



*Institute for Human Rights
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**The new vigilantism in Post-April 1994
South Africa: Crime prevention or an
expression of lawlessness?**

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CONTENTS

Introduction	1
Current diversity of vigilantism (taking the law into own hands) in South Africa	3
Background contextualisation	4
People's Courts	6
People's Courts and necklace executions	7
Conspiracy of silence	8
Crowd apathy	9
Community support	9
'We paid his bail so we could kill him'	10
'We have to defend ourselves' syndrome	11
'The people are angry'	11
'An eye for an eye, blood calls for blood' – mob justice at work	13
Combating stocktheives: The <i>Mfelandawonye Wamapondomise Burial Society</i> and the <i>Inkumpa</i> vigilante organisations	14
'Justice versus retribution'	21
Diepsloot case study	23
'It is bitter medicine, but it cures': The Mapogo a Mathamaga	25
People Against Gangsterism and Drugs (PAGAD).....	30
'Muzzle them or regulate them'	36

Conclusion: 'We cannot wish popular justice away' 41

References..... 45

ABSTRACT

During the late 1980s and early 1990s, years when political violence was at a high level, and prior to the April 1994 elections, there occurred many incidents where township residents took the law into their own hands. Much of this community justice was labelled political and took the form of People's Courts (in some areas they were known as Disciplinary Committees which were often no more than kangaroo courts in action) and 'necklace' executions of political opponents. However, in reality a large proportion was nothing more than certain people using community anger for their own purposes to get rid of opponents or rivals or taking the law into their own hands for revenge and to impose control over certain communities through intimidation. While the system of People's Courts was originally established with admirable principles of ridding communities of all criminals they came, in time, to get out of control and became a 'law unto themselves'. But in those communities ravaged by lawlessness and having a minimal police presence they were seen as a legitimate effort in the struggle to maintain a semblance of law and order. However, many of the People's Courts lent themselves to abuses of power within the whole context of the 'struggle against apartheid'. Because of the stigma attached to People's Courts a number of communities by 1992 had restyled their vigilante actions as Anti-Crime Committees that claimed to have the legitimate backing of civic and local groupings within specific communities. Besides the more severe punishment of necklacing People's Courts also administered more general punishment such as beatings or whipping with a sjambok (whip) or even expulsion and banning from an area. They operated on the basis of 'an eye for an eye', i.e. the punishment would be commensurate with the seriousness of the alleged crime committed and the sentences could range from three lashes to as many as 300 or even death. Because of the way People's Courts operated and the aura of fear that they built up around themselves many victims of their activities were too frightened to report the assaults to the police for fear of being necklaced themselves. However, many residents suffering from such depredations maintain that if the police were more effective against crime then People's Courts would not exist. But very often vigilante action by members of a community involves a conspiracy of silence by the whole community. There have been incidents of vigilante action whereby a group of residents kill a suspect but often they are never reported, nor do any witnesses come forward. The first inkling the police have of a crime having been committed is when they find a body lying in the streets either burnt or beaten to death. In some instances police merely receive an anonymous phone call telling them where they can find the necklaced body. In the 1980s the necklace method of execution was used most frequently for getting rid of those identified as 'collaborators', 'government stooges', 'sellouts', 'informers' (the so-called impimpis) or 'enemies of the people'. Initially in 1990 as political rivalries became intense necklacing was used to get rid of political opponents. However, after the April 1994 elections, with the slow decline in overtly political violence much of the vigilante action in townships began to be directed at criminal elements and gangs. Many of the incidents that occurred have been where criminals were caught in the act and either beaten up, stoned or killed outright by angry citizens. These actions are not only an expression of people's anger and frustration but also of their fear. They are symptomatic of a breakdown in the criminal justice system as well as of effective policing. It has been the experience of ordinary people that if cases are reported to the police very often nothing happens (due more to police manpower shortages, case overload, and police being overworked). Furthermore, if a suspect is apprehended the overloaded judicial system might well see the case being indefinitely postponed while a suspect might also be released on what can only be termed ludicrously lenient bail terms. People have lost faith and all confidence in the ability of the state to prosecute any criminal effectively especially when they see criminals out on the streets soon after being arrested. Misconceptions concerning bail have also led to communities taking the law into their own hands. Such instances of vigilantism were closely linked to the perceptions concerning the rising levels of crime and the frustrations of communities at what was seen as the inability of the police service, the courts and government authorities to deal with crime effectively. In many cases such acts of vigilantism were the expression of frustration and anger at the apparent impunity of criminals from being arrested, prosecuted and sentenced. The vigilante problems also stemmed inter alia from the lack of trust the public had in the police, blockages in the criminal justice system, delays in cases coming before the courts, the granting of 'soft' bail as well as high

numbers of prison escapes. It would also appear that People's Courts and vigilante activity have become more prevalent in the informal squatter settlements where very little official control by the authorities extends. These communities are often faced with either organising their own policing and community guards or facing the very real threat of being swamped and controlled by criminal gangs. The People's Courts in these types of communities are also used to ensure the discipline of community members, the orderly occupation of plots and the implementation of and acquiescence to the local squatter committee decisions. This paper traces the growth of this new form of vigilantism, the perceptions surrounding the reasons for this growth and examines the motivations of communities for wanting to take the law into their own hands. It also postulates some responses by the authorities which might address the problem of vigilantism and curtail it.

The 'new' vigilantism in Post-April 1994 South Africa: Crime prevention or an expression of lawlessness?¹

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Introduction

Vigilantism² in post-1994 South Africa remains a highly emotional and contentious issue not only politically but also on a community and policing level. In the post-1994 era there have been subtle changes from the pre-1994 so-called 'political vigilantism'.³ In the mid-1980s the law was often taken into own hands in what was perceived as 'legitimate' attacks on agents and structures of the apartheid state or alternatively in response (revenge, retaliation or pre-emptive) to those attacks by other elements and groupings politically opposed to the 'struggle' politics in the townships.⁴ During the 1980s it has been estimated that about 400 People's Courts (see later section on People's Courts) operated in various townships across South Africa but that by 1988 the government's use of the Emergency Regulations powers all but put an end to their politicised and revolutionary struggle activities (HRC, 2001: 12). However, a number continued to perpetrate anti-crime vigilante acts in trying to self-police their neighbourhoods in a covert manner. In the period 1990-1991 many areas experienced a renewed upsurge in 'popular justice'. This 'new' informal justice was based on the strengthening of the old political street committees and many of the vigilante structures still operating today are based on this model.⁵

Vigilante activity in the period before 1990 was largely explained in terms of political motivations (liberation and struggle ideology or the 'conservative' response of covert state supported actions by surrogates or proxy agent provocateurs). However, in the early 1990s period leading up to 1994 the term was used to describe a wider variety of violence such as the struggle by the so-called 'warlords'⁶ or 'strongmen'⁷ to control resources in the informal settlements, the political contestation between the nascent political parties such as the African National Congress (ANC) and the Inkatha Freedom Party (IFP) particularly in KwaZulu-Natal between the IFP-supporting traditional leaders (chiefs and headman) and the disaffected youth (ANC comrades) in the rural areas and the hostel residents⁸ and the Self Defence Units (SDUs)⁹ in the pre-dominantly black townships in Gauteng province. It was also often applied to much of the other violence not directly associated with criminality then occurring in South Africa such as the conflicts in the mini-bus taxi industry, violence on urban commuter trains, the witchpurging activities in some rural areas, the activities of such white right-wing organisations like the *Afrikaner Weerstandsbeweging* (AWB) and the alleged covert state supported so-called 'Third Force'.¹⁰

Although vigilantism all but ceased to be a tool of repression and political contestation after the democratic elections in 1994 the current vigilantism remains complex in its structure, motivation and nature. One of the questions that arises from the current continuation¹¹ of vigilante activities is simply 'Why do such acts of 'community or popular justice' continue to be perpetrated when the overt political reasons would appear to have

been removed by the implementation of a new democratic system in the post-1994 period?’

Secondly is the current vigilantism merely a response to perceived increases or a continuation at high levels of crime? This question is posed since the current general perception of vigilantism associates this form of violence largely with ‘fighting crime’, ‘protecting communities from criminals’ and punishing those alleged criminals caught. On the surface much of the vigilantism would appear to be a straightforward uncomplicated ‘gut reaction’ by members of certain communities to specific situations on the ground or certain conditions being experienced. For example an upsurge in crime being experienced or criminals being caught so-to-say in the act. One argument or explanation of such vigilantism has been that certain communities, having been ‘socialised’ into vigilante actions during the period of the ‘struggle’ continue to ‘look after’ their own interests and protection in the absence of any effective policing. However, this time round not from agents of the state, members of the security forces or members of township councils but rather from criminals and druglords.

This chapter, rather than being a sociological, political or philosophical analysis of the problem will attempt to examine and explain the phenomena on a descriptive and event analysis level by using specific examples and describing certain cases studies. This approach has been undertaken in part because there have been few empirical studies undertaken of vigilantism in South Africa. In addition, use will be made of three specific overviews of so-called ‘organised vigilante’ groupings, namely People Against Gangsterism and Drugs (PAGAD) in the Western Cape province; *Mapogo a Mathamaga*, otherwise known as the *Business Shield*, which originated in the Northern Province, and the *Mfelandawonye Wamapondomise Burial Society* and *Ilisolomzi* – both ostensibly formed or redirected in 1995 to curb the stocktheft in districts like Tsolo and Qumbu in the former Transkei region of the Eastern Cape. These three examples will be used in order to illustrate and explain a number of aspects of the current vigilantism being experienced in South Africa. While all three started off with their primary aim to combat criminals as ‘anti-crime or protection’ organisations they overtly went on the offensive and took action against perceived ‘criminals’ in their respective communities. But in time they have themselves turned into vigilante-type organisations in their own right. All three saw their actions as having legitimacy, not only in their own eyes, but also having the sanction and approval of their respective communities or constituencies. However, in essence they became politicised, the former when they entered the arena of public protest and pressure politics at a local level and the latter when its chairperson entered the national elections in early 1999 as a candidate for the United Democratic Movement (UDM) party with political interference by local leaders bringing in the element of politics in the last of the three. PAGAD were accused of pushing forward a conservative Muslim political agenda but were eventually labelled as ‘urban terrorists’ by the authorities. Conversely, while the provincial government in the Northern Province had first tried to co-operate and work together with *Mapogo*, its members later had criminal charges brought against them and the organisation labelled as no better than the criminals they were supposed to be fighting against. Local political control of the *Mfelandawonye* was thwarted by the intervention of both regional provincial and national government agencies.

