

The context and meaning of 'mob justice' in Khayelitsha

Report prepared for the Khayelitsha Commission: Commission of Inquiry into allegations of police inefficiency in Khayelitsha and a breakdown in relations between the community and the police in Khayelitsha

Dr Kelly Gillespie¹

This report has been prepared to provide the Khayelitsha Commission of Inquiry with a broad context for the understanding of 'mob justice' in Khayelitsha. The violent 'mob justice' attacks, and deaths, of Khayelitsha residents believed to be criminals have been at the heart of the petition for this Commission. This report thus provides a reading of the attacks in terms of their local and international context. It contains information gathered during over a month of ethnographic research conducted in Khayelitsha at the end of 2012 and early 2013 by the author, as well as from a literature review of the phenomenon in South Africa and beyond. It is hoped that this report will assist the Commissioners and the broader public in understanding the recent 'mob justice' killings in Khayelitsha not as an isolated set of events but as deeply rooted in the history of the township, as part of a complex system of alternative justice practice in Khayelitsha, and as expressive of a national and international popular justice technique that occurs in conditions of sustained inequality and lack of access to adequate livelihood. The premise undergirding this report is that it is of utmost importance not to read 'mob justice' as a spontaneous, irrational and ahistorical response to crime. Rather, we need to understand the history and the social dynamics of 'mob justice' so that we can work more systematically towards minimising this form of violence.

The methodology underlying this report is ethnography, a qualitative social science method pioneered by anthropologists which combines individual and focus group interviews, life histories and participant-observation, during which the researcher engages in informal conversations, participation in and intense observations of the life of the field site. Over a month of near-daily research across many different parts of Khayelitsha, much of it working with a resident research assistant who also provided language translation, resulted in contact with over 50 residents of Khayelitsha and the production of over 100 pages of field notes about residents' experience of and relationship to popular justice and policing in Khayelitsha. This report is written as an analysis of that qualitative data.

'Mob justice' is one form of a range of punishments that occurs outside of formal, legitimised processes of state criminal justice. It involves the use of punitive techniques by non-state actors in meting out a form of law that operates alongside, in place of, or as a critique of formal criminal justice processes. It almost always involves the presence of a group or crowd which serves as a

¹ Dr Gillespie is a Senior Lecturer in Anthropology at the University of the Witwatersrand. She has a long-term research focus on criminal justice in the Western Cape

public witness to the act of punishment, making the event a form of public spectacle and moral education as much as a punishment for a specific crime. It is also referred to as 'popular justice', 'people's justice', 'community-based justice', 'rough justice', 'grass-roots justice', 'lynching', 'everyday policing', and 'vigilantism'.

'Mob justice' is not specific to Khayelitsha. Media reportage on vigilante justice emerged strongly in 1996 covering the emergence of two anti-crime groups in different parts of the country: People Against Gangsterism and Drugs (PAGAD), a largely Muslim organisation on the Cape Flats, and *Mapogo a Mathamaga* originating in the Northern Province but spreading across several provinces in the north of South Africa.² Since then, a proliferation of non-state criminal justice practices, from the highly organised to the 'spontaneous' and everything between, have arisen all across the country. It is difficult to assess how much expansion popular justice has undergone in post-apartheid given the vagaries of comparative statistical analysis before and after the transition to democracy, however it seems both from reportage and from scholarly publications on the phenomenon that it has seen an unanticipated and considerable increase across the country since the mid-1990s. Acts of popular justice are often unseen and unacknowledged by a middle-class press and public, but the volume of their reportage in popular tabloids like the *Daily Voice* or *The Sun* make it clear that for working- and under-class neighbourhoods this practice is a near-daily occurrence. What they aggregate is an ongoing alternative practice of punishment that complements, contests and supersedes the formal, state criminal justice system. What is also clear is that the formal criminal justice structures capture only a part of the ongoing work of punishment and crime-control in South Africa.

