research using a large and representative sample. *International Journal of Offender Therapy and Comparative Criminology*. 41 (4).

34) Huang, W (1995) A cross-national analysis of the effect of moral individualism on murder rates. *International Journal of Offender Therapy and Comparative Criminology*. 39 (1).

35) Deng, X. and A. Cordilia (1999) To get rich is glorious: Rising expectations, declining control, and escalating crime in contemporary China. *International Journal of Offender Therapy and Comparative Criminology*. 43(2).

Police Reform and Democratic Consolidation: Chile

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INTRODUCTION

A number of Latin American countries have made progress in transforming their police services over the past several years. Among these, the most notable are: the creation of new civilian police forces in Haiti and El Salvador; efforts to rid the police of corruption and to establish a new institutional structure in the Colombian national police force; the refashioning of the security system of the province of Buenos Aires; and the implementation of a community policing strategy by the military police of São Paulo.

These changes are still in the early stages, but they constitute a response to the serious problems that police forces have encountered in dealing with today's challenges. In a paper written five years ago on the relationship between police and the military in Latin America, David Bayley stated that many Latin American police forces demonstrated militaristic features.[1] In his opinion, this meant that police forces were not totally differentiated from the armed forces, and at times they in fact assumed a role that was subordinate to the military. Based on this characteristic, Bayley formulated a series of hypotheses on the relationship between police and community:

- A significant percentage of complaints reaching the police involved reports of serious crimes. In other words, unlike in the developed, democratic countries, the public only resorted to the police when absolutely necessary.
- The police were much more responsive to the government's needs than to the demands of citizens.

- Latin American police used force more frequently than the police of developed, democratic countries in dealing with similar situations.
- There was definitely less monitoring of police activity than in the democratic countries.
- The degree of public support for the police was probably low.
- The internal organisational functioning of the police was inevitably based on a military model, i.e., a hierarchical system in which power was centralised in the high command, with many levels between subordinate personnel and the upper levels. Furthermore, subordinates obeyed orders but lacked autonomy to respond creatively to problems.[2]

There is no doubt many of Bayley's points are valid, despite differences from country to country.[3] In reality, the police forces in a number of South American countries face serious questions and criticism as a result of: the use of excessive violence in carrying out their functions;[4] corruption;[5] a lack of professional autonomy with respect to the armed forces;[6] institutional corporatism;[7] and serious problems with regard to professionalism.[8] With the partial exception of Chile, very few people have confidence in police efficiency.[9] Even in Chile, the people have less trust in their police than United States (US) citizens have in their's.[10]

It is precisely this dissatisfaction with existing police systems that has led to contradictory efforts to refashion or reform them. The result has been efforts to create new civilian police forces or to reform existing forces with pro-

grammes to decentralise command, bring the police closer to the people, and strengthen mechanisms for monitoring police activity. The first of these alternatives is present in countries that have recently undergone internal armed conflict and have moved beyond it with the help of international cooperation and support (El Salvador, Guatemala, Haiti). The second is being tried in cases where distrust of the police affects public security, and the legitimacy of political authorities, to an extent that has become intolerable. Assessment and documentation of these reform processes is not yet complete, though reports exist that contain valuable information on the subject.[11] On the basis of these experiences, the steps to be taken in bringing about police reform have been systematised,[12] and suggestions have also been made for advancing the reform process currently under way.[13]

There has not always been consistency among different efforts. Most projects have run into problems and, on occasion, have been reversed. Recent sharp increases in violent crime have therefore at times prompted civilian authorities to order military patrols of the streets in El Salvador, Guatemala, Honduras and in Rio de Janeiro.

The hope is that this paper will contribute to the debate on the reform process by examining three major aspects. The first section deals with the main directions of police reform in recent years in developed, democratic countries. In describing this, emphasis is placed on the change of doctrine that is occurring in modern policing, including the importance of employing properly trained personnel and of using planning and research as driving forces for police action. These changes provide a frame of reference that is influencing the process of reform in Latin America. The second section outlines some of the reforms currently in progress in South America, attempting to identify common features. Finally, conclusions are presented, drawn from existing experience, including the problems encountered when theoretical models from developed countries are superimposed on the social and cultural realities of Latin America's urban environment.

Police reform in many of the region's countries is believed to be indispensable in guaranteeing economic development and improving the quality of democracy. It is not, however, an easy process, since it must be accomplished exactly at a time when these countries are suffering an acute crime wave, precipitating demands to slow down the reform process in order to respond forcefully to criminal activity and to deal with it "on its own terms." In Brazil, models of community policing that have been implemented have, in some cases, been reversed in favour of more traditional policing. This will sometimes occur following the election of a new governor, as was the case in Rio de Janeiro. In addition, reform is taking place against a background where police functions are no longer a public sector monopoly; thus, the more influential segments of society have access to private security systems, which weakens their support for police reform.

1. NEW FEATURES OF MODERN POLICE INSTITUTIONS

The police represent the public security force. More precisely, they constitute a specialised, professional public organisation authorised to use coercion to enforce the law.[14] Institutions and individuals responsible for maintaining public order have been in existence since the earliest times. However, the emergence of police as we now know them, occurred more recently. Only in the modern age was a specialised, professional public force organised to fulfil this function.

The police are a public body, in that they are primarily directed and financed by the community or the state, are subject to their direction, and are designed to serve all citizens equally.[15] Originally, the police responded to the need to create a body able to uphold order when social groups were unable to do so on their own.

A third feature of the modern police force is that it is a professional body, in the sense that it makes an effort to maintain a proper and measurable level of efficiency. This is reflected in the criteria used for recruiting and training personnel; in rules governing promotion and retirement; and in a substantive interest and emphasis on knowledge and the use of technology.[16]

Increased crime in both western Europe and the US, which began in the 1950s, has provoked considerable thought on determining new police strategies to ensure order in the modern-day societies of developed countries. There is also a need to forge new relationships between the police and society, as well as a

need for modern resource management strategies to guarantee the efficiency of the police. This process of debate points to the need for reform and suggests particular approaches.[17]

The elements that define this process of transformation include: changes in police doctrine aimed at incorporating democratic values in police activity so that police relate to citizens as equals; establishment of a police recruitment and training process aimed at producing better-trained police officers; and an effort to implement police research and planning to respond more effectively to public needs.[18]

1.1 A new police doctrine

The meaning of professionalism, as it is generally understood by the police, is to enforce the law effectively. This view does not, however, take into account political or social values that go beyond its limited objective. By this standard, mere adherence to current law is sufficient guarantee that the police are protecting democratic values. Such a notion is, in a sense, a recipe for failure, and will inevitably lead to strong distrust of police performance.

This interpretation of professionalism derives from the fact that police training is essentially legalistic. The authority that police officials have over subordinates, their authority over the public, and their immunity from undue interference from the political realm, are based on current law. Respect for the law leads naturally to the argument that the police are a completely professional institution whose purpose is to maintain order in any situation and to reinforce the stability of any government. Legalistic professionalism, however, is not conducive to respect for concepts such as democracy and human rights. These concepts are accepted to the extent that they are supported by current law, but their incorporation into police activity is slow to show itself. The lack of respect for concepts of democracy and human rights as a guiding force leaves the police distrustful of the citizenry. As a result, police strategies for combating crime pay scant attention to the concerns of the people.

The democratic concept of police doctrine is as follows:

The police observe a code of conduct that respects human rights. They perform their duties in the public interest, guided by a sense of public service, and are accountable for any actions they take in violation of the law. In addition, there are mechanisms in place to ensure that the police are accountable for the strategies they adopt to protect the public, for the efficiency or seriousness with which they carry out their duties and for respecting the views, interests and values of the people.

As Stone and Ward point out, this definition of accountability goes well beyond complying with legal obligations, and requires numerous monitoring and management mechanisms that exceed mere judicial measures.[19]

In this view, the police as an organisation, and its members, are personally responsible both for reducing public insecurity and fear, and for any corrupt or improper conduct within the organisation. With a legalistic approach, however, the line of accountability points upward to government officials responsible for public order and peace, and to the judges and prosecutors in charge of investigations.

On another level, the police are also responsible for interfacing with society. This could take the form of citizen security committees that may be formed at neighbourhood level, neighbourhood associations, and the media.

Within a democratic policing approach, police must be held accountable for abuse under internal monitoring systems, through their chains of command and – if they have committed crimes – through the courts.[20] From this perspective, the police are not only subject to scrutiny for illegal activity, but also for the efficiency and timeliness of their performance. Furthermore, monitoring is exercised both by institutions, whose sole purpose is overseeing police performance (for example, civilian review boards in the US that process complaints against the police) and by other entities with other functions.

A range of mechanisms for investigating complaints from the public against police officers has developed in recent times. While in Europe and Latin America these remain essentially internal, Canada and the US have a strong external component to disciplinary and management monitoring through civilian review boards. These organisations process complaints from the public concerning police behaviour and recommend sanctions, which in turn are applied by the police hierarchy. The rationale for the existence of these committees relates to the lack of transparency associated with inter-

nal investigations conducted by the police themselves.[21] In Latin America in recent years, institutions have been created to provide external monitoring of police performance, as an adjunct to the function of the courts, in cases of criminal activity. A Police Monitoring Office for the state of São Paulo was therefore created to handle complaints against the police. In El Salvador, the Attorney General's Office for the Defense of Human Rights publishes annual reports and channels complaints about police behaviour to various public entities, although it is not exclusively dedicated to fielding complaints against the police.[22]

The responsibility for monitoring police efficiency has also shifted in recent years from political authorities to citizens' groups. Citizen advisory groups in Sweden and Denmark have ongoing relations with the police and provide a citizen perspective on their work. In Santiago, Chile, a similar experiment was carried out, although its success was regarded as limited.

In the following case of a community policing project in the state of São Paulo, both design and implementation involved the participation of a number of committees with socially diverse memberships. This necessitated the formation of an Advisory Committee for the Creation of the Community Police that engaged in dialogue with police to assess any problems arising during implementation. Although the establishment of such a committee was certainly an achievement, relations between its civilian members and the police were difficult, as Paulo de Mesquita Neto relates in his paper.[23] The police took note of problems expressed during meetings, but there was rarely any rigorous follow-up on the measures that were decided upon. Community security councils, autonomous in their objectives and manner of function, were established by state government decree. They convene monthly and forward the minutes of their meetings to the Public Security Councils Coordinator, which is an organ of the State Security Secretariat. The dialogue that takes place in these councils between police and citizens does not appear to be highly productive, although it does represent a first step toward citizen involvement in police monitoring.[24]

Efforts to socialise the police and instill new democratic concepts have taken the form of human rights training for police. In some cases,

such as that of São Paulo, training has been provided by members of human rights organisations. In cases involving the creation of new police forces, training has been conducted by international advisors.

1.2 Emphasis on training of police personnel
Given that the ability of the police to reduce crime is clearly limited, more emphasis is now being placed on improving the quality of personnel. There is, however, a lack of clarity in defining selection criteria – beyond those of academic background and minimum health standards.

The challenge of redefining selection criteria to meet the challenges of modern society is not by any means trivial. The police forces of other historical periods required a different type of individual from what is needed today. Among the Chilean police, old-timers often remark that, in the old days, the force would recruit agricultural workers who valued patriotic symbols and were untainted by big-city life. Such a view clearly regards discipline as having a far higher priority than a knowledge of the urban environment.

It is important to begin by defining the features of police doctrine as well as major strategies for protecting the population. These strategies will dictate the necessary qualities to be sought when recruiting personnel, ie. disciplined, obedient individuals with strong influence or personality on the one hand, or resourceful, inventive individuals with strong interpersonal skills, on the other.

In short, the type of individual to be recruited will depend on having first defined the objectives and characteristics to be sought in a police force, since this in turn will determine what constitutes a good police officer.

Recruits must, of course, possess a demonstrable level of emotional stability, as measured by psychological tests and interviews. A minimum level of education is also necessary, since police work requires that officers understand the laws to be enforced. In addition, it would seem prudent to determine whether the applicant has a police record or other background that would make the individual unsuitable for the profession.

In developed, democratic countries, educational requirements for police have risen, particularly for commanding officers. This is

understandable since the police are entrusted not only with a great deal of power, but with considerable human and material resources.

In England at present, at least half of the commanding officers possess a university degree. In the US, the average education for police workers increased considerably between 1969 and 1990. In 1969 the average education level was a secondary school diploma, while in 1990 the average was two years of college education.[25] In Chile's carabineros, police officers must have three years of instruction. To become a colonel, an officer must study an additional two years at the Instituto Superior de Carabineros.

Some police forces, such as the Japanese, accept college graduates who, after a year of training at the police academy, occupy important command posts, particularly in planning and administration. All of these approaches are valid, however, they cannot be evaluated in a vacuum. Each approach depends on the structure of the police force in question, where recruitment may be stratified by rank or may be egalitarian, allowing all officers to rise to the highest levels based on their merit and seniority.

The educational qualifications of police officers will also depend on the available candidates, which in turn will be a function of the employment conditions that the police service can offer. Thus, at times, the police will have to settle for the best personnel they can find, rather than what they require.

There are successful cases of police improvement, which may serve as examples. The case of DESEPAZ, an initiative in the city of Cali, Colombia, is one such example. Having determined in an initial evaluation that police officers had an average of two years' secondary schooling, the Programme for Citizen Peace and Security organised a project to ensure that all police officers complete secondary schooling within 18 months.[26]

Police recruitment requires the largest possible number of candidates from different cultural and social backgrounds. If the objective is to introduce innovative police strategies, it is desirable to employ people who are free of prejudices or preconceptions about the work they are to undertake.

One final consideration is the quality and content of the training provided for new police recruits. This is a subject that extends far

beyond what can be covered in this paper. Nevertheless, a number of general observations can be made. Firstly, the extent of training at a police academy will depend on the previous schooling of the recruit, with more intense training provided for those who have less previous education. Secondly, instruction should combine technical elements (particularly on legal issues) with actual application to specific cases and practical exercises. Special attention should be paid to basic analysis of dangerous situations in which police must exercise good judgment: arresting suspects, reacting to attack, etc.[27]

Many potential human rights abuses and use of firearms by police could be prevented by adequate firearms training or through proper training on how to deal with various situations, such as the arrest of dangerous suspects.

Finally, it is important that training approximates, as closely as possible, the actual experience that recruits will eventually face as police officers. This entails training them to respect the rights of persons who may be violent, and to act quickly in high-stress situations. Without this training, the new police officer is bound to experience a major gap between what was learned and real-life situations he or she may encounter.

The British system, in which the student police officer is trained for a number of months, followed by three months at a police station under the tutelage of an experienced colleague, appears to be an excellent model. At the conclusion of this period of practical experience, the student returns to, and graduates from, the academy. During this final stage, he/she can discuss field experiences with teachers, including the discrepancies between theoretical training received and the actual reality of police work.

1.3 Police planning and research

For a police force to be successful in today's world it requires effective anticipation of problems, the planning of strategies to solve them, daily evaluation of results, and the institution of any organisational changes that may be necessary.

The police service must change from being an organisation that primarily performs routine, pre-established procedures to a flexible entity that can mobilise around goals, combining tra-

ditional law enforcement duties – such as arrest and interrogation of suspects – with other socially-oriented services, such as providing information on crime prevention, organising activities for young people, etc.

In dealing with crime, the importance of research and planning is evident. Police must be thoroughly familiar with the spatial and temporal distribution of criminal activity, have a realistic view of changes in the patterns of criminal activity, and track geographical changes in these patterns. The former Police Commissioner of New York, William Bratton, summarises the duties he faced on assuming his post as follows:

- To determine, on a daily basis, where crimes are occurring and at what times they are occurring.
- Once this data is mapped, the various police divisions must be coordinated effectively in order to provide quick response.
- Before arriving at the scene of a crime, it is essential for the police officers to know in advance what tactics will be necessary. Will there be a need for investigation of crimes already committed; for the major deployment of police to reduce criminal activity in a particular area; or the necessity for the institution of a community policing programme?
- The last element in this strategic outline is a further set of questions to aid in assessing effectiveness: Are current tactics producing results? Is the local police commander able to coordinate efforts with other officials? Finally, what statistical changes can be identified in the wake of implementing particular strategies?[28]

Planning must be a multi-level process, not solely a central one, and must include all police stations. It is clear that in today's world, decentralisation is essential to effective policing. Local commanders, however, inevitably face crucial limitations. They lack the authority to select their own personnel, and they are compelled to operate within a budget and with resources over which they have no control. Decentralisation of the planning process should produce a more focused approach in responding effectively to local, as well as general public needs.

There has also recently been rapid expansion in the number of entities assessing police services. Currently, this is carried out by public entities, by police forces themselves, by private research organisations, and by universities.

In 1992, for example, the Kent police surveyed 4000 persons with whom the police had dealt, in order to gauge their opinion in areas such as:

- degree of public satisfaction with police services
- perceived level of police presence
- degree of victims' satisfaction with services received
- relation (in percentages) between crimes detected and crimes committed
- speed in responding to calls
- degree of satisfaction among persons lodging complaints with the action taken
- response time in reacting to emergency calls
- response time for emergency calls
- degree of satisfaction among all persons who have had contact with the police
- criticisms of the police.[29]

The increase in research applied to crime fighting within some police forces not only creates greater efficiency, but also fosters a more creative and challenging work environment for police officers. Ultimately, police officers will be trained by a professional process in which performance is evaluated on the basis of results and public opinion, rather than on the basis of personal relations with superiors.

It is also important to emphasise that the indicators used to evaluate police efficiency are changing from the exclusive reliance on statistics of arrests and crimes to equally important qualitative aspects of police work.

The concerns of proponents for police reform therefore reflect a combination of factors that are not always complementary. On the one hand, there is an interest in using modern management techniques to address new social challenges, while on the other, there is concern for respecting the rights of individuals who are actually or potentially affected by police activity. Although Latin America has its own particularities, these same concerns exist in their own context.

2. POLICE REFORM IN LATIN AMERICA

There is a distinct range of programmes aimed at police reform. Here, three examples of reform projects currently in progress are described, with emphasis on what appear to be common elements.

2.1 Public security system reformation in the province of Buenos Aires

In 1997, two events contributed to the decision to intervene in the operation of the police force in the province of Buenos Aires. Firstly, there was a marked increase in citizens' concerns about crime. Secondly, it was proven that members of the Buenos Aires police force had participated in an attack against the Jewish community headquarters, AMIA, as well as in criminal activities involving José Luis Cabezas, a reporter from the print media.[30]

The executive branch initiated active intervention in the Buenos Aires Police, creating a Ministry of Security that would be responsible for dismantling the force as it existed. The entire upper command was dismissed, and more than 300 police superintendents and senior officers were removed. The existing single police force was replaced by 18 departmental security police units, a police force responsible for investigation, a service for the transport and custody of arrestees, and a proposed municipal street police unit. The departmental security police units were to function autonomously but would be interrelated. Their principal function would be the prevention of crime (Government of the Province of Buenos Aires, 1998). In addition to the decentralisation of command, the project sought to dismantle the existing networks of corruption through a process of functional differentiation. This would be achieved through the creation of a number of police organisations that would perform the functions previously carried out by a single entity, thereby decentralising command.

In order to ensure external monitoring of police efficiency and to assess the manner in which the police functioned, departmental security councils were created. These comprised: a representative of the municipalities' Municipal Security Advocacy; one provincial assembly deputy and one provincial senator; two executive department heads from the municipalities comprising the judicial district; the judicial district's prosecuting attorney; a representative of the bar association; and representatives of unions, business, and religious institutions. The function of the councils, established by provincial law, is to monitor and assess the performance and activity of the province's police forces, to obtain reports from the heads of the various newly established police forces and to

engage, as needed, in finding peaceful solutions to social conflicts.

In addition, it was proposed that neighbourhood security forums comprising non-governmental community organisations or entities recognised for their social participation, be formed. These would be involved in evaluating the performance and activity of the province's police forces, and could participate in planning to prevent activities or events of a criminal nature or that would be harmful to public security.

Finally, the Municipal Security Advocacy was created to protect the public's individual and collective rights *vis-à-vis* actions, or failure to act, on the part of government, police forces or private policing firms.[31]

With regard to the internal monitoring of police conduct, an Ethic's Court was established in addition to an appointive commissioner for internal affairs which operated under the Ministry of Security.

Objective evaluations of Buenos Aires's police reform process are not yet available. However, by the end of 1999, electoral considerations guided the governor of the province to appoint a new minister and a new head of the police. It is clear that not all aspects of the reform process have been implemented.

2.2 Colombian police reform

Unlike the situation in the province of Buenos Aires, the reform of the Colombian police force – which had traditionally been considered corrupt, inefficient and was widely thought to be infiltrated by drug traffickers – was initiated by the institution's own leadership, rather than through political intervention. Today, the results are generally considered to be highly positive. Both international observers and national public opinion reflect a considerable increase in confidence in the police force.[32]

The reform process began with the appointment of Major General Rosso José Serrano as head of the National Police in 1994. He obtained authorisation from Congress to remove officers who, on the basis of sound evidence, were suspected of having engaged in corrupt activities. Approximately 7000 police officers were dismissed. Unlike other operations to purge corruption, this effort was perceived as credible, and affected not only subordinates, but upper-level officials as well.

The second step involved altering the structure and culture of the force and introducing management concepts from modern business culture. The School of Administration of the Universidad de los Andes collaborated with the police in this phase of the project.

The 1998 Institutional Strategy Plan recommended six institutional policies: community participation, a new work culture, strengthened operational capacity, management development, an emphasis on knowledge and effective management of the administrative system. Flowing from these policies were strategic goals and tasks for each police division. In order to encourage creativity, a less hierarchical, less concentrated structure was created in place of the old one.

This comprised three levels: governing entities; consultation and support entities, including the Office of the Inspector General, which performs the important task of developing indicators to determine whether the strategic plan is being met; and executive entities which develop and perform the tasks necessary to implement the entire process.[33]

The predominant discourse with regard to this reorganisation process is the enhancement of officers' management abilities and substantial improvement in resource administration. In addition, the discussion includes a community collaboration component.

This is reflected in a number of ways, including "consultation with the citizenry to provide the basis for a new police service, the creation of new, expedited channels of communication for complaints and claims, including the provision of customer-service lines and lastly, the creation of so-called citizens' consortiums for change.

These consortiums are interdisciplinary work teams led by the National Police, and involve the development of formulas for fostering conditions in which everyone can live together peacefully. An example of this is the "Plan Dorado" which draws together public and private service providers who work at the El Dorado international airport.[34]

The transformation of the Colombian police has had a distinctly positive effect on public confidence in the police. A more detailed assessment is, however, needed concerning the nature of community interaction, as well as the effect on crime rates.

2.3 Community policing plan for the military police of São Paulo

The Military Police of São Paulo, like the military police in all of Brazil's states, is an auxiliary force of the army that performs preventive police functions but is regulated, organisationally and functionally, through the Ministry of the Army.

Between the 1980s and the 1990s, the state of São Paulo, like the rest of Brazil, experienced a huge rise in crime. According to Health Ministry data reproduced by Paulo de Mesquita Neto, the number of deaths due to homicide or intentionally inflicted injuries increased from 3452 in 1980 to 12 350 in 1996, with the homicide rate reaching 36.20 per 100 000 inhabitants. This was accompanied by a dramatic rise in theft.

Faced with this situation, the failure of the police was reflected in a number of areas. There were frequent incidents of police violence, which received wide coverage in the media. In 1995, 618 citizens were killed by the military police. Furthermore, surveys indicated that as a result of people's view of the police as inefficient, and their fear of involvement with the police, only 33% of crimes were actually reported to the police.[35]

On 10 December 1997, the top commander of the military police officially adopted the concept of community policing as a philosophy and operational strategy.

This model of police activity acquired great favour in the US and Canada in the 1980s, though components of it have long been applied in England. Today, its application is being discussed in a number of Latin American countries.

Definitions of the community policing model vary,[36] but certain essential elements are common to all:
• Preventive activity in very small geographic areas.
• Establishment of close relations with the community, attempting to maintain ongoing consultation with citizens, in order to provide monitoring of police action and to ensure that the perceptions of people are taken into account.[37]
• Efforts by the police to involve the community in preventive action.
• A concerted initiative to engage the police in studying the conditions and circumstances

that lead to the commission of crimes or to violations that disrupt the lives of the people. A community police programme requires that the radius of police action is reduced to a specific neighbourhood. A group of police officers work in the area on an ongoing basis, patrolling on foot to gain familiarity with the neighbours, the existing security situation, and the risks that the residents face.[38]

Police engage in ongoing consultations with neighbourhood residents. These consultations fulfil a number of main functions, they:
- inform the police of local interests and needs, which at times are different from the needs that the police perceive
- establish a means for the police to educate the public about crime prevention behaviour
- allow citizens to express their complaints directly to the police, providing an immediate and direct public means of assessing police efforts.[39]

In the case of São Paulo, the main body responsible for implementing the community policing programme was the Advisory Commission for the Implementation of Community Policing. This commission does not have a fixed number of members. In August 1998 it comprised representatives from human rights centres, community councils, the Federation of Industry and business councils, among others.

Within the Commission, discussions were held on public security problems, and an attempt was made to set priorities and to identify solutions. This led to a defined set of goals and objectives for the police, including an emphasis on democratic values and respect for human rights, which had never been a part of military police doctrine. The goals set are:
- to implement the community policing model as an organising strategy of the military police
- to improve the quality of police instruction and training
- to improve the recruitment and promotion system
- to integrate the police with other public entities
- to improve the status and rights of the police.[40]

Forty-one military police companies were chosen for the project including patrols, women police officers, traffic police, railroad police, forestry police and firemen. Company com-

manders chose the neighbourhoods where the project was to be implemented. The number of companies involved in the project gradually grew, and as of August 1998, 7269 police officers were involved in community-based work.

The new plan of action led to more preventive patrolling in selected areas, and the establishment of permanent 24-hour police posts. In addition, efforts aimed at school security and drug abuse programmes were undertaken. In order to provide officers with training in community policing, courses on the subject were offered – 16 963 police officers attended during the first semester in 1998.[41]

Community participation in the process of implementing reform in the police force was lacking in some respects. The attendance of citizen participants at meetings of the Advisory Commission for the Implementation of Community Policing declined with time, while, as has been indicated, the proportion of police officers participating increased.

Governmental decree also established community security councils. These comprised individuals from a particular police district who would meet to discuss public security problems and to propose solutions in collaboration with the police. Paulo de Mesquita Neto states that these councils have functioned more as venues for individual complaints about, and demands of, the police than as a means of solving collective problems. Use of the councils for political purposes, as well as lack of interest and training on the part of both the police and the civilian participants, are some of the problems that have hindered the success of these councils.

Furthermore, the success of community policing projects depends on altering the organisational and command structure of the police. There is a need for greater decentralisation, with greater accessibility between the various hierarchical positions, thereby creating a more horizontal relationship between personnel. There is also a need to instill democratic cultural and professional values in police personnel. The reality is that there are many serious obstacles to implementing the community policing model as long as a military structure remains in place.[42]

2.4 Possibilities for change, criticisms and preventive measures
This brief overview of three current examples

of reform demonstrates that the impetus for change is always an acute crisis – one that at times calls into question the very existence of the police force in place. Once the reform process begins, two primary sources of resistance can be observed. The first comes directly from the police and its employees. Paulo de Mesquita Neto states that the low degree of professionalism of the Brazilian police, particularly in the smaller cities, weakened their resistance to a community policing strategy, since professionalism accentuates the separation or differentiation of the police from society.[43] Paradoxically, in this case, while a low degree of professionalism opens the door to internal reform of the police, it later becomes an obstacle to implementing the new strategy. The second source of resistance is from society itself and from conservative political leadership. Here, the perception that changes in the police have contributed to improved crime control, as in the case of Colombia, is an all-important component of reform.

In some cases, resistance to reform has actually led to attempts to reverse what has already been achieved. For example, some of the community policing programmes in Brazil have ceased to function due to political changes that have ushered in governors with hard-core, law-and-order stances who have little concern for democratic issues. This occurred recently in Rio de Janeiro, and resulted in an increased number of civilians killed by the police.[44] Something somewhat similar seems to have happened in Buenos Aires.

Most recent reform programmes emphasise new decentralised police management models. These incorporate comprehensive quality criteria, resulting in efforts to provide incentives for greater flexibility in the police force, as well as for promoting personal initiative rather than compliance with a rigid set of rules. Influenced by experience at international level, police forces are emphasising planning, as well as the establishment of indicators to measure police effectiveness. Efforts in this respect are, however, in the very initial stages.

Part of the reform process described above involves an ongoing dialogue with the community, including the need to involve the community in managing security policy. However, while such community participation is an integral part of the reform process in some

instances, such as in São Paulo, it plays a more secondary role in other situations, such as Buenos Aires, where the central emphasis was on dismantling the criminal networks within the provincial police.

Finally, another element in the reform processes described above, particularly in the case of Buenos Aires, is the incorporation of new institutions to ensure better internal and external monitoring of police activity. When reform also involves the implementation of a community policing programme, grassroots organisations are usually formed to monitor and evaluate police work.

In certain cases, the reform process is likely to emphasise the restructuring of police administration and management in response to the increased fear of crime. This measure could be the first step towards a more democratic approach to policing. In other cases, the primary emphasis will be on implementing a community policing strategy with broad societal participation. Thus, though the initial motivating crises have many common elements, the final product of the reform will undoubtedly vary. There is also considerable risk that insurmountable obstacles will be encountered in the process.

Police reform projects that are of a more democratic and less conventional nature will certainly face significant difficulties. Worthy of note is the view of Sofía Tiscornia. She examines existing differences between the prevailing social structure and cultural climate in Latin America, and those that characterise the English-speaking societies that are the source of the new public security paradigms discussed in this paper. According to Tiscornia, anti-authority actions and the impugning of the established order are more prevalent in Latin American history than efforts to achieve the rights needed to create a society of equals.[45]

This view sees minimal possibilities of genuine interaction between the police and the people. Furthermore, according to Tiscornia, democratic culture in the US is based on a society of equals, while Latin American societies are hierarchical. The former seeks consensus through social participation, while in the latter, participation normally results in a struggle against oppression.[46] Tiscornia's conclusion is therefore that the cultural and social climate necessary to produce participation and coopera-

tion between the police and the community is absent in Latin American cultures.

A notable imbalance in the representation of different social and political sectors on community councils and forums constitutes a major problem for programmes of this type. Thus, the community councils that are viewed as having had the greatest success in the São Paulo programme, described above, are those in which the Brazilian business community participates actively. However, it is the poorest and most marginalised sectors, which are not similarly involved in the councils, that have the greatest public security needs.[47]

In addition, it is said that there are neighbourhoods or districts where drug alliances, rather than a sense of community, prevail, since the drug-trafficking gangs preserve the neighbourhood's security from the threat of external criminals.[48]

Finally, there is a common view that the prevalence of local inequalities, reinforced by a system of political clients and bosses, is enhanced by systems in which the police, rather than answering to the law, answer to the preferences of a community that lacks any genuine autonomy.