The third question that arises when trying to explain and deal with vigilantism in South Africa is namely, ‘Is this vigilantism ‘new’ or a continuation under a new label of old forms of vigilantism? Allied to this question is the one of ‘How do you deal with the phenomenon?’ This question is tied up to the many interpretations of why it occurs and

what the response of the authorities have been in dealing with it at a community level. Additionally the latter question is linked to all the other background issues surrounding the transformation of the criminal justice system during a period of political and societal transition in South Africa. This is a far more difficult question to answer and again will be dealt with by looking at some of the responses not only of the community but also of the government.

Current diversity of vigilantism (taking the law into own hands) in South Africa

Currently there are a number of different forms that can be attributed to the so-called 'popular justice' type of vigilante activities in South Africa. They can briefly be listed as the following:

- Spontaneous mob-style emotive reaction to a situation often involving immediate punishment
- One-off street gatherings dispensing ad hoc and summary justice
- 'Caught-in-the-act' citizen response. Often an alleged criminal caught committing a crime in public (e.g. stealing from a parked motor vehicle, mugging or bag snatching etc.) by ordinary members of the public (not necessarily belonging to any formal vigilante-type or community protection organisation) will be immediately dealt with by means of a severe beating before being handed over to the police
- Hit-squad assassinations by a small cell-organised group with a specific individual/s as the target. Execution-style killing is the preferred modus operandi (shot in the back of the head)
- Kangaroo court activity where individuals in a community accused of certain criminal or anti-social behaviour and hauled before a neighbourhood committee (usually an irregularly constituted People's Court) and punishment meted out by members of such Kangaroo Court or the accuser/s themselves
- Planned organised and structured vigilante activity through a specific organisation, members of which style themselves as 'People's Protectors' or 'Community Guards' who purposely seek out alleged criminals and wrongdoers for on-the-spot punishment (e.g. like the PAGAD and *Mapogo* organisations). Often a curfew is in place with the members of the organisations patrolling an area at night. Sometimes a community 'protection' levy or a membership fee is instituted to finance the activities of the community guards
- Retaliatory, reactive or protective vigilantism where a victim responds to a situation and seeks revenge by punishing a perpetrator him/herself
- Public response. This can occur in a number of ways best illustrated by examples, for instance a car accident where the perpetrator is publicly stoned or a rapist is taken to a sports stadium and castrated or lashed by a few members of the public but in front of a large crowd egging them on.

- Methodical and pre-meditated individual act of vigilantism where the perpetrator is not the actual victim of a crime or other violent situation. As for instance was the case of a farmer in Northern KwaZulu-Natal near the town of Vryheid who executed a detained suspect - prior to his being handed over to the police - in a case of a murder on a farm in the district.)
- The above case links to the deliberate killing of suspects during a chase/arrest/resisting arrest situation by either police or, for instance, members of a Farmwatch of local Commando (civil defence structure) (for example the case in the Rustenburg district in early 1999 when three suspects were killed while fleeing the scene of the crime)
- Night-time covert vigilante activity, e.g. firebombing of a suspected criminal's house
- Ridding the community of suspected/alleged witches for practicing witchcraft. This arbitrary vigilante activity still occurs in a number of rural areas and can either take the form of expulsion from the community or burning of the alleged witch in a community sanctioned action (a process has been followed whereby the alleged witch is 'sniffed out' by a sangoma or inyanga hired by the community and a decision is then taken by the Kgoro/Kgotla tribal court to either expel or kill. The execution is done by the youth of the community who are traditionally the protectors/executors of a tribal village)
- Expulsion from a community of anyone labelled a criminal. Such vigilante action is usually the result of deliberate decisions taken by a local 'People's Court'
- The unlawful eviction of illegal squatters from both municipal or privately-owned land where the owners make use of security companies or private individuals to force such squatters off the land and destroy their shacks without having the proper court order to do so

From the above one can see that vigilante activity in South Africa in the mid- and late-1990s often takes a number of unlawful forms, some structured and organised, others more spontaneous or reactive to specific situations. Mostly they are not accountable or just, although some would argue that they are responsible for protecting their communities from the depredations of criminals and therefore their actions are justified. However, the motivations and reasons for such vigilante actions need to be examined in more detail.

Background contextualisation

There was a time when the word '**vigilante**' was used to mean quite simply a member of a vigilante committee – an American concept described by the Oxford English Dictionary as "*a self-appointed committee for the maintenance of justice and order in an imperfectly organised community.*" While technically this might be the case in South Africa, currently the vigilantism occurring countrywide is a more fearsome and dangerous thing than the above definition might suggest. The sheer ferocity and savagery of the 'popular mob justice' that is taking place does little for the maintenance of law and order or of upholding any vision of community justice. In its crudest sense it is simply individuals in a community taking the law into their own hands and dispensing their own punishment on alleged criminals, who they see not being caught, convicted and sentenced. In essence the current vigilantism in South Africa is a brutal indictment of the whole criminal justice system and an expression of its failure and the inadequacies of the policing that is or is not occurring.

Rising crime levels would appear to be a worldwide phenomenon but while responses to high levels of crime vary widely, these responses have been of particular ferocity and violence in present-day South Africa. In vigilante or mob justice terms the mid- and late-1990s in South Africa have been punctuated by a large number of such incidents across the country. Over the last eight years (post-1994) a vigilante incident has occurred somewhere in South Africa, almost without fail, every week. The type of incident and intensities vary with the time of year. The end of the Christmas holiday season in early January usually sees an upsurge in vigilante type activity. Social tensions seem to come to a head during this time in some provinces notably KwaZulu-Natal and the Eastern Cape where migrant workers are at home on their annual leave or when revenge is taken on alleged cattle or stock thieves¹² or even old enmities and scores emanating from past faction fighting are settled. In the Northern Province during the high summer when such incidents are triggered by the frequent lightning strikes in summer thunder storms, alleged witches are burnt and killed by communities blaming them for lightning deaths or other misfortune that might befall a community.

However, one of the complicating factors in examining and assessing vigilante activity in South Africa has been the wide-range of 'types' of incidents. Vigilante acts in South Africa can range from 'punishing criminals', assassinating known druglords, burning alleged witches, commercial farmers catching and beating alleged poachers or trespassers, shop owners/managers meting out their own 'justice' to shoplifters caught to the illegal eviction of squatters. Vigilante acts in South Africa are certainly not straightforward or simple but rather complex social reactions to varying and different situations although the bottom line remains individuals taking the law, for whatever reason or motivation, into their own hands. However, an atypical vigilante act is perceived, and this perception has been strongly formed by media reporting on the more sensational vigilante incidents from around the country, as one where members of a community catch a criminal, and take the law into their own hands by meting out severe punishment.¹³

In the more high-profile public vigilante incidents from around the country victims are either severely beaten up, burnt or killed by what can only be termed vigilante groupings. The perpetrators most often felt they were acting with sufficient justification or even legitimately as either semi-formal street committees, neighbourhood patrols or concerned citizen groupings in ridding their areas of suspected criminals. However, their actions remain unacceptable and illegal and should be of concern not only to the authorities but also to all law-abiding citizens.

While media attention on these incidents has raised the general public perception that, since 1994, there have occurred significant rises in vigilante actions for the years of 1995 (a high number of witchburnings occurred¹⁴), 1996 (when PAGAD and *Mapogo* first started their operations), 1997 and 1998, this is not necessarily so. The years 1999, 2000 and the start of 2001 have continued to experience significant numbers of violent vigilante or mob justice incidents which merely point to the fact that such incidents are rather merely continuation of such activity. At the beginning of 2001 when a series of vigilante actions (youths catching and severely punishing (even killing) in a number of separate incidents alleged rapists, murderers and burglars) occurred in some of the townships surrounding Johannesburg there was again a public outcry about the perceived 'increase' in vigilantism and that the authorities 'must finally deal with' the causes of such activities.

Vigilante activity in South Africa in the late 1990s and the first years of the new millennium, whether spontaneous, inspired by community or neighbourhood committee initiatives to deal with crime in their areas or the more organised efforts of such overtly vigilante organisations as PAGAD in the Western Cape – formed specifically to deal with the criminal activities of druglords in the Western Cape or *Mapogo* – initially set up as a kind of businesswatch by businessmen of the central and southern area (former Lebowa homeland region) of the Northern Province, is perfectly understandable in the light of general public perceptions that crime remains at unacceptably high levels in most communities across the country. There are many reasons for the high level of vigilante activity in South Africa, some fairly straightforward, others more complex while a few have historical roots in the 1980s political struggle. One of these is the operations of the so-called People's Courts.

People's Courts

During the late 1980s and early 1990s, years when political violence was at a high level, and prior to the April 1994 elections, there occurred many incidents where township residents took the law into their own hands. Much of this community justice was labelled political and took the form of People's Courts¹⁵ (in some areas they were known as Disciplinary Committees which were often no more than kangaroo courts in action) and 'necklace'¹⁶ executions of political opponents. However, in reality a large proportion was nothing more than certain people using community anger for their own purposes to get rid of opponents or rivals or taking the law into their own hands for revenge and to impose control over certain communities through intimidation.