There is also evidence that this increase in popular justice is not limited to South Africa. There now exists a substantial body of journalism and scholarly literature on popular justice in Kenya, Tanzania, Uganda, Nigeria, Bolivia, Guatemala, Mexico, Nicaragua, Brazil, Indonesia, India, and elsewhere. As two leading scholars have shown in their 2008 book *Global Vigilantes*³, vigilante movements and practices are gaining ground all over the world, particularly in poor, peripheral urban neighbourhoods of countries in the global South that have high rates of resource inequality. There are various explanations that have been offered for this global rise in popular justice methods. Many show how the rise in popular justice reflects the failure of states and economies to provide for their poorest citizens, not only in terms of a formal criminal justice system that protects and serves the poor, but mostly in terms of the provision of basic services and the means of life. The global increase in micro-level violence

² Buur and Jensen. 2004. 'Introduction: Vigilantism and the Policing of Everyday Life in South Africa'. *African Studies*, 63 (2), December; Von Schintzler et al. 2001. 'Guardian or Gangster? Mapogo a Mathamaga: A case study'. CSVR reports, Vol 3; Bruce and Khomane. 1999. 'Taxis, Cops and Vigilantes: Police Attitudes towards Street Justice' in *Crime and Conflict*, No. 17, Spring.

³ Pratten, David and Sen, Atreyee. 2008. *Global Vigilantes*. New York: Columbia University Press.

associated with underground economies and their corrupt officials, the withdrawal, or insufficient provision, of welfare-state support for citizens, and the increase in poverty and inequality brought on by structural adjustment programmes have created conditions in which urban residents in expanding, under-resourced neighbourhoods are acting in anger and desperation to contain the levels of violence in their communities. The literature also points to 'mob justice' as a form of moral action by the politically and economically marginalised that, much like the fundamentalist religions that have also been on the rise in similar neighbourhoods, seeks solutions beyond state structures to put right a world that seems immoral, where the poor are consistently alienated from safety, wealth and basic rights, even as other residents of the same cities live in luxury.

Despite the current national and international escalation of popular justice for reasons elaborated above, popular justice also has a long history, in South Africa and elsewhere. We have histories of organised vigilante violence from across the world, including the practices of various mafias and gangs, the racist lynchings of the American South, the guerilla tactics of civil wars, and the alternative justice techniques of a range of anti-colonial and anti-imperialist political movements that constituted their own forms of punishment in camps, militia bases, cells and units. All of these have used non-state forms of punishment, often as a form of public spectacle, to accomplish social control to various ends. More generally, there are also countless examples, especially in colonised territories, where the plurality of legal systems created, and continue to create, competing and diverse forms of legal practice. South Africa has for centuries been a place where legal pluralism has created multiple claims on, and orientations towards, the practice of law. In South Africa, law has for long been a differentiated and complex phenomenon, despite efforts to unify and systemise its processes. Even under the provisions of the post-apartheid constitution, parliament is currently working towards granting legal jurisdiction to traditional leaders in the form of the Traditional Courts Bill, maintaining a principle of legal pluralism and multiple jurisdiction from the colonial period. It should thus not be a surprise that there exist spaces outside of the formal state legal system where the work of law is performed. What is of concern with instances of 'mob justice', however, is that this particular alternative legal practice is not constrained by the kinds of procedural mechanisms that would allow evidence to be properly assessed, for punishment to be measured appropriately, and for the principle of fairness to be applied. It is also a form of alternative legal jurisdiction that cannot be accommodated within our constitutional framework: what 'mob justice' allows is for corporal and capital punishment to become *de facto* a part of South African criminal justice.

In South African history, the meaning of 'vigilantism' has shifted and changed. In the 1940s and 1950s, vigilantism in South Africa had broadly positive connotations, being understood as a form of 'informal policing' by black South Africans to create autonomous crime control in townships.⁴ The history of township policing has been notoriously inconsistent, often entirely absent when

⁴ Buur and Jensen, 2004.

it was most needed by residents, and almost always overly aggressive when present.⁵ Township policing all across South Africa has always been sporadic in this fashion and has seldom served the interests of township residents. Resident-led criminal justice initiatives that deal with the daily violences and infringements of township life have been in place since the origin of townships. Indeed, Clifton Crais makes the argument that even in rural areas, Africans have had to find recourse to safety in forms of people's justice that have existed alongside more formal systems of justice.⁶ There is a strong degree of continuity between these practices from the first half of the 20th century and contemporary autonomous crime-control measures in townships, in part because of the generational transfer of those practices, in part because the material conditions of township life have remained fairly consistent.