These foregoing observations are based on real problems facing reform programmes, particularly in South America. However, community policing in the US also has its problems. A study by the Vera Institute of Justice demonstrates that mobilising the community is sometimes difficult, due, in part, to fear of reprisals by criminals living in the area, as well as to historically poor relations with the police. These programmes also encounter resistance within many police departments, since the methods are viewed as overly lenient in dealing with crime. Furthermore, community work on the part of the police does not bring about a reduction in the number of emergency calls that the police

receive. There is thus increased pressure on police resources.[49]

CONCLUSION

One conclusion that can be drawn from the discussions outlined above, is that transformation of the police service requires at least a minimum level of professionalism among police personnel. Without this, grassroots work can ultimately be counterproductive. Such professionalism cannot be replaced by mere community relations, and it represents the only safeguard against the police being co-opted by local elites.

At the same time, many of the problems discussed here are common to other public services, and extend beyond strictly police-related issues. Rather, they involve the quality of a democratic system and must be dealt with by the state, as well as by the police. It is the state that must guarantee the police the resources necessary to provide an equal service to the different segments of society. It is also the state's responsibility to provide minimum training in security to those social sectors that work with the police. Without these elements, a community–police relationship that operates on the basis of equality will remain no more than a dream.

The crisis facing Latin American police forces is, indeed, serious. Current reforms and those described here hold forth the prospect of police management models that are more democratic and more respectful of the rights of individuals. This potential may, indeed, come to fruition. It may also fail if it does not succeed in producing solid results within a given time period. Proper monitoring of the process and careful documentation of strategies that are followed can provide a major contribution to future experiments. One thing is abundantly clear: what is needed is a dynamic that involves the gradual abandonment of the region's traditional paradigm for police organisation and activity.

ENDNOTES

1) Bayley, David, 1993.
2) Bayley, David, 1993:33 -36.
3) Rico, José María, 1998: 173-187.
4) Mingardi, 1996: 283; Zaffaroni,1993.
5) Schmid: 301; Oliveira and Tiscornia, 1998.
6) Costa, 1998.
7) Frühling, 1998.
8) Pinheiro, Paulo Sergio, 1998: 183 -187.
9) The ACTIVA project of the Pan-American Health Organisation found that those who considered police efficiency poor or very poor constituted 15.6% of the population in Santiago, 18.1% in San Salvador, 25.1% in Cali, 27.6% in Caracas, and 28.7% in Rio de Janeiro. An ADIMARK survey in Chile in 1996 showed high support for the General Director of Carabineros and the Director of the Investigatory Police in their fight against crime, around 70%.
10) A recent survey by *El Mercurio* and 16 other newspapers in Latin America and the United States (US) found that 81% of those surveyed in the US had high or some confidence in the police, while the percentage in Chile was only 38%. In general, the average confidence in the police in the 15 Latin American countries involved was under 28%. See "Espejo de las Américas", in the Economía y Negocios section of *El Mercurio*, April 16, 1998, pp. 8 and 9.
11) Costa, 1995; Garst, 1997; National Coalition for Haitian Rights, 1998; Neild, Rachel 1995; Serrano, Rosso José, 1997; Riedmann, Arnold, 1996.
12) Costa, Gino, 1994: 106-108.
13) De Mesquita Neto, Paulo: 1998.
14) Bayley, David H., 1985:7-14.
15) The concept of majority public funding is used because of the increase in sources and resources flowing from the private sector to police forces. Examples are: contributions from large companies for the construction of police headquarters, contracting of police as private guards by the municipalities within the city of Lima (Carlos Rivera Paz, 1998: 6-7); and payment for police guards at events such as concerts and sporting events.
16) Bayley, H. David. 1985: 47-50.
17) Goldstein, Herman, 1977; Bayley, David,

1994; Bayley, David H. and Clifford D. Shearing, 1996; European Forum for Urban Security, 1996.
18) Frühling, Hugo, 1998b.
19) Stone, Christopher and Heather Ward, 1998: 2-5.
20) Stone and Ward, 1998:4.
21) Kravetz, Katharine, 1998; Lapkin, Gerald S., 1998.
22) Palmieri Gustavo: 329 -332.
23) De Mesquita Neto, Paulo: 69-71.
24) De Mesquita Neto, Paulo: 71 -74.
25) Bayley, David H., 1994:85.
26) Guerrero, Rodrigo, 1996: 7.
27) Goldstein, Herman, 1977:274.
28) Bratton, William with Peter Knobler, 1998: 224.
29) Bayley, David H., 1994: 94-95.
30) Saín, Marcelo, 1998: 70.
31) Of particular interest for acquiring a more thorough familiarity with the Security Advocacy role are the texts headed "El Defensor de Seguridad", published in Milenio (summer 1998): 99-122.
32) LaFranchi, Howard, 1998.
33) Policía Nacional: no date, 40-41.
34) National Police no date: 16-17.
35) De Mesquita Neto, Paulo: 22-23/
36) Moore, 1992.
37) Sherman, Lawrence, 1995: 339.
38) Kelling, George L., 1988:3-4
39) Bayley, 1994: 105-120.
40) De Mesquita Neto, Paulo, September 1998: 40-48.
41) De Mesquita Neto, Paulo, September 1998: 66.
42) De Mesquita Neto, Paulo, September 1998: 89.
43) De Mesquita Neto, Paulo: 17 y 18.
44) Cano, Ignacio, 1998.
45) Tiscornia, Sofía, 1998.
46) Tiscornia, Sofía, 1998.
47) The Washington Office on Latin America, 1998:14.
48) Botelho Junqueira Eliane and Jose Augusto de Souza Rodriguez, 1993: 123-130; Frühling, Hugo, 1998 B:36.
49) Sadd, Susan and Randolph M. Grine, 1994: 121-132.

REFERENCES

ARSLANIÁN, C. L. 1998. El Informe Arslanián. *Milenio*, No 2: 62 - 75.

BAYLEY, D. H. 1985. *Patterns of Policing. A Comparative International Analysis,* New Brunswick: Rutgers University Press.

BAYLEY, D. H. 1993. What's in a Uniform? A Comparative View of Police-Military Relations in Latin America. Unpublished work.

BAYLEY, D. H. 1994. *Police for the Future.* New York: Oxford University Press.

BAYLEY, D. H. AND SHEARING, C. D. 1996. The Future of Policing. *Law and Society Review* 30:585-606.

BITTNER, E. 1995. The Quasi-Military Organisation of the Police. *The Police & Society*. Touchstone Readings, Kappeler, V. E., editors. Illinois: Waveland Press, Inc.

BOTELHO JUNQUEIRA, E. AND DE SOUZA RODRIGUEZ, J. A. 1993. Pasárgada Revisited: Policing Favelas in Brazil. *Alternative Policing Styles. Cross-Cultural Perspectives.* Findlay Mark and Ugljesa Zvekic, editors. Deventer: Kluwer Law and Taxation Publishers.

BRATTON, W. J. 1996. How to Win the War Against Crime. *The New York Times*, April 5, 1996, A27.

BRATTON, W. WITH KNOBLER, P. 1998. *Turnaround.: How America's Top Cop Reversed the Crime Epidemic.* New York: Random House.

COSTA, G. 1994. Cómo Encarar la Reforma Policial. *Ideele* 71-72: 106-108, 1994.

COSTA, G. 1995. The United Nations and Reform of the Police in El Salvador. *International Peacekeeping* 2,3 (Autumn), 1995.

COSTA, G. 1998. La Propuesta de Nueva Ley Orgánica de Policía del Perú: Novedades y Limitaciones. *Control Democrático del Mantenimiento de la Seguridad Interior.* Frühling, H, editor. Santiago: Centro de Estudios del Desarrollo, 119-136.

DOZIGER R, S., EDITOR. 1996. *The Real War on Crime*. New York: Harper Perennial.

FRÜHLING, H. 1998. Policía y Consolidación Democrática en Chile. *Pena y Estado*, No 3 (1998): 81 - 116, 1998a.

FRÜHLING, H. 1998. Modernización de la Policía. Presented to the *Foro sobre Convivencia Ciudadana*, organised jointly by the Government of El Salvador and the Inter-American Development Bank, 1998b.

FRÜHLING, H. AND SANDOVAL, L. 1997. Percepciones de Inseguridad y Realidad Delictual en Tres Comunas Populares de Santiago. *Estudios Públicos* 68 (Primavera) : 253 - 306, 1997.

GARST, R. 1997. *The New Guatemalan National Civilian Police: A Problematic Beginning*. Washington: WOLA Briefing Series.

GOBIERNO DE LA PROVINCIA DE BUENOS AIRES. 1998. *La Transformación del Sistema de Seguridad.*

GOLDSTEIN, H. 1977. *Policing a Free Society*. Cambridge: Ballinger Publishing Company.

GUERRERO, R. 1996. El Programa DESEPAZ, Un Esfuerzo Integral Para Combatir La Violencia Urbana, En Cali, Colombia.

KELLING, G. L. 1988. Police and Communities: The Quiet Revolution. *Perspectives on Policing 1*. National Institute of Justice and John F. Kennedy School of Government: Harvard University.

KELLING, G. L. AND WILSON, J. Q. 1982. Broken Windows: The Police and Neighbourhood Safety. *Atlantic Monthly* (March): 249 , 1982.

KRAVETZ, K. 1998. El Control a la Policía en Estados Unidos *Control Democrático del Mantenimiento de la Seguridad Interior*. Frühling, H. editor. Santiago: Centro de Estudios del Desarrollo.

LAFRANCHI, H. 1998. Latin Police can be Reformed. *Christian Science Monitor*, September 28, 1998.

LAPKIN, G. S. 1998. A Globalised Approach to Public Accountability: How Citizens can Watch the Watchmen. Presented at the conference *Democracy and the Rule of Law: Institutionalising Citizenship Rights in New Democracies*. McGill University.

DE MESQUITA NETO, P. 1998. Policiamiento Comunitario: A Experiencia en São Paulo. *Nucleo de Estudos da Violencia da Universidades de São Paulo*. September 1998.

MINGARDI, G. 1996. Corrupcao e Violencia na Policia de São Paulo. *Justicia en la Calle. Ensayos sobre la Policía en América Latina,*

editor Waldmann, P. Medellín: Biblioteca Jurídica Diké, 284 -299.

MINGARDI, G. 1998. Problemas da Policia Brasileira. O Caso Paulista. *Pena y Estado* No 3: 143 - 153., 1998.

MOORE, M. H. ,TROJANOWICZ, R. C. AND KELLING, J. L. 1998. Crime and Policing. *Perspectives on Policing 2*. National Institute of Justice, John F. Kennedy School of Government, Harvard University.

MOORE, M. H. 1992. Problem-Solving and Community Policing. *Modern Policing*, ed. Tonry, M. H. and Morris, M. Vol. 15 de Crime and Justice: A Review of Research. Chicago: Chicago University Press.

NATIONAL COALITION FOR HAITIAN RIGHTS. 1998. *Can Haiti's Police Reforms be Sustained?* Washington: Washington Office on Latin America.

NEILD, R. 1995. *Policing Haiti. Preliminary Assessment of the New Civilian Security Force.* Washington: The Washington Office on Latin America.

OLIVEIRA, A. AND TISCORNIA, S. 1998. Estructuras y Prácticas de las Policías en la Argentina. Las Redes de la Ilegalidad. *Control Democrático del Mantenimiento de la Seguridad Interior*. Frühling, H. editor. Santiago: Centro de Estudios del Desarrollo, 157-174 .

PALMIERI, F. G. 1998. Reflexiones y Perspectivas a Partir de la Reforma Policial en El Salvador. *Pena y Estado* No 3 : 313 - 340., 1998.

PINHEIRO, P. S. 1998. Policia e Consolidacao Democratica: O Caso Brasileiro. In Paulo Sergio Pinheiro et. al. *São Paulo. Sem Medo*. Rio de Janeiro: Garamond, 175 - 190., 1998.

POLICÍA NACIONAL. No date. Transformación Cultural. La Fuerza del Cambio.

POOLEY, E. 1996. One Good Apple. *Time* (January 15): 24-26.

RICO, J. M. AND SALAS, L. 1998. *Inseguridad Ciudadana y Policía.* Madrid: Editorial Tecnos.

RICO, J. M. 1998. La Policía en América Latina: Del Modelo Militarizado al Comunitario. *Pena y Estado* No 3 : 173 -187.

RIEDMANN, A. 1996. La Reforma Policial en Colombia. *Justicia en la Calle. Ensayos sobre la Policía en América Latina* ed. Waldmann, P. Medellín: Biblioteca Jurídica Diké, 215 - 239.

RIVERA PAZ, C. 1998. Los Municipios y la Seguridad Ciudadana. La Institución del Serenazgo en Lima. *Policía y Sociedad Democrática Boletín* No 2 : 6 - 7.

SADD, S. AND GRINE, R. M. 1994. *Issues in Community Policing: Problems in the Implementation of Eight Innovative Neighbourhood-Oriented Policing Programmes*. New York: Vera Institute of Justice.

SAÍN, M. 1998. Democracia, Seguridad Pública y Policía. *CELS Documentos de Trabajo del Seminario "Las Reformas Policales en Argentina"*.

SANDOVAL, L. AND CAMUS, P. 1993. Prevención de la Delincuencia a Nivel Local. Un Estudio Preliminar en la Comuna de Conchalí. *Cuadernos del CED No 24*.

SANJUÁN A. 1997. La Criminalidad en Caracas: Percepciones, Realidades Objetivas y Políticas. Presented at the *Conferencia organizada por el Banco Interamericano de Desarrollo sobre "Crimen Urbano"*, Río de Janeiro.

SANTOS ALVINS, T. 1998. Policía y Democracia en Venezuela. *Pena y Estado* No 3: 199 - 218.

SERRANO, R. J. 1997. La Transformación Cultural en la Policía. Presented at the Foro Internacional de Gestión Pública, unpublished.

SHERMAN, L. W. 1995. The Police. *Crime.* Wilson, J. Q. and Petersilia, J. editors. 327-348. San Francisco: Center for Self-Governance.

SCHMID, R. 1996. La Corrupción en la Policía Preventiva del Distrito Federal de México. *Justicia en la Calle. Ensayos sobre la Policía en América Latina* ed. Waldmann, P. Medellín: Biblioteca Jurídica Diké, 301 - 320.

STANLEY, W. 1996. *Protectors or Perpetrators? The Institutional Crisis of the Salvadoran Civilian Police.* Washington, D. C.: A Joint Report of the Washington Office on Latin America and Hemisphere Initiatives.

STONE, C. AND WARD, H. H. 1998. Democratic Policing: A Framework for Action, presented at the seminar of the Vera Institute of Justice and of the Ford Foundation, on Democratic Policing, March 23 and 24, 1998.

THE WASHINGTON OFFICE ON LATIN AMERICA. 1995. *Demilitarising Public Order. The International Community, Police Reform and*

Human Rights in Central America and Haiti. Washington: The Washington Office on Latin America.

THE WASHINGTON OFFICE ON LATIN AMERICA. 1998. Community Policing. Material to be published.

TISCORNIA, S. 1998. Seguridad y Comunidad. *Documentos de Trabajo Seminario Internacional sobre Seguridad Pública.* Instituto de Política Criminal y Seguridad Provincia de Buenos Aires, November 17 and 18, 1998.

WALDMANN, P. 1996. Introducción, *Justicia en la Calle. Ensayos sobre la Policía en América Latina*, ed. Waldmann, P. Medellín: Biblioteca Jurídica Diké.

WALKER, S.1989. *Sense and Nonsense About Crime. A Policy Guide*. California: Brooks/Cole.

ZAFFARONI, E. R. 1993. *Muertes Anunciadas*. Bogotá: Editorial Temis.

Crime and its Discontent: Recent South African Responses and Policies

Elrena van der Spuy

INTRODUCTION

The following four observations may help if we are to put the South African government's recent shifting crime policies in context:

First, there is no single composite framework in terms of which South African policies regarding crime have been constructed over the past eight years. Crime control debates and practices draw freely from different sets of principles and a large pool of competing ideas. For example, in the case of young offenders we are implored to find ways of making peace between victims and offenders within the paradigm of restorative justice. In the case of sex offenders, however, many argue in favour of a much more punitive and segregative approach to "justice" for those who prey off the flesh of women. In other quarters too we speak with forked tongues: calls for zero-tolerance and state-driven saturation policing coexist with calls for greater tolerance to others and self-help policing. We remain divided if not confused on matters such as the proper role of the state *vis-à-vis* the central business of crime control. We profess the necessity and desirability of partnerships only to reassert the sovereignty of the state to deliver safety and security. In addition we subscribe to very different theories on crime causation. On the one hand, we talk of offenders as pitiful victims of material deprivation (caused by colonial conquest and white minority rule), but on the other hand insist that criminals are rational opportunists skillful at exploiting the opportunities for illegal enterprise within a weak transitional state. Different causative models lead to competing crime prevention policies too: we talk of the need to invest in job creation (social reconstruction and development) as a more structural approach to the problem of crime, while at the same time expanding and fine-tuning the legislative framework for asset forfeiture.

Governmental responses to crime thus follow many logics rather than one – a consequence no doubt of our more recent appreciation that crime is truly a multifaceted phenomenon, rooted in different sets of causes and amenable to different strategies.

There is not much that is unique or home grown about this eclecticism. The diversity, fragmentation, and even contradiction, which characterise South African debates and strategies, are echoed in other countries. If esteemed international commentators are to be believed, this eclectic diversity is a common feature of crime control discourse and practice at the global level (Garland 2000).

The second point is that governmental policies are currently devised in a very fluid context. The business of crime control takes place in a truly mixed economy in which three central actors participate: the state, the market and community (civil society). There is at present little clarity as to the contractual rules guiding such interrelationships. In part this is so because we have come to indulge in radical questioning of the role of the state at a both a factual basis and normative level: How effective is the state in the business of safety and security? How central should the state be? How successful can it realistically be expected to be?

The third point to emphasise is that within the current era, crime policies are increasingly

being shaped by the rough and tumble of a highly politicised public debate and not by sound criminal justice or criminological expertise. Crime and its control have become the bread and butter issues of competitive party politics. This reality has meant that government responses are increasingly driven by popular demands. Although there are currently moves afoot in South Africa to expand the base of criminological research, such developments have to contend with increasingly vociferous demands for "law and order" strategies.

The fourth point is that in transitional contexts, a central institutional actor involved in crime control and prevention, the police, is the object of considerable restructuring. Judging by South African experiences, transitional politics and their demands for policies such as affirmative action severely affect the soul and psyche of the police institution. Post-authoritarian police agencies – and the South African Police Service (SAPS) may be the leading example – suffer from a sense of political displacement, social bewilderment and rank-and-file demoralisation. The social effects of this turmoil – in a context where crime is increasing – are all too often played down in analyses of the challenges facing policing in a society such as our own. But it is a situation that is bound to affect, indeed often to dislocate, the intended form and content of governmental responses to crime.

With such introductory comments in mind, what can be described as the central features of governmental responses to crime which have come to characterise post-apartheid governance? What constitute the main challenges facing our society on this front?

1. TRANSITIONAL POLITICS AND INCREASES IN CRIME

Discussions on crime trends in transitional societies are complicated by the fact that in such societies the margin of error built into official crime statistics is much greater than in stable democratic societies. A degree of caution over and above the usual criminological scepticism regarding any official crime statistics is necessary. Having said that, however, official crime statistics do have their uses. Comparative analysis suggests that in transitional contexts the "equilibrium" rate of crime breaks down and that sharp increases in the rates of violent criminality (to name but one "serious crime"

category) occur. A critical question in the current debate is whether despite very different social settings, there are common causes fuelling patterns of violent criminality rates in transitional societies across the continents (Latin America, Eastern Europe, Africa).

2. GOVERNMENTAL RESPONSES TO CRIME
2.1 Two-stage revolution: from nation building to state building
It seems possible to identify two rather distinct, but overlapping, phases in the development of recent South African crime policies. Phase one stretches from 1994 to 1998. The spirit of this period is exemplified in a key crime policy document – the National Crime Prevention Strategy (NCPS) of 1996. The second phase, which roughly coincides with the run-up to the second democratic elections, has had a more introspective and state-centred approach to crime. Perhaps it is best described as the phase of state building exemplified by the creation of a specialist policing and prosecutorial unit, the Directorate of Special Operations in 1999 under the auspices of the National Directorate of Public Prosecutions – a unit commonly known as the Scorpions.

Let me briefly try to discuss key features of each of these two phases, and outline some of the changes in the socio-political context against which the shift from an inclusive to a more specialist approach to crime control has taken place. The conclusion will attempt to identify some challenges facing governmental strategies in the near future.

2.1.1 Phase one: the imperatives of nation building: the NCPS, 1996
Much has been spoken about the form and content, the rise and decline of the NCPS. There is no need to deliberate on points made in more substantive excursions elsewhere (Simpson & Rauch, 1999). It is fair to say that the NCPS was the first official document of the new democracy that attempted to set radically new parameters for crime policy by creating a comprehensive macro-strategy. Notable features were:
- its insistence that crime was a truly social issue rooted in the structural features of post-apartheid society
- that crime policy had to be embedded in a macro-developmental framework

- shifting the focus toward crime prevention and away from mere reactive crime control
- a demand for the inclusion of victims as a constituency of importance
- its proposal for an inter-departmental approach to crime drawing on the expertise of departments other than those of the criminal justice sector, such as health, education and social welfare in particular
- the active pursuit of alliances (or "partnerships") between the state and non-state agencies, intended to give further impetus to community involvement in crime prevention
- the identification of seven national priority crimes: those involving firearms, organised crime, white-collar crime, gender violence, violence associated with inter-group conflict, vehicle theft and hijacking, and corruption within the criminal justice system.

The NCPS became synonymous with the four-pillar approach to crime prevention which relied on a) a radical overhaul of systems within the CJ machinery, b) environmental design, c) public education, and d) attending to the gaps within which transnational crime would breed.

Radical policy, however, provides few guarantees for good practice. Sweeping as the strategic framework of the NCPS may have been, two years after the unveiling of the NCPS, critics were quick to lament that although the strategy was strong on policy, it was dismally weak on implementation (Simpson & Rauch 1999). It soon became clear that the faltering implementation of the NCPS was not an isolated problem besetting the criminal justice system but rather a common ailment of policy implementation besetting the public service as a whole. The findings of the Presidential Review Commission of 1998 suggested that across the entire public service, bold policy visions often faced faltering implementation for a number of reasons:

- limited managerial capacity
- bureaucratic intransigence
- weak information management systems
- extreme difficulties of intersectoral coordination and establishing vertical authority
- bad budgeting.

2.1.1.1 CRITICAL REVIEW OF THE NCPS
A review of the NCPS was undertaken in late 1999 (NCPS Vol 1 No 1 June 2000). The

NCPS was renamed the National Crime Prevention Centre with interventions planned in support of the programmes. This review was informed by the ideas encapsulated within the 1998 White Paper on Safety and Security. The latter argued for a closer coordination of law enforcement and crime prevention, an expansion of partnerships and moved toward a closer definition of the role of different tiers of government in respect of crime prevention. A prominent concern of the review was patterns of violent criminality and the need for concerted action on this front.

With hindsight it can be said that as a discursive framework and operational strategy, the NCPS has had some lasting influences. Five in particular come to mind:

1. Coupling crime control and crime prevention
The NCPS has injected a degree of modernity into our debates on policing and crime containment. It is now generally acknowledged that crime control strategies need to be synchronised with crime prevention initiatives. In public discourse there is routine references to the need for balancing crime control and crime prevention efforts and for developing both short-term and long-term strategies. For example, the need for a "conceptual distinction" between law enforcement and crime prevention (particularly social crime prevention) is embraced very explicitly within a key policing strategy – the Policing Priorities and Objectives for 1999/2000. The role of the SAPS is much more closely identified with law enforcement as opposed to social crime prevention. For purposes of effective law enforcement, the SAPS is tasked to increase the effectiveness and efficiency of criminal investigations, invest in visible policing and improve services to victims. In contrast to the earlier period of police reform, by 1999 a much sharper delineation of the role of the SAPS has developed with effective policing in itself considered as one crucial variable in the broader crime prevention equation. In the process, the crime prevention function of the SAPS has been hived off elsewhere. In this regard the creation of new structures such as the NCPSC which is to exist parallel to the SAPS is an important development. The NCPSC is charged with two functions in particular: social crime prevention and achieving an integrated justice system. The list of priorities

for policing remain long and arduous: firearms, criminal organisations, crime against women and children, corruption within the SAPS, active visible policing, investigative services, victim empowerment, budget and resource management and professional conduct.

2. Interdepartmental cooperation and justice clusters

The NCPS takes credit for advocating the principle of interdepartmental cooperation in the terrain of safety and security. While the principle has become widely accepted, its institutionalising remains incomplete in part because the difficulties of forging such a cooperation both within the criminal justice sector and beyond were underestimated. At the same time it is fair to say that considerable effort has gone into the creation of structures and processes through which interdepartmental cooperation on a wide front can be instilled. In the Western Cape, for example, the MADAM structure very much personifies the spirit of interdepartmental cooperation around issues of safety and security, with observers often suggesting that its potential still needs to be realised.

3. Crime and its complexity

The NCPS has been instrumental in spawning a much more sophisticated debate on the complexity of the crime problem, the range of causative factors feeding into different crimes and the need for crime prevention strategies tailor-made to the specific crime. In addition, one has seen a move towards identifying critical crime priorities and channelling resources toward them. Over the past four years the annual reports on policing priorities pay testimony to this greater acceptance of setting priorities rather than attempting to do everything.

4. Base-line information and research

Effective policing everywhere depends on reliable information. Good quality information is the backbone of tactical, operational and strategic plans. On this score, the SAPS has been at a particularly severe disadvantage. While the quest for solid crime information remains bedevilled by many difficulties (for a frank discussion see the introduction to quarterly CIAC Reports), various initiatives have been forthcoming. The installation of technological hardware and software has been one important stim-

ulus in the expansion of criminal justice information and research. The development of crime forecasting methodologies, automated geo-coding of crime scenes, multivariate analysis of crime patterns, and the development of geographical information systems (GIS) undertaken by the Centre for Scientific and Industrial Research (CSIR) through a series of pilot projects are also worth mentioning. The CSIR is currently involved in the development of analytical and statistical capacity for mapping crime in certain pilot areas. In its pilot phase, it has succeeded in mapping hijacking incidents over a one-year period in two-hour slots, in days of the week, pin-mapping of hijack incidents, and undertaking hot-spot analysis of hijacking incidents.

5. Fighting crime: state, market and active citizens

The doctrine of active partnerships between state, market and civil society was first entrenched in the NCPS, further elaborated within the White Paper on Safety and Security and is now routinely espoused in political circles. Strategic analysis and police plans make regular reference to the desirability of such partnerships. Big business remains a critical partner in the state-market alliance. However, as for active community involvement, there is much variance across regions. Many analysts argue that the fervour for close community-police links has evaporated. It is probably fair to say that although there has been rhetorical commitment to the notion of partnerships (loosely defined and often ill understood) their practical institutionalisation has been difficult. Perhaps understandably so in a context where the constituency of active citizens is diverse and recalcitrant.

2.1.2 Phase two: The imperatives of state building: making war on organised crime

While the NCPS dominated crime debates in 1996, from 1998 onwards a shift in governmental gear was evident as the project of police reform became redefined, from broad-based legitimacy to police effectiveness, and as a concern with making effective war on organised crime became more prominent.

By 1998 in a fast changing socio-political landscape, grand policy of the ilk of the NCPS with its somewhat nebulous philosophical dis-

position no longer seemed so appropriate – neither with politicians keen on dramatic action nor with an increasingly sceptical public. Violent crime was commonly perceived as getting worse rather than better. Such perceptions were combined with those of a state authority either unwilling to, or incapable of, acting on crime. It created a momentum for community-based self-help initiatives (ad hoc or organised) which increasingly overstepped the polite boundaries of community policing defined in due process terms. While poor communities made do with the ideas and tools they had at their disposal, the discerning customers of middle class communities turned towards the private security sector for what the public sector could not deliver. In both instances the state was no longer considered a capable guardian of safety and security – a major source of vehement criticism of the post-apartheid state and at the same time a lucrative source of growth for the private security sector.

From 1998 onwards there has been a change in gear and direction in state thinking. A concerted attempt was made to reassert the presence of the state and to clarify its role regarding safety and security. The need for police effectiveness soon outstripped earlier talk of the need for creating broad-based political legitimacy. In commandeering the foot soldiers, the political masters promised tough talk and tougher action. The by now familiar soundbite of a tough talking Minister in June 1999 is worth mentioning:

> "The criminals have obviously declared war against the South African public. What is required now is a ruthless implementation of the NCPS as a matter of urgency. We are ready more than even before, not just to send a message to the criminals out there about our intentions, but more importantly to make them feel that the *tyd vir speletjies is nou verby*. We are posed to rise with power and vigour proportional to the enormity and vastness of the aim to be achieved. We dare not disappoint our people in this regard."[1]

Before long the style of the bullish Minister of Safety and Security, Steve Tshwete, came to personify the spirit of the new era: war on crime and war on organised crime in particular. The tough talking was not merely of symbolic significance. A legislative and administrative toughness soon made headway, as bail conditions were tightened, mandatory sentences promulgated and the legislative framework for preventing organised crime developed (Van Zyl Smit 1999). On the streets, the battle cries for "law and order" and "zero tolerance" gave inspiration to clampdowns, saturation policing and *blitzkrieg* strategies in which areas were sealed off, people and property searched and hundreds of people detained – with so-called "illegal" immigrants often bearing the brunt of the crackdown.

On a policing front, Operation Crackdown demonstrated the SAPS's new crime combating strategy: a reliance on the geographical targeting of high crime areas, and intelligence driven policing efforts particularly focused on organised crime syndicates – all of which are supposed to be backed up with medium-term socio-economic development. Within the strategy, 140 hot spot areas have been identified that need to be "stabilised" and public confidence in the criminal justice system improved. A critical review of the first experiments (March 2000) of Operation Crackdown on the streets noted that it lasted a week, involved the deployment of more than 1000 police and soldiers, the setting up of 114 roadblocks, the searching of 22 568 vehicles and 293 buildings entered. Close to a quarter million people were searched (Pelser 2000). Questions have already been asked about the knock-on effects of large-scale cordon and search operations executed at the front of the criminal justice system. In addition, questions about the sustainability – in both a financial and human sense – of such operations have been raised. A more recent estimate has suggested that by September 2000 Operation Crackdown has already gobbled up all projected police personnel overtime costs set aside for the rest of the financial year.