While the system of People's Courts was originally established with admirable principles of ridding communities of all criminals they came, in time, to get out of control and became a 'law unto themselves'. But in those communities ravaged by lawlessness and having a minimal police presence they were seen as a legitimate effort in the struggle to maintain a semblance of law and order. However, many of the People's Courts lent themselves to abuses of power within the whole context of the 'struggle against apartheid' and 'making the townships ungovernable' so that 'people's power' could be established. By August 1988 much of the activities of the People's Courts were claimed by the head of the Security Branch of the South African Police (SAP) to have been stamped out. The state, particularly by means of a succession of repressive state of emergencies, the widespread detentions of those allegedly involved in People's Courts and their prosecution for sedition and treason was able to largely eliminate the public activities of these informal justice structures in the townships. This did not mean that they did not continue to exist underground and covertly. In 1990 their public activities once again resurfaced but the debate and concerns about their activities shifted from the 1980s link to the national liberation struggle to the question of their potential role as township courts in crime prevention and dispute resolution. (see Seekings (1992), Charney (1991) and Nina (2000) for more detail on the reasons for post-1990 resurfacing of People's Courts informal justice systems in townships; and Van der Merwe & Twigg (1997) for detail on efforts to formalise and turn them into community dispute resolution community courts).

Because of the stigma attached to People's Courts a number of communities by 1992 had restyled their vigilante actions as Anti-Crime Committees¹⁷ that claimed to have the legitimate backing of civic and local groupings within specific communities. However, the fears of vigilantism overtaking these courts and the engagement of uncontrolled mobs in brutal, unlawful and unjust action seems to have been realised in the post-1994 period.

In the post-1994 period it would also appear that People's Courts have become more prevalent in the informal squatter settlements where very little official control by the authorities extends. These communities are often faced with either organising their own policing and community guards or facing the very real threat of being swamped and controlled by criminal gangs and organised syndicates. The People's Courts in these types of communities are also used to ensure the discipline of community members, the orderly occupation of plots and the implementation of and acquiescence to the local squatter committee decisions.

While the Peoples Court system would on the surface appear to have an orderly and structured component to it, much of the recent vigilantism in many of the informal settlements has taken the form of spontaneous mob justice that is more than likely triggered off by saturation levels of crime in communities tired of the depredations of criminals going seemingly unpunished. These communities often act out of a sense of desperation and helplessness as victims of crime. Such mob justice is an expression and a collection or coming together of a host of such feelings.

Besides the more severe punishment of necklacing People's Courts also administered more general punishment such as beatings or whipping with a sjambok (whip) or even expulsion and banning from an area. They operated on the basis of 'an eye for an eye', i.e. the punishment would be commensurate with the seriousness of the alleged crime committed and the sentences could range from three lashes to as many as 300 or even death. Over a period of time the People's Courts have become a symptom and a symbol of an inherently violent society. Because of the way People's Courts operated and the aura of fear that they built up around themselves many victims of their activities were too frightened to report the assaults to the police for fear of being necklaced. In one case in Mamelodi, north of Pretoria, People's Court 'judges' sjambokked (whipped) a man fifty times and then threatened him with death if he reported the beating to the police. The only crime he had been accused of was causing a 'problem' in a neighbour's shebeen (an informal/illegal tavern/bar) and that he therefore needed to be 'disciplined'. However, many residents suffering from such depredations maintain that if the police were more effective against crime then People's Courts would not exist.

In some cases the People's Courts were hijacked by criminals with the object of self-enrichment while in others youth as young as ten or twelve acted as 'judges' and 'prosecutors'. While 'members' of People's Courts often felt themselves to be above the law and immune to any retaliation in some cases they became the specific targets of victims. In a number of cases the 'judge' in a People's Court was assassinated by aggrieved criminals who had suffered at their hands and been sentenced for their criminal activities in a particular township. There were also numerous clashes between criminal gang members and the comrades of local self defence units (the latter often perceived to be the 'policemen' of the People's Courts).

People's Courts and necklace executions

Many of the necklace murders have been the carrying out of a sentence (punishment) ordered by a People's Court. In cases like these the victims had been tried and sentenced by a duly constituted local People's Court. The 'executioners' appointed by the court then carry out the sentence. Strangely these executions most often take place late at night at either the local cemetery or the local refuse dump (whether this is deliberate symbolism or not is unclear).

Theoretically anyone in a community can bring accusations before a People's Court. The suspect is then summarily 'arrested' and brought before a People's Court to face the charges. However, once accused a victim often has little opportunity of mounting a defence of his alleged crime. More often than not his accusers parade the 'evidence' in the form of accusations before the People's Court and then the presiding 'officers' of such court make a decision as to the sentence to be meted out and see to it that the punishment is carried out. Punishment is usually done immediately with no opportunity of the 'guilty' for appeal against the sentence. In one such case in April 1994 in Maphumulo two victims of a People's Court, tied to chairs, (many of the accused being unwilling to appear before a People's Court because they fear that they have already been found guilty resist appearing and are tied to chairs) were doused with petrol after they were sentenced to death and set alight while still in the chairs.

In another incident during September 1994 in Bungeni informal settlement near Butterworth in the Transkei a man accused of housebreaking had walked out of the proceedings of the People's Court and had then apparently resisted being taken to the police station. So instead of merely facing formal charges he found himself being assaulted with knives, stoned and then set alight and burnt to death.

However, it has been found that some of the necklace cases were not in fact necklace murders but were only meant to look like that. In other words a victim might be killed by stabbing in a straightforward murder case but then the body would be transported to an area where political tensions were high and numerous necklace cases had already occurred. The body of the dead person would then have a tyre put round the neck, be doused in petrol and set alight. Sometimes the reason for such action would be the desire of the perpetrators to hide their real crime of murder or to destroy the body making it difficult for identification. Necklacing is not always the method of execution used in punishment by a People's Court. There are other ways, simply executing them with a gunshot in the back of the head, slitting their throats with a knife or beheading with a bushknife (panga).

Vigilante activity is often sustained by a number of factors inter alia the so-called 'conspiracy of silence', fear of being labelled an informer (i.e. fear preventing reporting perpetrators of vigilante abuses), community support or condonation of it often born out of high levels of frustration (or open anger) at criminal depredations and feelings that individual citizens need to 'protect themselves' and finally sheer crowd apathy which is often coupled to fear of getting involved (avoidance or denial).

Conspiracy of silence

Very often vigilante action by members of a community involves a conspiracy of silence by the whole community. There have been incidents of vigilante action whereby a group of residents kill a suspect but often they are never reported, nor do any witnesses come forward. The first inkling the police have of a crime having been committed is when they find a body lying in the streets either burnt or beaten to death. In some instances police merely receive an anonymous phone call telling them where they can find the necklaced body. Very few arrests are made in cases of necklacing unless the police are actually present but even then arrests sometimes do not occur. One reason for this being that the crowd perpetrating the necklacing is often too large and aggressive for the police to act to control the situation. Another reason being that the crowd sometimes physically prevent the police from arresting anyone.¹⁸

Police say that it is extremely difficult to catch those involved in vigilante attacks. Police believe that prospective witnesses fear that they might themselves be arrested for assault (participating in the mob beating, for how else would they have been a witness and be able to give graphic evidence) as participants if they talk. Witnesses may also realise that after seeing or being involved in a mob killing the mindlessness and savagery of such an act, or may imagine the same wrath turning on them if they break silence. Whatever the reason it seems fear, self-recrimination or mob retribution effectively offers impunity to those who participate in vigilante assaults and killings.

Sometimes the spontaneous nature of actions by a crowd punishing a suspected criminal also means that the police have little chance of arresting the guilty culprits. In an incident which occurred at a taxi rank in Pietersburg in 1994, a person who tried to assassinate a taxi driver was chased and caught by the passengers of the taxi, he was first severely beaten, had his own pistol taken off him and then was ironically killed with his own weapon. Again no one was arrested for this.

However, as the phenomenon of necklacing has increased and it became a feature of some rallies, marches and funerals, in part as a form of grandstanding for foreign TV networks and members of the media, the subsequent video footage or photographs of the act have been used in a number of trials to convict the perpetrators.

Crowd apathy

Besides the conspiracy of silence there is also a measure of apathy exhibited from bystanders. In one particular case in densely populated Hillbrow in Johannesburg in April 1990 a crowd of hundreds stood by (i.e. did not participate) and watched a man being burnt by the necklace method. None of the crowd made any attempt to extinguish the flames, no one stepped forward to help the victim. By the time the police arrived on the scene the body had been burnt beyond recognition. Sometimes such bystander apathy is fuelled by their own fears that they might themselves become victims and therefore are too frightened to intervene. Alternatively, in some communities there is in fact strong support for the vigilante activities by members in pursuit of 'protecting the whole community'.

Community support

Regardless of the fact that punishment in Peoples' Courts can be extremely severe sections of communities still tend to support their operations. In one case in the Mamelodi township just north of the capital city Pretoria members of the so-called Triple Six Mamelodi Crime Prevention Unit had formed a Peoples' Court and had convicted a group of residents sentencing them to receive sjambok lashes. Ten people were severely beaten. Two of the 'convicted' (they had been found guilty of stealing meat, beer and linen) had eventually died as a result of the beatings. Eleven members of the Mamelodi Peoples' Court were eventually found guilty in court for their actions. Regardless of this members of the public in Mamelodi had come out in support of them and of Peoples' Courts and gave as their reason for this that 'they [the People's Court in Mamelodi] were more effective than regular courts' (Mostert, 1995).

In another incident in December 1994 in the Ivory Park squatter camp in the Midrand area the local Peoples' Court arrested a youth accused of killing a pregnant women. He was summarily captured, sentenced, stabbed, stoned and then set alight. This gruesome act apparently had the full backing of the community. One woman who witnessed the punishment stated that:

People are tired of how the police handle murderers. He would probably have been released not long after his arrest. We totally support this tough measure. Our safety cannot be guaranteed if there are such people in our society (Anon., 1994).