By the 1980s 'vigilantism' had changed in meaning. As Nicolas Haysom argued, '[i]n South Africa the term "vigilantes" connotes violent, organised and conservative groupings operating within black communities, which, although they receive no official recognition, are politically directed in the sense that they act to neutralise individuals and groupings opposed to the apartheid state and its institutions.'⁷ As the anti-apartheid movement became more powerful and townships became places where historical methods of repression were no longer working to subdue activists, 'vigilantes' were understood to have been introduced by the apartheid security police to destabilise anti-apartheid activism. This orchestrated 'black-on-black violence' was designed to produce disorganisation and 'ungovernability' in black neighbourhoods. In his well-regarded series of writings from the late 1980s and early 1990s, Haysom documented a massive spike in vigilante and counter-vigilante violence in the mid-1980s in townships across South Africa. Township residents, he found, were far more likely to die from this form of violence than at the hands of apartheid police. Vigilantism in the 1980s and early 1990s thus became, as in other parts of the world, a mode of repression by the governing regime which created a 'surrogate armed force' which appeared to emerge 'spontaneously', even as it was an indirect security force intervention.

Whereas 'vigilantes' operated through assassination and violent attack of 'comrades' in the anti-apartheid struggle, 'counter-vigilantism' was the punishment of vigilantes by the 'mob justice' technique of burning suspected state operatives in public. The notorious *necklacing* technique of burning a car tyre around the neck of a suspected *impimpi* or collaborator is specifically associated with late apartheid counter-vigilante politics. The contemporary

⁵ Steinberg, Jonny. 2009. *Thin Blue: The unwritten rules of policing in South Africa*. Johannesburg: Jonathan Ball.

⁶ Crais, Clifton. 1998. 'Of Men, Magic and the Law: Popular Justice and the Political Imagination in South Africa. *Journal of Southern African Studies*, Vol 32 (1), Autumn, pp. 49-72.

⁷ Haysom, Nicholas. 1989. 'Vigilantes: A contemporary form of repression'. Seminar paper presented at the Centre for the Study of Violence and Reconciliation, Seminar No. 4, 25 May.

practice of vigilantism that punishes a criminal (or other township ‘outsiders’ like foreigners, lesbians or suspected witches) by public flogging or burning is of a kind with the ‘counter-vigilantism’ of the 1980s. Many of the 2012 Khayelitsha killings of criminals were conducted by means of *necklacing*. When asked whether there was a specific reference being made to the politics of the 1980s through the use of this technique, many Khayelitsha leaders and activists explained that the form of punishment had persisted but the political content had changed. As one activist described,

Necklacing was never popular. It was only used in instances where comrades would find you informing. It had a very specific meaning. Even breaking the boycott you wouldn’t be necklaced, you would be forced to eat whatever you’d bought raw, like fish or meat.

A technique that was used only for *impimpis* is now used on suspected criminals and witches, and on African non-nationals. ‘Mob justice’ in both the 1980s and now, however, are marked by collective moral outrage, the feeling of betrayal, and a politics of self-protection. They are both also marked by the condition of not having sufficient recourse to reliable formal systems of support and defense. In the 1980s, such popular punishment was conducted with the knowledge that apartheid law was illegitimate and that anti-apartheid action could never be conducted within the legal framework of the apartheid state. Now, after 20 years of democracy, whether a post-apartheid legal framework actually serves the interests of poor South Africans has not been proven to them.

Khayelitsha was founded in the early 1980s by the apartheid state to relieve congestion in Cape Town’s older African townships, but also, as many politically-active Africans believed at the time, to break up growing anti-apartheid energies in those older townships. The early removals to Khayelitsha were thus accompanied by anti-removals protest and the new township’s beginnings were deeply politicised. Early on in the establishment of housing and streets, street committees that were allied to underground ANC structures were put in place. These street committees were co-ordinated by the civic organisations in the township, and were responsible for the day-to-day management of township residents’ affairs, intervening in domestic violence cases, assisting with the breakdown in informal contracts, calling community meetings to discuss community concerns, and working closely with underground political structures to draw township residents into the anti-apartheid formations. Critically, too, the civic organisations helped to establish ‘people’s courts’, alternative legal mechanisms in townships that held their own trials and meted out their own punishment. These political-legal forms were understood as distinctly new, township phenomena. They were not an urban iteration of rural legal practice, not ‘cultural’, although many of their actors would surely have participated in, and been informed by, rural legal proceedings. Rather, they were undertaken by urban ‘comrades’ who were developing and inventing politicised, anti-apartheid structures in the township. In fact, in several cases of civic organisations in Cape Town’s townships, ‘comrades’ were at loggerheads with ‘traditional leaders’ who

were being deployed by the apartheid state as means of conservative indirect rule.⁸