3. MILITARISATION OF CRIME CONTROL IN THE MAKING?

From 1998 onwards we have seen a certain militarisation of crime control discourse. It is a discourse that in the opinion of some stands in sharp contrast to the social re-constructionst spirit that pervaded the NCPS in 1996. For others, the militarisation of crime control coexists alongside the much softer talk about social crime prevention. Is there necessarily a contradiction between the two? Or should we heed

the commentary of the American scholars, Kraska and Keppeler (1997), in whose view a symbiotic alliance of sorts exists? In the South African context, and particularly in the Western Cape, concerns about public order and state security have accentuated this militarisation of crime control discourse.

The imperatives for making war gained momentum as the spectre of organised crime on the one hand, and urban terror on the other, developed in the Western Cape. Gang battles on the Cape Flats have for decades been producing their annual toll of dead and injured bodies. Homicide rates in the Western Cape have traditionally been the highest in the country. But the battle for turf between competing gangs cranked into higher gear as the opportunities for illicit enterprise and profit multiplied with the advent of democratic rule, the opening up of borders, and the penetration of global crime networks into local soil. By late 1996, the mobilisation of certain constituencies (such as Pagad) against drug lords in particular added a further complicating factor to the cyclical patterns of death and injury in gang controlled areas.

A low intensity conflict has developed in the Western Cape over the past four years (1996–2000). In the early period it involved drive-by shootings, pipe-bombs and assassinations between two protagonists: gangs and gangs on the one hand, and gangs and so-called "anti-crime groupings" on the other. At first the war was pretty much contained in certain geographical locations. But by late 1998 there was a measure of displacement as conflict spiralled into new areas and involved new targets: tourist destinations (the Waterfront), police stations, recreational spots (gay bars, shopping malls). As the pattern of conflict shifted into the greater Cape Town area, a familiar concept was plucked off the policing shelf and used to describe the new policing environment: "urban terror". As allegations of a global conspiracy for the establishment of an Islamic state gained ground, and G-force elements within Pagad were thought to have gained the upper hand, the concept of urban terror was put to both political and operational uses. In short, the argument simply became that the policing of urban terror (orchestrated by bands of militants) required special strategies, special laws and specialist units. In provincial quarters the police

could claim that the challenges facing the police in the Western Cape were extraordinary – with unique situations requiring unique strategies. How then would the police machine respond to the challenge and what can be said about the implications of such responses for policing more generally?

4. KEY DEVELOPMENTS REGARDING LEGISLATIVE FRAMEWORKS AND POLICING STRUCTURES

Since 1994 we have seen the fine-tuning of the legislative framework and administrative systems to deal with public order, state security and terrorism. (For a more detailed discussion of the arsenal of anti-terrorism legislation see Schonteich 1999.) The National Strategic Intelligence Act created NICOC – a body intended to ensure the coordination of intelligence by SANDF, SAPS, NIA, NISS. The Organised Crime Act provided *inter alia* for the state confiscation of personal assets merely suspected of having been obtained by illicit means. Finally, an Anti-Terrorism Bill is under consideration that would free police operatives from the burdensome constraint of constitutional guarantees regarding *habeas corpus*.

The creation of specialist units to implement this new legislative arsenal has followed. This fascination with such units is not a recent affliction. There has been a long-standing, almost knee-jerk, reaction to crises in policing by creating specialist units. However, by 1999 the concept of specialisation was given more dramatic meaning with the formation of an elite policing and prosecutorial unit, the Scorpions.

One special chapter in the South African manual of making war on organised crime must contain a reference to the Scorpions. The formation of this elite crime-fighting unit (which is "mean and lean"), has specific relevance. Based on the Troika principle, the Scorpions (formally the Directorate of Special Operations) combine the functions of intelligence, investigation and prosecution in one single unit. It is meant to boost infrastructural capacity to tackle serious crime, to dovetail investigation and prosecution on the ground and to allow for better coordination within the security establishment. The unit is to consist of two specialised parts: an Investigations Unit and a Special Prosecutors Unit. A staggered approach to staff recruitment is to be followed. The remit of the Scorpions includes focusing

on serious cases of crime related to organised crime, terrorism, serious economic crime as well as corruption in the criminal justice system.

But the creation of this new unit has not received universal acclaim. The concerns voiced include:

- a lack of clarity with regards to jurisdictional authority between the Prosecuting Authority and the SAPS
- the lack of overall confidence in the investigative and prosecutorial abilities of the ordinary police and prosecutors that the creation of the Scorpions implies
- the possibility that the Scorpions become a source for further internecine rivalry and fragmentation. Already there are worries that the new unit will set off a competitive scramble for lucrative positions unequalled in the SAPS, contribute to a further depletion of human resources amongst the SAPS rank and file, and foster a sense of turf and territoriality amongst non-Scorpion personnel
- a potential blurring of the boundaries between the investigative and prosecutorial functions
- the wide-ranging power of the unit as currently anticipated may result in a dilution of constitutional principles.

On balance it would appear that the fortunes of the Scorpions are bound to affect, for better or for worse, the larger institutional destiny of post-apartheid policing and with that, governmental responses to crime.

5. PROFILING ORGANISED CRIME AND PUBLIC ORDER

The concern with organised crime and public disorder was one prominent component that the newly appointed National Commissioner Jackie Selebi emphasised while announcing a consolidated three-year plan to combat crime in 1999. The plan presented the Justice Cluster's response to President Mbeki's State of the Nation Address on 25 June 1999. The three-year crime-combating plan is designed to address the incidence of crime, public disorder and inefficiencies in the justice system (Schonteich 2000). Containing a mixture of old ideas and new initiatives, some of the strategic interventions involve the following:

- Social crime prevention, through particularly poverty alleviation and urban renewal strate-

gies to be undertaken in a select number of high crime areas.
- Prosecution-led and intelligence-driven investigations to be pursued by the Directorate of Special Operations regarding priority crimes and the improvement of intelligence gathering.
- A steering committee to improve co-ordination with a view to greater service delivery.
- Expansion of sector partnerships particularly with the private sector.

The plan entails a consolidated two-part strategy involving a geographical approach and an organised crime strategy. The latter involves the targeting of organised crime groupings in a much more consolidated and integrated fashion through the regrouping of specialist units. Detectives are to be brought under a single command.[2]

CONCLUSION: FUTURE CHALLENGES

Sensible governmental policies everywhere require clarity about the normative framework for crime prevention, sound administrative capacity, reliable data about crime, and receptivity to criminological expertise. In all four matters the South African state has a severe capacity deficit. To be more specific:

Balancing crime control and crime prevention: It is vital that we continue to engage critically with the normative framework within which governmental responses in the terrain of crime prevention and crime control are designed. Such an engagement is necessary in order to balance the concerns of hard core policing (organised crime) and soft core policing (routine policing).

Administrative capacity: Six years of transitional governance have made for more political realism regarding the systemic constraints within which policies have to be devised. We have stopped thinking that the only problem is one of attitude among Boerish state officials. Beyond the surface of bureaucratic intransigence lie major deficiencies of both a human and a physical capital nature. Engaging with this capacity deficit has become crucial. There are encouraging signs that a mood of administrative realism is developing. One crucial example is to be found in the sentencing framework which is currently being drafted under the auspices of the South African Law Commission. The draft framework insists that one crucial variable

which needs to inform sentencing practices is the actual capacity of the criminal justice system to apprehend, convict and punish wrongdoers. The message is simple: government needs to think through the practical implications of its policy frameworks. Of course, administrative realism could easily become an excuse for diluting constitutional or due process principles. However, there is surely nothing exceptionable about insisting on the need to balance issues of principles with capacity. Judging by the zero-sum terms in which the protagonists from the human rights lobby and law and order lobby frame their positions, both need to move towards a balanced position.

Crime statistics: Governmental strategies remain bedevilled by the absence of reliable crime statistics – that is, despite recent effort to overhaul the data-gathering capacity from station level upwards. The debate on crime statistics has recently taken a dramatic turn with the decision by the Minister of Safety and Security to place a moratorium on the release of crime statistics until such time that issues of reliability and validity have been resolved. The decision has met with some outrage and much scepticism about the political interests to be served by this decision. To many, the decision provides further proof of less rather than more transparency in public sector governance. The moratorium comes in the wake of an acrimonious debate between President Mbeki and various women's lobby groups as to the accuracy of the evidentiary base in terms of which rape of women in South Africa can properly be termed an "epidemic." The need for sound base-line data on which policies can be based can only be reiterated.

Criminological expertise: The need for criminological expertise to inform governmental strategies cannot be underestimated. Sound and respectable research is not in abundance but there is much potential at the local level to generate the kind of criminal justice data on which sound policies should depend. However, there are at present questions to be posed about the receptivity of the political masters, their operational footsoldiers as well as the public to such criminological research and expertise. Much like in the days of old, the onus will be on those on the outside (tertiary based institutions, non-governmental organisations) to deliberately seek opportunities to get buy-in on the part of both government and the broader public, sceptical of yet more academic and "do-gooding" discourse.

ENDNOTES

1) Speech by the Minister of Safety and Security, Mr S Tshwete – Parliamentary Briefing, 28 June 1999.

2) See discussions of the Security and Constitution Affairs Select Committee, 24 May 2000.

REFERENCES

CALLAND, R. & MASUKU, T. 2000. Tough on Crime and Strong on Human Rights: The Challenge for Us All. Paper presented at the International Conference on Crime and Human Rights co-hosted by the faculties of Law of the Universities of the Western Cape, South Africa and Ghent, Belgium, 28-29 July 2000.

DEPARTMENT FOR SAFETY AND SECURITY, 1998. *White Paper on Safety and Security: "In Service of Safety," 1999-2004*. Pretoria. Department of Safety and Security.

GARLAND, D. 2000. The Culture of High Crime Societies: Some Preconditions of Recent "Law and Order" Politics *British Journal of Criminology*, Vol 40(3), 347-375.

JUSTICE AND CONSTITUTIONAL AFFAIRS PORTFOLIO COMMITTEE, 2 September 2000. Directorate of Special Operational Bill: Hearings, 1-29.

KRASKA, P. & KAPPELER, V. 1997. Militarising American Police: The Rise and Normalisation of Paramilitary Units *Social Problems*, 44 (1) 1-17.

SCHÖNTEICH, M. 2000. The Directorate of Special Operations: Deadly Poison for Criminals? *Crime & Conflict*, No. 21, 19-23.

MINUTES OF THE SAFETY & SECURITY PORTFOLIO COMMITTEE held on 1 March 2000, Selebi and the Strategic Focus 2000-2003.

PELSER, E. 2000. Operation Crackdown: The new policing strategy *Nedbank ISS Crime Index*, No. 2, 7-10.

PRESIDENTIAL REVIEW COMMISSION, 1998. *Developing a culture of good governance.* Report of the Presidential Review Commission on the reform and the transformation of the public service in South Africa. South Africa.

SAPS: POLICING PRIORITIES AND OBJECTIVES FOR 1999/2000. Troika 1, 1-3.

SECURITY AND CONSTITUTIONAL AFFAIRS SELECT COMMITTEE, 24 March 2000. Safety and Security & Justice: Replies to Provincial Concerns, 1-10.

SIMPSON, G. & RAUCH, J. 1999. Reflections on the National Crime Prevention Strategy in Maharaj, G. (ed) *Between Unity and Diversity*. Cape Town: David Philip Publishers.

NATIONAL CRIME PREVENTION STRATEGY BI-ANNUAL NEWSLETTER, 2000 (June). Update on the National Crime Prevention Strategy.

VAN ZYL SMIT, D. 1999. Tough justice: South African style? Unpublished paper. Institute of Criminology, University of Cape Town.

Government Responses and Policies: Poland as an Example

Emil Plywaczewski

INTRODUCTION

The fall of the Soviet Union and the end of communism in Eastern Europe has brought with it the criminogenic features of the market economy, despite the obvious and numerous advantages of a free market-based system of economic organisation. At the same time, the aggravation of many criminogenic factors formed in previous times is emphasised. When discussing those factors of crime, processes taking place at an international level are also considered, as an increase in crime can be observed in all post-communist countries. The fact that those countries are becoming increasingly open to economic and tourist exchanges makes it easier for international crime to come into existence and to expand. This is accompanied by the growing importance of problems connected with organised crime in many countries with development market economy.

1. INEFFICIENCIES AND DELAYS

The considerable increase in both crime and the number of criminal cases directed to the courts is not accompanied by a proportional rise in the funding of the police and the justice system. The level of state budget allocations for the combating of crime in its widest sense essentially remains fixed. This naturally prevents the police, prosecution services and courts from working efficiently.

It is well-known that justice needs not only to be done (though here, too, as far as Poland is concerned there are some question marks), but to be seen to be done: meanwhile, the average length of time that a criminal case spends in the courts is constantly increasing, with the situa-

tion in the larger cities escalating to dramatic proportions. Even now – from preliminary proceedings to the final non-appellable sentence – a case takes on average over one year; in large urban areas, it can take several years. This contradicts the commendable idea of the "visibility" of justice.

The increasingly extended period of proceedings is also a serious impediment to the possibility of proving an offender's guilt, since even those witnesses with above-average recall of events cannot rely on their memory after a matter of years. It therefore comes as no surprise that delaying proceedings for as long as possible is among the favourite tactics used by the accused and their defence counsels.

Procedural delays are becoming the Achilles' heel of the Polish justice system and require radical remedial action. The continuing increase in the number of judges' posts (demanded by judges themselves and the National Judiciary Council) cannot, however, be the answer. Even now, Poland ranks among those European countries with the highest number of judges. In only a few European countries (including Germany, Austria and Hungary) is the number of judges comparable to Poland or slightly higher.

2. CHANGES AND NEW INSTITUTIONS

We now move on to discuss the changes and new institutions in the penal code and the penal proceedings of 6 June 1997, which became binding law on 1 September 1998. The new penal code introduced changes which provide for an efficient legal instrument in the fight against crime, including that of an organised

nature. There is some, though limited, hope that the new codes will help shorten penal procedure: they provide for mediation, voluntary subjection to penalty and other simplified procedural paths. However, the main tasks to undertake if proceedings are to be speeded up are to increase judges and support staff (including raising their salaries and qualifications), to improve the technical resources of the courts and to make every effort to ensure that the parties involved conform to procedural discipline.

The new measures involve an extraordinary mitigation of punishment with regard to the perpetrators of crime who agree to cooperate with investigative authorities and release information concerning persons participating in the crime and related circumstances. In light of the new legislation, perpetrators are deprived of material benefits directly or indirectly derived from a crime. The property originating from crime is subject to obligatory forfeiture to the state, unless returned to the victim or an authorised party.

It is expected that many provisions of the new criminal legislation should effectively improve crime fighting. For instance, the problem of witness fear of revenge by criminals will be addressed by introducing a new type of witness – the "incognito witness" – whose identity will be secret and who will not testify at trials. The only way for defendants and their counsel to ask questions of such witnesses will be to use the court or the prosecutor as intermediaries.

According to some scholars, the situation of crime victims will also improve radically under the new criminal legislation. The new Penal Code makes the severity of punishment dependent on, among others, the perpetrator's attitude toward his/her victim, including the issue of whether the offender repaired the damage. New provisions improving the victim's position will make the Polish code unique in its progressive approach.

The Immunity Witness Act of 1997 is the first legal act which contains procedural regulations solely for the purpose of prosecuting organised crime. The above regulations and the extended principles of extraordinary mitigation of punishment under the new penal code have been designed to weaken the solidarity and efficiency of criminal groups. The Act also facilitates the acquisition of key evidence in penal proceedings.

Regulations on the protection of confidential bank data are being gradually developed. Under the Banking Act of 1997, implemented on 1 January 1998, information containing confidential banking data can be released to the prosecutor before investigative proceedings in the event of a justified suspicion of money laundering activity.

New legislative regulations facilitate the activity of investigative authorities responsible for prosecuting certain types of crime and to furnish them with new detection instruments. This in particular applies to controlled purchases, secretly monitored deliveries, and acceptance or handing out of material benefits.

The changes in the structure and form of criminal activity led to changes in the operating principles of investigative authorities, mainly the police and the prosecutor's office. Separate units for fighting organised crime have been created. The Organised Crime Bureau was formed in the Ministry of Justice in 1996 as part of the National Prosecutor's Office to coordinate the prosecutor's office's activities with the operations of national security agencies and other investigative authorities. The above measures were adopted to fight organised crime even more efficiently.

The spreading of crime, including its organised forms, prompted the authorities to improve the safety of crime victims and to develop the Victims' Charter of Rights. The charter lists the rights available to crime victims, including clear instructions as to what assistance the victims are entitled. The main goal of this measure is to ensure that the victims' rights are executed in practice.

In my opinion, some time will still have to pass before one can assess to what extent the new provisions really work in practice. In the meantime, the current assessment is that for several years now, the Polish justice system has faced a very difficult situation of personnel shortages and rising organisational and financial problems. Prosecutors and courts find themselves under the burden of impossible caseloads, while backlogged cases keep piling up. The number of prisoners behind bars and in juvenile detention centres is also rising. The situation demonstrates that the system is in deep crisis and immediate action is required. But the current legal framework, personnel shortages, the state's financial situation and the lack of

modern technical equipment, all compound the crisis.

We must also keep in mind that in many cases, the justice system needs more than just money. Increasing the number judges is therefore neither the only nor the best method for alleviating the backlogs in Polish courts.

CONCLUSION

The outlook for the future remains gloomy.

There is no other choice, however, but to remain hopeful that somehow at least the worst symptoms of the crisis will be addressed gradually.

There certainly seems to be enough awareness and goodwill to initiate the process of getting back to normalcy. The problem is how to secure enough finances, infrastructure and organisational change to transform this goodwill into concrete results.

City Security and Crime in Peru

Cesar Benavides

INTRODUCTION

This paper will address city security and crime in Peru, and will be divided into two sections: first, it will discuss definitions, principles and understandings of city security; second, it will discuss crime and how criminality develops in emerging nations such as Peru.

More than 2000 years ago, the philosopher Socrates stated: "If you do something wrong, it is because you don't know that you are doing wrong." In Peru we add: "... you do it because you are immersed in the obscurity of ignorance". We can therefore say that social problems are caused by a lack of education or training in which ethics are found. Everything in life can change, other than ethics.

1. A BRIEF HISTORY OF SECURITY

Security has always been one of humanity's main concerns. This dates back to the times when man started living in communities, and sharing with other human beings. More specifically, security concerns arose with the concept of property ownership.

Social problems appeared due to excessive eagerness for property or for profit – mine, yours or ours. At this stage, ambitions developed in human beings and agreements were therefore hardly reached in a civilised manner by the parties.

The meaning of property started when man arrived at the end of the nomadic stage and began practising a more sedentary lifestyle, occupying stables or fixed spaces within a tribe – a space that had to be respected by other members and tribes. Agreements were not always followed, giving way to crime, which

forced people to take some protection to avoid future property violations.

When we refer to small communities where all people knew each other, security measures were simple; not as complex as today where rules govern thousands of inhabitants within a community. As the world progressed and became more complex, man's threats and, therefore needs, increased. This brought up security as a principle. The human being was granted the highest value, as established in the first chapter of all constitutions throughout the world. So, in 1960, the principle of world security became predominant, while facing up to the threat of a nuclear war. Later, in the 1970s and 1980s, threats arose from local enemies, such as terrorists and drug traffickers. The idea of national security brought up a principle that was understood before in terms of national territorial defence and threats to the external and internal security.

2. CITY SECURITY

In the 1990s, the idea of city security started in the emerging countries. The concept originated in Spain and was adopted by almost all Latin American countries and the United Nations (UN) through its regional body known as Ilpes-Cepal. In 1997, the first Latin American City Security Projects Assessment and Preparation course took place in Chile, which was attended by two members of the Peruvian Institute of Criminology, which I represent. We were exposed to several definitions on the subject, but we believe that the closest definition to our reality is as follows:

City security can be understood as the con-

cern about quality of life and human dignity in terms of freedom, access to the market and social opportunities shared by all individuals within a social environment, defined by the territory of a country. Security is the support of democracy.

Certain basic security risks, such as nuclear war, have been minimised due to globalisation and the business mergers of large multinational groups. There are, however, serious threats to human security. Some of these include insecurity regarding:

- the economy
- employment
- food
- health
- personal (against felony)
- political and legal uncertainty.

We therefore believe that city security has turned into national security, because a nation with good prospects for city security, reflects a good economy where society develops based on proper education and training guidelines. Based on security, capitalists invest not only in equity terms but also in social terms, because we have to care more for human capital than for corporate assets.

3. CRIMINALITY

We will now focus on the negative impact caused by felonies combined with violence, particularly violent crime. We have only mentioned two causes of felony: education and economic poverty. There is a third and remarkable one – the reason why an individual without mental disturbances commits a felony: self-esteem. We know that the causes of crime are many. In order to face and analyse it, a multi-disciplinary team is required. We believe that nobody in Peru has ever conducted a serious contextual study of crime.

At the first Latin American conference on city security, participants from 10 different Latin American countries agreed that violence would worsen after 2000, especially kidnapping, terrorism and drug trafficking crimes, as a result of greater socio-economic differences between rich and poor countries. The high regional crime rate reflects this situation.

In Peru and other countries, a violent social environment is evident. Due to a "political initiative of protest", six private security guards of the Banco de la Nacioon died. A fire was

caused, in which people were injured, valuable documents were lost and large-scale damage to public property was caused. Several suspicious people were arrested. This happened on the same day as Peruvian President, Alberto Fujimori's, re-election to office. This news spread all over the world and affected Peru's Independence Day celebrations. Due to the current government's discredit, we think that the opposition party will not believe the results of the investigation.

At the beginning of 1999, a group of 33 professionals carried out a national survey in order to determine the insecurity level in Peru. It was found that 10 out of seven people had been victims of crime. In June 1998, the national survey carried out on 999 families ended. It was revealed that Peru had almost 1000 gang organisations. In the district of San Juan de Lurigancho alone, there were more than 100 such organisations.

Peru has between 20 000 and 30 000 gang members, each gang consisting of 15 to 30 members whose ages vary from 10 to 24. These figures might have dropped due to government repression.

We believe that the reason behind the increase in gangs and crime is the lack of organisation among local governments or municipalities and the national police force. There is also a lack of leadership which could solve this conflict situation.

Corruption in public administration has become a public institution. Almost every national institution charges extra to deal with even the most basic tasks or requests.

International financial organisations, such as the World Bank and the International Monetary Fund, gear the so-called poor nations by means of loans where expenses are commensurate. There is a lack of monitoring on the performance of works to avoid the appropriation from the borrower state. With these examples of impunity against felony commission, how can we ask for morality and honesty from hungry people?

CONCLUSION

We can draw the following conclusions from the above synopsis:

- Citizen's safety is understood as a concern for quality of life and human dignity where the aspects that most affect it are poverty,

lack of education and self-esteem.

- If we wish to reduce gangs and create a better society we need to emphasise morality. The country's structures should change, beginning at the upper hierarchical levels as well as changing the school system. Youths must be taught values and there is need for leaders to set good examples.
- Peru's judiciary system (judges, prosecutors and police) lacks credibility because its competency is doubted and because much abuse is committed in the name of justice.
- Peruvian society has experienced a tremendous dehumanisation where hardly a service is provided free because of rampant bribery and corruption.
- More developed nations, transnational corporations and international organisations, while being related, should condone as much as possible Peruvian and Andean countries' indebtedness, because they will always live with the menace of growing domestic and international terrorism.
- During the past 20 years, Peruvian society has been ruled by a political power that is not responding to the needs of the population. Above all, those involved in political corruption seem to go unpunished.

Government Responses in South Africa: Policy and Implementation

Iole Matthews

INTRODUCTION

Over the past ten years South Africa has undergone rapid and acute social change which has been matched by an apparent upsurge in crime, and in particular violent crime. This period of transition has also seen the South African Police Service (SAPS) embark on a transformation process intended to facilitate change from a "force" dedicated to the enforcement of apartheid to a more people-orientated "service".

This transformation process has not been without problems and has occurred in a context where public perceptions and relations with the police were severely tarnished by their use as enforcers of apartheid policy.

This poor public image, coupled with increasingly poor service, has resulted in a situation in which it became "increasingly acceptable to blame crime and violence on the police, rather than adopting a broader understanding of the whole problem".[1] This has had, and continues to have, dire societal consequences in the form of private militias, a proliferation of private security companies who now outnumber police by nearly four to one, vigilantism, kangaroo courts and the use of violence as a problem-solving mechanism.

The number of unemployed and unacknowledged ex-combatants who where never assimilated into formal structures at the end of the struggle, contributed to the types of crime and the use of force as demonstrated by the military-style bank heists experienced through 1996 and 1997.

The problem of ex-combatants appears to be a common one as recommendations to the

United Nations (UN) in 1998 based on research in El Salvador suggests:

> "One should not underestimate the likely extent of crime, especially organised crime that can develop during a transition to new police institutions, especially in countries that have experienced prolonged civil conflict and a tradition of impunity ... estimates should take in to account the demobilisation of large numbers of former combatants from both sides, lack of employment and pervasiveness of military arms."[2]

In fact South Africa remains one of the most heavily armed countries in the world with just licenced firearms making up an estimated 4.2 million for a population of 42 million.

Coupled with these problems are other factors. It has been argued that the relaxation in border controls have contributed to the increase in crime, and that this has had an especially devastating effect on the South African economy, undermining many well-intended policies. Lax border control has been accompanied by many problems, including illegal border crossings and immigration, a rise in corruption among border officials, increases in disease owing to fewer health inspections, tax evasion due to smuggling, the illegal movement of endangered species, and syndicates moving contraband and smuggled goods in both directions. Both SAPS and Home Affairs argued that this had an impact on crime in South Africa, and the Minister of Home Affairs suggested repeatedly that South Africa was losing billions of rands in revenue that could alleviate poverty and build prosperity.[3]

The long-term impact of all of these factors

has been a downward spiral. Societal attitude is one of "no faith in the police", coupled with a loss of faith in the justice system. Crime, and the fear of crime, has become a serious concern of many South Africans. In 1998 and 1999, crime emerged as the major factor fuelling emigration decisions, with 62% of respondents in a recent survey citing crime as the issue that would push them to consider emigrating in the future.[4]

It is within this context that the South African government had to develop and implement crime prevention policy and provide a response to its citizens. In examining government response and policy one needs to examine two time frames, the period prior to 1998 and the period 1999/2000. During this former period, policy was developed and police transformation was a priority. In the latter period, the government has come under increasing pressure to deliver on the policy and for the SAPS, service became an increasing priority. The response of government has changed considerably over that time, no doubt due to both a changing external environment and internal changes of personnel.

1. THE PERIOD 1993 TO 1998

In the post-1994 period, the South African government, drawing on its traditional intellectual power base within non-governmental organisations (NGOs), trade unions and universities, produced consistently excellent and visionary policy, the failure of which can be attributed in part to the over-investment of the state in the political symbolism of policy rather than its practical implementation. While it is appropriate for social policy to carry a broader symbolic significance than its simple technocratic ends – indeed all states use policy for purposes of legitimisation – problems occur when policy is driven more by political imperatives rather than practical considerations. In South Africa there is a tendency to believe that the mere promulgation of policy constitutes changes.[5]

The White Paper on Safety and Security and the National Crime Prevention Strategy (NCPS) are key examples of the kind of visionary policies which have proved to be extremely difficult to implement. These policies demonstrate government's understanding of crime prevention as a long-term social development issue requiring the participation of multiple role players as well as tight interdepartmental coor-

dination and cooperation. However, they are almost impossible to implement without a well functioning state bureaucracy, which not only understands the objectives of the policy but is committed to achieving them.

As early as 1996, there were warnings of the potential problems this ambitious strategy posed for a new government within a transitional environment. Graeme Simpson noted that:

> "In demanding the establishment of programmes and policies which cut across various government departments (and which therefore demand a degree of horizontal accountability between these departments), this approach ignores the extent to which a new political leadership is actually struggling to assert vertical lines of accountability within individual departments and bureaucracies which were inherited from the former government."

Once a policy exists, an administrative structure which constantly develops and enforces that policy, both horizontally and vertically, throughout the various departments must be put in place. In the case of many departments, a major hindrance was the creation of policy without the internal structures and mechanisms to support and ensure its implementation – budgets did not reflect policy objectives, there was an absence of training to ensure the development of new and appropriate skills, information was poorly disseminated and vertical accountability was non-existent.

Apart from the necessary administrative structures needed, the NCPS is exactly the kind of ambitious policy which also requires a detailed programme of implementation in order for it to be successful. Clear action plans, time frames, monitoring mechanisms and criteria for evaluation were sometimes lacking and, where they existed, they were seldom adhered to or enforced. This meant there was no way to ensure the cooperation and coordination between government departments that was necessary. The lack of a detailed strategy for implementation also ignored the inevitable power plays and jockeying for position that occurs within these departments; issues which are particularly prevalent during transformation processes.

Over much of the four years following the elections, the government has appeared to be

unable to provide, or support, any of the conditions necessary for real change to occur. What this may reflects on, is often the sheer size and complexity of the task, rather than the will to succeed, or lack of it. Nevertheless, the lack of clear decisive leadership and well formed human resource management policy and mechanisms within departments had a particularly negative effect and created a space in which the focus of many individuals was on self interest, rather than service delivery .

Many of the departments expected to contribute to crime prevention initiatives were themselves in states of flux and transition, which created additional problems. This was especially true within the SAPS; one of the key departments targeted for massive transformation. Organisations throughout the world undergo major transformations in response to the external environment and there are known tools and techniques for handling these processes. However, due to political pressure, internal conflicts and unrealistic expectations, the process was not handled as effectively as it might have been.

International research from as early as 1983[6] determined key factors that hinder organisational change processes, of which the top six are: fear (both of the unknown and of failure in the new system); lack of trust; loss of status or security; disruption of cultural traditions; inter-organisational disagreements or personality conflicts; and poor reward systems.

The change process in the SAPS exacerbated all of these factors, contributing to the difficulty in achieving any measurable outputs. The SAPS, with its tendency to manage "paper" more effectively than "people", was unable to effectively manage the "human" side of the transformation. The resultant loss of morale, decrease in performance and increase in stress among members has had dire long-term consequences. The most visible changes such as new uniforms and new symbols not only encouraged internal resistance, they also failed to convince anyone on the outside that real change had occurred.

The entire change process was marked by conflict both internally and externally, as demonstrated by the inability of Commissioner George Fivaz and the Minister for Safety and Security, Sydney Mufumadi, to work together, by constant tensions between the police and the civilian oversight bodies, by frequent accusations of racial bias, and by difficulties in integrating members from the 11 different services. This was compounded by the lack of a clearly defined, well-communicated strategy and strong decisive leadership. Members could not commit to a vision they could not see. It is easy to criticise with hindsight, yet it is worth noting that while "there was no change management process to let police know what in the old order (actions and attitudes) needed to be left behind, and which attitudes and actions need to be celebrated and taken forward",[7] today there is still no clear reward for "good" behaviour and equally no real punitive action against "bad".