Ivory Park residents stood squarely behind the vigilante actions of their local Peoples' Court. In August 1995 hundreds of Ivory Park¹⁹ residents from the Angola section had gathered at the Kempton Park magistrate's court demanding that the police arrest them, and not only one of their leaders, Stanley Tikile, for necklacing local gangsters. Tikile had been charged with four counts of murder. However, these had occurred when four members of the Nasty Boys Gang had been necklaced after angry residents had raided their hideout in July 1995. Residents claimed that the necklacing had been the responsibility of the community and not of Tikile alone. Residents had raised more than R8 000 for Tikile's bail (R6 500) and towards the costs of his defence. The protestors claimed that this necklacing had united the community in its fight against crime and that since its occurrence the crime rate had declined dramatically in their section of Ivory Park. One of the protestors had stated that:

We don't view a person who has been arrested for fighting crime as a murderer, but as a noble fighter. Mr Tikile is our hero. The police have arrested him because they wanted to create the impression they were doing their job. But when the gang was terrorising us they didn't come. We are tired of crime and it is our responsibility as residents to fight it tooth-and-nail. This is a lesson to other criminals that death is the only suitable punishment (Khupiso, 1995b).

In the absence of any strong civic organisations in certain areas as well as the widespread lack of a police presence or response to crime (especially at night) vigilantes have been able to morally claim the high ground on the basis of 'protecting the community' or of administering justice for the benefit of the residents in their area. It is then no wonder that vigilante activities, while most individuals do not personally become involved, are given such support by ordinary citizens across the board.

'We paid his bail so we could kill him'

The following example illustrates a different form of community support and involvement in pre-meditated vigilantism:

In July 1999 residents of the Winnie Mandela squatter camp in Tembisa on the East Rand each paid a sum of R22 (approximately US\$2,75) in order to pay the bail of a suspect alleged to have murdered someone in the camp. The man, thinking his relatives had paid his bail of R4 000 (US\$500), was released into the hands of the residents and was taken before the local People's Court. He was sentenced to die. That night he was stabbed, doused with petrol before a tyre was put round his neck and set on fire. Many of the donors had been victims of crime. One of the donors responded after the incident saying that: "*The idea of paying bail for criminals and then killing them is liked by everyone. We want to know that we will get them in the end. We are always told that there is a shortage of police. We will protect ourselves*" Another resident said "*[t]he police must come and arrest us all because we all donated money towards his [the suspect's] bail so that we could administer our own justice. We don't trust the police and the justice system.*" (Khupiso & Hennop, 1999). Apparently this new trend in vigilante justice was spreading fear among perpetrators of crime. After this incident many suspects accused of violent crime were now begging not to be granted bail and to be kept in jail safe from such revenge attacks.

'We have to defend ourselves' syndrome

There have also been cases in South Africa where individual private citizens, acting completely on their own, take the law into their own hands to punish/kill suspected criminals. One such case in 1994 was that of Harry Joshua in the Delft suburb in Cape Town. His wife was robbed, apparently of what remained of Harry's weekly wages. His wife had called the police but when Harry arrived home four hours later the police had still not arrived so he decided to take matters into his own hands. From his wife's description of the perpetrators he surmised that they were members of the Hard Living Gang. Armed with a shotgun, he went looking for the gangsters so as to make a 'citizen's arrest'. When he found them and challenged them they turned on him and he was forced to open fire (according to his statement to the police) and killed three on the spot. Not satisfied with this he followed those who ran away and killed another two and wounded two more. At his trial it was reported that residents of Delft lived in daily fear of rampant gangsterism. They were also afraid of intimidation and reprisals if they ever reported the gangs to the police. One resident stated that the message in this case was clear to them: *'If we don't defend ourselves, no one else will'* (Vernon & Bowyer, 1995). It is this anger that is often translated into mob action fuelled by high levels of frustrations at a variety of things.

'The people are angry'

The following incident well illustrates the point about informal settlement residents taking the law into their own hands from a sense of desperation:

June 12, 1998

Vigilante mob kills four murder suspects

In one of the most brutal vigilante murders the community of an informal squatter settlement (Diepsloot) just southwest of Pretoria in Gauteng Province took the law into their own hands by first severely assaulting four alleged murderers and then hacking them with pangas (bush knives) before burning the bodies. The four had been accused of murdering two men at a local shebeen (informal tavern/bar). The community had phoned the police in the early hours of the Sunday morning and reported the two murders giving the names of the suspects. However, an hour later when the police had not yet arrived the community had taken the law into their own hands and arrested the suspects, beat them up, hacked them and then set them alight. When the police finally arrived they were confronted by a pile of charred bodies with three corpses piled on top of each other with the fourth suspect a 100 metres away still in flames. He had tried to flee. The police thought that some of the victims might still have been alive when set alight. No arrests were made in connection with this incident although when the police found the charred bodies community members had handed over the firearms belonging to the victims and allegedly used by them in the initial two murders (Summarised extracts from Coetzee, 1998).

In Diepsloot the emergence of kangaroo courts to deal with crime was symptomatic of many of the problems facing similar squatter camps. The Erasmia Police Station zoned for Diepsloot is more than 25 kilometres away. This police station has to patrol a 512 square kilometre area. On one shift they only have seven policemen and four patrol vans. The police themselves are reluctant to come out at night to an area like Diepsloot and often arrive hours after a reported incident. The police themselves are afraid to enter the squatter camp. Often they come as far as the entrance to the camp and then wait for one of the community leaders to escort them to the crime scene. The station commander openly

complains of being unable to serve the community effectively. Accordingly in the absence of any effective policing the kangaroo courts flourish. However, certain sections of the community themselves have doubts about these courts since the members are not elected from the community being self-appointed. They also use their power to intimidate the residents and are beyond reproach themselves. Many victims of the courts' sentencing fear to report such punishments and refuse to testify against the perpetrators because they fear reprisals (Beaver, 1997).

Many of the incidents that have occurred have been where criminals were caught in the act and either beaten up, stoned and burnt or killed outright by angry citizens. These actions are not only an expression of people's anger and frustration but also of their fear. They are symptomatic of a breakdown in the criminal justice system as well as of effective policing. It has been the experience of ordinary people that if cases are reported to the police very often nothing happens (due more to police manpower shortages, case overload, and police being overworked). Furthermore, if a suspect is apprehended the overloaded judicial system might well see the case being indefinitely postponed while a suspect might also be released on what can only be termed ludicrously lenient bail terms. In some serious cases such as murder a suspect has been released on R200 bail. People have lost faith and all confidence in the ability of the state to prosecute any criminal effectively especially when they see criminals out on the streets soon after being arrested.

Misconceptions concerning bail have also led to communities taking the law into their own hands. In August 1994 an irate mob in Debe Nek near King Williams Town in the Eastern Cape killed a man awaiting trial for murder and rape. The mob had earlier marched to the local police station to complain about the man's release. Although it was explained to them that he was only out on bail and had not been released because he was not guilty the crowd had then marched to the individual concerned's house, tried him and sentenced him to death and summarily carried out the sentence by cutting off his arms, crushing his skull and tearing out his brain (Khuzwayo, 1994).

In many pre-dominantly black communities in South Africa people also perceive the established legal system as being for 'whites only' and as a tool used previously for state repression, which perception further prejudices them against making use of the official channels for reporting crimes.²⁰ There is also a general view in the townships that the legal process is too protracted (i.e. takes too long, lack of immediacy) and that the punishment handed down by the formal courts do not satisfy the needs of the complainants. Furthermore, in such cases where a criminal has been released on low bail there have been incidents where witnesses have been either intimidated, killed or simply disappear forcing such cases to be dismissed for lack of evidence or witnesses prepared to come forward and testify in court. For angry communities it has become an easier and acceptable solution to take the law into their own hands.

Such community justice can often be 'brutish and quick' and administered almost immediately a criminal is caught 'in the act'. The following case is an illustration of this. An unidentified man was caught by residents of Tembisa township near Midrand north of Johannesburg (his accomplice managed to escape) in the act of stealing a television set, video recorder and other items from a house in the Leboeng section. A crowd soon gathered and the man admitted his guilt. Regardless of begging for his life he was tied to the soccer goalposts at a nearby sportsfield and beaten to death by the angry mob. However, a woman in the crowd had also pleaded for his life requesting that the crowd call the police and hand him over to them. Instead the crowd had threatened her as well with

the same punishment. According to the residents the area was plagued by petty crime, especially theft and that they were fed up with the police whom they claimed were incapable of fighting crime. One resident stated that *'It's our duty to protect ourselves from criminals'*. Coincidentally no-one was ever arrested for this murder since the police investigation was hampered by the fact that no-one wanted to come forward with information that could lead to the arrest of those responsible (Khupiso, 1994). These attitudes are in all probability rife in most communities experiencing high levels of crime.

People's Courts also flourish because victims of crime are often afraid of reporting the crime to the police since they fear they would be punished for by-passing the local People's Court. Where specific communities have become weary of the criminal depredations of local gang members they do not even bother with the niceties of a formal People's Court hearing but merely gather together and go and search for suspected gang members. When such suspects are caught they are summarily executed either by necklacing, stoning, beatings or shot. Such community justice is based on almost immediate punishment completely without the benefit even of a hearing or plea-bargaining. There is also certainly no option of what form of punishment will be meted out - death is more often than not the only result (see endnote²¹ for an example of a Peoples' Court Code of Punishment).

In November 1994 a particular incident of 'community justice' illustrates this point. A young schoolgirl in Umlazi township south of Durban on her way back to her home on a Sunday evening after attending church was raped by a group of boys allegedly belonging to a local gang. After the gang rape they had killed her and cut out her tongue. The next day the girl's mother accompanied by about forty women caught two members of the gang and took them to the local stadium where, egged on by a baying crowd of almost a thousand people, they proceeded to stone the two youths to death. Although the police had been summoned the crowd prevented them from intervening to save the two youths or of arresting any of the women who perpetrated this murder. It was argued by some present that because of the heinous nature of the initial crime of rape and murder the women were justified in taking revenge and punishing those suspected of the crime. Furthermore, that if they had not taken the law into their own hands then nothing would have happened in any case.