It is important to take note of the history of these alternative legal forms in Khayelitsha because they make clear that there has been a tradition of autonomous, community-led justice practice in the township since its inception. The provision of basic safety and security in Khayelitsha was instituted not through state structures, but in fact through anti-state community structures aligned to the underground political movement. As was described to me by several Khayelitsha residents who were active in street committees, these structures were highly effective in maintaining order in the township. On every township street there existed a committee which dealt with the daily troubles of residents, and which reported to township-wide, and regional structures. If the crimes were of a very serious nature, the street committees would often hand the perpetrators over to the police. But for the majority of crime, as well as for the resolution of everyday social conflicts, the 'civics' would take complete control. One 'comrade' in Khayelitsha described the procedure of the street committee thus:

If someone robbed he would be taken to the civic and then the civic would come to the house and discuss the matter with the parents and the victim and then they would all be taken to the offices of the civic – called the 'people's court' – and the leadership would sit and listen to the case. If the criminal stole something, the civic would ask the victim if he wanted compensation or punishment. Then they would ask the parents if they wanted to compensate or if they want their child to be punished. Then the civic would move from that information. For example, 75% compensation and 25% punishment. Punishment was beating on the buttocks with a *sjambok*, usually between 3 and 6 strokes. Strokes were given either by a member of the civic or by the criminal's family.

Khayelitsha residents describe a dramatic increase in the levels of criminal violence in the township since the end of formal apartheid. There are international and national explanations for this increase in crime, including the conditions of neoliberal capitalism involving high rates of youth unemployment, high rates of economic inequality, and a culture of consumption; the brutal sophistication of underground economies; and the failed promises of the liberation movement-turned-government. Explanation can also be found within the urban context of Cape Town in the explosion of informal settlement in Khayelitsha, the pressure put on households by increasing family populations with high rates of dependency, and the ongoing social and political tension created by vastly different orders of life and possibility across the city.

⁸ This tension between 'traditional leaders' and 'comrades' was most notoriously manifested in the *witdoeke* battles in Crossroads in the 1980s, in which pro-government leader Johnson Ngxobongwana led an all-out attack on the younger generation of ANC-aligned comrades in Crossroads. Many early Khayelitsha residents came from Crossroads, and would have been intimately aware of the dynamics of this conflict.

Many Khayelitsha community leaders, however, attribute the increase in crime to a rapid decline in the kind of community organisation that in the past managed to maintain order in township daily life. They note particularly the demobilization and failed bureaucratization of the street committees and civic organisations. Upon coming to political power, the ANC formalised the anti-apartheid civic structures into SANCO, the South African National Civic Association, but this formalisation process has been roundly criticised for weakening community structures, rather than drawing on their robust history. SANCO is a much less effective and trusted formation than it was at the end of apartheid, and many township residents have little faith in SANCO's ability to manage problems at street level. As one resident described, 'There is this intolerance, though, a loss of trust in SANCO because people think if you don't know someone there, or if the person who stole is a friend of someone in leadership, then nothing will happen.' Whereas in the past Khayelitsha residents would almost always turn to the civics to resolve problems, now, they turn to any number of different techniques and structures for help and protection.

Levels of everyday violence in Khayelitsha are very high, and residents have little faith that the formal criminal justice system will assist with their reduction. Currently in Khayelitsha there is a spike in youth violence because of the recent emergence of two groups called the *amaVura* and the *amaVatos*, violent youth groups that residents are calling 'gangs', even as the Khayelitsha police deny the designation. These 'gangs' have spawned a myriad of splinter groups that are operational in most of Khayelitsha's schools. Violent battles have taken place between these rival organisations and many young men have been killed. One resident describes the situation in early 2013 thus:

Like right now, at 7pm every day young boys are running up and down in this area in gangsterism. It started in 2008 but now it's a non-stop problem. Young boys from 12 years to 18 years running with pangas and knives. We have to come up with solutions to figure out how to deal with this.

And from another resident,

Gangsterism is the new thing in black townships. I saw a group of young school kids fighting it out in the field in Khayelitsha next to Site B (I Section). They looked determined to kill each other. The police were there shooting rubber bullets but it didn't seem to deter the young people.

Aside from this form of youth violence, which is structured around large group collective violence, Khayelitsha residents also describe a spike in individual acts of theft, housebreaking and associated violence, perpetrated by those who residents call '*skollies*' acting alone or in small teams. The daily abuse suffered at the hands of these petty criminals infuriates residents, and yet it is also the same residents that engage in the purchase of cheap goods on the black market that they are not able to get as cheaply anywhere else. As one resident described,

The people whose phones were stolen don't go to the police to open a case because they don't have papers for their phones because their phones are mostly also stolen.