Station management continues to be unclear about the behaviour expected from them, with no job descriptions and no clear performance objectives. The new Labour Relations Act which was intended to "advance economic development, social justice, labour peace and democratisation of the workplace" has also had an unintentionally negative effect. Management are poorly informed about the details of the Act, believing that it prevents them from dealing with insubordinate staff. At station level and above, misconduct is often ignored and corruption tends to be dealt with only through prosecution rather than through better management. Managers almost never act, even against substantial transgressions. This sends out a clear message that wrongdoing is not punished, which fosters a culture of impunity.

These problems must rest squarely on the government's inability to establish effective systems of human resource management within departments. Within the SAPS, this failure has been blamed on lack of resources and limited management skills among members, alternated with promises that everything is about to change with the introduction of "this" or "that" new programme. While resources are undoubtedly a problem, many of the initiatives taken to improve police management have also been poorly thought out and reflect a "knee jerk" reaction, rather than a clear strategy defined in response to an accurately identified need.

Similarly, human resource management lacks coherence and integration. It has been noted that:

> "The continuing lack of a coherent and integrated training, deployment, development, and succession strategy geared towards

enhancing local service delivery means there is no systemic incentive for rewarding innovative or effective practice at the local level."[8]

While attempts have been made to integrate the various human resource management components, in real terms training operates in virtual isolation from career planning and personnel services. Human resource management is further hindered by the vertical lines of command which see every decision centralised at national level and limited horizontal communication at provincial level. Once again the structure is often the problem rather than the people.

2. GOVERNMENT RESPONSE POST-1998

During the past few years we have seen a marked retreat from many of the principles which underpinned the government's early policy, with talk of development and human rights being replaced with the rhetoric of action. The government has declared its commitment to "hitting criminals where it hurts" and warns that "there will be no place to hide. We will give you hell". The focus of crime prevention is entirely on police performance, often backed up by statistics that are openly acknowledged as being inaccurate and which are now classified. Meanwhile, there is less talk, if any, of social crime prevention, job creation or education programmes for the youth.

These are concerns that seem to have fallen back into the arena of civil society and NGOs.

At ground level there is still no sense of coordination and there is a limited understanding of the possible roles to be played by various departments in terms of crime prevention. The government's response has been to encourage local level crime prevention initiatives such as the Safer City projects in Durban, Cape Town and Pretoria. However, local government's mandate to coordinate crime prevention initiatives is hampered by its lack of control of any provincial departments and the centralised bureaucracy of the police. Government seems to be in the double bind of wanting to keep control while simultaneously avoiding responsibility .

The reductionist blaming of the police is compounded by the media, which tends to focus exclusively on the police when reporting on crime. Headlines talk about "police operations bearing fruit", "police give themselves

three years to succeed in combating crime" and statements such as "fighting crime remains the single most important hurdle that government – through the SAPS – must overcome". This reinforces the belief that police are solely responsible for the reduction of crime – despite global acknowledgement that the police alone cannot stop crime, especially in the longer term.

Four years after the NCPS's inauguration, the government has still been unable to demonstrate any measurable coordination between departments in terms of crime prevention, especially at provincial level. In KwaZulu-Natal, as well as in many other provinces, the relationship between justice and police at regional and area level is non-functional at best, and often adversarial.

In the much-hyped Victim Empowerment Programme, the police, once again, take most of the initiatives and most of the blame. The Welfare Department, which has responsibility for Victim Empowerment, has often been unable to spend its allocated budgets. Early this year, research found a direct link between age and crime with 2283 out of every 100 000 men between the ages of 18 and 20 being convicted of committing a crime – a figure almost double that of older offenders. Crime prevention projects aimed at reducing the risk for youth offenders are urgently needed and yet the Department of Education – which might be central to this initiative – is visibly absent, with senior officials stating that crime prevention in schools is the responsibility of the police. And so, despite the impressive policy displayed within the NCPS, the government is still failing to tackle crime holistically within the framework of social crime prevention.

The current response of national government to crime in terms of policing is around two separate mechanisms – the SAPS's "geographical strategy", whereby large numbers of police are directed to high crime areas for anti-crime operations, and the creation and use of elite units such as the Scorpions.

"Operation Crackdown" – an example of the strategy of "geographical targeting" – has been celebrated as being responsible for high arrest figures, said to clearly demonstrate the impact on crime. This follows the trend of previous "crime blitzes" such as the "Sword and Shield" anti-crime campaign in 1996/97, which apparently saw the arrest of more than 300 000 sus-

pects. However, high arrest rates also compound the chaos in prisons, which currently have an average occupation rate of 163% (and higher with some, such as Westville, having an rate of 211%). Awaiting trial prisoners make up 36% of these numbers and unless the backlogs in the Justice Department are dealt with, the whole exercise is pointless in the longer term. Equally important is whether the high arrest rates are then translated into high prosecution rates.

While one applauds the government's attempts to respond to crime in a very visible manner, it is arguable whether these operations can have an impact on crime in anything other than the short term. Policing based on short-term, large-scale operations that draw members away from their stations and can displace crime to other areas, also ignores the needs of ordinary people who want an accessible local police station that provides a competent and effective service, with members who can, and want to, do their jobs.

One must also question government's commitment to station level policing when one sees the conditions in which much policing is taking place. In Inanda, north of Durban, a station of 164 members has three satellite stations, and serves a predominately "black" 882 km² peri-urban area which includes 17 informal settlements. A baseline assessment by the IPT[9] found Inanda to be 58% understaffed according to SAPS Management Services. Presently, there is one police member for every 5182 people. The brutal truth is that many disadvantaged communities have traded repressive policing for no policing.

The second mechanism currently being given priority by national government is the Scorpions. While no one would argue that the Scorpions are a valuable addition in respect of serious and organised crime, it is important that they are seen as an addition to, rather than a substitute for, sustained and effective policing at station level. With South Africa's high rate of social fabric crime such as rape, family murder and domestic abuse, it is vital we do not move further away from the fundamentals of social crime prevention.

The Scorpions, with their questionable reach of power and their establishment outside of the system, could also pave the way for an unfortunate swing to the secrecy and lack of accountability of the past. The Justice and Constitutional Development Portfolio Committee have already raised questions about their legitimacy in terms of our constitution. Despite these concerns, the public, with its cries for more aggressive policing and the death penalty, appears to be more than ready for old-style policing. However, we have seen the results of repressive policing and might want to think awhile before following that route again.

Finally, there remains a massive disjuncture between what is said at national level and what happens at the local level. Policy and strategy are essentially generated in Gauteng and there is little cognisance taken of the environment in which these will finally have to be implemented. The documentation that filters down to the ground often makes little sense in an under-resourced rural station in rural KwaZulu-Natal. The continuing misapprehension that issuing a standing order or instruction at national level is enough to ensure its application, is still a source of frustration.

CONCLUSION

The refrain from officialdom is always that they are on top of things and that statistics show they are gaining the upper hand in the fight against crime. However, real success will only be achieved when it is the citizens themselves who say things have improved. Until that time the perception will continue, with the inevitable negative repercussions that South Africa is an unsafe country in which to live.

If we seriously intend to fight crime we will have to do it on the ground. This will require the devolution of power and budgets to area and station level. It will require that members are held accountable for their actions and that non-performing members are released from the service. It will also mean that national government enforces and supports its own policy – policy that could be considered as some of the most impressive and visionary in world. Rather than changing it, we should now implement it.

ENDNOTES

1) Robin Lee and Judy Kilpin, Faculty of Management, University of Witwatersrand, *Crime and Conflict* No 8 Summer 1997.
2) Stanley, W. and Loosle, R. *El Salvador: The Civilian Component of Peace Operations*, Institute for National Strategic Studies 1998.
3) Griggs, R., *Overview of South African Borders*, Idasa, 1999.
4) Bennett J., Crime still rattles SA's skilled, *Sunday Times* Business Section, 12 March 2000.
5) Jansen J. C., Why Education Policies Fail, *Indicator SA* 1998 Vol 15 No1.
6) Carson T. C., *Organisational Change and Strategies for Turbulent Environments* www.dcpress.comlpage21.htm
7) Scharf W., Police Transformation in South Africa – What not to do. Presentation at Queens University, Belfast, NI 1999
8) Pelser, E., Can the community police fora work – revisiting a key policing strategy, *Crime and Conflict* No 18, 1999.
9) Griggs R., An evaluation of the Victim Empowerment Programme in six stations of the SAPS, *IPT*, June 2000.

Citizens, Crime and Criminal Justice in Central and Eastern Europe

Ugljesa Zvekic

INTRODUCTION: HISTORICAL AND POLITICAL CONSIDERATIONS

The relationship between citizens and the state is one of the most crucial indicators in the assessment of the level of democratisation of a country. In this context, confidence between citizens/victims and the police is of particular importance. In this paper, changes in policy and attitudes towards crime and policing in Central and Eastern European countries – the so-called countries in transition – are explored on the basis of the International Crime Victim Surveys (IVCS). These surveys were performed in 1992 and 1996/97, in some 20 countries of that region.

The group of countries undergoing transition represents the largest geo-political grouping participating in the ICVS. The third sweep of the ICVS (1996/97) covered all but two – Moldova and Bosnia and Herzegovina – Central and Eastern European countries as well as Mongolia and Kyrgyzstan. This was by no means coincidental.

The political and economic shift from a totalitarian communist system to a system of pluralist democracy, with market driven economies and a commitment to individual human rights, as well as the integration into new regional arrangements, drew much attention from international donors. This attention was triggered by ideological and political concern as well as economic interest. The downfall of communism was interpreted to mean that the typical Western model survived last centuries' historical test of two opposing methods of political and economic organisation. Moreover, new markets were opened up and new market

opportunities appeared. Any return to the previous regime would both diminish the political superiority of the "surviving system" and, perhaps more importantly, hamper the exploitation of newly created opportunities and new political and economic integration at both regional and global levels.

Central and Eastern European countries are heterogeneous, but still share certain common traits which originated long before the communist period of their history. Among these common traits, the following are of special significance: many share the Slavic origin of their peoples; some belonged to the three great empires before the end of the First World War and the majority of the peoples are Orthodox or Catholic Christians.

More recently, the most influential commonality among Central and Eastern European countries was the fact that they belonged to the communist world and its regional military-political (the Warsaw Pact) and economic trade arrangements.

Furthermore, out of 20 countries participating in the third sweep of the ICVS, eight were part of the former Soviet Union, five were federal entities of the former Yugoslavia and two composed the former Czechoslovakia. All of these countries gained independence in the early 1990s. Independence for some occurred peacefully (though not without tensions) and some, like the former Yugoslav republics, through violent conflict.

Thus, out of the 20 participants of the ICVS, those eight which emerged following the downfall of their previous "mother land" share an even stronger core common heritage.

What distinguishes this group of countries is the intensity of deliberate change within a relatively short period of time. This quality and intensity of deliberate change paradoxically applies both to their transition into a communist system, as well as their transition from the communist system.

It is within this context that the relationship between citizens and the state, as measured through reactions to crime and criminal justice, gains particular significance.

1. CRIME AND CRIME REPORTING IN CENTRAL AND EASTERN EUROPE

Concern with crime, as well as evidence of an increase in many forms of conventional crime and organised crime, corruption and economic crime, are common to all Central and Eastern European countries.

This does not mean that levels of crime and insecurity are consistent throughout the region, but certain trends are common, including the following:

• Burglary contributes more significantly to crime totals than in industrialised countries.
• Between 20% and 25% of all crime involves violent personal crime in almost three-quarters of these countries, and this trend is on the increase.
• Theft of and from cars makes up one third of the total crime figures, and this trend is also on the increase.
• Theft of personal property increased in all countries experiencing transition.
• Consumer fraud was consistently high throughout the region.
• Corruption of public officials is far more prevalent than levels recorded and reported in the industrialised world, and just slightly lower than those of the developing world.
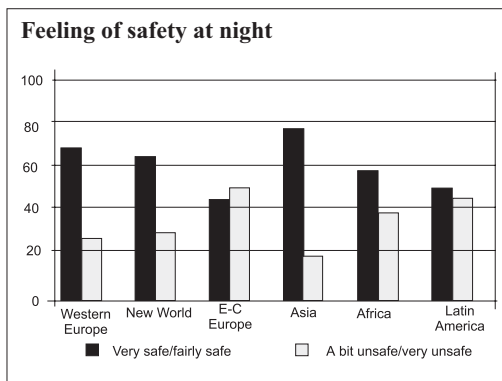
1.1 Feeling of safety

Public concern over crime involves many factors, however the "feeling of safety" is traditionally held to be the most important.

When comparing levels of concern over crime in various countries, it has been found that more than half of people living in countries experiencing transition feel unsafe. This is the highest percentage throughout the world. Conversely, the lowest percentage (13%) of people who feel "very safe" in the streets after dark, live in countries in transition.

Against this background of crime and insecurity, indices of the relationship between citizens of Eastern European countries and the criminal justice systems, in particular the police, are somewhat negative. This can be extrapolated to present an indicator of the public's confidence in the state.

1.2 Reporting crime to the police

With regard to the percentage of crimes that are actually reported, far fewer crimes are reported to the police in Eastern Europe than in industrialised regions.

Moreover, no significant change in these statistics was recorded over the period 1991–96, for which data is available.

For example, burglary is reported less often in Eastern and Southern Europe than in the industrialised world, but more often than in developing countries; robbery is reported far less than in the industrialised world, Asia and Africa and assault is the least reported crime when compared with data from other regions.

These figures are consistent, specifically, with countries in transition that are in the process of reassessing and reorganising the role of the police within society. It would seem that critical and negative attitudes towards the

Feeling of safety at night

■ Very safe/fairly safe   □ A bit unsafe/very unsafe

Reporting to the police – one year

DARK FIGURE

□ Burglary ▨ Robbery □ Assault

Satisfaction with the police – 1996
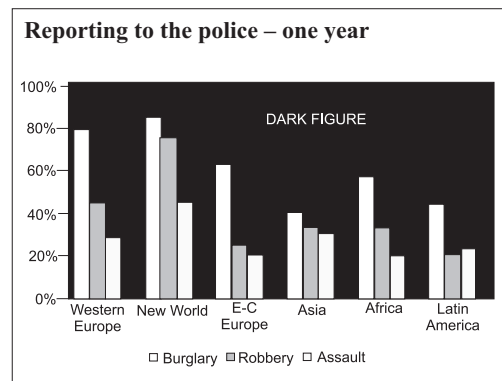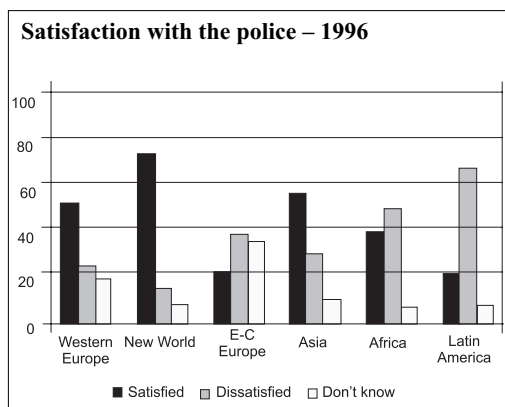
police impact on levels of reporting no less than the type of crime in question.

1.3 Levels of satisfaction with the police

The level of satisfaction with the police is another factor that supports the data presented above. The ICVS found that Latin America and Central and Eastern Europe had the least number of citizens who were satisfied with local police work. Moreover, the general level of satisfaction with police control of local crime in these regions has, contrary to expectations, either decreased or remained constant during the period between 1991 and 1996. In both sweeps of the ICVS none of the countries in transition, with the exception of Slovenia in 1991, had a majority of citizens satisfied with the police. On average, less than 25% of all citizens were satisfied, and almost 50% were reported as being dissatisfied.

CONCLUSIONS

Seeking safety, fewer crimes and reduced fear of crime is a universal goal. However, although crime prevention and crime control involves each and every citizen in Central and Eastern European countries, it still remains very much the responsibility of the police. Efficiency and the trust and respect of citizens and victims are key ingredients if the police are to succeed in this quest. These components unfortunately still do not exist in Central and Eastern Europe. Despite investment in police reform, the overall results, as evaluated by citizens and victims, are far from satisfactory.

There is still a great deal of dissatisfaction with the police, particularly with regard to the methods used to deal with reported cases and control of residential areas. Corruption of public servants and, in particular, of the police is very high in countries in transition. This is both as perceived as well as experienced by the citizens. Citizens are concerned with outcomes, every day police behaviour and police culture in general.

There is a need to change police organisation and culture. In addition, the population's image of the police needs to be altered from that of guardians of the state or party interests, to servants of the public and upholders of the rule of law. In some countries it was noted that esteem of the police declined somewhat in the immediate period following independence. This was partly due to a crisis of expectations with regard to the new era following the collapse of communism as well as an alteration of the value system from one of totalitarianism to one more typical of a market economy. It was also noted that, in some countries in transition, police managers and mass media portray the crime situation as almost exclusively composed of organised crime, money laundering, etc. and demonstrate less concern with every day crime and public order issues. In a few Central and Eastern European countries where the process of economic and political change has not made much progress, policing is still seen as the repression of political dissidence, rather than effective crime prevention for the service of citizens.

In conclusion, it has been found through surveys like the ICVS, that elementary features of good policing include high success rates in solving crimes and apprehending criminals, sensitivity to the every day needs of citizens, service orientation and high levels of public confidence. In Central and Eastern European countries all these factors must be seen within the broader context of a deliberate socio-economic and political change and the development of a new sense of service orientation and public administration. The police within these regions face the challenge of meeting new institutional values, as well as the expectations of the public.

Citizen Perceptions of Crime and Policing in South Africa

Antoinette Louw

INTRODUCTION

This paper will briefly address some perspectives on the public perception of crime, safety and policing in South Africa since 1994. The points below are based on the results of various surveys: i.e. the Institute for Security Studies (ISS) victim surveys in metros, small towns and deep rural areas; the Human Sciences Research Council (HSRC) national opinion surveys and the national Victims of Crime survey. What we are interested in here is the transition. But as far as crime statistics are concerned – whether reported to the police or to surveys – saying anything about the pre-1994 period with certainty, is difficult. Most of the data below therefore refers to the post-1994 period.

1. THE CRIME SITUATION

Some of the trends in police crime statistics since 1994 set the scene for considering public perceptions about crime and policing:

- Reported crime in South Africa is increasing. Between 1994 and 1999, serious crime increased by 15% (more than the population, which increased by 11%).
- Several serious crimes increased at a faster rate than the national average during this time: most worrying is robbery and housebreaking.
- On a year-on-year basis, crime increased at a faster rate between 1998 and 1999 than at any other time since 1994.
- Murder is the only serious crime that has consistently decreased since 1994.
- Despite this, violent crime as a whole (including robbery) seems to be increasing faster than property crime.

2. PUBLIC PERCEPTIONS REGARDING SAFETY

The transition has seen a decline in public confidence in the government's control over crime as well as in feelings of safety.

The transition seems to have been accompanied by declining feelings of safety. Since 1994 – which was marked by the euphoria following the first democratic elections – feelings of safety declined until by 1998 and 1999, more people felt unsafe than those who felt safe.

But this picture is a little misleading. When compared with survey data from 1991, it emerges that more people felt safe in 1999 than in the pre-1994 election years. The 1994 trend is in fact an outlier, and the exception rather than the rule. This should not, however, obscure important differences underlying these overall perceptions – differences that help to explain the perception in society that a "crime wave" has accompanied the transition.

The survey data shows that public concern has shifted from political violence to criminal violence since 1994. This is linked to the significant differences in perceptions of safety between race groups in South Africa.

The decline in concern about political violence since the early 1990s corresponds with improved feelings of safety among black South Africans. For white South Africans, the opposite has been true – fear of crime has grown among whites during the transition.

Currently, white and Indian South Africans are more likely to feel unsafe than blacks and coloureds. This probably relates as much to different experiences of violence and insecurity during the transition years, as to actual vulnerability to criminal victimisation.

- The survey also shows that it is the middle income groups – as opposed to the poor and well off, who fear crime the most. These are the people with property worth stealing but who are less able than the wealthy to buy protection. They are thus more vulnerable to crime than others.
- ISS victim surveys have shown that black and coloured South Africans are more at risk of violent crime. When asking about feelings of safety in the places where people live as opposed to the more general questions about safety used in the HSRC surveys, the data suggests that the fear of crime is higher among black and coloured South Africans; probably a reflection of the greater risk faced by these people.
- This might explain why in the past two years the gap between the proportion of white and black South Africans who feel unsafe is closing.

Perceptions of safety are complex to manage in any society. During times of transition in which different sectors of society are not equally at risk of crime and receive very uneven treatment from law enforcement, perception is even more difficult to manage.

This means that we, and government in particular, need to consider very carefully – if not guard against – reacting too directly to public perceptions of safety.

Equally risky is using public perception as a policing objective and measurement tool – as is the case with the South African Police Service's (SAPS's) new high-density operational strategy.

3. PERCEPTIONS OF POLICING

People think that crime is increasing and that the police's ability to protect them is limited, but this trend is evident in many countries, even those where crime levels have been decreasing for years. Two trends regarding perceptions of policing in South Africa are important in the context of the transition.

First, the ISS victim surveys and the national Victims of Crime survey show that a key reason for public dissatisfaction with the police relates to the lack of follow-up after reporting a crime and to poor investigation of crime – essentially the work of the detective service.

Ironically, it is this sector of the police that seems to have received the least attention since 1994. Most emphasis has been on improving the legitimacy of the police via the community policing policy that has had little impact on the detective service in the SAPS. The value of this approach should not, however, be underestimated.

Second, surveys show that although levels of satisfaction with policing are generally low, many people are willing to work with the police and to participate in community safety initiatives.

More importantly, those who are least satisfied with policing – the poorer communities in South Africa – are most likely to indicate a willingness to work with the police to make their neighbourhoods safer.

One explanation could be that the standard of policing is so low in these areas that people believe that unless they take action to secure their own safety, none will be provided by the state.

However, this would not explain the clear willingness to "work with the police". This is undoubtedly a sentiment that would not have been expressed before 1994.
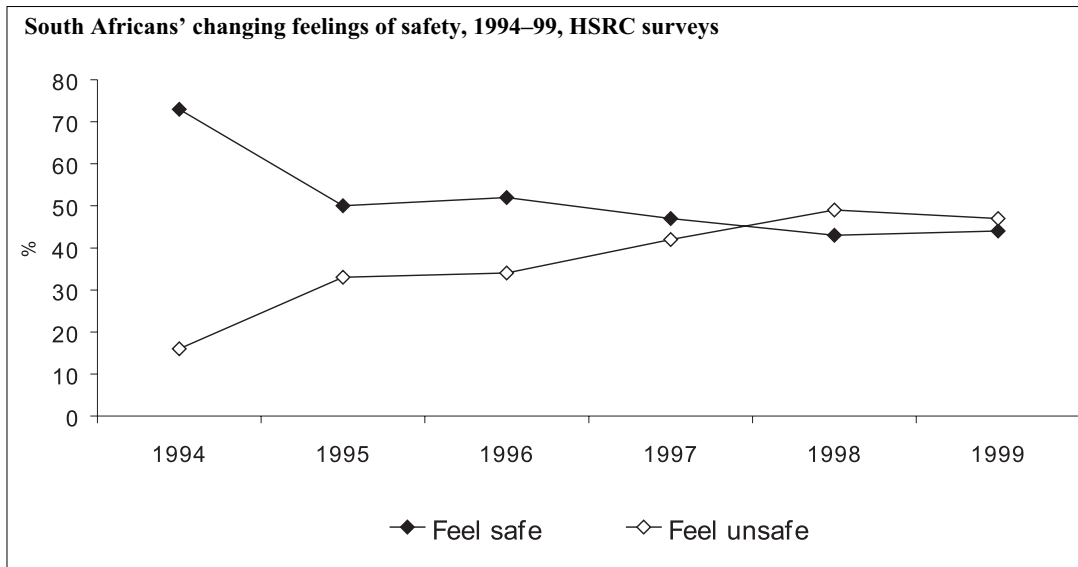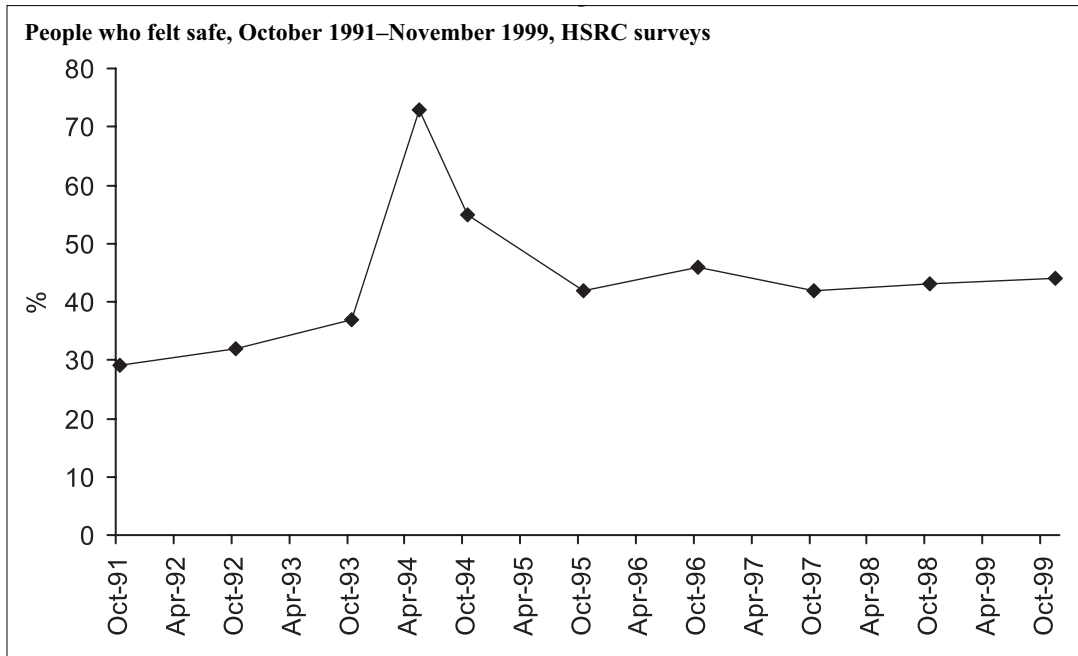
This is significant because, although the mistrust and fear of the police before the transition has been replaced by a lack of confidence in the police's ability to fight crime, people are nevertheless now willing to assist the police.
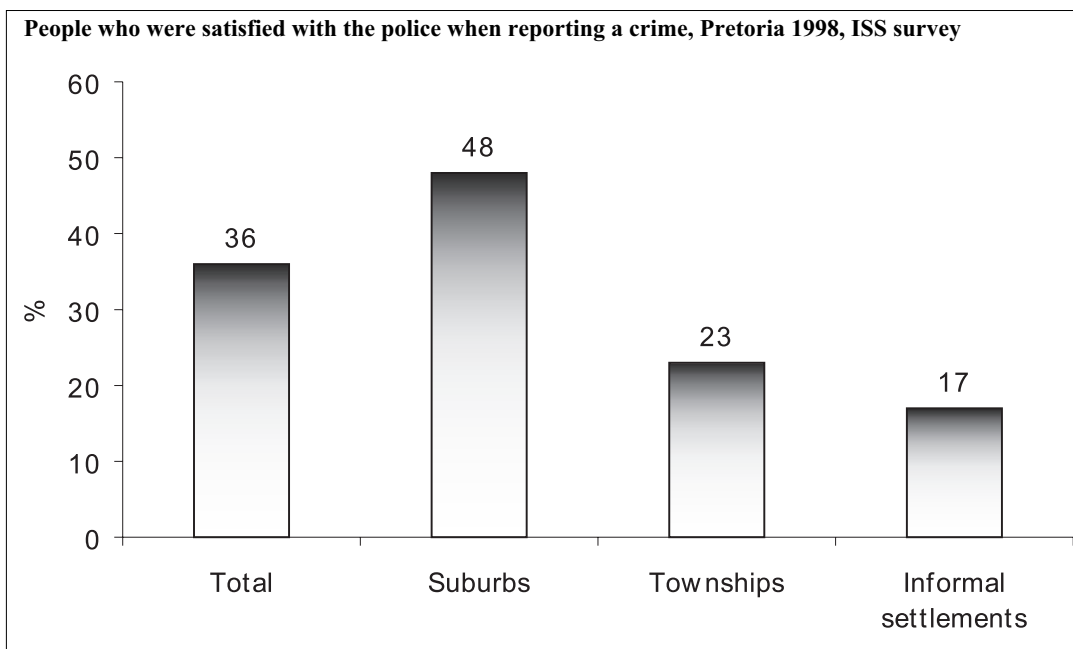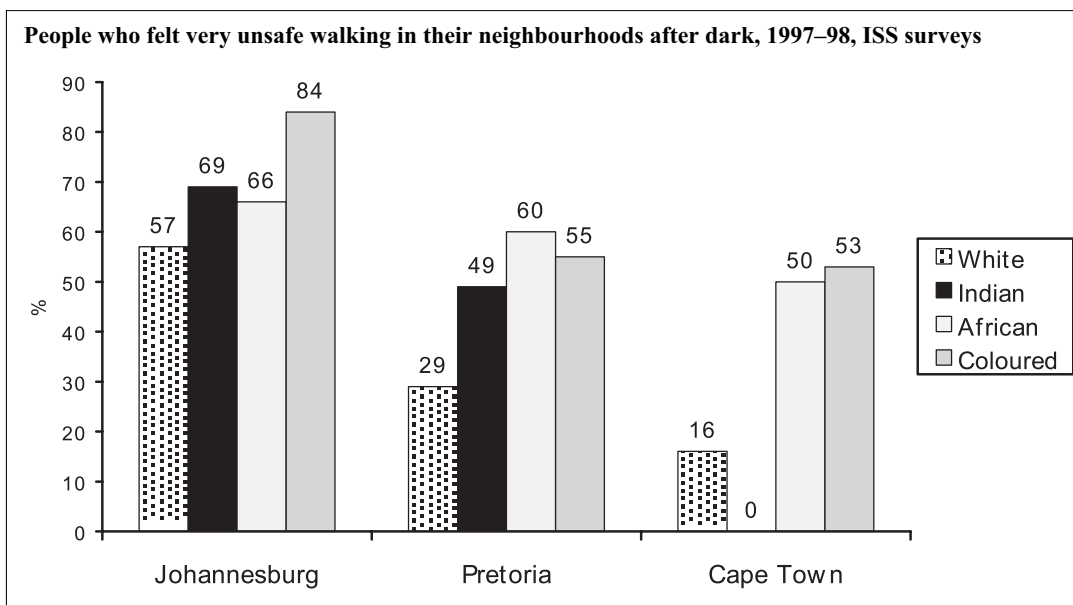
CONCLUSION