'An eye for an eye, blood calls for blood' – mob justice at work

There can be no swifter justice than mob justice and vigilantism. In one particular six-week period in 1997 (February/March) there were a number of different incidents countrywide, which particularly highlight the motivations behind the new vigilantism in South Africa:

- In mid-March 1997 the residents of the Umlazi township in the Durban metropolitan area in the KwaZulu-Natal Province tied a 29-year old man to a lamppost and stoned him to death. He had been accused of raping a 21-year old girl. It was never known whether he in fact did commit the crime
- During the same time in another Durban suburb (Chatsworth) a 43-year old man was burnt alive for allegedly raping a 14-year old girl
- Two weeks before in nearby Chesterville a group of about 800 women tied up a man accused of raping a five-year old girl, pulled down his pants, frog-marched him down the street before whipping him and stoning him to death

- In the same month in White City, a section of Soweto south of Johannesburg in Gauteng Province, a man accused of killing three high school pupils and terrorising young women was shot dead and his body doused and set on fire with a car tyre
- In the Barcelona squatter camp, also in Soweto, a young man, accused of raping an eight-year old girl, was arrested but no charges – due to a lack of evidence – were laid against him and the police released him. This apparently angered the community and a group of women from this squatter camp had then caught him, beat him up, tore down his pants and then castrated him with a broken bottle.

In each incident many in the crowd expressed no regrets about what they had done. A women in the Barcelona camp vigilante group was reported to have said *“We felt castrating him would be the only way to express the frustration at having to watch innocent children raped daily.”* (Makoe & Masipa, 1997).

People committing these atrocities were acting as prosecutor, judge and executioner thus bypassing the criminal justice system thereby creating a society of violence. Such vigilante action indicates that law and order can no longer be maintained in certain areas. Nor is it a pretty sight because of the inherent barbarism of its execution. However, for many township residents it is a reality with which they daily live. They claim that vigilante actions take place because they are not being protected from the continual depredations of criminals and also feel that the criminals are not being properly punished. At the time a spokesperson for Lawyers for Human Rights (an NGO) said people would take the law into their own hands and dispense mob justice as long as the police were not properly equipped to investigate criminal activities and the criminal justice system remained under-resourced and in a shambles (Nagoo, 1997). Unfortunately the reality was that the criminal justice system had deteriorated to such an extent that not only were individuals taking the law into their own hands but social workers and counsellors were now advising traumatised victims not to even bother laying charges since nothing would happen to redress the crime.

From the above examples used it would appear that vigilantism is primarily an urban phenomenon emanating in particular from the informal or squatter settlements where minimal state control is exerted. However, the following illustrative example of an overtly vigilante organisation highlights the rural dynamics of some of the vigilantism occurring in South Africa post-1994.

Combating stockthieves: The *Mfelandawonye Wamapondomise Burial Society* and the *Inkumpa* vigilante organisations

In the two rural districts of Tsolo and Qumbu in the former homeland of Transkei in the Eastern Cape province there had for many years been conflict and violence (for more detail see Minnaar & Potgieter, 1998). In the late 1980s and early 1990s it was labelled merely as "rural" violence relating to either old clan rivalries, faction fights, boundary disputes or stocktheft. Furthermore, it was rarely reported on or appeared in the media. The general perception about it was that it was not so violent, i.e. deaths were minimal, and what injuries or deaths occurred were caused by spears, sticks and pangas in group faction fights and only to the combatants. It was only after 1992 and the slow movement towards democratic elections in 1994 that violence monitors began picking up on what was happening in the region particularly in Tsolo. The attention on the area was also emphasised by the slow decrease in politically related violence in other parts of the country especially on the Reef and to a lesser extent in KwaZulu-Natal. The violence in the

Tsolo/Qumbu area also seemed to be becoming more intense with night attacks by balaclavaed men using firearms on huts and kraals, the indiscriminate killing of women and children, the targeting and assassination of local civic and political leaders by what appeared to be hit squad operations, and finally the re-emergence of People's Courts and vigilante activity.

Into this violence there emerged a shadowy vigilante organisation called *Mfelandawonye Wamapondomise* and their rivals or counter organisation the *Inkumpa*. The *Mfelandawonye* organisation (loosely translated as 'to die together' or 'to fight united') was apparently set up in the early 1980s as a burial society by migrant workers from the Vereeniging hostels in the Gauteng Province. Members had to pay a R50 joining fee (in December 1996 it was reported that members were paying membership fees of R150 a month). The Society was based in Vereeniging and had offices in all the major cities of Gauteng as well in Mpumalanga and Free State as well as operating in all the administrative districts of Tsolo and Qumbu. But in the mid-1990s its members had turned to protecting its members' assets in their home areas (cattle and other livestock) and accordingly targeted stockthieves. The police alleged it was now merely a criminal gang carrying out assassinations, attacks and intimidation and had complained of the difficulty of penetrating the organisation because of a Code of Silence and the strong family links of its members. The police claimed it had strong links to both the ANC or SACP in the area. To substantiate this claim the police had pointed to the fact that when they had arrested members of *Mfelandawonye* during 1995 members had gone to Bisho (provincial capital of the Eastern Cape) to complain about the arrests and the police had been asked why they arrested only ANC-aligned people. A report, *Tsolo battleground*, published by the Human Rights Committee of South Africa (HRC) also alleged that at their meetings in Vereeniging members submit names of those back in Tsolo and Qumbu allegedly guilty of stocktheft, witchcraft and other perceived crimes (but sometimes feuds, personal jealousies and adultery are enough to have a name included) and whom they want dealt with (killed). The Society would then sometimes circulate the hitlists in the villages to intimidate or blackmail residents into silence, consent and even into hard labour such as ploughing and planting. If this does not have the desired effect an attack is planned in Gauteng, assassins (some of whom are children as young as 16 years old) are paid (up to R1 000 for a successful hit) and armed to kill those on the hitlist. Other moneys are used to buy arms and arm the killers. It was thought that the arms were being procured from certain white rightwing farmers who were also assisting in the training of hit squads for the Society (the organisation's 'military wing' was known as the *inkqayi* – the shaved heads) in the Bele forest (a makeshift training camp and cave used by members was found by police). The *Mfelandawonye* was believed to be so strongly established that it has even been able to assassinate senior police officers hot on its heels and undertaken surveillance of intelligence agents (Jonker, 1996b; Hadland, 1996; HRC, 1996; Bishop, 1997).

While *Mfelandawonye* initially acted against suspected stockthieves in the Tsolo and Qumbu district its activities seemed to degenerate into a settling of old scores in revenge and retaliatory attacks. The suspected *Mfelandawonye* hitsquads *modus operandi* also seemed to change during 1996 with reports not only of attacks on isolated homesteads and huts and the indiscriminate killing of occupants but livestock – cattle, goats and sheep – were also now killed and not simply driven off and stolen. It seemed that perpetrators not only wanted to kill opponents, burn their huts and crops but also destroy their livelihood since with the many security force patrols in the district it had become increasingly difficult to make an escape with looted livestock (here the use of the helicopter was a great boon to the police). In addition, more and more execution-style killings were occurring. But each

killing usually sparked a spate of revenge attacks, which often involved the wholesale destruction of villages.

The alleged stockthieves targeted also started retaliating and fought back by raiding those homesteads of suspected members of the Society. Those people who had been accused of stocktheft or had been the victims of *Mfelandawonye* attacks set up their own organisation called *Inkumpa* to counter the *Mfelandawonye* (Hadland, 1996).

By mid-1997 with the violence still continuing there were fears that the Tsolo/Qumbu violence might move to the mines in the gold and platinum mines in the Free State and Northwest. The killings of a number of leaders of the National Union Mineworkers (NUM) at Butterworth in the Transkei was thought to have a link with the Tsolo/Qumbu violence. Police said that not only were migrant mineworkers going back home to Tsolo and Qumbu to kill but that now those who opposed *Mfelandawonye* were sending their own members (of *Inkumpa*) to work on the mines and to perpetrate killings there. Some of the violence on the mines during 1997 was ascribed to these rivalries.

The failure of the state to improve the stock-theft situation has led to increasing vigilantism, with four major anti-stock-theft organisations operating in the area. No opposition to *Mfelandawonye* is tolerated, and any Mpondomise tribesman refusing to join the structure – or branded as an enemy of the organisation for other reasons – is summarily killed.

During the formation of the *Mfelandawonye* in 1994 some of the former leaders of the Mpondomise SDU challenged the new mandate enforced by a 'strongman' and as a result had to flee from Gauteng. *Mfelandawonye* pursued these men into the rural areas and for their survival it became necessary to organise a similar counter-structure, the Mpondomise Peace Unit (*Inkumpa*) to protect their own lives and their communities from attack. Both organisations structurally function and tactically operate in the same way as the SDU-structures from which they are derived (see Minnaar, 1996 for more detail on the structure and activities of self-defence units).

As the conflict developed between these two vigilante groupings many people accused of being witches, prostitutes, adulterers and police informers were also killed. Although stock-theft is still an issue that needs to be successfully addressed, other motives are also fuelling the violence. This includes a power play between strongmen, and personal gain or greed – money obtained via the protection schemes amounts to millions of rands.

In the early 1990s when people first became aware that a spate of killings was occurring in the Tsolo and Qumbu areas it was put down to organised stocktheft, in particular of crossborder raids from Lesotho. The analysis at the time linked the killings firstly to the inability not only of the Transkei police (TP) and army (Transkei Defence Force – TDF) to catch these crossborder raiders (who returned quickly back over the border with their booty and were immune to arrest by reason of being protected by an international border), i.e. they were not being caught and punished; but secondly to local residents taking the law into their own hands and killing any raiders they caught since they were frustrated at the inability of the authorities to do anything about stopping the raids. However, while most of the victims of stocktheft killings in the early 1990s were conveniently or expediently labelled as crossborder stock raiders or at least of 'strangers' from outside of the Tsolo district, i.e.

from adjacent districts, there occurred a number of other 'types' of killings – of local political leaders as well as of old women and children in what appeared to be revenge or retaliatory attacks. This initial 'crossborder raiders/stockthieves from outside of the district' labelling/interpretation soon gave way to local residents labelling each other as "stockthieves" or "anti-thieves". On a simplistic level it also led to the community dividing into two camps of "haves" versus the "have-nots".