Residents also report an increase in drug use in Khayelitsha. Whereas in the past recreational drug use in African townships was largely limited to alcohol and marijuana, with mandrax becoming popular in the 1990s, now there is growing methamphetamine (“tik”) use reported all over Khayelitsha, a drug typically associated with townships like Mannenberg and Mitchell’s Plein, areas with more systemic gang activity and highly organised underground drug economies. Many see this as another indication that the forms of social order that had previously obtained in townships are becoming tenuous. Older residents experience a great deal of generational tension, blaming increasing violence on young people and their unwillingness to be respectful. While it is certainly young people that seem to be at the heart of much of the township’s violence, it is also clear that there are high rates of domestic violence that span this generational strain.

To deal with the high levels of crime and violence in the township, residents turn to a range of different actors and institutions to try to protect themselves and to resolve their existing cases. Khayelitsha is marked by the presence of multiple criminal justice formations, many of which intersect with each other to create a complex justice system in the township. The presence of multiple avenues for crime control is certainly not unique to Khayelitsha, nor to the township. Private security is a phenomenon that cuts across class, race and neighbourhood in South Africa, other strategies and actors often supplementing the police. But the variety of supplementation in Khayelitsha, as well as the extent to which police are marginalised from so much of crime control, is remarkable. What this variety suggests is that there is a spectrum of justice in the township that is unlikely to be captured by the formal state system because of it is a spectrum that is extremely flexible and responsive to, as well as knowledgeable of, township life.

Below is a list of the justice spectrum that the author was able to capture during ethnographic research, as well as others documented in a recent scholarly article on Khayelitsha. What these multiple formations create is a context for understanding that ‘mob justice’ is just one of a range of justice techniques that are in use in the township.

1. Taxi Associations

It is common knowledge in the township that if you need help with a criminal matter, the best place to go is to Site C taxi rank, where the taxi bosses run a formidable alternative justice system. Taxis have certainly been strongmen in the informal criminal and civil justice system since they became powerful in the 1980s, but when the civics began to lose their status in Khayelitsha, the taxi bosses gained much more power as effective brokers of justice. As one resident explained: ‘Because people have lost trust in the street committees, and never had trust in the police, people now run to the taxis’. For a price, they deal with everything from reprimanding a naughty child on behalf of the parents, to apprehending serious criminals, from doing weapon raids in schools, to mediating broken contracts. They are known for their excellent success rate in finding stolen goods and getting compensation out of perpetrators. They credit

these results to not having to abide by the methods of the police. As one taxi boss explains in describing one case,

The complainant went to the police first, but the police said that they can't go to the [thieves'] house until she has proof. But we don't work that way. We go straight to the house and to the accused.... It is very easy, we just go! We go to the suspect and we ask them when they can come to our office and we make a date for them to come. We don't allow any mediation at people's homes in case they throw boiling water or hurt us.... During the examination we find the proof.... We put pressure on the accused.

Taxi bosses claim to have stopped using violence against accused after receiving conflict resolution and taxi safety training from government in the 1990s. But most Khayelitsha residents would dispute this, even laugh at it. There are plenty of stories that residents tell about the violent methods of the taxis. An example is this one, told by a young activist about a friend of his brother:

The taxi association took the young man to the beach where no-one else was around. They told him to take off his clothes and take out his balls. They they asked him where the stuff is that he stole and who he is working with. He didn't want to talk and so they took out their tools and threatened to torture him on his genitals. If they don't beat, then what makes them so successful?

Taxi bosses argue that they are much more effective than the police, so much so that they are sometimes called on by the police to assist with cases. School principals and parents have also called the taxis into schools to help control the levels of violence in Khayelitsha schools. Payment is not made to the taxi association but to the individuals involved in resolving the dispute, most of which own large numbers of taxis. The extent of their support by residents gives them enormous confidence. They run their justice business with a very sophisticated sense of township life, and provide a service that is agnostic about the legality of their methods or their cases. They are committed to an autonomous, strictly private enterprise. Says one taxi boss,

We don't want to poke our nose into other people's business. If they want to sell mandrax, then that is their business, we'll still assist [with the contracts]. The police say that we must bring them to the police station. If the government was willing to pay, bought the cars for us and helped us with transport, then it would be different. We patrol our own routes with our own cars.