The transition in South Africa seems to have fostered high crime rates and fear of crime. But the fact that so many South Africans – and particularly those who receive the lowest standard of policing – are prepared to work with the police, must be seen as a positive result of the transition.
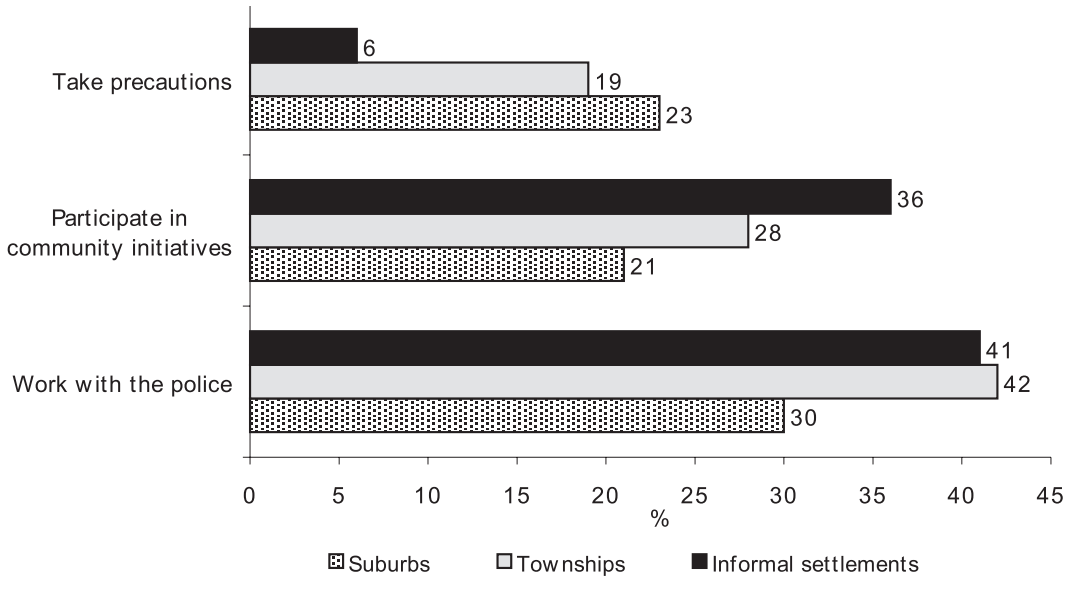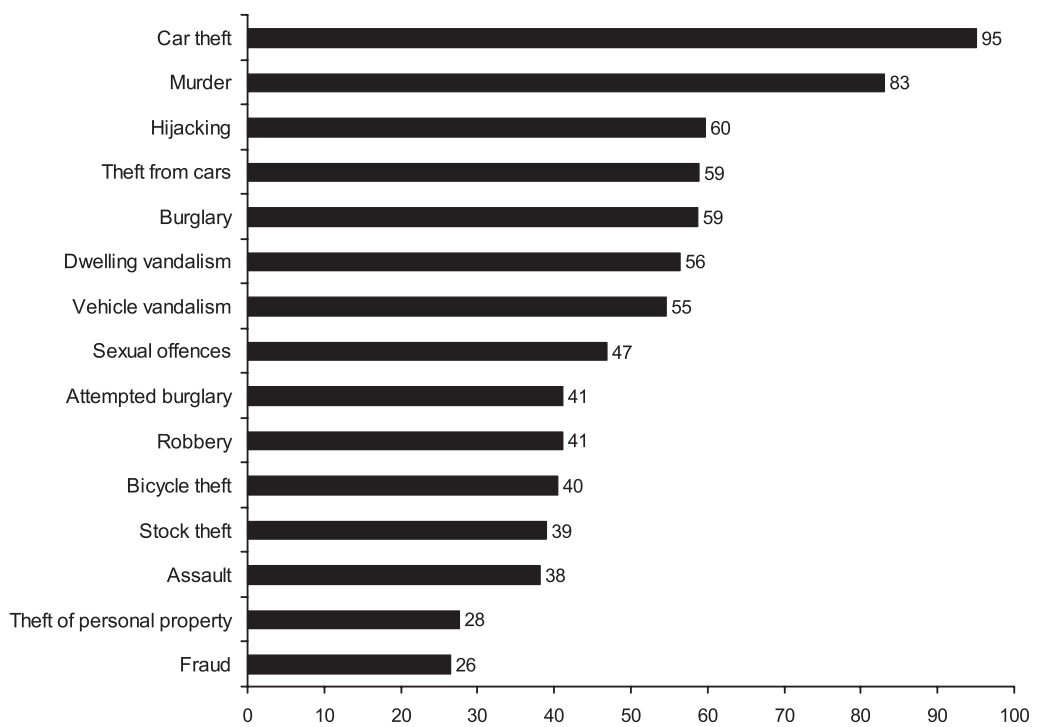
Percentage of white and black South Africans who feel unsafe, HSRC survey

Black
□

1994 1995 1996 1997 1998

South Africans who feel unsafe, November 1999, HSRC survey

47 — National average
69 — Indian
59 — White
45 — African
41 — Coloured

People who felt safe, October 1991–November 1999, HSRC surveys

South Africans' changing feelings of safety, 1994–99, HSRC surveys

People who felt very unsafe walking in their neighbourhoods after dark, 1997–98, ISS surveys

People who were satisfied with the police when reporting a crime, Pretoria 1998, ISS survey

People who thought the police were doing a "good job" at controlling crime in their area, Pretoria 1998, ISS survey
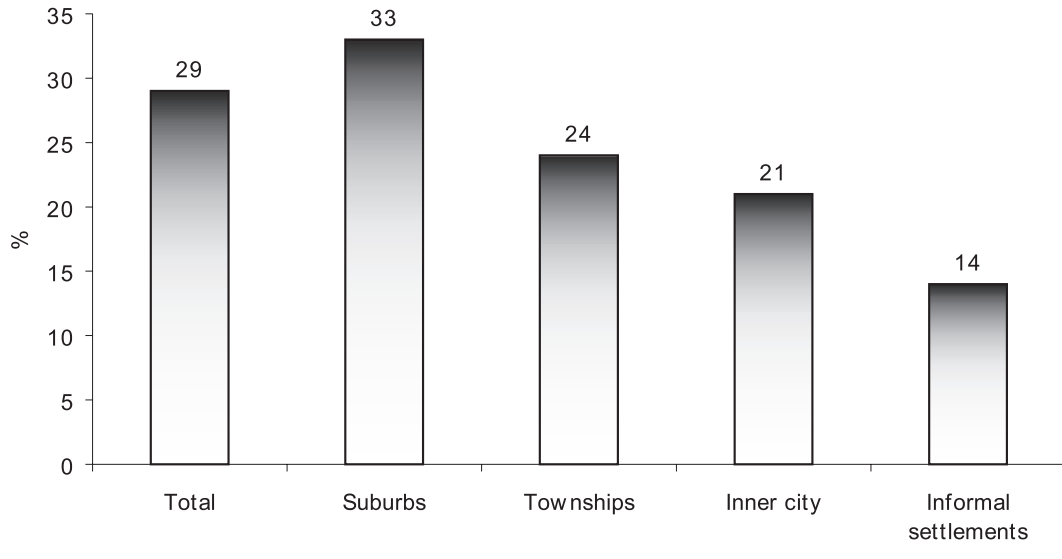
How individuals can help make their communities safer, Pretoria 1998

Reporting of crimes to police (%), 1998, National Victims of Crime survey

Crime	Percentage
Car theft	95
Murder	83
Hijacking	60
Theft from cars	59
Burglary	59
Dwelling vandalism	56
Vehicle vandalism	55
Sexual offences	47
Attempted burglary	41
Robbery	41
Bicycle theft	40
Stock theft	39
Assault	38
Theft of personal property	28
Fraud	26

The Role of "Private Security" in Transitional Democracies*

Clifford D. Shearing and Michael Kempa

INTRODUCTION

This paper will address the role of "private security" in nations undergoing transition to democracy. Where governments have addressed the issue of how best to bring about internal security within new democracies, they have for the most part devoted their energies to supporting reform of public police services (Johnston 2000; Marenin 1998). While it is undoubtedly important to reform state agencies – such as the police – that were instrumental in maintaining previous authoritarian arrangements, evidence from around the world illustrates that such efforts are not sufficient for promoting safety and security in transitional states. Despite concerted efforts to reform the police, new democracies are burdened with high degrees of both violent and property crime. In response to the consequent demands for increased security made by citizens of new democracies, "private security" is proliferating globally (De Waard 1999; Johnston 2000; 1992; Kempa et al. 1999). Thus far, the dominant modes of "private security" that have taken hold in transitional democracies are paid private policing agencies and citizen-initiated vigilante activity (Bukurura 1993; Hillyard 1993; Johnston 1992; Kempa et al. 1999; Nalla 1998; Schönteich 2000).

An over-reliance on these familiar forms of private security leads to all manner of outcomes that offend democratic principles (Bayley and Shearing 1996; Johnston 2000; Shearing and Stenning 1981). In the first instance, security for sale means that those who cannot afford it cannot have it. It means that paid security agencies pursue the security priorities of their employers (again, the well-to-do), meaning that security ends up less a democratic right than a commodity monopolised by the powerful. Many worry, quite rightly, that security controlled by the rich is not accountable to government and can therefore operate in the "fringes" of acceptable legal conduct. In the second instance, vigilante activity that appropriates the judicial function while meting out brutalising punishment violates the most basic of democratic human rights. In the first section of this paper, we will examine the way in which these negative outcomes have played themselves out in the particular context of South Africa's transition to democracy. We will illustrate the ways in which the forms of private security most active in South Africa in the 1990s have in many ways blocked the transition to democracy through revisiting and reinventing the mentalities, structures and practices of apartheid.

Despite all this, we will suggest that there is a very large and, counter-intuitively, positive role for "private security" to play in governing nations like South Africa through the transition to healthy democracy and beyond. While this is an unusual position, it is dependent upon three premises.

- First, state resources for governing security, such as the police, should be recognised as simply one node in a broader network of available resources.
- Second, we advocate a much broader conception of "private policing," taking this concept to mean *all* non-state agencies that consciously participate in the process of bringing about and guaranteeing security.
- Third, we suggest that through linking up – or "networking" – all of these non-state policing nodes both amongst themselves and with state structures, many of the strengths of "private" modes of governance can be maximised while many of the problems we have mentioned related to the commoditisation of security can be minimised: "optimising" (Johnston 2000; 1999) democratic policing outcomes.

Accordingly, in the second major section of our paper, we draw upon international experience to outline a plan for realising "networked nodal governance" as a mode of optimal democratic policing, and indicate the types of security agencies that would be supported within such an approach. While today we present the plan in terms of reforming the governance of security in South Africa, we wish to highlight the notion that this model, drawing as it does upon concrete international experience, can be adapted and transferred to practical use in many nations of the world – including the established democracies of the West.

In turn, we will close by spelling out some of the potential implications for democracy associated with the emergence of these new policing forms. To preface these remarks, we will here stress that innovative approaches to networked nodal governance value the full participation of local citizens in bringing about security outcomes. As such, it amounts to a political approach that is not only respectful and tolerant of diversity, but actively benefits from it. This is a crucial element for any approach to democratic governance within the increasingly integrated global society.

1. GOVERNING SECURITY IN TIMES OF POLITICAL TRANSITION – THE SOUTH AFRICAN EXPERIENCE
1.1 Reforming the public police
The new government of South Africa has devoted much attention and resources to trans-

forming the police *force* of the apartheid regime that focused on order maintenance into a democratic police *service* that is working to be more integrated with the community and respectful of all citizens' rights (for an overview see Cawthra 2000). International "best practice" has been imported into policing structures and procedures in South Africa, leading to such welcome initiatives as the community policing programmes that have been promoted across the country.

Despite a high degree of dedication to change and much good will on the part of many in the new government and within the police, crime rates have boomed in South Africa over the past decade. There are many reasons for this, but we have not been asked to present on that here. The point we wish to impress in this context is that the proven inability of the police to single-handedly produce security within the nation has created a vacuum in security. Many South Africans feel insecure – both in terms of their personal and family lives and in their affairs of business. Accordingly, they have sought other means for obtaining this security.

This vacuum in the provision of security evinced in times of transition presents a key moment of opportunity for two sets of agencies: most obviously, the paid private security sector, and less obviously, for the state itself. We will deal first with how the private security sector has responded to the opportunity that public demand has opened to them. We then move to discuss how the state might usefully respond to the present situation, both in terms of redirecting the activity of paid private and vigilante security forms, as well as marshalling and amplifying the emergent involvement of civic and other "voluntary" policing agencies in South Africa.

1.2 Paid private security and vigilantism: apartheid revisited
While the state has been busily transforming the public police, what has happened in the realm of private security? Bluntly put, the major forms of private security that have been most active in policing the transition in South Africa have preserved, and in many ways extended, apartheid. They have done so through catering to public demands for security that are guided by old ideas for what security "looks like", carving up the country's landscape into a

archipelago of secure "fortified fragments" from which "undesirables" are barred entry or permitted to enter for circumspect sets of reasons. While this new apartheid bears a striking resemblance to the official governmental programme that preceded it, it has several qualities that make it distinct and even more worrisome in its implications than the hardships that have gone before.

First and foremost, we must point out that this newer mode of "sorting society though gates" is by no means unique to South Africa. In democratic nations around the globe, expansive tracts of space are emerging to which the public has full access but is at minimum partly privately owned (Shearing and Stenning 1981). Within these spaces, proprietors are permitted to exercise legal rights of ownership to define the types of behaviour that will be tolerated (and therefore types of people that will be admitted). In effect, this creates a national landscape that is dotted by millions of overlapping "private orders": a political arrangement that draws many parallels to the feudal order of medieval Europe. Undesirable modes of conduct – typically those that interfere with the security necessary to achieve the imperative of profit making – are not permitted, and engagement in those behaviours, or the appearance of the potential to engage in those behaviours, results in being denied admittance to the fragment to begin with, or being ejected from it after the event. As forms of conduct that interfere with profit making are directly linked with economic capacity, the effect is that poor people are systematically (though not officially) excluded from fortified spaces. In the context of the new South African democracy, wealth remains tightly linked with racial background, so that the flow of persons through gates remains largely structured along the original imaginary race lines drawn by the old system of official apartheid.

Let us now discuss a few of the most extreme examples of the exclusionary security arrangements of this "neo-apartheid" (or, "neo-feudal") order to highlight some of its most deep running and worrisome characteristics. Consider first the instance of the "gated community." The popularity of this form of mass private property has spread widely in North America (Blakely and Snyder 1997). Here in South Africa, developers have extended this concept

to its ultimate conclusion: the self-contained "gated town".

There is one such new development that is progressing in stages at Somerset, Western Cape, called "Heritage Park" (see the developer's website www.heritageprk.com). The developers explicitly market the homes, office buildings, and plots that comprise this gated complex on the basis of promised security: it is advertised, first and foremost, as a secure place to live, to raise a family, and to do business (McGreal 1999). The parallels to a bye-gone feudal era are rendered explicit in the promotional materials of the developer: "the concept of whole town fortification has been with us since medieval times, and it seems appropriate to take a leaf out of our past and install it into a safe future" (www.heritageprk. com).

Accordingly, an electrified fence surrounds the entire village, which is "suitably removed" from any major city centre, and is designed to be self-contained. The entire perimeter of the town is monitored by a staff of 40 private security agents (paid through pooled community resident fees) and sophisticated computer security equipment. Getting into this village is not like the simple business of driving or walking into a typical residential community. Rather, one must pass through one of four entry points staffed by security guards, who will be happy to admit you – once your residential or visitor or employment status is properly checked and registered. Combining these exclusionary "sorting processes" with sophisticated monitoring technology makes the efforts of the former apartheid government to administer very similar "sorting processes" (such as the pass laws) appear amateur in comparison.

Once in, there is no real need for "respectable" citizens to ever venture outside of their fortified fragment, wherein one may go about the familiar business of leading an undisturbed Euro-style family life under the African sunshine. National problems such as poverty and racial disharmony disappear for residents of Heritage Park – or very nearly disappear at least. Immediately adjacent to a remote corner of the village, but outside of its electrified fence, the developer has established a township of 142 very modest homes where the residents of the squatter camp that used to stand where the new homes now do, have been relocated. The positioning of this block of homes is out of

the sight-line of village residents, whose attention is focused on the more pleasant image of the salmon-filled ponds of the grounds. The developer captures the essence of the value priorities of his village best, where he describes the relocation of the township to the modest homes thus: "it is a win-win situation. They get free homes, and we have dealt with an unsightly problem" (quoted in McGreal 1999). The poor may be "unsightly" to the developers' eye, however, their underlying "beauty" as local inexpensive labour has not been missed: the hope has been expressed that some of the residents of the settlement will find work in the shops and as domestic workers inside the wire (McGreal 1999). The parallels here with the bantustans of the old apartheid era are obvious.

Let us now briefly turn our attention to the "shopping mall" – a phenomenon which is also everywhere present around the globe at the moment. These spaces are heavily "policed" by paid private agents who apply the property rights of their owners and manipulate zoning bye-laws to exclude and eject undesirables from the premises. While malls are very common around the globe, in South Africa in particular they take on a special quality in that they constitute one of the few "open" urban spaces whose security is perceived as very nearly guaranteed. As such, whites who are afraid of truly public spaces may frequent the mall on the basis that it offers much the same type of security that the apartheid government used to in fully public spaces (Moore 1999).

Unlike the previous apartheid regime, however, persons of colour have the same official rights as whites to enter such fortified spaces as malls and gated communities. While such legal rights are a very important development in the transition to full democracy, we suggest to you that the new apartheid evinced in mass private spaces is premised upon a more nuanced mode of racism that is not overtly and singularly premised upon questions of race. It amounts to a new binary racism that connects race with cultural tastes that are closely correlated with economic standing. Anyone of colour is permitted to enter the new fortified fragments of the new apartheid, providing they are both *economically capable* and *willing* (these two things are intimately intertwined) to engage in the types of activity characteristic of North American and European cultures. For instance, anyone may

enter the mall provided that they intend to engage in "shopping for entertainment" and outwardly appear that they have the wherewithal to do so.

And anyone may live in Heritage park providing they want to live in a detached home of either Cape Dutch or English Victorian variety.

Neo-apartheid, much as its official predecessor, works through co-opting non-whites into participating in its processes. The new system achieves co-option more completely than the old one, however. This is achieved in a number of ways, but perhaps the most important of these ways in terms of influencing peoples' sensibilities are the very types of space that developers and retailers are making conscious decisions to put into place in response to the inability of the state to effectively govern security within its territories. Malls choke traditional street commerce and street life, removing the element of "civility" and thereby perception of personal safety for people passing through outdoor space. Gated communities and villages, while sanitised on the interior, push crime and "undesirables" into the public spaces occupied by less wealthy people. Those among the less well-to-do who have the ability to escape insecure living conditions do so, and of course, the most prevalent option open to them is to move themselves within the walls of gated communities. In short, "respectable" citizens of all ethnic backgrounds in search of security gravitate to these tightly controlled enclaves.

Once in, all existing "behaviour cues" are geared towards the Western values and aesthetic of mass consumption and responsible citizenship. Originally seeking security, people who enter these spaces are co-opted into participating in the types of activity that take place within these fortified fragments, so that what starts out as a search for security becomes a programme of socialisation and indoctrination into Western values. Security therefore – or more properly, the inability of state governments to guarantee it and the perception of insecurity associated with this vacuum in the public – has become one of the major homogenising forces in our new global society. Unlike the official political programme of apartheid, which happily was overcome through a combination of concerted resistance within South Africa (and in the international community) and the sheer non-sustainability of a state-coordinated effort

to keep ethnic groups physically separate, the new apartheid is self-sustainable in that it operates through the consensual participation of persons of all races, and resonates loudly with economic and cultural trends (the two are increasingly intertwined) around the globe.

Associated with the propagation of the Western values of mass-consumption and heavily interrelated political notions of the "responsible citizen" who takes care of his or her own affairs, is the reinterpretation of the meaning of "poverty" (Rose 1999; Walters 1994). Specifically, the poor come to be regarded as persons who have failed to take responsibility for themselves, and as such are regarded as morally responsible for their fate. Insecurity in the spaces inhabited by the morally suspect poor – spaces that are found outside of the fortified fragments and the conduit spaces that connect them (such as major motor ways and pedestrian spaces situated between adjacent enclaves) – is therefore not the concern of the "righteous" (well-to-do) who have "chosen" fragment space.

It is within this context that the rise of brutal vigilante activity in South Africa (and elsewhere) can be situated (on the rise of vigilante activity in South Africa, see: Aitkenhead 2000; Cawthra 2000; Ngobeni 2000). Wealthier persons who are paying directly for private security are not likely to want to also pay for its public provision through state taxes, the result being a paucity of resources available to democratic state structures to secure the ungated public spaces inhabited by the poor. Frustration over escalating crime in these areas, and the inability of state structures to process the load of charges passing through the system, has boiled over in many instances into unacceptable violent vigilantism. In this instance, the new apartheid is associated with public indifference regarding crime and injustice in poor areas removed from their own experience – just as the old apartheid was with regard to racially segregated townships and informal settlements.

2. THE CHALLENGE TO THE STATE: A PROGRAMME FOR DEEP DEMOCRACY

While the continuance of apartheid in its new market-based guise is a horrifying prospect, we would hasten to add that the trend we have identified is far from an irreversible process. To their credit, the new South African government

has recognised many of the problems related to social exclusion and lack of accountability associated with paid private security (Irish 1999). Efforts have been made to regulate the paid private security industry more tightly. These initiatives have focused on traditional legal modes of regulation that seek to prohibit particular aspects of industry conduct. Such attempts by the state to tame the industry through legal prohibition have been largely ineffective – plagued by industry opposition and lack of compliance at every turn (see for example Ngobeni and Powell 1999).

In our view, there are three fatal flaws underpinning the new government's efforts to regulate the private security industry to date. First, traditional prohibitive legal frameworks problematise (or "address") issues – in this case private security – in terms of *negative potentiality that must be contained*. As such, a reliance on the regulatory power of the law has resulted in a highlighting and privileging of the *problems* associated with private security as opposed to its *potential positive contribution* to the governance of security during the transition and beyond.

Second, there is a basic structural difficulty in regulating independent private security agencies through traditional legal approaches administrated by the traditional centralised state justice apparatus. Many private security arrangements that operate independently from the state police are informal, transitory, or occur on a piecemeal basis. Such arrangements, while doubtless often engaging in democratically unacceptable conduct, are difficult to monitor from the position of centralised accountability bodies and are thereby difficult to discipline through the traditional legal approach of holding a particular agency or individual accountable.

Third, the paid private security industry remains more responsive to the demands and pressures of the market than to the constraints of law: so long as there is public demand for security services of a particular sort, the industry will find ways around legal constraints to meet that market demand.

The way out of this regulatory conundrum is to address these three issues head on:
• The government can begin by examining the issue of whether and which aspects of private security can be put to positive public ends.

- The state can develop and put to use more local agencies, structures and capacities for monitoring and checking the activity of private security bodies.
- The state can shape the uses made of private security towards democratic outcomes through engaging the markets to which the industry is responsive.

Allow us to develop each of these issues in sequence.

The issue of whether private security agencies can be put to positive ends can be answered quite simply: it will have to be. As we have stated and as experience has repeatedly shown, public policing bodies are not capable of fulfilling the old sovereign promise to maintain peace within the territory of the nation state. The concentration of authority for all aspects of policing within a single state body was a project for the modern period of nation-building that spanned the middle decades of the 19th century to the middle decades of the 20th (Johnston 2000; Bayley 1994). It was a project unique to that historical period (which indicates that it is not at all a "natural" or the "only" way of going about governing security). What is more, even at the high-point of the strong welfare liberal state, the objective of a self-sufficient professional police force was in no nation accomplished (Johnston 2000; 1992). Private security agencies have always been active in producing multiple private orders; in our present, as is particularly apparent in South Africa, private agencies are more active in the process of governance than ever before. Accordingly, the state must be realistic to accept that private agencies are an integral part of contemporary governance.

Is this necessarily a bad thing? Setting aside the distributional inequalities and concerns over accountability that relate to market-based justice, private security offers many strengths over public modes of justice. Its fundamental emphasis on the prevention of future harm compliments the *de facto* public police role of punishing past transgressions. This difference in emphasis in practice (if not in theory) relates to the differences in the tools available to private security agencies versus those of the state: property rights and liability law (which is prevention-oriented) versus the criminal law (which is punishment-oriented). Second, security that is directly employed by local agencies is

more directly responsive to both the conditions that threaten the security of the area, as well as the demands and concerns of persons who inhabit that area. There is most obviously a great democratic appeal in the capacity for private agencies to be responsive to the needs and demands of local citizens.

To make use of and enhance the obvious democratic strengths of private policing while countering its drawbacks, government must begin by reformulating its understanding of the role for the state in governing security. The institution of "the police" is not in itself a public good – rather, the outcome of security is. The role for the state in governing security should therefore not be conceptually equated (or limited) to funding a state police agency (along with an ancillary role in attempting to legally check the activity of an autonomous private sector), rather the state should set as its objective facilitating access to the outcome of security for all of its citizens.

To do so, government must work within the very real parameters of the political present. In light of the many bodies presently engaged in producing security, governments must begin by establishing clear principles for what policing is intended to accomplish. The state must then derive suitable mechanisms for holding diverse participants accountable to these principles. Finally, the state must find creative ways of helping all its citizens have full access to the markets for security that dominate the present. Facilitating market access enables citizens (and not just the wealthy) to shape the types of security services offered to their own needs and preferences.

These issues have begun to be probed within the context of the recent efforts of the independently appointed Patten Commission to reinvent policing in Northern Ireland, itself a society deep in the midst of political transition. The report published by the Commission in 1999 (ICPNI 1999) outlines a very clear statement regarding the objectives and purposes of democratic policing, and proceeds to delineate a number of very concrete suggestions for mechanisms to translate these objectives for the governance of security into political practice.

2.1 The purpose of democratic policing
The Commission begins by arguing that policing must fundamentally work towards the pro-

tection of human rights. Upon this bedrock principle, the Commission founds two further general objectives that we feel are central to any contemporary effort to conduct the governance of security in a democratic fashion:

• First, policing must seek to mobilise local knowledge and capacity in both the direction and delivery of policing, and;

• Second, policing practice must be responsive to local needs, as well as be transparent and accountable through democratic practices.

As such, democratic policing is that which works towards the development of security as a public good: it places ownership of policing in the hands of citizens by rendering state and non-state security services accountable and responsive to all citizens rather than a particular class of citizens or set of market imperatives.

2.2 Mechanisms – policing boards and policing budgets

Central to the Commission's approach is the recommendation that the state establish a "policing" rather than "police" budget, to be administered by a "policing" rather than "police board". A policing board is intended to be empowered as an administrative body responsible for putting together effective and democratically satisfying networked arrangements for governing security. Its role in this regard consists of three principal elements:

• It is to develop such plans through extensive consultation with a range of players with an interest in promoting security – including, but not limited to, the public police, paid private security agencies, local grass-roots organisations, and community members.

• It is to facilitate in the implementation and maintenance of such programmes by acting as the funding agency controlling the flow of public funds into the networked approaches to security that follow.

• Its purpose is to act as an overall monitoring body to hold all agencies participating in the networked process of policing accountable. The Commission recommended giving the policing board full legal powers to scrutinise the actions of all policing bodies after the fact. In so doing they replaced the more established state practice of affording the public police "operational independence" with the notion of "operational responsibility" as the rationale for addressing policing

that is recognised to occur through multiple agencies.

By placing control over the state budget for the governance of security in the hands of a public agency other than the police, and permitting that agency to fund and scrutinise the activity of multiple security nodes, the Patten Commission intends that the state extend its involvement in public security beyond merely maintaining an institution to enabling locally generated security projects that meet its criteria for democratic practice and outcome. Unacceptable practices or outcomes could be dealt with either through legal sanction or through termination of funding.

2.3 District policing partnership boards

The Commission also proposed the creation of local boards that would be responsible for supporting the development of networked policing at the district level and for ensuring that the participants of the emergent network were working together in harmony to achieve effective and legitimate policing. These partnership boards were permitted to raise taxes at the local level to support the development of equitable nodal policing arrangements in their areas.

Situated as a programme facilitating and monitoring body at the district level, these boards would overcome many of the structural difficulties in holding diverse participants in the process of governing security that we have noted above. Inappropriate conduct on the part of local participants could be dealt with either through removal or funding or through other municipal mechanisms, such as the denial of licensing or application of fine.

2.4 Emergent networked policing forms

We will now discuss the types of policing initiatives that the Patten approach to state regulation of the governance of security might foster in South Africa. One thing which we want to stress, is that the programme outlined above is not intended to simply give poor people the ability to purchase the same types of private security services that more wealthy people are employing within their fortified fragments. You will remember, after all, that simply giving poor people (which in this country especially is associated with race) the ability to buy the products presently available on the market is another way of colonising them in the image of

Western or European values. Rather, the policing budgets outlined in the Patten Commission are intended to be construed as the redirection of tax resources to enable and facilitate the development of structures, practices and other resources that are rooted within the ways of life in particular communities. Further, the powers of audit afforded to the policing board are designed to ensure that the practices and outcomes of such programmes are not offensive to democratic principles.

Most fortunately for the present government of South Africa, there is a particularly rich fabric of non-state structures that exist in poor communities which have survived through the old apartheid regime. Many of these could usefully be amplified and effectively regulated though the type of framework outlined by the Patten Commission. State support and regulation of such structures would go a long way toward providing democratic forms of policing in South Africa's poorest townships and communities. To cite a leading example, the South African Law Commission (2000) has recently recommended as the basis for future official policy, a model for people-driven policing and community justice along these lines.

Drawing upon the established experience of a local peace-making initiative that has been developed through a collaboration between the community of Zwelethemba (near Worcester, north of Cape Town) and the School of Government, University of the Western Cape, the model seeks to apply local resources and capacities towards the twin challenges of resolving past disputes and preventing their reoccurrence in the future. It does so through constituting local volunteer community members into "peace committees" that convene and facilitate open discussion in community "gatherings". Within these meetings, strategies are worked out to repair damages and prevent the reoccurrence of the disturbance to the peace. Within the Law Commission's framework, reports pertaining to the content and outcome of gatherings are required to be submitted to state-led bodies that perform an external scrutiny function. As such, these processes draw upon the strengths of private practice (i.e., preventing future harms) while ensuring that the outcome of security is distributed in a democratic fashion.

The framework allows for the direction of tax resources to pay peace committees for each case in which they successfully adhere to the rules and values of democratic practice. Provision is made for the committees to divide these state funds between costs to maintain the peace process, community-building funds, a loan fund to support local micro-enterprise, and payment for the members of the peace committees to recognise the value of the work they do. Such a policing arrangement and funding structure is intended to give participating communities democratic ownership over the ways in which they are policed, and direct say in the way in which some tax dollars are expended within the community. Furthermore, such policing initiatives are directly aligned to the three central objectives of the South African government, namely: crime prevention; work-creation; and nation building.