Towards the end of 1991 the stocktheft was being directly blamed on an organised gang led by the self-styled Chief "Nomarice". Nomarice was apparently instrumental in stealing cattle, hiding them in the nearby forests, of selling them to white men who had transported them to the hostels in the Vaal Triangle area for resale. His gang of cattle raiders was well armed and it was alleged that the guns used by his gang were acquired in the hostels in Vereeniging. The police had been informed of his activities, he was arrested but later released "because of his influence over the people" (apparently this was an euphemism for bribing someone to release him and dismiss the case against him). Furthermore, witnesses were reluctant to testify against him because of intimidation, nor was there any evidence – stolen cattle for identification by owners or of branded cattle hides – available to successfully prosecute and convict him. However, part of the intimidation by his criminal gang had included revenge attacks on certain homesteads (eight people were killed in these revenge attacks) (HRC, No. 3412, 15.06.1994)²².

It was after these revenge attacks that residents had begun to organise themselves into vigilante groupings since they perceived that the authorities would not assist them and they also believed the police were colluding with the stockthieves (a legitimate concern raised by the manner of Nomarice's release and the suspicion that the police were on his payroll).

In the lead up to the April 1994 elections it was reported by the Lawyers for Human Rights (LHR) branch in Umtata (former capital of the Transkei) that the ANC Youth League were setting up kangaroo courts (Peoples' Courts) in the area. It was further reported that people were being arbitrarily arrested by these courts, sentenced to a beating or killed and having their homes torched. However, the people complained that when the activities were being reported to the police no-one was being arrested because the perpetrators were "allegedly shielding behind political organisations" (HRC, No. 3412, 15.06.1994).

In the aftermath of the elections the violence and conflict in the Tsolo area continued to escalate. In an effort to stem the rising incidence of violence certain residents had imposed a dusk-to-dawn curfew in the affected areas which was being enforced by what can only be termed community organised vigilante neighbourhood watches. However, these vigilante groupings in June 1994 decided to take matters into their own hands and in mid-June they launched attacks on people suspected of being stockthieves. In the attacks 14 people were killed and 60 houses set alight in the villages of Ntsibane, Gungqwana, Ntshiqo, Maqutywa, Malepelepe and Mqandanto. About 30 families were left homeless by these attacks and sought refuge at the Tsolo police station (HRC, No. 3412, 15.06.1994).

At the beginning of July 1994 two alleged stockthieves were beheaded with bushknives by one of the kangaroo courts in the Tsolo district. The police were eventually galvanised into taking action by the public exposure given to this incident and arrested 11 people who were implicated in these murders. However, the ANC condemned the arrests alleging that they had been prompted by alleged anti-ANC elements within the former homeland's police force (HRC, No. 3418, 10.07.1994).

On 23 July 1994 the police, acting on information, had visited Xalala village and had found a group of 60 people suspected of being involved in stocktheft. The group had scattered with shots being fired from both police and alleged stockthieves. Two AK-47s assault rifles were recovered by the police (HRC, No. 3424, 23.07.1994). It now appeared that the stocktheft was developing along the lines of whole villages organising themselves and raiding other villages to obtain cattle irrespective whether they had no cattle or not (sheep and goats were also being stolen). In other words you had one village organised for raiding and stealing while another village was the target and organised themselves into a defence grouping to resist these raids and then to retaliate in revenge attacks (attacks which did not concentrate on repossessing the stolen stock which were already transported out of the area but rather to kill suspected stockthieves and burn their huts).

A further permutation to an already complex situation arose from the perceived involvement/ interference of a provincial politician, Dr B.M. (Malizo) Mpehle, the Eastern Cape MEC for Safety and Security in the politics of the area. He came from Tsolo. His involvement in the district revolved around the special anti-crime unit he had personally set up. After the April 1994 elections, faced with an unco-operative Transkei Police (TP) force, Mpehle had established a small 'volunteer' armed unit (the so-called Unit 50 which was armed by the TDF) to specifically counter the misuse of government vehicles and to assist with the repossession and recovery of stolen government property as well as to protect government dignitaries. The unit also took it upon itself to investigate crimes, maintain security and gather intelligence. The 50-strong unit, comprising of former MK soldiers and members of the ANC's SDUs as well as his own bodyguards who formed the core, reported directly to Dr Mpehle. Unit members were each paid R2 000 a month but were never in uniform nor officially integrated into the TP or SAPS. The unit had soon become a law unto themselves. Eventually however, unit members were accused of being involved in attempted murder, assault, kidnapping and armed robbery as well as of forcefully freeing a number of murder suspects from police detention. At the beginning of 1995 a dispute had arisen as to whether the 50 unit members were registered policemen. This had come about when in January 1995 Dr Mpehle had approached the Eastern Cape executive council for ratification of payments made to unit members. It then came to light that the establishment of the unit had never been approved by the Eastern Cape exco although Dr Mpehle had claimed that the Eastern Cape government had authorised the establishment of the unit after the April 1994 elections. Such approval was also publicly denied by the provincial premier, Raymond Mhlaba. Members of this unit were also then implicated in violent crimes in the Tsolo district. It was reported that members of this unit had harassed and murdered people. According to the police this unit had taken over the policing in the Tsolo district and had begun to attack police who had become critical of their actions. At the end of February 1995 a hit list of this unit, naming five senior policemen in the former TP, was discovered. This, and the ongoing violence in Tsolo had prompted the setting up of a commission of inquiry under Justice Frank Kroon. In March 1995 Premier Mhlaba suspended Dr Mpehle, ostensibly for failing to do his job (as MEC for Safety and Security) to halt the violence in Tsolo and Qumbu, and disbanded the unit (Robertson, 1996; Mathiane, 1996).

By April 1995 the violence (now established as seasonal rounds of retaliatory and counter attacks and being labelled as a "war between villagers and alleged stockthieves") was so bad in the Tsolo area that many residents over the past year had abandoned their livestock and homesteads and sought refuge at the Tsolo police station. The week before Easter an attack in the area which left twelve dead sparked a further flight – as rumours spread that they were about to be attacked by migrant workers – by the approximately 120 refugees already sheltering for protection at the Tsolo police station. Most of them fled further away

to the Port St Johns where they took shelter at the disused army/naval base (150 kilometres away). Most feared that the return of migrant workers over the Easter period would lead to a renewal of killing after a two month period of quiet (i.e. after the killing that had occurred during December and January when migrant workers had also come back to the area for their traditional Christmas vacations). The flight was also prompted by a march by more than 500 villagers and migrant workers (carrying ANC banners) to the Tsolo police station and a handing over of a petition which protested against what they said was "police failure to end stocktheft" (HRC, No. 3591, 15.04.1995).

The preliminary report of the Kroon Commission of Inquiry was submitted to the premier of the Eastern Cape, Raymond Mhlaba, towards the end of October 1995 while the final (confidential) report was only completed in November 1996 and then handed to the premier.

While the Commission said the primary or root cause of the violence was stocktheft⁶ it further ascribed the violence to a disastrous cycle of greed, poverty and vengeance as the poor communities in the Tsolo district violently contested for resources to make a living from farming cattle. The report went on to say that the community had stopped looking towards any form of authority, tribal or otherwise, to protect them and had slipped into lawlessness. Poor policing and virtually non-existent prosecutions had furthered the impression of a vigilante community where victims and killers alike had taken the law into their own hands. The Kroon report mentioned a number of ancillary factors which they felt contributed to the violence such as marital disputes, the lack of development and the inefficiency of the criminal justice system as a whole.

Moreover the report held that the failure of the police in Tsolo to deal effectively with the violence and stocktheft had added fuel to the fire as it had forced residents to take the law into their own hands. Furthermore, the report held that the police investigations of the deaths and related incidents of abduction, arson and attempted murder had been of an extremely poor, if not appalling, standard.

Finally the issue of complicity/support or sympathy for certain sides by the police was also raised by the Commission and it was held that irrespective of how true or what the extent of this was the perceptions by the public that this might be true had led to considerable loss of trust and faith in the police and to the eventual rise in vigilante activity (Kroon Report, 1995)

In addition, the Tsolo violence had obviously been exacerbated by the paralysis (prior to the April 1994 elections) of the law enforcement agencies in the former Transkei and Ciskei. This paralysis was in part due not only to lack of funds (i.e. no transport to patrol rural areas) but also to corruption and the breakdown of essential services in these former homelands. In addition, the problem of law enforcement was linked to criminal syndicates dealing in and smuggling dagga (marijuana) from the Transkei into South Africa proper. This was a lucrative trade and depended upon either the Transkei police turning a blind eye or providing protection to local criminal syndicates. The extent of the corruption and descent into lawlessness in the former Transkei and Ciskei became ever more apparent especially with the most recent auditor general's reports. The financial mismanagement was linked to the breakdown of law and order or more correctly the lack of any effective policing. Not only was the corruption widespread but infrastructurally the whole administrative system in the Transkei (and Ciskei) fell into in decay with almost all 27 town councils and municipalities completely bankrupt by the end of 1994. Police stations just did not have any functioning vehicles, there were shortages of petrol and spares, and no funds

were available even for the feeding of prisoners (through theft or administrative bungling). Accordingly police patrols had been unable to patrol rural areas and consequently lawlessness became rife. A further result of this had been the resurgence of Peoples' Courts in communities that had become increasingly desperate and resorted to rough community justice whereby suspected culprits were often beheaded or necklaced.

The violence and the vigilante activity has continued in Tsolo and Qumbu throughout 1996 and 1997 and into 1998. On 5 August 1996 a particularly big attack occurred in the Qumbu district when an estimated group of 200 heavily-armed men attacked Bajodini village. 13 people were killed and 31 huts destroyed leaving more than 300 people homeless. The attacks were blamed on two vigilante groupings – *Mfelandawonye* and *Ilisolomzi* – both ostensibly formed or redirected in 1995 to curb the stocktheft. Both were alleged to have links with the ANC. This attack appeared to be a settling of old scores through the killing and stealing of stock from another village suspected of doing the same to other villages (Jonker, 1996a).