2. Police

There is a strong sense in Khayelitsha that the police do not resolve issues, and that reporting something to the formal criminal justice structures might backfire, like the criminal will be 'walking free on the streets'. There is also a strong feeling amongst Khayelitsha residents that 'these are our own communities, and we know how best to handle matters'.

There are a surprising number of dockets opened with the police given the deep mistrust of the police and the criminal justice system that exists in Khayelitsha. The more serious the crime the more likely it is to be taken to the police, as has been the case even since the township was founded. And yet even in these cases which residents report, they are skeptical that the case will be resolved. Complaints are made about the corrupt culture of dockets going missing and evidence being either badly collected or mismanaged, of poor service and lazy officials. Residents also experience the police as very violent, and yet at the same time ineffective, a very dangerous combination. At least the violence of the taxis is seen to be highly effective. Yet by far the greatest complaint about the police in fact has little to do with the police per se: the biggest problem for residents is that when a case is taken to the formal criminal justice process, accused are often released on bail or have their cases withdrawn. Residents will often say things like '... and the very next week you'll see him [the accused] strutting around the township with his chest out!' It is the formal processes of the Criminal Procedures Act that frustrate residents and make them resentful of the first line of the criminal justice process, the police. As one community leader put it:

The community loses interest in the police and in the court. Especially around the issue of bail. Nobody knows who makes this decision and why the arrested are being released. There are serious cases, like murder and child rape, where the perpetrator is released. Last of last week in the shack area of Green Point a few blocks away, there was a robbery in the middle of the night and the community caught someone and killed him, only to find out that it was the wrong person. Now the police are arresting the people who killed the "criminal" because the law must run its course. The community is very angry. The community needs to be educated....We must believe in justice, but justice must come closer to us.

The lack of faith in the formal criminal justice process seems to pivot around the problem of evidence. Residents feel that they know who committed a crime, who the problem people are in the township, yet the burden of criminal procedure only complicates and mistrusts that knowledge. The police are seldom competent enough to provide the kind of trustworthy evidence that courts require for prosecution. The burden of evidence in criminal courts is substantial, and often requires the presence of witnesses. The request to be a witness creates incredible reluctance, even terror, in Khayelitsha residents. Very few residents serve as witnesses in courts, because of the associated danger: there are many stories told of witnesses who are persecuted by the accused or the accused's friends, and people are averse to assisting with trials, fearing for their safety.

3. Street Patrols

This is the most popular crime-prevention strategy in Khayelitsha, and is also an old form from the days of formal apartheid. Across the township, there are street patrols done by residents, mostly in the evening and at night. These are either self-organised residents' initiatives or the projects of NGOs seeking to improve street-level safety. One resident comments,

Communities sometimes reach an agreement and they decide to organize 'vigilantes' that patrol their own section, mainly men with *sjamboks*. There were lots of reports on those ones, but there have been efforts to stop them. The city is trying to do the very same thing, but more formally through VPUU [Violence Prevention through Urban Upgrading] and SANCO. The bad thing about these ones is that they end up beating the wrong people, they beat the ones who are just drinking and walking home. I got beaten twice by them walking home. But they are still good because they have minimized crime.

One older woman who volunteers for a violence prevention NGO said that the women that primarily volunteer for the organisation often feel unsafe patrolling at night, but the NGO has provided them with torches, whistles and walkie-talkies for these patrols. Where CPF structures are in place, night patrols are also often conducted. These are considered a very effective, although very dangerous, mode of crime control.

4. Self-organised hyper-local justice committees

There were several reports of small, autonomous crime control groups operating in the immediate vicinity of where they live. These groups are often led by people who used to be involved in the old street committees, or in now-defunct CPFs, and draw on this experience to create sub-authorities to which people can go for help.

One, in a section of Site C, is called *Mayitshe* ['Let it burn'] is a group of older men who have imposed a 9pm curfew in their area. They are known for being able to find and beat muggers. They also can help to retrieve stolen items for a small fee.

In another part of Khayelitsha, a resident described a group called *Qhabalaka* ['talking nonstop and giving out secrets'], a kind of street committee group dealing with thieves in the area. They work not by beating, but by finding the stolen goods and having them returned.

In still another section, a resident had this to say:

People living in the informal settlement in Site B have developed a system whereby when someone comes to sell stolen goods, the 'buyer' will say he's going to fetch money but then would rather go and fetch community members to come. They used to beat them then the police started arresting the community members so now people are starting to develop other strategies, such as getting information out of the thief about where he got the goods from and where he sold things. They then gather the goods and impose fines on all the guilty people.