State regulation that begins with a recognition of the limits of direct public police provision and goes on to address head-on the realities of the market, has the potential to foster non-state policing nodes of the above variety. As such, at the centre of the programme for a "new regulatory state" (on this mode of governance more generally, see Braithwaite 2000) that we have outlined herein, lies the principle of "deepened democracy".

CONCLUSION

In this paper we have sought to identify the role of non-state loci of governance as resources to be used in the provision of governmental services through times of democratic transition and beyond. We used an empirical discussion of the present growth and negative applications of conventional private security in South Africa to highlight the importance of the government directly engaging the private sector.

At the heart of our argument was the contention that government must expand its framework for understanding policing beyond the institution of the public police in order recognise the role it might play in regulating the networks of agencies which are presently active in governing security.

With an understanding of some of the dynamics underlying these networks – most importantly in the South African context, market forces such as public demand that is still linked to apartheid values – the government is better equipped to engage these networks in

ways that will influence the nature of the final security arrangements that will emerge. Two particularly important modes of influence include regulating participant bodies through local accountability structures, and influencing the distribution of security by giving the poor meaningful market power.

We moved from an abstract discussion of these ideas to propose a programme for reinstitutionalising the governance of security in South Africa that would integrate and network state and non-state resources, including the resources of the commercial security sector. For this, we drew extensively on the recommendations of the Patten Commission. In closing we would like to reflect briefly on what this all means for some of the more general trends that can be recognised within governance.

In our increasingly global society, governments have been wrestling with the problem of how to address diversity. The standard tools for state government that have been honed and developed to address issues related to relatively homogeneous national populations that conduct their affairs largely within the boundaries of the nation state – for instance the criminal law – are proving insufficient in regulating a society that has become increasingly interconnected

and respectful of the liberal democratic value of preserving individual differences.

Approaches to democratic governance in the contemporary context must therefore find ways of addressing diversity as an asset, rather than treating it as nuisance variation that makes centralised planning more difficult. The framework outlined by the Patten Commission achieves this by reorienting the conception of the "business of government" from centralised planning and provision, to a key role of balanced engagement of multiple processes and capacities that reside within civil society. This approach to governance is very different from the increasingly popular conception of non-interventionist, minimal "neo-liberal" government. A "regulatory state" of the form outlined in this paper is firm only in its principled democratic objectives: it leaves it to non-state bodies to find the means of achieving these objectives, and then fosters objectives that appear to be working particularly well and holds emergent practices accountable to the standards of democracy. Within such a scheme for a regulatory state, the strengths of a multiplicity of diverse local programmes can be amplified, providing that they work towards a unity of democratic outcomes.

REFERENCES

AITKENHEAD, D. 2000. Rough Justice. *Daily Mail and Guardian* (29 May 2000).

BAYLEY, D. 1994. *Police for the Future*. New York; Oxford: Oxford University Press.

BAYLEY, D., AND CLIFFORD S. 1996. The Future of Policing. *Law and Society Review*. 30(3): 585-606.

BLAKELY, E. J., AND M. G. SNYDER. 1997. *Fortress America: Gated Communities in the United States*. Washington, D.C.: Brookings Institution Press.

BRAITHWAITE, J. 2000. The New Regulatory State and the Transformation of Criminology. *British Journal of Criminology*. 40: 222-238.

BUKURURA, S.H. 1993. Vigilantism in Tanzania. Pp 131-138 in M. Findlay and U. Zvekic (eds.) *Alternative Policing Styles: Cross Cultural Perspectives*. Boston: Kluwer Law and Taxation Publishers.

CAWTHRA, G. 2000. *Beaten on the Beat*. www.vso.org.uk/pubs/orbit/71/beat.htm

DE WAARD, J. 1999. The Private Security Industry in International Perspective. *European Journal on Criminal Policy and Research* 7(2): 143-174.

HILLYARD, P. 1993. Paramilitary Policing and Popular Justice in Northern Ireland. Pp. 139-156 in M. Findlay and U. Zvekic (eds.) *Alternative Policing Styles: Cross Cultural Perspectives*. Boston: Kluwer Law and Taxation Publishers.

INDEPENDENT COMMISSION ON POLICING FOR NORTHERN IRELAND (ICPNI). 1999. *A New Beginning: Policing in Northern Ireland*. Belfast: Independent Commission on Policing for Northern Ireland. www.belfast.org.uk

IRISH, J. 1999. *Policing For Profit: The Future of South Africa's Private Security Industry*. United Nations Development Programme.

JOHNSTON, L. 2000. *Policing Britain: Risk, Security and Governance*. Harlow, England: Longman.

JOHNSTON, L. 1999. Private Policing in Context. *European Journal on Criminal Policy and Research* 7(2): 175-196.

JOHNSTON, L. 1992. *The Rebirth of Private Policing*. London: Routledge.

KEMPA, M., R. CARRIER, J. WOOD, AND C. SHEARING. 1999. Reflections on the Evolving Concept of "Private Policing". *European Journal on Criminal Policy and Research*.7(2): 197-224.

MARENIN, O. 1998. United States Police Assistance to Emerging Democracies. *Policing and Society* 8: 153-167.

MCGREAL, C. 1999. Electric Fences Make Good Neighbours. *The Daily Mail and Guardian* (01 February 1999).

MOORE, A. 1999. Shopping Malls and the Architecture of Abandonment. *Daily Mail and Guardian* (29 November 1999).

NALLA, M. 1998. Opportunities in the Emerging Market. *Security Journal* 10: 15-21.

NGOBENI, E. WA KA. 2000. Vigilante Group Sweeps the Suburbs. *Daily Mail and Guardian* (25 January 2000).

NGOBENI, E. WA KA., AND I. POWELL. 1999. Security Industry Crisis Deepens. *Daily Mail and Guardian* (27 August 1999).

ROSE, N. 1999. Inventiveness in Politics: An Essay Review of A. Giddens, "The Third Way: The Renewal of Social Democracy, Cambridge: Polity, 1998." *Economy and Society* 28(3): 467-493.

SCHÖNTEICH, M. 2000. F*ighting Crime With Private Muscle: The Private Sector and Crime Prevention*. www.iss.co.za/Pubs

SHEARING, C., AND P. C. STENNING. 1981. Modern Private Security: Its Growth and Implications. Pp.193-245 in M. Tonry and N. Morris (eds.) *Crime and Justice: An Annual Review of the Research, Volume 3*. Chicago: University of Chicago Press.

SOUTH AFRICAN LAW COMMISSION. 2000. *White Paper on Safety and Security in South Africa*. South African Law Commission.

WALTERS, W. 1994. The Discovery of Unemployment. *Economy and Society*. 23: 265-291.

"The Politics Fits the Crime": Competing Interpretations of Victim Empowerment in South Africa

Graeme Simpson

INTRODUCTION

Competing approaches to victim empowerment lie at the heart of debates over punitive and restorative models of justice in the newly democratised South Africa. These debates play themselves out not only inside the criminal courts of the country, but more overtly within South Africa's national reconciliation enterprise, particularly through vehicles such as the Truth and Reconciliation Commission (TRC). Within this broad national endeavour, two key challenges face South African society: to rebuild the credibility of politically polluted criminal justice institutions which were inherited from the past (undemocratic) regime, along with a legacy of public mistrust, thereby seeking to restore the integrity of the rule of law, while at the same time facilitating a supposedly victim-centred process of reconciliation based on truth recovery, public victim testimony and a highly controversial conditional amnesty for perpetrators of past human rights abuses. Needless to say, these two distinct challenges frequently give rise to potentially competing priorities within South Africa's system of transitional justice.

These dilemmas of transitional justice – and the experiences of victims within them – are exacerbated by some of the hidden liabilities embedded in the very nature of South Africa's negotiated political settlement. They are further compounded by the fact that, far from this political settlement resulting in an end to violence, the transition has instead witnessed sustained levels and cyclical patterns of violence, which are increasingly labelled as criminal rather than political in character. It is argued in this paper that conditions which face societies in transition from autocracy to democracy, therefore present unique challenges to our notions of secondary victimisation and consequently to the strategies for victim empowerment. In particular, considering the magnitude of the agenda of attempting to transform and rebuild popular confidence in inherited criminal justice institutions themselves, it is clear that strategies to deal with secondary victimisation that operate in an isolated manner or exclusively within the sphere of the criminal justice process alone, cannot begin to effectively redress the more expansive experiences of secondary victimisation which are premised on perceptions of state institutions as remaining illegitimate or unaccountable.

In South Africa, attempts to ameliorate the experiences of secondary victimisation are conventionally framed by reference to the extent to which the criminal justice process fails or alienates victims who come before it. This is usually understood by reference to the experiences of people inside the criminal justice process, rather than by reference to cyclical patterns of social conflict and generational patterns of victimisation, shifting patterns of social conflict and the more expansive popular perceptions of the role of the institutions of criminal justice in this evolution. In contrast to this approach, it is argued here that in South Africa, secondary victimisation must be understood as a societal problem rather than a merely individual experience which is the product of an institutional process. These experiences of secondary victimisation are, in fact, embedded not just in the criminal justice process, but in

the very cyclical and generational patterns of repetitive violence – along with the fluctuating fortunes of government crime prevention approaches and an embryonic human rights paradigm (which themselves fall victim to the populist politics associated with post liberation hysteria about burgeoning crime rates).

In short, *the politics of transition fits the crime*. As apartheid's assassins walk free on the basis of a conditional amnesty agreed to within the negotiated settlement, there is an almost absurd simultaneous expectation that in a new democratic dispensation, the bicycle or chicken thief should miraculously acquire a new respect for the rule of law.

1. HIDDEN LIABILITIES OF A NEGOTIATED TRANSITION

Far from resulting in an immediate or automatic decrease in the levels of violence, the shift from the politics of confrontation to negotiation politics in South Africa was actually accompanied by an *increase* rather than a decrease in the levels of political and social violence. A temporary increase in the levels of political violence was, in some respects, inevitable and understandable. More striking than this sustained political violence during the negotiation phase, is the suggestion that the relative decrease in political violence after the 1994 election (which heralded the end of the negotiation phase), was ostensibly associated with an equally dramatic increase in the levels of criminal violence – and this reflects importantly on the questions of effective governance and the capacity of the post-apartheid government to transform its criminal justice institutions. However, it is arguable that this analysis of a simple shift from political to criminal violence ought not to be taken too literally. A key legacy of apartheid's political exclusion of the majority of black South Africans, was the extent to which this effectively criminalised ordinary political and social activity, thus blurring the dividing line between political and criminal violence. This, combined with the illegitimacy of apartheid's criminal justice institutions, rendered it noble to be on the wrong side of the law in pre-democratic South Africa. The flip side of this coin was that the political context also provided a shield of legitimacy for many activities that would in any other circumstances simply be framed as criminal involvement. The

criminalisation of politics and the politicisation of crime in South Africa, are flip sides of the same coin.

In view of this, it is arguable that far from representing a dramatic shift in the nature of violence in South Africa, the post-election period simply witnessed a selective "re-labelling" of violence which was in fact testimony more to continuity than to any dramatic process of change. It may be suggested that considering the rather fine line that separated political from criminal violence under apartheid – and considering the popular rhetoric associated with the "miraculous" negotiated settlement which brought apartheid to an end – South Africans were rather predisposed to interpreting most of the violence which occurred before the election as political, while selectively reframing such violence in the post-election phase as criminal in nature.

Returning to the key issue of governance, the above analysis serves to frame one of the most vital disguised liabilities embedded in the compromises necessary to achieving South Africa's negotiated peace. This was the fact that a new Government of National Unity (GNU) inherited its criminal justice institutions, practices and a substantial part of its personnel – lock, stock and barrel – from its anti-democratic predecessor. Quite apart from the amnesty agreements for perpetrators of human rights abuses which lay at the heart of the negotiation process (and which will be dealt with in more detail below), this also went hand-in-glove with another fundamental political compromise manifested in a "sunset clause" negotiated between the African National Congress (ANC) and the former National Party (NP) government, as a backdrop to the Interim Constitution. This sunset clause provided that civil servants from the apartheid regime could not be evicted by the new democratic government, for at least the following five years. In combination with the amnesty agreement, this meant that the new democratic government effectively inherited – largely intact and with their existing personnel – institutions of state from the former regime, and with them a legacy of popular mistrust and a crisis of legitimacy in respect of these critical criminal justice institutions.

This presented a fundamental challenge during the first years of the democratic GNU. The process of negotiations had effectively disman-

tled old illegitimate sources of repressive authority, but had been considerably less efficient in rebuilding new, legitimate and consensus-based alternatives. This created a vacuum in which there was substantial potential and space for criminal activity to flourish. The challenge therefore was how to transform these inherited governmental institutions, which had been the primary violators of human rights under the old government, yet were now tasked as the guardians of a new constitution and bill of rights and as the primary guarantors of safety and security – in the context of sustained levels of violent crime. This presented a further challenge to organs of civil society over whether or not to even engage within governmental institutions such as the military or the police – precisely in order to transform them – considering the apartheid history in which these very institutions of state were considered to be "the enemy".

The importance of these compromises, which were rooted in the very nature of the politically negotiated peace process – as well as the problems of legitimacy which the new government consequently inherited – cannot be underestimated in their enduring impact on both the pace of transformation in South Africa under apartheid and the enduring impact of burgeoning levels of violent crime. Nor can the magnitude of the challenge to overcome this legacy be minimised. It has entailed far more than just achieving institutional reform and a culture change within these government agencies (itself a massive undertaking), but has also involved the establishment of rules, sanctions and practices that are consistent with a new bill of rights and constitutional practice. The critical example of welfare institutions illustrates that this transformation agenda also entailed reorganising government departmental budgets that were previously designed to service the exclusive needs of a small minority of white South Africans, so that they became functional to servicing over 40 million South Africans of all races. All this was also to be achieved within the boundaries of fiscal constraint and creeping economic recession – which generally determined that these new service objectives would have to be undertaken within the same budgetary limits as before.

The key challenges of criminal justice transformation as they affected the South African

Police, therefore entailed: the need to de-politicise the police and develop mechanisms for increased community accountability; reform of the entire police training system; restructuring of the force to incorporate the nine former "bantustan" forces; to render policing practice subject to the constraints of a constitutional dispensation and bill of rights; and to fundamentally re-focus policing priorities from political to criminal activities. The dominant concern in the early period of the new government (and even during the negotiation phase which preceded the 1994 election), was therefore essentially to win legitimacy and rebuild popular respect for these criminal justice institutions by making a clean and definite break with the past, on the one hand, and to secure the loyalty of inherited police membership to the new political leadership, on the other.

One further consequence of the political dynamics of negotiated settlement is that it frequently serves to define reconciliation by reference to the party-political process associated with formal democratisation. Implicit in this is the danger that such formal political processes fail to engage directly with the needs, experiences and historical traumas of victims of such conflicts, ignoring the dramatic potential for the resultant unresolved trauma to play itself out – in sometimes transmuted forms – over generations. Instead, victim empowerment interventions tend to be undervalued and treated as merely remedial measures (frequently merely complicating the prospect of negotiated settlement), rather than proactive interventions in cyclical patterns of conflict and violence. In contrast, it is argued here that the South African example demonstrates very powerfully the potential of victim empowerment interventions in preventing the cyclical and transmuted manifestations of new forms of violence. So too does the Bosnian case, which powerfully illustrates the long-term impact of residual memory of victimisation as a key factor in the initiation and escalation of new violent conflicts – over periods of hundreds of years. Needless to say, this perspective presents huge potential challenges in respect of such conflicts as manifested in such cases as the Rwandan genocide. The need to understand such violent civil conflicts as social phenomena which have a range and complexity of causes, dynamics and psychological impacts, clearly precludes short-term or

quick fix prevention measures, rooted in politically or diplomatically negotiated "resolution".

It is my view that unresolved issues of victimisation and trauma at a massive level in society, constitutes a "sustained crisis" which, over time, takes on a structural character – especially when associated with historical roots in past racial or ethnic conflict. Such enduring crisis may merely be masked by formal political or diplomatic settlements and peace agreements. As a result, latent conflict may not immediately present as violent, but will inevitably manifest itself in patterns of violence which are cyclical in nature, frequently displaced, and which may well eventually play themselves out along different lines of social cleavage from the original political conflict. A critical component here (which will be addressed again below) is the sustained impact of unresolved issues of insecurity, fear and the culture of impunity for perpetrators who are never brought to book.

In the South African context, both the TRC and the government's National Crime Prevention Strategy Victim Empowerment Programme (VEP) , suggest a substantial concern to deal with the needs and experiences of victims of both ongoing criminal violence and past human rights abuses. However, neither of these approaches alters the fact that a substantial vacuum exists in South African society in respect of victim aid and empowerment services and policies. While government and TRC rhetoric speaks loudly regarding the interests of survivors of human rights abuses or victims of violent crime, this simply has not translated into any capacity or expertise to practically empower such victims, particularly in respect of the most vulnerable and voiceless members of South African society – women and children.

In particular, the lethargy and spectacular non-delivery of any meaningful services to victims by the government's VEP – as well as the virtual non- existence of any reparation mechanisms for those who have testified before the TRC – simply cannot be ignored or excused any longer. In the shifting locus of accountability in an embryonic democracy, there is no substitute for effective service delivery. This applies as powerfully to the areas of victim empowerment as any other – and we need to reflect very critically on the failures of the state in this regard, both at the level of the VEP as a

crime prevention mechanism, as well as at the level of failed reparative measures as a product of the TRC.

The critical point here is that such victim-centred interventions must not be viewed as merely remedial, but must also be viewed as critical, proactive interventions in cyclical patterns of violence in South Africa, which have by no means run their full course. In many respects this has already been powerfully illustrated by the spectre of vigilantism, which – it may be argued – is as much the product of communities feeling under attack and unprotected (due to the absence of any effective victim empowerment services), as it is a manifestation of their loss of confidence in criminal justice institutions more generally. Victim empowerment interventions, as well as curbing cyclical patterns of violent crime, are also a key potential mechanism for intervention in the transformation process regarding criminal justice institutions. This is clear from the simple prevalence of preventable "repeat victimisation" which is a dominant crime phenomenon in South Africa – particularly as regards violence against women and domestic crime.

Furthermore, victim empowerment approaches also force a change process within the criminal justice environment through demanding the overhaul of systems of justice that have the alienating effect of secondary victimisation for those who take up their cases in the criminal courts. The central assertion here, however, is that unresolved trauma associated with victimisation – whether political or criminal – if untreated, may well result in today's victim becoming tomorrow's perpetrator. This is by no means an automatic process – which would be to condemn all survivors to the fate of becoming perpetrators of violence. However, whether manifested in generational patterns of cyclical violence, or more constrained loops of revenge and retribution, failure to engage effectively with the experiences and identity associated with victimisation, is a naive path to sustained and unpredictably changing patterns of violence.

A powerful illustration of sustained yet changing patterns of violence is offered by an examination of the trajectory of youth politics in South Africa. This is partly due to the fact that this strategically vital social constituency statistically represents both the primary perpe-

trators and the primary victims of violence in South Africa. Indeed, it is arguable that violence has symbolically become inextricably intertwined with youth identity in this South Africa.

Historically, young black South Africans were the barometer of marginalisation under apartheid. They were systematically driven on to the margins of society and were rejected entirely by the dominant culture. They were rendered politically voiceless by a system of legislated discrimination based on race. They were educationally disempowered by the system of "Bantu Education", which was deliberately utilised as a means of colonial control, designed only to create "hewers of wood and drawers of water" to service the exploitative labour needs of affluent white-owned industry. They were economically powerless due to recession and inevitable joblessness. Furthermore, apartheid had decimated the alternative sources of social cohesion and places of belonging for these young people: the family (both nuclear and extended family forms) was destroyed as a source of social authority and belonging; the school was transformed into a highly politicised site of struggle, as was the case in the workplace for those who were fortunate enough to get off the streets.

Yet, throughout the oppressive years of the 1970s and 1980s, these young people proved themselves to be incredibly resilient in the face of such systematic marginalisation. They forged alternative places of belonging and identity – largely through political organisations and through the violent politics of resistance. As the shock-troops of liberation, fighting guns with stones, young black South African men established an alternative subculture and place of social cohesion, which simultaneously placed them back on the front pages of the daily newspapers – centre stage within the very society which had so rejected them. Indeed, political organisation clothed them in a new uniform represented by the colours and the banners of the political party. It had its own language in the songs of liberation and the rituals of protest politics. It represented a truly cohesive alternative subculture which gave young men a key stake in society, largely premised on their direct involvement in violence, which was socially approved in the name of liberation.

There is a striking irony that in the shift

which took place in South Africa from the politics of confrontation to the politics of negotiation, this very youth constituency was once again marginalised as "the struggle" moved from the streets to the boardroom, from the hands of these young foot-soldiers, to those of a largely grey-haired or balding, male, exile-based community. On the very eve of liberation – which so strongly symbolised their victories – these youngsters, who had grown up on the streets, were told to go back to school, at a time when the snails-pace nature of transformation meant that very little had actually changed in the schoolroom.

The youngsters of 1994 were not the same people as the youth of the Soweto uprising of 1976, but notionally they confronted a strikingly similar experience – except that formal democratisation had removed much of the attraction from the politics of resistance. It ought to come as no surprise, however, that the youth of the mid-1990s displayed exactly the same resilience in response to their marginalisation. It should also come as no surprise that in lieu of the political movement, the youth of the 1990s found an alternative place of belonging and social cohesion within the criminal youth gangs. Like the political party before it, the gang offered a cohesive alternative subculture to the dominant culture which had rejected these children. The gang too boasted its own uniform, its own language and, through criminal activity, it also filled a void through offering alternative forms of wealth creation.

However, what is perhaps most significant here is the fact that the gang also entrenched violence as a key means of acquiring status and graduating within its hierarchical structures. For example, the gender-specific nature of this predatory violence, meant that it became the mark of masculinity in these social conflicts, with women disproportionately suffering as the victims. Youth identity has thus remained fundamentally enmeshed with violence as a means of acquiring power and status.

However, while the marginalisation of young people during the apartheid era gave rise to violence that was categorised as socially functional – due to it being in the name of liberation – the same experiences of marginalisation now gave rise to violence that is deemed to be anti-social and criminal in nature.

Perhaps the most striking component of the

youth criminal subculture in the past decade in South Africa, is the pervasive experience of young perpetrators of violent crime that their own victimisation is frequently perceived to lie at the root of their paths into criminal activity and lifestyles. Sometimes, this experience of victimisation is attributed to growing up in "loveless families", sometimes to more graphic experiences of domestic abuse (either as direct victims or as witnesses to such abuse), sometimes it is directly related to poverty and relative deprivation associated with the experiences of political oppression. In truth, what this offers is a graphic illustration of how continuity in the experiences of marginalisation of young people in South Africa, has resided at the root of much of the violence which has continued to dominate this society.

The preceding pages offer an incomplete image of the complex process of negotiated transition in South Africa. However, hopefully, this brief outline offers some insights into the social experiences of secondary victimisation which challenge both South Africa's reconciliation model, as well the victim empowerment enterprise which is so frequently glibly linked to this.

2. ADDING FUEL TO THE FIRE? AN EVALUATION OF SOUTH AFRICA'S "RESTORATIVE JUSTICE" ENTERPRISE

The final section of this paper will therefore briefly attempt to evaluate South Africa's restorative justice aspirations (with all of its claims to being victim-centred) as manifested by the TRC and will attempt to scrutinise whether in fact the TRC does all that is often claimed to redress these sustained experiences of secondary victimisation.

Some of the most striking lessons to be learned from the South African TRC in fact relate to the fundamental clumsiness of criminal law, both as a tool for achieving reconciliation, as well as for best servicing the needs of victims and survivors of gross human rights violations. In societies emerging from extensive and intense civil conflict involving widespread violations (such as Rwanda, the former Yugoslavia, Cambodia and South Africa), the prospects of successful prosecutions are in most cases remote, due both to the lack of evidence necessary to secure such prosecutions, and because of the disintegrated criminal justice

systems inherited in such countries. Therefore, successful prosecutions can at best be only selective and symbolic. Although this may be critical to at least symbolically re-establishing the rule of law in such societies, such a punitive justice model cannot be assumed to satisfy the needs of the vast majority of victims and survivors – either in respect of bringing the perpetrators to book, or in respect of any form of reparation or rehabilitation. This raises some important challenges for the punitive justice paradigm inherent in most motivations for the establishment of a permanent International Criminal Court (ICC).

However, many South Africans are more than eager to market South Africa's "reconciliation" model as either an alternative or as a complementary model which – it is argued – is more responsive to the needs of victims and survivors. It is argued here that if there is an important debate over this which is intrinsic to the TRC process in South Africa, then it is most appropriately framed as a debate on the merits of restorative as opposed to punitive systems of justice, rather than one framed between supposedly incompatible "justice" and "reconciliation" models. Either way, what is most striking about these debates is that virtually all the protagonists motivate their approaches as being in the best interests of victims and survivors of human rights abuse – and it is therefore a critical objective of this paper to evaluate these claims.

Considering that the obligation to grant amnesty (which was to be operationalised by the TRC) was in fact originally entrenched in South Africa's newly negotiated Interim Constitution, it is no surprise that some of these debates were actually waged before the advent of South Africa's new Constitutional Court itself. Furthermore, this constitutional challenge to the TRC Act was brought by the survivors of some of apartheid's most notorious victims.

In their papers before the Constitutional Court in the matter of *AZAPO and Others v The President of the Republic of South Africa and Others*, the applicants argued that section 20(7) of the TRC Act was unconstitutional. The pertinent part of section 20(7) provides that:

> "No person who has been granted amnesty in respect of an act, omission or offence shall be criminally or civilly liable in respect of such act, omission or offence and

no body or organisation or the State shall be liable, and no person shall be vicariously liable, for any such act, omission or offence."

The central contention of the applicants was that section 20(7) of the TRC Act violated the right of access to court enshrined in section 22 of the Bill of Rights, which provides that:

"Every person shall have the right to have justiciable disputes settled by a court of law or, where appropriate, another independent or impartial forum."

It was argued by the applicants that by extinguishing the criminal liability of perpetrators to whom amnesty has been granted and by preventing victims from bringing civil claims against those who had violated their rights, section 20(7) violates individuals' rights of access to justice.

In a controversial yet much vaunted decision, the Constitutional Court held that the amnesty provisions in the National Unity and Reconciliation Act (the TRC Act) were in fact constitutional. This was based on several arguments, most central of which was the fact that the amnesty granted was not a blanket amnesty and that it was not unconditional, but instead was premised on full disclosure by perpetrators as a quid pro quo for indemnification. However, one further motivation behind the judgment requires even more scrutiny. In evaluating the right to criminal justice claimed by the victims opposing the amnesty provision, the Court held that in the majority of instances the right to prosecute those who have committed gross violations of human rights is, in any event, an "abstract right".[1] This is because in most cases the evidence necessary to obtain convictions – or even to sustain civil claims – does not exist or has been deliberately destroyed. It is in this context that the Court argued that one of the only ways in which victims could obtain the truth about human rights abuse was if perpetrators were provided with an incentive to come forward and make full disclosure as to the crimes that they committed. The removal of criminal liability was regarded as precisely such an incentive. In addition, the Court held that the process of encouraging perpetrators to reveal their crimes would make them confront their past and help society understand its history. It further added that these are important parts of the process of reconciliation to which

the Interim Constitution was explicitly committed.

The Court could have further substantiated its argument that the right to prosecute is really an *abstract right* by making reference to the state of South Africa's criminal justice system. Even if the evidence to prosecute perpetrators of human rights abuses did exist, the criminal justice system was simply not practically capable of processing thousands and thousands of such prosecutions. Although it was not framed as such by the Constitutional Court, in the absence of the evidence necessary to achieve effective prosecutions, coupled with the absence of a functional criminal justice system capable of securing such convictions, this raised the spectre of the one scenario which clearly would do more damage to the forward-looking agenda of rebuilding public confidence in the legal system and the rule of law in South Africa, than the apparent impunity associated with amnesty: that is, impunity based upon a failed prosecutions process. Were this to happen, the few perpetrators who were tried and acquitted would then be able to deny their involvement in human rights abuses, thus perpetuating a culture of impunity, eroding any residual faith in the rule of law, and potentially leading to even greater anger and cynicism on the part of victims and survivors.

Furthermore, even where such prosecutions do take place, it is highly debatable whether this satisfies the needs and expectations of victims and survivors to the extent that is often assumed. Certainly in the South African case, criminal convictions do not jurisprudentially find any automatic civil claim for compensation on the part of the injured party. The consequence of this is that the few South Africans who enjoyed the prospect of successful prosecution of those who killed their loved ones – and who are poverty stricken and marginalised by virtue of their very victimisation – in most instances still faced a lack of access to civil justice on the simple basis that it remained unaffordable. Furthermore, even where it was affordable, the rules of prescription applying to such civil claims would most likely have rendered most claims inoperable.

Until these jurisprudential anomalies are eliminated, or the South African justice system is substantially transformed, the Constitutional Court may be right – there is only an abstract

right of access to justice for victims of apartheid.

Yet this punitive justice model, which is perhaps least functional in servicing victims' needs for some form of direct compensation or reparation, is all too easily motivated as being in their best interests. In fact, this discussion demonstrates not only the clumsiness of punitive criminal law as a tool for meeting the reparative needs of victims and survivors, but it also illustrates the grave danger which resides in seeking to speak on behalf of victims and survivors, instead of more directly rendering their own complex voices and needs audible. The harsh reality is that for the vast majority of South African victims of gross human rights violations, they probably stood to gain more from the opportunity to tell their stories (coupled with the very meagre reparations which the TRC promised), than they were likely to gain from the punitive criminal justice route. None of this should be taken to deny the devastating impact (both individually and in legal principle) of the ultimate compromise which this entails for those few exceptions – such as the Biko and Mxenge families who opposed the amnesty provisions before the Constitutional Court – who stood an excellent chance of succeeding through the criminal and civil courts. It also offers scant consolation to suggest that their sacrifice represents the bitter pill which has to be swallowed in the name of the general good – and as part of a difficult transition to democracy in South Africa.

Much has already been said of the failures of punitive justice to serve victims as well as is often presumed. More still needs to be said about the dangers of presuming that TRC-based "reconciliation" – itself a contested term – necessarily achieves a greater amount: in both instances, the disservice to victims resides in the common tendency to treat their needs as uniform and static. Generalised and conveniently summarised victims' expectations tend to denigrate the complex and inconsistent human identity of such victims and survivors, ignoring the extent to which needs vary from victim to victim and change across time. Presumptions that victims need or demand punitive justice are no more reliable than are the claims that victims are willing to forgive perpetrators who confess, or that they merely seek acknowledgment and symbolic reparations. In both cases,

by presuming to speak on behalf of victims rather than rendering the voices directly audible, victims are in fact rendered silent.