During September, October and November 1996 a round of retaliatory/revenge attacks occurred in both the Tsolo and Qumbu districts. In response an additional 300 SANDF troops were deployed to patrol the two districts. Four operational bases were set up at the Debeza, Middle Tyira, Sulenkama (all in Qumbu) and Nontyankashe (in Tsolo) villages. Operations included cordons, roadblocks, searches and 24-hour patrols including the use of a helicopter (SAPA, 1996a).

The deployment of ever more security force personnel was at best a stopgap measure since it merely kept a lid on the violence and did not stop the killings. Furthermore, the hilly terrain militated against effective vehicular patrolling and much of the patrolling had to be done on foot or on horseback although the use of one helicopter assisted daylight patrolling.

Most attacks in Tsolo and Qumbu area take place at night, generally between 18:00 and 21:00 or 21:00 and midnight. The affected community usually hide until sunrise, for fear of meeting with their attackers. Only then do they check for casualties and dispatch a messenger (on foot or horseback) to the police station, which can be up to 20 kilometres or more away. Due to the size of the area that must be patrolled and the lack of telecommunications, the Police Service only becomes aware of an attack 15-20 hours after it has taken place. This unfortunate situation results in hitsquads already being back in Gauteng hours before the Police are even informed that an attack has taken place. Lack of telecommunication and accessibility is also a major contributor to delayed medical assistance, which in turn could influence the mortality rate of victims.

Endeavours by the Tsolo/Qumbu Special Investigation Unit (hereafter TQSIU) to arrange a communication service for the area was discouraged on the basis that it must be addressed through the Rural Safety Plan. This idea is based on the Japanese model of policing which makes use of 'contact points' manned by civilians (in suburban and rural Japan the wife of a policeman is paid by the State to stay at home and received complaints from the community, which she then communicates to the police station). In rural Transkei, direct communication was set to be established between the Police Service and remote communities – thereby reducing the reaction time of police units. This would have been achieved by placing either cellphones or radios within responsible for the safekeeping of the equipment, without being harassed or killed as police informers, were successful. Unfortunately, this initiative has been indefinitely delayed.

The police have made a strong case for the upgrading of the Criminal Justice System infrastructure (police stations, computers, faxes, telephones/cellphones and new vehicles) as a solution to combating the vigilante violence. Certainly some of the violence had been as a result of the inability of the police and the magistrates to operate efficiently. Hence if an improved infrastructure would enhance service delivery then obviously crime and the attendant violence could be brought down.

Additional training for police members would also be an important aspect (the Kroon report had highlighted the lack of detective skills and training available to the Umtata Murder and Robbery Unit while most former Transkei Police members had received only a basic six-week training course).

Although CPFs had been established in some of the villages they were dominated by youths from one political grouping. Furthermore, the CPFs had marginalised the police (for instance as in Qumbu where the station commander did not even attend the CPF meetings and was excluded from community decisions on fighting crime or development projects). In one area the CPF chairman had been awarded a development contract. The CPFs on the whole in the area were plagued by such power plays, dominated by strong individuals or were too fragmented to deal with the violence in a co-ordinated or coherent manner (see Louw & Shaw, 1997).

In more recent times, as an alternative to the CPFs, a number of Peace-process Forums were established in both districts but again their effectiveness is limited since residents seem not to be keen to participate in such forums. In any case halting the killings would rest on the longstanding rival communities actually getting together and talking to each other. The trick then would be to get their representatives together to talk to each other peacefully and negotiate joint solutions acceptable to all parties. But here again there is a problem as to who are the legitimate representatives. There are competing claimants to representation. The traditional leaders say they should be the only ones who can look after the interests of 'their' people. This view is certainly contested by a number of interest groups, namely the unions, in particular NUM which represents a substantial number of migrant workers from the area working in the mines in Gauteng, Free State and Gauteng; the civics who say they gained control of local structures in the November 1995 local elections and are therefore the formal representatives of the people; the youth through the CPFs and ANCYL; while the political leaders from the political parties (specifically the ANC/SACP and PAC) say that the necessary political decisions can only be made by them.

In pursuit of trying to get some sort of peace process underway the provincial government sent a number of MPLs and MECs to the area to hold rallies and punt for peace. But at the present moment the area seems to be locked into a cycle of violence with no real solution in sight in the near future.

The attitudes which appear to lend support for the vigilante activities that have occurred in the Tsolo and Qumbu districts over the last few years were probed in a study²³ undertaken during mid-1999, specifically on attitudes towards punishment in the Eastern Cape region.

'Justice versus retribution'

This study revealed a number of interesting perceptions in this province about feelings towards the criminal justice system and vigilantism within the context of punishment and justice. There was substantial support among the rural and black respondents for alternative or traditional forms of punishment (i.e. community punishment). There also

appeared to be an equal split between respondents' feelings about the efficacy of vigilantism, i.e. it was a good thing especially necessary because of the perceived failure of the criminal justice system, and whether it was something negative and illegal. However, the survey revealed that most (60%) respondents felt there had been a general countrywide increase in vigilante activity since 1994. While only one out of twenty respondents (5%) admitted to having personally participated (been involved) in some form of vigilante action a further 7% indicated that members of their household or their friends had participated in vigilante while 20% said they would consider doing so. Furthermore, this response must be seen within the context that 90% of the respondents also felt that there had been an increase in crime in the country since 1994 while 50% stated that the criminal justice system was not performing well. Those who had personally been involved in vigilante activity had done so mainly to retrieve their stolen goods or to punish those alleged perpetrators of violent crime who had not been caught by the police or convicted by the courts (Schonteich, 2000: 2, 45 & 49-50).

When it came to attitudes towards punishment 10% of respondents felt that the community should be responsible for punishing criminals while just under half of the respondents (75% of the rural respondents) supported alternative or traditional forms of punishment particularly on the basis that it was the most effective way of ensuring that criminals were in fact punished for their crimes (for example People's Courts, expulsion from a village or fines being paid to a tribal chief). Furthermore, 20% of the respondents saw vigilantism as a *"form of local punishment meted out because the criminal justice system or the police were inefficient."* Significantly another 12% saw vigilantism as community anti-crime actions involving community protectors or guards. This highlights the support broadly being given to such organised vigilante organisations like PAGAD and *Mapogo* as well as the continuation of the activities of Peoples' Courts in many communities countrywide. This, taken together with the fact that 13% of the respondents reported that there had been an incident of vigilantism in their area (real levels of vigilantism are likely to be higher since such actions are not always reported to the police) and that this vigilante activity usually resulted in violence with the victims of vigilante actions either being beaten (55%), killed or shot (18%) or taken to the police (7%), indicates that vigilante actions enjoy, for many reasons, considerable community support or certainly some overt or covert condonation of it. Additionally, nine out of ten respondents who indicated an act of vigilantism had taken place in their community stated that it had occurred during the past year (Schonteich, 2000: 3-4; 45-47, 49-50).

In the focus group interviews for this study a number of points of interest concerning why vigilante acts occurred in their areas were mentioned. Among the most significant points of view that emerged were that:

- While some felt it was 'wrong and barbaric' for people to take the law into their own hands, it was sometimes hard to resist doing so. Others indicated that they understood why people became involved in vigilante-type acts - mainly because they had lost faith in the legal system or distrusted it to solve or deal with crime effectively
- It was felt by some that perpetrators had often been victims of violent crime (as a reason for vigilantism)
- Many felt that vigilantism was *"...a good thing provided it was controlled"*; *"...[i]t is illegal but has become a necessity"* and *"...[i]t was growing because the criminal*

justice system was not working.” In one area it was felt that people took the law into their own hands because “...*the courts and the correctional system was ineffective*”

- Vigilante actions resulted from inadequate, little or no policing occurring especially in black areas where the formal justice system was also weak

Finally, when respondents were asked what the government should do to reduce vigilantism the most common response was that the criminal justice system should be improved to make it more effective and efficient. Particularly so that the public could see that offenders were punished for their crimes, i.e. the system needed to be better at catching, prosecuting, convicting and sentencing of alleged criminals (Schonteich, 2000: 45).

All these perceptions concerning not only vigilante activity but also about the shortcomings in the criminal justice system have grave implications for the state. Firstly for the criminal justice and law and order agencies trying to combat crime and maintain law and order. Secondly it impacts on the authorities' ability to deal effectively let alone stamp out incidents of vigilante lawlessness by communities merely responding to the crime situation and the perceived ineffectiveness of the whole system. Finally, the state has an uphill battle to convince members of communities that continue to experience the depredations of criminals and falling victim to violent crime not to take the law into their own hands and mete out their own immediate punishment. The Eastern Cape study would appear to indicate that support for and the use of vigilante acts has become deeply embedded and entrenched within a significant portion of society particularly in the rural areas of the country (areas where support for traditional forms of community punishment is strong). Furthermore, support for, and preparedness to resort to vigilantism was also growing in urban areas as witnessed by the rapid growth of PAGAD in the Cape Town area and the support being given to *Mapogo* in urban areas such as Pretoria. This growth points to people in urban areas, despondent as a result of high levels of crime and the state's apparent inability to combat it effectively, increasingly giving their support to such overtly vigilante organisations such as PAGAD and *Mapogo* (see discussion on these two organisations in a later section).

The perceptions about vigilantism and the criminal justice system highlighted by the Eastern Cape study link strongly to the motivations and reasons emanating from many of the other cases of vigilantism as outlined in previous sections of this chapter. A number of them were reinforced in another case study undertaken during 2000 in the now semi-informal settlement of Diepsloot²⁴ in the Gauteng province.