5. NGO-led community safety projects

There are a number of NGOs that are working to reduce crime in Khayelitsha, with varying degree of success. Each has its own working method and its own set of objects, from toilets to large urban upgrades, from patrols to youth groups.

They provide important contributions to Khayelitsha's crime control, and yet they also bring with them their own institutional dynamics and ways of working that are variably useful to residents, sometimes serving particular interests, sometimes creating factions and tensions, sometimes creating their own set of actors and protocols. They add to the complexity of crime control in the township.

6. SANCO and CPF structures

The government-run crime control programmes – the SANCO structures and the Community Policing Forums – are remarkably absent from residents' discussions of the township. SANCO and CPFs in some areas of the township are still operational, and provide a service to residents, but when asked, many people felt that they are no longer as significant in township life as they used to be. Several people spoke of how the progressive, people-centred quality of street committees has been lost, and so SANCO cannot command the trust of residents. Many of the CPF structures that were set up in the 1990s seem to no longer exist, or to exist in name only.

7. Contralesa and Peaca

The author did not come across these two organisations in Khayelitsha, but they were reported in a scholarly article from 2002. The article was based on qualitative research on 'non-state justice' in Khayelitsha conducted in 2000-1.⁹ These organisations are reported to have been active in the township at this time, and may still be, although evidence of Peaca was not found at Site C taxi rank, as is described in the article.

Contralesa (Congress of Traditional Leaders of South Africa) is associated much more with the rural areas of South Africa, yet evidence shows that 'Contralesa has... started establishing itself in the urban areas, including the Western Cape where it has branches in Strand, Khayelitsha, Langa, Xroads, KTC, Gugulethu and Phillipi. They aim to afford Africans a home from home, which means they wish to implement rural ordering mechanisms in the urban areas.... They find urban ordering structures alienating for Africans with a rural background.'¹⁰ The article finds that Contralesa has been active in the informal settlement areas of Khayelitsha and concentrated on patrolling, and catching and punishing offenders.

Peaca (Peninsula Anti-Crime Agency) was formed in 1998 by ex-members of Unkhonto we Sizwe (MK), the Azanian People's Liberation Army (APLA), Self-Defence Units (SDUs) and the SANDF. They are reported to have been operating out of two containers at the Site C taxi rank to deal with both criminal and civil matters brought by residents. 'In the words of the co-ordinator of Peaca... "because of my intelligence, acquired in military training, I can tell who is telling

⁹ Tshehla, Boyane. 2002. 'Non-State Justice in the Post Apartheid South Africa – A Scan of Khayelitsha'. *African Sociological Review*, 6 (2), pp.47-70.

¹⁰ Ibid. p.57

the truth and who is lying. Then I make a decision concerning who is wrong and who is right. If a case is not very serious we do not go to the police station, we take chances. Before we go to the police, we do our best to force the person to admit guilt. We do not refer cases to other structures.”¹¹

8. ‘Mob Justice’

‘Mob justice’, the kind of informal justice most in the news as the representative form of people’s justice in the township, is when a group of people converge on a suspected criminal and publically beat or burn him/her. Although ‘mob justice’ should be understood as but one of multiple popular justice strategies, what primarily distinguishes this form of popular justice from the others above is the fact that there are seldom ‘specialists’ who discover the suspect or administer the punishment. Rather, an ordinary resident will catch someone, usually in the act of committing a crime, and will call for help from whoever happens to be nearby. When people hear that a beating/burning is taking place, they will run from wherever they are to participate in the punishment or to watch the proceedings. As one resident explains,

It happens a lot that you hear someone calling “*ISELA!* [thief]” and then people will come and beat. They will vote with their hands. *Isela* will be running and you will be chasing him.

‘Mob justice’ is therefore most often perpetrated by ordinary residents who happen to be in the vicinity of a crime. It is the most ‘spontaneous’ form of punishment in that the time between crime and punishment is collapsed, and there is very little deliberation or ‘evidence finding’ because the offender is often caught red-handed, or sought out in the immediate aftermath of a crime. There are cases in which the wrong person is caught and punished, but the immediacy of the punishment often occurs because of the obviousness, the overwhelming evidence at hand, of the relationship between the crime and the offending person. Because the offender is often someone from the neighbourhood, residents involved in the attack will often know the person they are attacking, know something of their biography. If the offender happens to be a stranger from another part of the township, the punishment is often more severe. The larger number of people administering the punishment as well as the ‘crowd’ dynamic of the public flogging also distinguishes the attacks from other modes of popular justice.