The discourse of "forgiveness" which has embroidered much of the TRC's work, which characterised the dominant Christian religious character of many of the TRC's proceedings and which was prevalent in the media reporting of the public hearings of the Human Rights Violations Committee, is perhaps most illustrative of how this denigration of complex victim needs played itself out during the hearings of the TRC.

In many senses, the onerous expectation was set up that reconciliation was premised on victims' ability to forgive. Indeed, at one stage, the head of the TRC – Archbishop Tutu – actually chastised those victims who challenged the constitutionality of the amnesty clause in the TRC Act, claiming that they were opposed to reconciliation. Yet in truth, the TRC was no more about forgiveness on the part of victims, than it was about contrition on the part of perpetrators who sought amnesty. If the Commission did offer an opportunity for dealing with wounds of the past and for healing, then it has to be acknowledged that expressions of anger and the desire for revenge (rather than forgiveness) on the part of victims, may in fact be more functional to the sort of substantive recovery best characterised by the shift in identity from "victim" to "survivor". It is the strong view of this writer that true reconciliation in South African society can only be achieved by integrating the anger, sorrow, trauma and various other complex feelings of victims, rather than by subtly suppressing them.

A proper evaluation of the TRC process reveals that victim needs were neither static, nor consistent or constant. They were complex and changed over time, very much in keeping with complex human identity, shaped by the enduring and complex impact of trauma. For some, they craved more than anything else the basic information about disappeared relatives, for others the need was for widespread acknowledgment of their torture. Some sought direct confrontation or victim-offender mediation interventions with the perpetrators responsible for their suffering, others only wanted to know of the systemic issues and the commands given which gave rise to their abuse. Some rejected the TRC enterprise entirely and

demanded full justice. For some, their needs were intensely personal and private, for others the quest was for community-based or political vindication. Not only did these needs vary from survivor to survivor, but the needs of any one victim also changed over time. For many, who initially sought no more than acknowledgment and symbolic reparation from the process, these needs understandably changed when – some time after they testified – a perpetrator confessed for the first time to having killed their loved ones. Similarly, as the prospects of material reparation measures became more real, so did the demands from some victims for monetary compensation. In still other instances, as the TRC failed to uncover or investigate the facts behind some cases, so some victims became embittered and disillusioned with the TRC process.

All of these complex victims' voices are legitimate and all are integral to the challenge of building reconciliation in a traumatised society enduring a transition to democracy. The central lesson of all this, however, relates to the importance of victim support structures and an organised voice for victims as critical to the trajectory and outcome of the process – particularly when both the Commission and its political architects are too often willing to compromise for the sake of politically based reconciliation. Indeed, it is clear from the South African experience of dealing with past human rights violations, that survivor organisation is potentially critical to ameliorating the secondary victimisation of those who enter the process in an otherwise atomised and isolated manner. In South Africa, there was some early organisation of survivor support groups and organs of civil society, able to articulate the organised demands and needs of victims during the life of the TRC and thereby capable of playing at least some role in shaping the process as it unfolded. This organisational approach proved to be very important in creating some effective advocacy in respect of accessing the TRC hearings, setting the agenda, ensuring the provision of psychological support for those who testified and lobbying for attention to be given to the issue of reparations. Survivor organisation was also significant (although not always successful) in also ensuring that victims and survivors were informed and in some instances able to participate not only in human rights violations testi-

mony, but also in the amnesty applications of perpetrators.

Another critical role of such survivor support structures is that they complemented the TRC's own concerns to provide direct emotional support for victims who endured the anguish of reliving traumas through their testimony before the Commission. However limited the TRC's psychological support to victims may have been, the simple recognition of the need for an integrated victim aid and empowerment component of the Commission is a valuable lesson for others who may tread a similar path. Built into this recognition ought also to be an acknowledgment that the simple process of testifying or of telling the story, does not inherently entail psychological healing or reconciliation.

Unresolved trauma through such a process can equally lead to very destructive responses, rendering all the more important the delivery of psychological services as an integral component of the truth recovery process. This is equally important to developing tools for "self-care for the care givers" so as to deal with the vicarious traumatisation of the commissioners and other TRC staff who are exposed throughout the process by having to listen rather than speak.

However, having said this, it is nonetheless important to sound a warning that is critical to any evaluation of the provision of such psychological services to victims to ameliorate the experiences of secondary trauma which those testifying may experience. Through extensive research conducted with survivors who did testify before the TRC, CSVR researcher Brandon Hamber has argued that there is a real danger in the increasingly prevalent (international) trend of providing trauma and other psychological counselling interventions as an isolated strategy for victim empowerment. Indeed, he argues that such interventions are often treated as a substitute for more effective, comprehensive and often more expensive forms of rehabilitation and reparation. Hamber strongly asserts that such interventions frequently seek to conveniently detach counselling-based rehabilitation from survivors' more generalised needs for justice and reparation, with the result that they often short-circuit an integrated process of healing and thereby jeopardise rather than build any sustainable individual or collective reconciliation.

In this context it is also appropriate to turn to an evaluation of the TRC's reparations provisions. This has been a hotly contested terrain dominated by competing interpretations of what survivors want and need from the TRC process, but in which the victims themselves have often been silenced. This has also – not surprisingly – been an area in which victims' expectations and needs have been particularly complex and often contradictory. Some victims simply expressed a desire for symbolic reparations, such as the provision of a tombstone to commemorate the death of a loved one, while others have demanded financial assistance to compensate for the loss of a breadwinner. Still others have rejected any form of reparation as an inadequate substitute for punishment of the perpetrators, or out of a rejection that the damage suffered and the losses sustained could ever be remedied by means of monetary compensation.

The issue of state-sponsored reparation has also been implicitly central to the constitutional status of the TRC. Notionally at least, the constitutionality of the whole TRC process rests on the state's substitution for perpetrators in providing reparation to survivors in lieu of legally based compensation or damages claims. This is because the granting of amnesty to perpetrators has effectively denied victims the possibility of any civil claims. The means of meeting this obligation took the form of a commitment by the TRC to provide reparative measures for victims which will, nonetheless, obviously fall far short of the extent of monetary compensation which would have been payable as a result of successful civil claims.[2] However, unlike the decisions of the Amnesty Committee, which are only subject to review by a court of law, the Reparations and Rehabilitation Committee of the TRC was only empowered to make recommendations – or policy guidelines – which remain dependent on the apparently non-existent political will and financial capacity of government if they are to be implemented. In theory, such reparations will not merely operate through monetary provisions to individual victims, but will primarily focus on collective and often symbolic reparative measures – another significant source of contention and political controversy, considering the expectations that were created through creating a harrowing and traumatic system of individual testimony,

which it currently appears is unlikely to be matched by any substantial form of individual reparation.

Quite apart from the problems of magnitude (and the implicit risk that the democratic state could easily be rendered bankrupt in an attempt to meet the compensatory obligations of its oppressive predecessor), the current state of government-sponsored victim empowerment services in South Africa strongly suggests that this is an arena which perfectly illustrates the new government's grave difficulties in translating creative and visionary policy into meaningful implementation and service delivery. These limits on the "reach" of the state in transition demonstrate the vital need for transformation of inherited governmental social welfare services, along with the institutions of the criminal justice system which have already been discussed. The bottom line is that government is highly unlikely to satisfy the recommendations of the TRC in respect of reparative measures for victims and this will undoubtedly raise some retrospective questions about the soundness of the Constitutional Court's perspective. It is suggested here that the TRC has been inadequate in monitoring the changing needs and expectations of the majority of victims who will certainly not be satisfied with notions of symbolic reparations – and many of whom are understandably extremely sceptical of government's commitment to providing direct forms of compensation. More importantly, it is arguable that despite its overt concerns to express the primacy of victims' needs in the process of building reconciliation, though creating the anticipation of reparation, the TRC process itself did a great deal to compound rather than to resolve the secondary victimisation of those who invested in the process through their testimonies.

In defence of the TRC, it ought to be recognised that the question of reparation is an extremely complex one, especially in a society like South Africa with competing developmental concerns and severely limited financial resources. To some extent, this is also an intractable problem considering the TRC's reliance upon government to implement any reparations proposals. Even more striking is the tension between individual needs and demands on the TRC on one hand, and the economic and political rationale that underpins the notions of communal reparation, on the other. Ultimately,

all this amounts to an unresolved tension between reparation for individual victims of gross violations of human rights as defined in the Act, and the wider concerns of the new government with redress of historically entrenched inequities more generally. In this regard, much criticism has been levelled at the TRC for not adequately engaging with the full spectrum of economic beneficiaries of apartheid.

Furthermore, there certainly has been little or no apparent voluntary commitment from the corporate community to invest in any form of reparation or restitution – let alone in in-house transformative reconciliation programmes. In some respects, these criticisms of the TRC are accurate, but this is also slightly unfair to the TRC, which can realistically only be one of several vehicles for such redress. In other words, to do full social and economic justice, these failures cannot really be placed at the door of the TRC alone, but relate to the wider process of transformation in South African society – in which endeavour the TRC is, at best, a junior partner.

CONCLUSION

If the TRC was a complex creature, then it was not just because of the competing political interest groups and agendas within it, but also due to the internal tensions between competing notions of what "truth" was in fact being recovered.

This is well illustrated by the constant tension in TRC hearings, between a quasi-judicial discourse defined by the terms of the National Unity and Reconciliation Act, concerned with cross-examination, fact-finding and formal or "legal" truth based upon verifiable facts, on one hand, and a supposedly victim-centred and psychologically sensitive story-telling enterprise,

which was designed as non-inquisitorial, on the other. While the former demanded proven truths which could not accommodate contradiction, the latter psycho-social "truth" could never exclude such complexity and contradiction.

The TRC therefore often reinforced the terms of a largely sterile debate between restorative and punitive justice, as if the two were mutually incompatible. In so doing, it arguably did more to hide than it did to reveal the complex victim identities on whose behalf the TRC was supposedly designed.

There are undoubtedly times when all countries may have to sacrifice legal principles in the name of political pragmatism, in order to end wars or to achieve peace. However, so long as this is done with scant regard for its impact on the credibility of the criminal justice system and of criminal justice processes, we breathe life into the culture of impunity that is a foundation stone of criminal behaviour in any society. At some point when amnesties are granted, someone has to bear the moral responsibility, not only for the political violence of the past, but also for the burgeoning violent crime that has emerged in many countries after transition to democracy and within newly deregulated and emerging economies, once the so-called political violence has decreased. Ultimately, in South African society, the practical translation of the rhetoric of reconciliation into reality depends upon whether reconciliation initiatives reach beyond the limits of formal political and constitutional change, to tackle those deep rooted social imbalances, which – at the most fundamental structural level – underpin the culture of violence and which give rise to the social experiences of cyclical, repeat and secondary victimisation.

ENDNOTES

1) By this the Court did not imply that such rights were purely theoretical, or that they were not claimable against the state. This reference to an "abstract right", although open to misinterpretation, should rather be taken to mean that the rights conferred were tangible, but in large part were impossible to exercise in practice. The same could arguably be said of civil claims that may be severely impaired in practice by South African rules of prescription, which dictate that civil claims prescribe after three years.

2) There is an interesting point to be made here in relation to the debates over international jurisdiction as well. If the notional basis for extinguishing criminal and civil claims at the national level rests on the commitment to at least symbolically substitute government's contributions for the perpetrators' in providing some form of reparation for survivors, then ought this not also apply to any suspension of international criminal jurisdiction? Would it not be appropriate for the international community to, for example, extinguish the crippling international debt incurred by the apartheid regime, on condition that this is reinvested in collective rehabilitation of apartheid's victims, thereby making a significant contribution to sustaining and maintaining an embryonic democracy?

International Strategies for Crime Prevention in Transitional Societies: Problems and Prospects

Jeremy Travis

INTRODUCTION

This paper takes two themes – comparative perspectives on crime in societies in transition, and international initiatives on crime prevention – as a starting point to ask some fundamental questions about the role of the international community in developing more effective responses to local crime. Stated differently, this paper aims to raise some questions about the rationale for international involvement in the prevention and control of local crime conditions.

1. CRIME AS A UNIVERSAL EXPERIENCE; CRIME AS A UNIQUE EXPERIENCE

The background to this discussion is the fact that crime is a nearly universal phenomenon. In the United Nations (UN) Global Report on Crime and Justice (1999), Jan van Dijk presents data from the International Crime Victimisation Survey (ICVS) showing that half of urban respondents throughout the world reported that they had been victimised by crime over the past five years.[1] There are some important variations in this finding. Victimisation rates are highest in Africa and Latin America where three-quarters of urban respondents reported they had been victimised at least once. The rates were lowest in Asia. There are intriguing regional differences – in Western countries, men are assaulted at about the same rate as women, whereas in Latin America and Africa the risk of being assaulted is 50% higher for women than for men. The overall trends are positive for developed countries – crime is on the decline – but the trends in crime are upward in developing countries,

leading to a concern over a "safety gap" between the two. Despite these differences and trends, one is struck by the commonality of the victimisation experience:

> "The notion of high crime rates as unique features of some unfortunate nations is not supported. The experience of being criminally victimised has become a statistically normal feature of urban life all over the world, though the type of victimisation varies."[2]

Unlike so many other challenges facing the international community – e.g., hunger, disease or poverty, which are devastating in certain countries – the challenge of crime is faced by all societies.

At the same time, crime rates reach troubling portions in certain parts of the world at certain times. Consider the following:

- According to official police records, the homicide rate in Mexico increased by 50% from 1990–95, robberies increased six-fold in 15 years and kidnappings are becoming increasingly common, numbering over 1500 a year.
- In São Paulo, Brazil, the per capita murder rate has nearly doubled in the past 15 years. São Paulo and Rio de Janeiro have the highest murder rates in the world, 66 per 100 000 (São Paulo) and 60 per 100 000 (Rio).[3]
- In South Africa, the seizures of crack cocaine tripled from 1998 to 1999, the amount of raw cocaine confiscated increased tenfold between 1994 and 1998, and the number of cocaine dealers arrested nearly doubled from 1997 to 1998.[4] Between 1997 and 1998, South Africa, already rated number one in

the world for murder, rape, robbery and violent theft per capita, saw its numbers of robberies, burglaries and thefts rise significantly, while murder rates held steady and rapes declined.[5]

- Between 1985 and 1992, the rates of violent juvenile crime, and juvenile homicides committed with guns doubled in the United States (US). Over the same seven-year period, the number of male minority youths arrested for drug-related crimes also doubled in the US.[6]

So, if crime is a nearly universal experience, with both developed and developing countries affected, with important regional differences, and with "hot spots" of crime epidemics breaking out in different cities and countries around the globe, how should we conceptualise the appropriate international response?

Before tackling that task, some definitional clarifications are in order. For purposes of this paper, we will distinguish between three types of international engagement on issues involving criminal behaviour. The international community is appropriately concerned about transnational crime and about human rights violations carried out in the criminal justice arena. These international activities are not the concern of the paper. Rather, this paper will focus on the issue of the appropriate international response to common crimes occurring in societies that are undergoing uncommon periods in their history; the issue of common crimes committed by common people in societies that are undergoing uncommon periods in their history. Finally, by "international assistance", we mean the menu of governmental (e.g., UN initiatives, bilateral programmes, multilateral treaties) and non-governmental (e.g, foundation support, assistance from financial institutions, university programmes) responses that we would see in the health, nutrition, agricultural or other social policy arenas.

With these observations in hand, our task is to develop a rationale for international assistance in supporting the work of national governments and local communities in responding to crime, a social phenomenon that is, by definition, quite local.

2. THE COMPONENTS OF CRIME POLICY: PREVENTION AND RESPONSE

It is useful to think of crime policy as a three-legged stool – two parts prevention, one part response. A society should simultaneously work to prevent crime, through two broad strategies, and to ensure an effective response to crime.

On the one hand, "crime prevention" can occur as a result of public and private activities that have the consequence of reducing the incidence of crime. Under this definition of a "crime prevention activity", developed by the University of Maryland in its report to the US Congress entitled "Crime Prevention: What Works, What Doesn't and What's Promising," crime prevention activities cover a wide range of social policies – from prenatal health care, to educational programmes, to targeted police interventions, to incarceration. Each of these, in carefully controlled evaluations, has been found to decrease the incidence of criminal behaviour.[7] It is important to note that the programme or initiative need not be intended to reduce crime – rather, it is a crime prevention activity if it has the result of reducing crime.

Accordingly, the types of activities that can be listed under the heading "crime prevention" cover a wide range of public and private activities, many of which, such as health care programmes, are justified primarily because of their other socially desirable outcomes, not their crime prevention outcomes.

On the other hand, we can approach the issue of crime prevention from a different perspective, and ask, "What factors in community life are correlated with low crime rates?" In answering this question, we refer to another body of research literature documenting that communities that share common values, treat community members with respect, and care for the well being of the children of the community, are communities with low rates of violence.[8] Accordingly, seen from this perspective, the activities that would be funded under the heading of "crime prevention" are activities that build strong communities, develop a shared sense of community purpose, and focus particularly on the future of the young people coming up in that community.

There is a third dimension to crime policy, namely, the effectiveness and legitimacy of the formal apparatus established to respond to crime. Setting aside any discussion of the effectiveness of the police at reducing crime, one can still argue – from a simple governmental efficiency perspective – that the police should

be evaluated in terms of their capacity to respond to crime reports, solve crimes, apprehend offenders, and do so in accordance with established standards of fairness and decency. Similarly, setting aside any discussion of the role of prosecutions, convictions, and appropriate punishments in deterring criminal activity, one can still argue that the prosecutors, courts and corrections agencies should be evaluated in terms of their ability to adjudicate allegations of criminal behaviour swiftly and fairly and to treat offenders and victims in a manner reflecting established professional standards.

Putting these three perspectives together, a society's crime policy would seek to meet three goals: first, encourage those policies that reduce crime; second, develop the capacity of communities to produce their own levels of safety; and third, build a justice infrastructure that responds to crime efficiently, fairly, and justly.

3. INTERNATIONAL ASSISTANCE FOR EFFECTIVE CRIME POLICIES

The next step in our analysis is to ask what role the international community can play in local efforts to develop effective crime policies. We must recognise at the outset that whatever level of international funding is made available is likely to be infinitesimal compared to the investments of national and local governments. So, the international investments must be carefully targeted to maximise return. I think there are three levels of international assistance possible.

3.1 Information assistance

Returning to our three-legged stool, we can see some opportunities for international support. Clearly, as at this conference, one of the most important roles the international community can play is to provide a forum for the exchange of ideas about what works. The international community, particularly the research community, can help local practitioners think about the efficacy of various interventions. The international community can work to develop a cooperative framework for comparative research, to provide yardsticks for measures of effectiveness, to articulate standards for the performance of the police and criminal justice agencies, and to conduct surveys, such as the ICVS, that assist local communities in understanding their

own experiences in the light of relevant comparisons.

This minimal level of assistance is within reach, with assistance from the Internet age, and should help communities around the world develop more effective local responses. The academic community, the philanthropic sector, the criminal justice professions, are all increasingly international in their outlook and content. The UN has historically played this role, through the regional institutes and research such as the UN Crime Survey and ICVS. The natural forces of globalisation will dramatically increase this form of international assistance.

Yet we should acknowledge honestly that the international response, even at this level, has been anaemic, particularly when compared with other arenas of policy. Take, for example, the relatively mature and robust infrastructure of the international agricultural research community.

The Consultative Group for International Agriculture Research (CGIAR) conducts systematic analysis and projections of agricultural issues across countries.[9] It has a sophisticated data and research infrastructure. Established in 1971, it describes itself as an informal association of 58 public and private sector members that supports a network of 16 international agricultural research centres. The CGIAR budget for 1998 was $340 million and was fully funded by member contributions. The World Bank, the Food and Agricultural Organisation of the UN, the UN Development Programme and the UN Environment Programme are all co-sponsors of CGIAR. They work to strengthen national agricultural research in developing countries, to conduct research programmes in partnership with a variety of other institutions, and, in their words, seek to "mobilise the best in agricultural science on behalf of the world's poor and hungry".

There is no similar international research group focusing on the issues of crime and justice in transitional societies. There is no similar commitment to the development of knowledge about the issues discussed at this conference. Just imagine if there were a consultative group on international crime and justice research, linking research institutes around the world, funded at $340 million. Our level of knowledge and the effectiveness of our practice would be significantly enhanced.

3.2 Technical assistance

A second level of international engagement is to provide on-site technical assistance in developing the indigenous capacity to prevent and respond to crime and administer justice. This would mean working with police agencies to provide training, helping the courts to develop standards of adjudication, providing education on the rights of victims of domestic violence, assisting the establishment of drug treatment and other rehabilitation programmes for offenders. This level of international response consists of active technical assistance, with the goal of building local infrastructure that is self-sustaining after the international support has ended. An example of this form of assistance, undertaken on a large scale, was the involvement of the West German legal and criminal justice community in supporting the adoption of Western legal practices in the former East Germany following unification. Similar efforts are under way here, as nations of Southern Africa work together to combat crime across borders. The Community Peace Programme of the University of the Western Cape, funded by international foundations and governments, that is developing new approaches to the resolution of conflicts in townships across South Africa, is another example of this form of assistance. Indeed, it is remarkable how much assistance the international non-governmental organisational (NGO) community has provided to South Africa during this time of historical transition.

But, remembering the role of strong communities in producing safety, we would think of other community development efforts as part of a crime prevention programme. For example, programmes designed to develop NGOs generally, or local governance structures generally, could have the result of reducing crime and social conflict. So these efforts should be counted as "crime prevention". This would require a rethinking of traditional international development efforts, but they can have crime prevention consequences. Following this way of thinking, the work of UN development programmes generally would be coordinated with the unique needs of transitional societies to provide for safety and justice.

3.3 Strategic assistance

A third level of engagement would be to provide international assistance in the development of new crime prevention and crime control strategies. Here, the role of the international community is to develop new policies, test them, analyse the results, etc., working with local governmental agencies. We have seen this type of assistance in other social policy arenas. At the Urban Institute, for example, our International Activities Centre works with a number of countries, principally in the former Soviet Union, to help them develop and administer new policies on housing, retirement benefits, management of local resources and facilitation of community involvement in policy making.

There are examples of such efforts in the crime policy arena as well Here in South Africa, there are a number of international efforts to work with local agencies to develop and test new policies. To cite one example, the Vera Institute of Justice, with funding from the Soros and Ford Foundations, has established the Bureau of Justice Assistance here in South Africa. This is a non-governmental entity, working closely with the Justice Ministry and the Prosecutors Office, to undertake initiatives that are remarkably central, not peripheral, to governmental functions. For example, Vera has helped developed pre-trial release policies and actually administers the Pre-trial Services Agency.[10] The Bureau of Justice Assistance is facilitating a strategic planning effort designed to enhance the effectiveness of prosecutions for car hijacking and to reduce the incidence of that particularly pernicious criminal activity in South Africa. It is remarkable that these core activities are made possible by international assistance.

Yet, I am struck by the limitations inherent in this more ambitious form of assistance. In some areas of policy, it would be quite natural for a national government to call upon the international community for assistance. If the social ill were an outbreak of a new strain of disease, or crop failure, or malnutrition, we would not be surprised to see calls for an international response. Yet when violence is on the rise, or corruption is increasing, the first reaction is that these are local (i.e., national) concerns and no international assistance is requested. Maybe we are saying that there is no international expertise in responding to these kinds of crime epidemics, that our knowledge base is too shallow to think that an emergency response team could

make a difference. Maybe national and local leaders are reluctant to acknowledge that the crime problem is beyond local control.

4. THE SPECIAL CASE OF CRIME IN SOCIETIES IN TRANSITION

Does the outbreak of crime in societies that are moving from totalitarian regimes to democratic regimes, from regulated economies to open economies, constitute a distinct rationale for international assistance? If so, what form of assistance?

Let's imagine two countries, Country A and Country B. Country A is a developing nation, struggling with a fragile democracy that is several decades old but is by no means secure. Its murder rate has increased by 50% over the past five years. Country B is a developing nation, struggling to establish a new democracy after several decades of authoritarian rule. Its murder rate has also increased by 50% since democracy was established five years ago. Do these two countries have equal claims on the international community to respond to their crime conditions?

I think an argument can be made that Country B has a stronger claim, principally because failure to deal with its rising crime rate is more likely to create conditions that could undermine democratic reforms and encourage harsh penal policies. The fear of crime may create a groundswell of public opinion favouring a return to more oppressive responses to crime; the governmental authorities may translate this popular demand into directions or expectations of the police, prosecutors and judges to "get tough"; the laws would then be enforced too stringently, rights would be violated, harsh punishments imposed, all in the name of preserving domestic peace. As a result, a democratic government, created by a movement to end repression, could end up recreating new forms of governmental repression, this time sanctioned by the democratic regime.

The issue of corruption poses separate challenges. Many societies have experienced a rise in official corruption following the transition to democracy and more open economies. Failure to respond to the problems of corruption at an early stage in the transition could arguably make it much more difficult later to establish open competitive markets and public respect for the processes of government. Given the interest of the international financial community in creating and sustaining those open markets, it is noteworthy that only recently have organisations such as the World Bank elevated the corruption issue on their agenda. At the same time, the intractability of the corruption phenomenon in transitional societies is a reminder that progress in this area will require significant time, investment and perseverance.

So, if we place a value on democracy and open markets, then there is a compelling case for significant international assistance in the early years of these transitions.

This assistance, to be effective, would need to be offered at all three levels, with strong strategic support, good data collection systems to measure effectiveness, and significant investments in the development of effective and fair systems of law enforcement and the administration of justice.

CONCLUSION: THE CHALLENGE OF CRIME IN A TRANSITIONAL SOCIETY

Having made the case for a significant international response when crime threatens societies in transition, we must acknowledge how little we know about the underlying phenomenon. There has not been much research on the reasons behind these rapid shifts in crime patterns. We do not know much about the effects of the loosening of controls upon the anti-social forces in our society.

Ultimately, we need to conduct research using these natural experiments so that we can learn from each case study in ways that will inform policy in the next country to undergo such a transition. This may be the ultimate role for the international community – to document these cycles, to create an international dialogue on the dynamics that are unleashed at these points in history.

If democracy is valued, and open markets are valued, then they are threatened by the crime impulses that are born at the same time that societies in transition give birth to new governments and new economies. Our ultimate task is to shed light on these seismic shifts so that the next burst of democratic fervour is not accompanied by rising crime.

ENDNOTES

1) Van Dijk, Jan J. M. 1999. The Experience of Crime and Justice. *Global Report on Crime and Justice.* pp. 25-42: United Nations.

2) Van Dijk, Jan J. M. 1999. The Experience of Crime and Justice. *Global Report on Crime and Justice.* pp. 25-42 United Nations.

3) Buckley, Stephen. Brazil's Brutal Economic Gap: Disparities Blamed for Wave of Violence. June 2000. Washington Post Foreign Service. The Washington Post.: Washington D.C.

4) Jeter, Jon. Crack Gains Hold on South Africa."August 2000. *Washington Post Foreign Service*. The Washington Post Co.: Washington D.C

5) Swarns, Rachel L., South Africa in an Uphill Fight Against Crime."May 2000. *New York Times*: New York, New York.

6) Blumstein, Alfred and Wallman, Joel. (Eds.). 2000. *The Crime Drop in America*. Cambridge University Press. Cambridge, United Kingdom.

7) Sherman, Lawrence W., Denise C., Gottredson, Doris L. MacKenzie, John Eck, Peter Reuter, and Shawn D. Bushway., Dept. of Criminology and Criminal Justice, University of Maryland.1997. *Preventing Crime: What Works, What Doesn't, What's Promising*. A Report to the United States Congress for the National Institute of Justice. Washington: Office of Justice Programmes, U.S. Department of Justice.

8) Sampson, R., Raudenbush, S., Earls, F., 1997. Neighbourhoods and Violent Crime: A Multilevel Study of Collective Efficacy. *Science*, Vol. 277. American Association for the Advancement of Science.

9) For more information on The Consultative Group for International Agriculture Research (CGIAR), see the website at http://www.cgiar.org/

10) For more information on the Vera Institute of Justice's Bureau of Justice Assistance, see the website at verasa@iafrica.com

International and Regional Initiatives: Providing Appropriate International Assistance

Adrian Beck

INTRODUCTION

Since the collapse of the Soviet Union a decade ago, numerous European countries and the United States (US) have provided assistance to the police forces of former Soviet Union states. This help has come in many different forms ranging from organising seminars on international topics such as transnational crime and money laundering, to the provision of specialist equipment such as forensic and investigative tools. The range of providers is also extensive and includes police forces, government agencies, academics and charities. It is often difficult to quantify the "value" of this assistance or the factors motivating the donors.

This paper seeks to consider some of the reasons why international assistance has been provided in the past and, more importantly, what can be learnt about providing help in the future. In part it draws upon the experience of a project currently under way in the Ukraine that seeks to introduce context-driven community policing in the city of Kharkiv. The project is sponsored by the United Kingdom's (UK's) Foreign and Commonwealth Office and is administered by the British Council in Kyiv, Ukraine. It is an ambitious three-year project bringing together academics from the Scarman Centre at the University of Leicester in the UK, police practitioners from the West Midlands Police in the UK, experts from the Ministry of Interior University in Kharkiv, and police officers operating in two districts in the city of Kharkiv.

The paper begins by exploring some of the reasons that may explain why some governments and organisations have committed considerable resources to attempting the reform of police in former Soviet states. It then considers some of the problems associated with "exporting" policing, especially models of community policing as has often been the focus of donors from the UK and the US. This is followed by a review of some the underlying prerequisites of providing international assistance, in particular the need for work to be grounded upon a solid foundation of research, and the importance of any effort to be context-driven and truly collaborative in its design and delivery.

1. RATIONALE FOR ASSISTANCE

Discovering why assistance is made available to police forces of countries in transition[1] is neither easy nor straightforward. However, two key motivators can be identified: increased political stability and the process of democratisation; and future practical assistance in tackling international crime.

The motivation for the involvement of individual police forces can vary from the practicalities of having to cooperate with the recipients of assistance in the future on common crime problems, to individual police officers perceiving such help as an opportunity to provide philanthropic assistance to "fellow" police officers.

At a governmental level the impetus for international assistance is very often a desire to foster the "democratisation" process within countries emerging from the Soviet bloc. Agencies such as the UK's Foreign and Commonwealth Office and the Department for International Development, together with the US's Department of Justice, routinely develop

programmes of assistance designed to facilitate change that will support political reform.[2] As part of this approach, a range of agencies and groups – such as those involved with constitutional reform and emerging political groups – are often provided with assistance.

In addition, the criminal justice system, including the courts, prisons and police, are perceived as potential recipients of help and in need of reform. This is often offered under the banner of the promotion of human rights or as part of the support for opportunities for free speech, peaceful demonstration and political diversity. It can certainly be argued that a central tenet of the democratisation process is the reform of the police service. Police workers are arguably the government agents most immediately and intimately involved in the well being of individuals and the health of communities.[3] The police have the responsibility of enforcing the laws of democratic government. However, they also have the power to deprive individuals of their human rights and are authorised to use force, even deadly force, as part of their duties. They can therefore be seen, on the one hand, to be advancing the cause of democracy by acting fairly and "serving the public", and yet on the other hand, they can actively impede the democratic process by acting in ways that are perceived to be illegal, unjust and corrupt.