There is no consensus on the use of ‘mob justice’ in Khayelitsha. Some residents are completely convinced that it is the best way to stop crime in the township, while others are horrified by it. Some think it is far preferable to the formal criminal justice process, which to them is opaque and inefficient, others see it as a ‘barbaric form of justice’. What everyone shares, however, is a sense that ‘mob justice’ is totally understandable given the conditions of life in the township. Crucial to understand is that ‘mob justice’ is not ‘spontaneous’ in the sense of an irrational or absurd reaction to the problem of crime. The trouble is that crime becomes a sign, an instance, of a systemic set of problems in the township. A criminal act becomes a moment that crystallises a host of social ills into an

¹¹ Ibid. p.62.

obvious and addressable dilemma. Its punishment, then, becomes a means of funneling anger about a range of different matters into a single instance, onto the body of an individual culprit.

One activist campaigning for the end of ‘mob justice’ argued thus:

I became involved in the campaign to stop vigilantism because people will be cheering when young black people were killed and no one seems to mind because they were so-called ‘criminal’. People cheering like their favourite soccer team had scored a goal. Children were ululating. This is a clear sign of black self-hatred. When you are squashed into a *tight corner* you find fault with an easy target. Vigilantism is the easiest, shortest option by people that are in *desperation*.

Many of the activists in Khayelitsha are careful to explain the violence, even as they don’t defend it:

Not all of the people in the group want to use the tyre. But there would be a tyre around and that would be the easiest way to do the job. Sometimes it is just paraffin and a match. A tyre is something you can use to make things happen *now*. It is not a way of relating to the past, it is just because it is available. And there is, first, an *anger*, and an intolerance.

The law is not there to defend [residents]. The only way for them to defend themselves is to take things into their own hands. When you get into a *corner* and you can’t find a way out, you do something wrong. This [Khayelitsha] is the corner. It’s like we are put in a box to fight one another. There is no solution.

Vigilantism in townships is a case of ‘the victim victimizes another victim’.

What local interpretations of ‘mob justice’ reveal is that it is the condition of the township itself that produces these forms of violence. They are the constriction of much broader problems into an exasperated, and sometimes gleeful violence against what might be called ‘proximate *others*’ or ‘near strangers’, the easy targets that are within arms reach. It is very important to take note of these critiques, because what they suggest is that the police are only a small part of the problem that creates ‘mob justice’. The ‘desperation’, ‘anger’, and sense of being ‘cornered’ that residents attribute to life in Khayelitsha says as much about the condition of township life more generally – poverty, inequality, the unchanging urban condition of poor black Cape Townians – as it does about the failure of the criminal justice system to protect residents. The fact that the apartheid formation of the ‘township’ still exists as a place for poor black residents, who feel stuck and without the possibility for a better life is an ongoing sign of a general failure of the South African state at all levels to address the legacies of apartheid. It is this systemic failure, and the deep anger that ensues from it, that erupts in moments of mob violence. This analysis of the case of Khayelitsha is borne out in the international literature on ‘mob justice’, as articulated above,

which stresses the conditions of poverty, inequality and 'structural violence' as a generative condition for the violence of 'mob justice'.

The problem cannot be imagined to have as its primary source the policing of Khayelitsha. Certainly there is a long history of bad policing in townships across South Africa. And even as international experience demonstrates the unlikelihood of police *ever* serving the interests of the poor, the improvement of policing services, and criminal justice process more generally, to poor South Africans is a significant task that would certainly ameliorate some of the dissatisfaction fuelling 'mob justice'. But to imagine that simply fixing policing would amount to a change in the broad conditions that fuel the frustration, resentment and anger that is at the heart of 'mob justice' would be a mistake. Residents' criticism of the police is a superficial engagement with the problem. The much broader problem is with the management of the city, the province and the national transformation agenda, especially its reticence to deal with the entrenched problem of inequality. It is ironic that the legal battle over the commission itself was phrased as a contestation between provincial and national governance, between the DA and the ANC, when both are to blame for the failed project of providing for the poorest citizens of South African cities. Unless this is at the core of discussions about how to solve the problem of crime and its violent retaliations, it is unlikely we will get very far in our efforts to make Khayelitsha, and South Africa, less violent.