The second major stimulus for encouraging assistance, particularly between police forces, is the perceived increase in the internationalisation of crime. Many types of crime, including the trafficking of illegal drugs, people and weapons, and money laundering, now transcend traditional country borders. Growing concern over such problems has led police forces in different countries to seek ways of collaborating with each other in order to tackle what is perceived as common problems. Countries of the former Soviet Union are seen as a particular "risk" by Western European policing and security agencies for the following reasons: they encompass large geographic areas bordering both Western Europe and Asian countries, thereby facilitating the movement of illegal drugs; they are for the most part, economically weak and dysfunctional; reeling from the collapse of established social orders; and vulnerable to organised crime groups that have been seen to enter the void left by the departing Communist Party regime.

The perceived need to collaborate operates on at least two levels: practical policing practices; and the provision of training and equipment. The former seeks to develop working relationships that will assist in catching criminals who may exploit international boundaries to commit crime. Recent practical examples include UK police officers liaising with their Russian counterparts on the policing of football matches between teams competing in the Champions League; and Customs and Excise staff in the UK working with colleagues in Lithuania and Latvia on the illegal import and export of motor vehicles. Much of this work is being increasingly formalised into working protocols and intergovernmental agreements such as extradition treaties.

At another level, "donor" police forces often provide training and equipment for security agencies undergoing rapid social, political and economic change. This can take the form of training material (sometimes translated into the recipients language, sometimes not); visits by "experts" to provide "training the trainers" courses or to attend seminars and conferences; visits by recipients to donor countries "to see how it is done" and the provision of specialist equipment such as forensic analyst tools, vehicles, radios and weapons. For the most part, this type of assistance tends to be ad hoc in nature with little donor country coordination. Separate police forces may often be operating within the same country without this being readily apparent. In the UK, for instance, there is no central coordination of assistance to countries of the former Soviet Union.[4]

In attempting to understand the motivating factor behind many assistance initiatives, one should not underestimate the philanthropic activities of individual police officers who may have visited a particular country on holiday or perhaps through the work of representative organisations such as the International Police Association. Certainly "helping fellow police officers" is a recurring theme and therefore plays an important role. This phenomenon can also be partly explained by the increasing commercialisation of policing and the opportunities available to "sell" services by responding to government agency requests or by proactively proposing types of assistance that could be made available.[5]

The problem with many of these forms of

assistance is that they tend to be small in scale and highly localised, with few opportunities for broader dissemination. They also suffer to a certain extent from the "we have this available so you can have it" approach. Potential recipients with very few resources are highly unlikely to refuse any offer, but there is a real danger with this approach that the agenda for assistance is set more by what is available rather than by what is needed.

2. EXPORTING POLICING

In recent years academics and police practitioners, particularly from the US and the UK, have advocated a model of policing based upon their own experiences of what is usually described as "community policing". Definitions vary considerably as to exactly what this term means, although a commonly agreed theme is the development of "a new kind of relationship between the police and the public" based upon close consultation and cooperation.[6] How this is brought about and sustained is far more open to debate. Some of the much heralded community policing initiatives such as "neighbourhood watch" have been found wanting when rigorously evaluated in terms of their actual impact on levels of crime and the fear of crime.[7]

Indeed, suggestions that a policing system can be imported from one country to another are often based on a rather rose-tinted view of the quality and effectiveness of the given system. Unfortunately, representatives from the US and the UK are particularly guilty of this approach, especially regarding ideas concerning community policing. As Brogden neatly summarises:

> "There is almost a unilinear perception of police development … a process occurring largely independently of local policing mandates, cultures and patterns of organisation. What appeared to offer promise in small-town America, and in the prosperous white suburbs, is being exported by a new brand of academic and police salespeople…"[8]

Certainly advocates of the community policing philosophy have not been slow in advancing the apparent value of "their" way of policing societies to countries experiencing transition – it has become almost a mantra to be chanted as part of any presentation to policymakers and police practitioners. Without doubt the funda-

mental aspect of community policing, namely the provision of policing which is sensitive to the needs of the local community through transparent and "human rights friendly" methods, are difficult to criticise. However, as with many initiatives, the devil is in the detail and many "community policing" strategies have failed because the realisation of the idea is often more difficult than its conception.

In addition, if levels of crime are an indicator of the "success" of Western models of policing, then their pedigree is at best questionable. Reported crime in England and Wales has more than doubled in the past ten years, and is 10 times higher than it was in 1950. Burglary and assaults increased by 73% between 1981 and 1995, and studies like the British Crime Surveys suggest that the real level of crime might be as high as 16 million crimes committed a year, with annual spending on the criminal justice system now exceeding £10 billion.[9] Similar problems can be seen in the US with consistently high rates of murder and gun-related offences and the highest incarceration rate in the world.[10] While it would be disingenuous to suggest that high and increasing levels of crime are directly correlated to adopted models of policing, or indeed that the police are in some way responsible for it, as an "advert" for overseas "sales", some would argue that the product is yet to fully prove its worth.

3. CONTEXT AND COLLABORATION

Critical to successful international assistance is a thorough understanding of the context within which the aid is to be provided. Without a complete grasp of the context within which any form of help might take place, interventions are likely to be misconstrued, mismanaged and ultimately meaningless.

Understanding context requires the acquisition of knowledge at a number of different levels. Potential providers need a complete grasp of the current social, economic and political milieu within which they will be operating. They also need institutional level information focusing on the current structure of the police, its culture, practices and procedures, and the resources available to them. There is also a need to fully understand the historical framework within which recent change has taken place and how the potential recipient of assistance has grown over time. For example, many

of the police forces of the former Soviet Union are severely under resourced – some police officers patrol without radios, officers in cars are often unable to respond to calls for assistance because of a lack of petrol and investigating officers rarely have access to modern forensic equipment such as DNA testing facilities. Virtually all police workers receive a state wage that rarely covers the costs of living.[11]

The offer therefore of a week-long seminar on the use of DNA evidence in a court of law will undoubtedly be readily accepted but in reality its impact will at best be marginal. The vast majority of police officers participating in such a seminar will not have the necessary equipment, while significant differences in the mechanics of the provider and recipient criminal justice systems will render most of the information interesting, but largely irrelevant.

Understanding context requires time and research, but also needs close collaboration with colleagues in the recipient country. Successful international assistance should be premised upon a close working relationship with those targeted to receive it. Deciding whom this should be and recognising where they currently operate and at what level within an organisation, are clearly highly dependent upon the nature of the proposed assistance. Such factors will have a dramatic effect on the nature and outcome of any collaboration. For example, while police officer-to-police officer contact may facilitate a good working relationship on matters of mutual interest concerning particular criminal incidents, it is unlikely to impact upon the strategic policy of each police force in formulating protocols for future assistance. Providers therefore need to forge links with contacts in appropriate organisations with the requisite authority to deliver the specified aims of the intended assistance.

4. A CASE STUDY IN INTERNATIONAL ASSISTANCE

In 2000, a three-year project aimed at introducing context-driven community policing in Ukraine was initiated. It was based upon a phased approach that sought to maximise success through a clear understanding of context and the development of concrete collaboration. The three phases were:
• understanding the context
• implementing experimental schemes
• evaluation.

Based in two police districts in the city of Kharkiv, the project sought to investigate ways in which the guiding principles of community policing could be used to inform police reform. The first phase of the project was devoted to understanding the context within which the project team would be operating. This phase lasted one year. As part of the project, public surveys were performed in each of the participating areas to determine current views on crime and policing and expectations for the future. Surveys soliciting the views of all police officers working in the areas were also performed. In addition, in-depth interviews were carried out with a random selection of police officers and members of the public in order to obtain more detailed information on attitudes to crime and policing.[12] The research team also collected demographic information on each of the participating areas as well as all the crime data currently available (including data for the region).

Because one of the key objectives of the project was to initiate change in the way the police force was organised and operated, various levels of collaboration were vital to the success of the next phase of the project, namely "scheme implementation". Collaboration occurred at four different levels: Minister of Interior level in order to receive "political" permission to enable experimental restructuring of the police to take place; Chief of Police for the Region level to sanction the specific schemes being proposed; Chiefs of the Participating Districts in order to facilitate the implementation of the schemes; and academics and trainers at the University of Kharkiv to perform the context-specific research and design and to deliver the necessary training programmes, to help get the proposed schemes "off the ground", and to monitor their progress.

The final phase of the project is an evaluation period when the lessons of the project can be learnt and any successful practices disseminated to as broad an audience as possible. Once again the multi-layered collaborative framework will play an important role in this process – the Chief of Police for the local region and the Minister of the Interior nationally.

While the design of the project is perhaps not new, it has sought to follow a number of key principles. The project was initiated by academics at the University of Kharkiv approaching

academics in the UK with the original idea. The project was firmly rooted in a thorough understanding of the context, which then guided the second phase of experimentation and implementation. It made use of the experiences of UK police forces more as a means of offering guiding principles, innovative practices, and lessons learnt in practical application, rather than a model to be uniformly adopted. Finally, it recognised the need to seek collaboration at different levels if the project was to have any chance of success.

CONCLUSION

International assistance for crime fighting and policing is a complex issue. There are now a significant number of providers, ranging from governmental organisations to individual police officers, operating in the international sphere. Little is known about precisely who is doing what and where. Coordination within donor countries is at best partial and is virtually non-existent between countries. The rationale for such work ranges from political determinism to the pragmatics of policing an increasingly "open" world.

Determining the success of these activities to date is extremely difficult and few completed studies have sought to "measure" the impact of such work. What is important to recognise is that assistance should fulfil a recipient's specific need and may not necessarily coincide with what providers simply have available to offer. It should also operate with a clear understanding of the context within the country that is being offered help. This requires that funding agencies recognise the need for research to be an integral part of any assistance proposal. If this issue is not recognised, good intentions may well flounder on ignorance and inaccuracy.

Finally, those providing help need to work closely with local collaborators in order to enable programmes to be self-sustaining and capable of being disseminated to as wide an audience as possible. Accountable and transparent policing that recognises the importance of human rights for all groups in society is an ideal that all countries should strive to achieve. This goal can be brought closer through well-organised, sensitive and appropriate cooperation and assistance. The international community should see this as a key priority for the new century.

ENDNOTES

1) The term *transitional* is used here to represent those countries that have experienced rapid social, political and economic change although it is recognised that this interpretation is open to debate.

2) An example would be the "Good Government" initiative that was part of the UK's Department for International Development's Know How Fund.

3) Travis, J. (1998) Policing in transition, *Security Journal*, Vol. 11, Nos. 2-3, pp.151-154.

4) This is partly a function of the decentralised nature of the police in the UK and the ability of each force to develop its own overseas contacts without necessarily seeking permission from the Home Office.

5) Two examples from the UK of this is the Thames Valley Police that now have a Income Generation Unit designed to raise funds through training, consultancy and donations, and the Hendon Police Training College which is involved in a long-term project funded by the Department for International Development to provide training and study visits for police officers studying at the Police University in St Petersburg, Russia.

6) Skolnick, J. and Bayley, D. (1987) Theme and Variation in Community Policing, in M. Tonry and N. Morris (eds) *Crime and Justice: A Biannual Review of Research*, Chicago: University of Chicago Press.

7) Laycock, G. and Tilley, N. (1995) Policing and Neighbourhood Watch: Strategic Issues, Crime Detection and Prevention *Series Paper* No. 60, London: Home Office.

8) Brogden, M. (1999) Community Policing as Cherry Pie, in R. Mawby (ed), *Policing Across the World*, UCL Press: London.

9) Crawford, A. (1998) *Crime Prevention and Community Safety: Politics, Policies and Practices*, Longman: London.

10) Cavadino, M. and Dignan, J. (1997) *The Penal System: An Introduction*, Sage: London.

11) See Shelley, L. (1999) Post-Socialist Policing: Limitations on Institutional Change, in R. Mawby (ed), *Policing Across the World*, UCL Press: London.

12) A report from this work is available in electronic format by contacting the author via email at bna@le.ac.uk.

Attempts at Regional Response to Crime in the Ex-USSR and Eastern Europe

Valentin Yakushik

INTRODUCTION

Ex-communist East European countries, including the states comprising the former Union of Soviet Socialist Republics (USSR), face many similar problems and tasks concerning the issue of criminal justice, among others. It would therefore be logical to assume that these countries – belonging to one large geographical region and possessing extensive common historical backgrounds – would not only have arrived at many similar responses to existing challenges, but would have also undertaken joint regional initiatives.

Among the shared challenges concerning the fight against crime in East European states experiencing transition, the following ones should be mentioned:

- Institution building and/or restructuring, and in particular, adaptation to the post-communist environment. This usually presupposes real or at least formal democratisation of the ministry of interior, security service, office of the Attorney General, investigation units, courts, penitentiary system, etc.
- Changing the outdated regulative base and developing a coherent body of laws, relevant by-laws and other regulations governing police work and other related functions. This would include, for example, establishing clear and transparent standards for policing.
- Preparing to combat international crime and new types of crime, for example, money laundering, drug trafficking, terrorism, enlistment and export of mercenaries, contracted killers and racketeers services, trade of people (illegal emigrants, including modern slave workers), the sex-for-sale industry

(especially trade in women), trade in children and human organs, various forms of trade in stolen goods (especially cars and cultural relics) and computer crime.

- Perfecting the institution of extradition, etc.

1. CORRUPTION AND DECLINE OF POST-COMMUNIST PUBLIC SERVICES

The past decade has seen a decline in the quality of public service work in a number of post-communist countries. This has been largely due to the general degeneration of many social institutions. Criminals are often much better equipped, trained and organised, including internationally, than the state is. The scarcity and mismanagement of state resources (in particular, low salaries and salaries arrears) have forced a great number of experts in policing to resign. In addition, the future generation of public servants has been discouraged or dissuaded from pursuing careers in policing. Rampant corruption has led to the intermingling of "pure" criminal circles and the authorities at various levels. This corruption, to a considerable extent, prevents many post-communist countries from implementing effective international initiatives in some spheres. Areas that are particularly affected are the fight against money laundering and the detection of fraud committed by the corrupt elite.

2. EASTERN EUROPE AS A UNITED REGION?

It is debatable whether Eastern Europe, or the ex-USSR, even exists as a united region. There is no doubt that this political and socio-economic region existed during communist (socialist) rule when there existed rigid region-

al infrastructures and superstructures, one major centre of power and a whole set of coordination and subordination ties, including within the sphere of criminal justice. The ex-communist countries have, however, all chosen different paths of development, often with dissimilar economic, political and cultural trajectories. It would therefore be true to say that, in Eastern Europe, there is a common criminality, but no unified approach to criminal justice practices. Most of the old traditional institutional ties are broken or significantly weakened, however, the new ones are only emerging or are even still waiting to appear.

The Commonwealth of Independent States (CIS), a loosely based institution, plays a dual political role. Firstly, it acts as a mechanism for a "civilised divorce" of the former Soviet republics. Secondly, it is an instrument for managing regional problems. Both functions are not very effective and often remain rather formal. The major CIS institutions involved in criminal justice are: the Council of Ministers of the Interior (of CIS countries); the anti-terrorist centre and the centres for bilateral cooperation within the relevant law enforcement agencies of each CIS member country.

Irrespective of the rupture of old ties and the lack or weakness of new ones, the common regional problems facing neighbouring Eastern European countries, as well as pressing global issues, are forcing governments to seek cooperative and concerted solutions. In the absence of an actual common regional centre (or centres), these actions are usually organised either around the activities of universal international organisations – especially via the National Bureau of Interpol and the United Nations special programmes and projects – or via pan-European organisations, for example, the Council of Europe and the Organisation for Security and Cooperation in Europe. This last organisation has been particularly instrumental in adapting national legislation and institutions to European standards. Many similar mechanisms function on the basis of agreements between the European Union (EU) (and its member states) and individual East European countries.

3. THE VALUE OF INTERNATIONAL ASSISTANCE

An interesting mechanism for establishing common positions and developing regional ties between East European nations is created by international symposiums (conferences, seminars, training courses, etc.), conducted or sponsored by international donor organisations. There exists an absence of adequate internal resources within relevant post-communist state institutions, as well as a lack of interest on the part of available possible internal donors. This is particularly true of powerful and wealthy oligarchic structures, the respective national foundations and influential political parties. In response to this lack of resources, Western donors have adopted the role of the state, national bureaucracies and political elites. This is especially true in the case of creating and maintaining forums for the discussion of pressing issues and establishing possible effective regional responses to them.

The most significant role in this respect is played by the USAID, EU TACIS and PHARE programmes, the British Council, the Canadian International Development Agency (CIDA), similar Dutch and German agencies and programmes, and by international financial institutions, including the World Bank, International Monetary Fund and the EBRD.

It is interesting to note that most of the former Soviet republics underestimate the extent of the positive potential of programmes proposed by India (via its Ministry of Foreign Affairs ITEC scheme) and Taiwan (through a number of channels). This attitude demonstrates a rather primitive understanding of the pro-Western orientation adopted by the majority of these new independent states, and their naïve Euro-centrism. In many cases, this Euro-centric approach is due to the inexperience of senior civil servants with regard to, for example, an understanding of Taiwan's real status and its huge capacity for providing advise, training and financial assistance. There is also a lack of recognition of the necessity for diversification of sources of technical and other kinds of donor assistance and partnerships with bilateral cooperation.

4. COOPERATION BETWEEN EAST EUROPEAN COUNTRIES

With regard to the intensity and effectiveness of bilateral cooperation between East European countries, Ukrainian Interpol experts stress that the most effective is the relationship between Ukraine and Poland, Hungary, Moldova and

Slovakia and, quite surprisingly, not Russia. Unofficially, Russia as a state is accused of behaving in a rather arrogant fashion, and allegedly has little interest in real coordination of policing efforts. This is despite the fact that, at a personal professional level, Russia is the major reference for international experience for the majority of public servants in Ukraine and the rest of the former Soviet republics.

The active role played by Poland in many Ukrainian reform programmes, including that of criminal justice, may be explained by several major factors:
- The personal interest of the intellectual and organisational leadership of Poland in the implementation of a radical administrative and general institutional reform within Ukraine.
- Clear understanding by the Polish establishment and political elite of the role of Ukraine in its national security.
- Close historical ties of various forms and with various implications.
- Relevant encouragement of Poland by its Western partners.

Polish experts have been used in a number of projects, in particular EU TACIS projects, as an additional "bridge" between the EU and the West in general and Ukraine. They have a good understanding of the local conditions, the language and people's attitudes. United States (US) political and cultural actors (not only the State Department, but also George Soros) promote Poland's role by supporting bilateral Polish–Ukrainian projects. It is symptomatic that, at a civil institutional level, George Soros has attempted, via his foundations, to promote a similar leading role for Ukraine in Byelorussia's reform.

Following the collapse of the USSR at the end of 1991, Turkey was encouraged by the West to adopt a leading role in relations with Central Asian and Caucasian post-Soviet republics, since these countries are ethnically and linguistically quite similar to Turkey. The intention was that Turkey would, to some extent, replace the traditional role of the Russian Federation there.

However, the exercise was not altogether successful, and Russia remains culturally and infrastructurally much stronger than Turkey in these regions. It would seem that Turkey has overestimated its role and was unable to take

into account the major peculiarities of local political conditions.

5. THE ROLE OF RUSSIA

The role of Russia in regional cooperation between ex-Soviet states deserves special attention. After 1991, Russia's new political elite implemented a specific set of policies towards other former Soviet republics. These policies have combined some fairly incompatible elements, including:
- the remnants of a traditional imperial approach
- self-imposed isolationism
- cultural and political servilism towards some political trends, while ignoring core national interests and the norms of political moral. One of these actions, on a broader, international scale, was revealed by the disclosure to the then apartheid South African authorities, the sensitive and confidential information regarding African National Congress (ANC) relations with the USSR
- the virtual dismantling of the country's internal potential to cooperate with other post-Soviet states.

A strong post-imperial syndrome exists at top government levels within the majority of post-Soviet countries, with the possible exception of Byelorussia, Kyrghyzstan and Tajikistan. This – combined with the conscious or subconscious tendency of the main Western partners to limit, and sometimes even marginalise, Russia's political and cultural role on the post-Soviet space – are the additional factors contributing to post-imperial convulsions among some circles of Russia's elite, and their homologues in the rest of the ex-USSR. Both extremes are counterproductive to each individual post-Soviet country, to the region, and to the world in general. Under these conditions, a dynamic and effective post-Soviet empire will not be viable, and attempts to create it may become quite dangerous.

Conversely, attempts to marginalise Russia and to limit its cultural and organisational role in the post-Soviet Northern Eurasia are historically doomed to failure, besides also being somewhat dangerous and destructive.

CONCLUSION

The future of regional cooperation in Eastern Europe depends mostly on the evolution of the states in this geographic area, and, to some

extent, on the reassessment of the effectiveness of international assistance to these countries. In conclusion, with reference to these issues, the following questions can be raised: How was Taiwan able to utilise US assistance so efficiently in the 1950s and 1960s? How was Poland able to drastically transform its political and socio-economic structures in the 1990s? Why is contemporary democratic South Africa exhibiting vivid signs of further progress within a multiracial and multicultural society? Conversely, why have a number of post-Soviet states been wasting, not only billions of US dollars worth of international assistance, but also the opportunity to become real actors in regional and global politics, including the sphere of criminal justice? Why do these countries so often remain simply terrains for the implementation of other actors' programmes?

These questions are among the many that need to be addressed urgently and followed up with dynamic action on the part of both the post-communist governments and public, and the international community.

International and Regional Initiatives: Southern Africa Region

Peter Gastrow

INTRODUCTION

The Southern African Development Community (SADC) is made up of 14 member states. They fall into the category of developing and least developed countries in which cash-strapped police agencies are finding it difficult to fulfill many of the basic policing functions that developed countries would take for granted. The different political, constitutional and economic policies and programmes that are in place within the SADC member states make it clear that the region is far from homogeneous. In Angola, a civil war has been waged for decades. Malawi is struggling to move from an authoritarian one-party state towards a more open democratic society. Zimbabwe is trying to ward off mounting internal security problems and an economic collapse, while South Africa and Botswana enjoy relative stability within democratic systems. Depending on the definition of "transition" that is applied, all of these countries are experiencing one form of transition or another, even if the transition in some Southern African countries is not necessarily directed towards a more open democratic system or economic market economy. The word "transition" does in fact become a misnomer if it is used to describe any phase of political, social or economic change. More thought needs to be given towards developing a definition of "transition" that can be used as a guideline for those who wish to examine its impact on crime and policing.

As a result of the significant differences between states in Southern Africa, international initiatives to assist policing in the region have consisted largely of targeted bilateral assistance programmes. Donor countries tend to support those countries with policing projects that have the most pressing needs and that they can politically afford to engage with. There is a realisation that besides the lack of resources, those countries that are undergoing a transition are experiencing the added strain caused by the weakening of state structures and insecurity about the future. This merely adds to the already enormous pressure under which such structures operate as a result of a lack of resources. In the area of policing, which is crucial to managing a transition, this is particularly pronounced.

In Malawi, for example, the 5000-strong Malawi Police Service is recruiting and training an additional 3000 members following an outcry from the public about crime that has reached uncontrollable levels. Under the pre-1994 one-party rule of President Banda, crimes such as armed robbery were highly unusual occurrences. During those years the often-feared paramilitary Malawi Young Pioneers and the civilian Malawi Youth Leaguers assisted the police to keep order. Their disbandonment and demise subsequent to the country's democratisation in 1994 is regarded by many in Malawi as having created a vacuum which criminals have exploited, resulting in steep increases in crimes such as armed robbery, murder, car-jacking and drug dealing. Firearms, including assault rifles such as the AK-47s are now readily available and are frequently used by criminals. A police spokesman has explained away the unacceptable levels of crime as a sign of development.

Moçambique, which is one of the poorest

counties in the world, emerged from a destructive civil war in the early 1990s with its infrastructure and economy in tatters. There was a stage when the Moçambique Police had three motor vehicles available to police its capital Maputo, a city of two million people. Although they are now better equipped, the Moçambique police remain seriously under-resourced in the face of a steep rise in crimes such as armed robbery, motor vehicle theft and drug trafficking.

The long conflict in Moçambique, and the ongoing civil war in Angola and the Democratic Republic of the Congo, contributed to a massive proliferation of small arms in the Southern African region. This has had a pronounced impact on crime patterns with which every country in the region is now struggling. The frequent use of firearms when committing violent crimes is a phenomenon that is being experienced in most Southern African countries. All these countries have also experienced increases in organised criminal activities.

It is against this brief background that the relevance and impact of international and regional initiatives relating to crime and policing should be assessed. I will not refer to the bilateral development and assistance programmes that governments and their agencies from the developed world have in place with Southern African police agencies. Many of these are aimed at police reform and training. Nor will I refer to the work done by international agencies such as the United Nations (UN) Office for Drug Control and Crime Prevention, as their efforts have already been referred to at this conference. Instead, I will confine myself to one global initiative that could have an impact on crime and policing in Southern African states, and on one regional initiative that has emerged from within the region.

1. INTERNATIONAL INITIATIVE: THE DRAFT UN CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME

At the international level, 121 member states of the UN recently unanimously approved the text of a draft UN Convention against Transnational Organised Crime. Representatives from a number of Southern African states were present at the meeting. Although this UN draft convention still has to be adopted by the UN General Assembly, and thereafter signed and acceded to by governments before it comes into effect, its

text gives an indication of what is soon to be a global "law" against transnational organised crime.

The draft convention aims to promote international cooperation to prevent and combat transnational organised crime more effectively. It creates offences such as participating in an organised criminal group and the laundering of criminal proceeds. It provides for the confiscation and seizure of proceeds of crime. It contains measures dealing with extradition, mutual legal assistance, joint police investigations, special investigative techniques, witness protection, cooperation between law enforcement agencies, and training and technical assistance.

While the draft convention constitutes the most significant global response to transnational organised crime to date, the question needs to be asked what its impact will be on policing and crime in the developing and least developed states of Southern Africa once their governments accede to it. The draft convention was sponsored and shaped primarily by developed states. For understandable reasons they brought their resources and expertise to the negotiation process to ensure that their needs relating to the combating of transnational organised crime are met as far as possible. It is common cause that many of the poor countries of the world will find it very difficult to live up to the requirements of the convention because of a lack of resources. And yet, those poorer countries have indicated that they intend to do everything possible to implement it, as it will assist their fight against transnational organised crime. The added carrot that the draft convention offers is international assistance to poorer countries to enable them to comply with and implement the convention.

For developed and some developing countries such as South Africa, the fight against transnational organised crime is very high on the policing agenda. They will make the necessary legislative changes and resource allocations to live up to and benefit from the convention. However, the question needs to be asked whether some of the very poor Southern African states can afford to deflect scarce resources that are available for conventional policing towards complying with the convention when domestic policing is in crisis and local crime levels are unacceptably high.

It will therefore be incumbent on developed

countries that want to utilise the convention to address their own domestic crime and policing needs to provide significant assistance to many developing and least developed states to enable them to implement the convention. Unless this happens, those countries in Southern Africa that face a policing crisis during their transition periods could have their problems exacerbated by directing scarce resources towards initiatives that are likely to be of greater benefit to developed countries than to Southern African states in transition. The danger therefore exists that international initiatives such as the new convention could further widen the gap between the developed and developing countries. A new form of "global order" in the area of crime prevention and combating, driven by well-resourced countries, could result in developing countries focusing on assistance programmes that further the policing interests of developed countries more than their own.

2. REGIONAL INITIATIVE: SOUTHERN AFRICAN REGIONAL POLICE CHIEFS COOPERATION ORGANISATION (SARPCCO)

This organisation was established in 1995 at the initiative of the chiefs of police from 11 Southern African countries. It was motivated primarily by the escalation of cross-border criminal activity in the region. The 11 police chiefs met on 1 August 1995 in Victoria Falls, Zimbabwe, and agreed to form SARPCCO. On 2 August 1995 the government ministers responsible for policing in the 11 states adopted the police chiefs' recommendations. It was also agreed that an Interpol Sub-Regional Bureau should be established in Harare and that it should become the Secretariat for SARPCCO.

Article 3 of the SARPCCO Constitution spells out the objectives of the organisation. Some of these are:

(a) To promote, strengthen and perpetuate co-operation and foster joint strategies for the management of all forms of cross-border and related crimes with regional implications,

(b) To prepare and disseminate relevant information on criminal activities as may be necessary to benefit members to contain crime in the region,

(c) To carry out regular reviews of joint crime management strategies in view of changing national and regional needs and priorities,

(d) To ensure efficient operation and management of criminal proceeds recovered and the effective joint monitoring of cross-border crime taking full advantage of the relevant facilities available through Interpol,

(e) To make relevant recommendations to governments of member countries in relation to matters affecting policing in the Southern African region,

(f) To formulate systematic regional police training policies and strategies taking into account the needs and performance required of the regional police services/forces,

(g) To carry out any such relevant and appropriate acts and strategies for the purposes of promoting regional police cooperation and collaboration as regional circumstances may require.

Following the adoption of the SARPCCO Constitution, an "Agreement in respect of Co-operation and Mutual Assistance in the Fields of Crime Combating" was signed in Harare on 1 October 1997 by Angola, Botswana, Lesotho, Malawi, Moçambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. This agreement is in effect and has facilitated the exchange of crime intelligence, evidence and expert investigators.

The SARPCCO police chiefs set about identifying a number of priority crimes in the region. Two of the key ones were motor vehicle thefts and trafficking in firearms. They concluded that murder, car-jackings, bank robberies, general lawlessness and banditry had experienced a major escalation in the region and that the flood of illegal weapons had contributed significantly to the escalation of these crimes. Since its establishment, SARPCCO has organised a number of joint operations in different countries of Southern Africa aimed primarily at the illicit cross-border trade in stolen vehicles. Hundreds of stolen vehicles have been retrieved and arrests made. The advantage of joint regional operations versus actions taken by the police agency of one specific country only, lie in the benefit of pooled resources. Crime intelligence from different countries is pooled, joint operations can succeed because of local knowledge of the environment by a component of the operation and, where necessary, hi-tech communication and other equipment can be provided by those countries that can afford it such as South Africa.

ing from international assistance to developing countries.

The domestic policing needs of poorer countries, particularly those undergoing a transition, therefore need to be uppermost in the minds of all the parties concerned. It would appear that a well thought out regional initiative, such as SARPCCO, carries fewer risks and is more likely to address such needs. If developed countries could strengthen such regional initiatives, their contributions are more likely to assist the police in coping with crime in transition than would be the case with some of the ad hoc bilateral assistance programmes.