Diepsloot case study

In a research study undertaken during 2000 in the Diepsloot settlement north of Johannesburg by the Institute for Human Rights & Criminal Justice Studies at the Technikon SA some of these perceptions and motivations for vigilante activity were again emphasised and brought to the fore in the results. Over the years the Diepsloot community have experienced regular vigilante activity, the most recent at the beginning of 2001. Furthermore, a branch of *Mapogo* was opened in the area in late 1997. The preliminary results from this study²⁵ would appear to indicate a number of interesting points:

- One reason given by respondents for the continued vigilante activity by members of the community was that the criminal justice system was not adequately performing its function, particularly in meting out 'adequate' (take that to mean

stiff enough) sentencing (61% of the respondents said that the criminal justice system does not give criminals the punishment they deserve)

- While the majority of respondents indicated that they would be willing to come forward and act as witnesses in cases of reported crime this was allied to a general perception that the whole criminal justice system was not working properly, inter alia because of bureaucratic bungling, for example letting criminals out on easy bail etc. These frustrations were particularly evident in the one-on-one interviews with members of the local police station.
- There was a strong sense of frustration within the community at this 'lack of justice' and vigilante activity was seen as the only way to bring perpetrators to some form of 'justice' i.e. they get their 'just desserts'. While the majority of the respondents did not (openly) condone vigilante action 21% of the respondents felt it was understandable in the light of police inefficiency
- This sense of frustration extended to the local police who were strapped by a lack of resources that often prevented them from delivering the kind of service they would like to provide the community and which also leads to other inefficiencies. Furthermore, the police felt they were overworked and were further hampered by other factors like the physical conditions in Diepsloot such as no or inadequate street lighting in certain parts of the settlement, poor roads (untarred, narrow, rutted and potholed), difficulty in finding their way around the settlement because there are no street numbering to the shacks (this has been somewhat overcome in the new houses' area). While the police do try to respond to reported crimes from Diepsloot as quickly as possible they often require that someone meet them at the township entrance and guide them in, especially at night
- Respondents in the survey identified the vigilante activity that does occur in the area as being 'spur of the moment' and 'opportunistic' incidents, but which occur because community members get frustrated since even if the police are called to come and fetch the alleged criminals caught they often take hours to arrive and don't come in time. As a result emotions run high and Diepsloot residents take matters into their own hands
- While a large majority said they had not personally participated in any vigilante activity, 44% said they know about vigilante incidents occurring in Diepsloot
- The main reasons given for vigilante punishment were the perpetration of murder and robbery by alleged criminals
- A high proportion of the respondents acknowledged that 'taking the law into own hands' and meting out their own justice was the wrong thing to do (73% said no to the community taking the law into their own hands while 50% felt it was the responsibility of the police to deal with it. However, 51% felt the police were doing nothing to bring down the high levels of crime in the area. Most wanted a more visible presence from the police and strongly identified 'more patrolling' as being something the police could do to help prevent crime)

- However, 65% of the responses (to this question) said that the activities of *Mapogo* in Diepsloot were reducing crime in the area (only 20% said *Mapogo* were not reducing crime, 15% were undecided)
- Interestingly 71% of the responses indicated that the criminals in the area feared *Mapogo* more than the police

While these preliminary results are not definitive they certainly highlight some of the issues surrounding the analysis of vigilantism – the perceived shortcomings in the criminal justice system, the lack of policing services, frustrations around perceptions about criminals not being caught and punished, the long delays in criminals (if they are caught) being convicted and misunderstandings concerning the workings of bail and appropriate sentences etc. While most citizens shy away from actively participating in vigilante activities, there is in Diepsloot, as in other similar communities, a subtle condoning and approval of those who do institute vigilante punishments on alleged criminals caught. As a consequence vigilante actions will continue to be perpetrated in such communities until there is a marked improvement in police service delivery and the more effective working of the whole criminal justice system.

The Diepsloot case study raises a number of interesting perspectives on the activities of the organised vigilante grouping *Mapogo*. This organisation is unabashedly vigilante in their approach to criminals. They openly proclaim that their job is to ‘catch criminals’ and if ‘warranted’ mete out ‘community’ (as in the community want it) punishment. Who and what then are *Mapogo*.

‘It is bitter medicine, but it cures’: The *Mapogo a Mathamaga*

The *Mapogo a Mathamaga*, a vigilante group initially originating from the central and southern area (the former Lebowa homeland region) of the Northern Province was established on 25 August 1996 in Sekhukhuneland Village near the provincial capital Pietersburg. It got its name from a Sotho proverb meaning the leopard can change its colours and become a tiger when provoked.²⁶ *Mapogo a Mathamaga* also has an English name – Business Shield. (In December 1996 the word ‘Community’ was added to the *Mapogo* logo, i.e. Business and Community Shield.) Businessmen in the area set it up after the murder of eight local businessmen and a spate of burglaries of business premises during the two-month period of July and August 1996. Businessmen in particular felt criminals in the area were targeting them while alternatively the police and the courts were unable or unwilling to offer them more protection or reduce the crime in the area. After a series of meetings a constitution was drawn up while a memorandum outlining their grievances and demands was sent to the MEC for Safety & Security, Seth Nthai. The group soon grew from 1 000 paid up members to more than 2 000 operating in towns and townships in this region of the Northern Province such as Nebo, Sekhukhune, Tafelkop, Jane Furse, Motetema, Ga-Masemola, Ga-Marishane and Groblersdal. The group initially arrested suspects and handed them over to the police, but changed tactics after police released a number of the suspects. They started apprehending suspects after dark taking them by surprise and beating confessions out of them before handing them over to the police. According to the group’s chairman, Monhle (John) Magolego:

if the suspect hides information and there is strong evidence against him, a bit of sjambokking [whipping] will be done to dig out the truth. When they don’t come out with the truth, they get a walloping. We don’t encourage members to

overdo the beating. But let me tell you, the criminal arrested by Mapogo – the one who is sjambokked – will never repeat the deed, he'll 'be born-again' (Amupadhi, 1997).

However, official quarters soon turned negative towards Mapogo. Barely three months after their establishment they were condemned outright by a media statement from the office of the MEC for Safety & Security that distanced itself from Mapogo's brutal methods and disregard for the Rule of Law. Soon after members of this group found themselves in trouble with the law. By February 1997 three suspects had died from injuries received under 'interrogation' and twelve members of *Mapogo* were charged with murder, while another thirty members were under investigation. This did not stop the vigilante activities of *Mapogo* with members vowing to continue their anti-crime campaign. The group was also ignoring a number of agreements signed with the then MEC for Safety & Security in the Northern Province, Seth Nthai, in which they had promised to forego any violence during their anti-crime actions.

By July 1997 the police had arrested 82 members of the group on various charges but this did not put an end to their anti-crime activities. (The majority were later released on bail paid from the accumulated membership fees.) Charges against the group ranged from murder, attempted murder, assault with intent to do bodily grievous harm. Unfortunately a pre-condition for membership was an agreement to join all activities of the group. Usual practice was for a paid-up member who has become a victim of crime to report it to the local Mapogo 'Committee' who then act on the information given (type of crime, what goods stolen and names of suspects). These Mapogo 'Executive Members' – all armed with long stockwhips (sjamboks) – track down the alleged culprit and demand to know where the stolen goods are. If the answer is unsatisfactory punishment is meted out and information or a 'confession' is obtained by means of the beating. Actual investigation is minimal and members act on allegations and suspicions rather than hard evidence.

The group was also ignoring a number of agreements signed with the then MEC for Safety & Security in the Northern Province, Seth Nthai, in which they had promised to forego any violence during their anti-crime actions.) *Mapogo* currently continue to have widespread community support. Stickers supporting the group adorn business premises in the region and people sport T-shirts bearing its logo – the head of a leopard facing a tiger. Though they publicly express their concern about the vigilantes local police officers privately support them. The group also claims to have reduced the levels of crime in their region – a claim the police reluctantly concede might be true. However, the official crime statistics appear not to bear out these claims. Contrary to their claims the housebreaking incidents on business premises increased for the period August 1996 (when the group was first formed) and December 1996. For example for Nebo the period August-December 1995 had 50 cases while for August-December 1996 there were 64 reported cases. Similarly for Jane Furse in the period August-December 1995 there were 16 cases while for August-December 1996, 17 cases were reported. The members of *Mapogo* refused to join forces with legitimate anti-crime structures like local Community Police Forums (CPFs) since they felt that the CPFs and police were too lenient when dealing with criminals. Again according to the chairman Magolego:

Suspects are arrested today, but tomorrow they are out on the street perpetrating the same criminal activities they were arrested for. Police are not doing enough to combat crime, but some accept bribes to let prisoners escape from cells and are also involved in criminal activities (Wa Afrika, 1997).

In July 1997 *Mapogo*, in a memorandum to the MEC for Safety & Security in the Northern Province, Seth Nthai, demanded that the Lebowakgomo Murder and Robbery Unit of the SAPS be disbanded and allow them [*Mapogo*] to continue with their vigilante activity. They also demanded that the ministry should stop attorneys in the province from defending criminals (SAPA, 1997a). Later in the year at the end of August 1997, the group and the Ministry signed an agreement whereby they would co-operate “*to flush out criminals and create a safe environment for economic development*”. The MEC, Seth Nthai, also undertook in the written agreement to appoint a Special Investigation Team in order to investigate all cases reported to the police by members of the *Mapogo*. A member of *Mapogo* was also invited to join the team. In return the group agreed to work within the law and hand over to police criminal suspects arrested by them without assaulting, harassing or murdering them, and furthermore, to co-operate with the police in rooting out corruption within the SAPS (SAPA, 1997b).

However, one faction within *Mapogo* supported by Magolego continued to use violent methods and kept on with their campaign of terror despite the formal agreement with the provincial government. In addition, Magolego stopped attending the meetings of the joint task team. A complete breakdown in relations between *Mapogo* and the provincial Department for Safety & Security soon occurred. The breakdown was indicative of the ambivalent attitude of the authorities between recognising and co-opting vigilante organisations like *Mapogo* by getting them to work within such anti-crime structures as the CPFs, and confronting them and putting a complete stop to their activities. In May 1998 approximately 100 *Mapogo* members were involved in a serious clash with police after the latter tried to intervene while members were assaulting a man from Ga-Mogotlani village accused of stealing a cement mixer. The man was first beaten then tied to a car and dragged around the village. In another incident in the same month at Zebedelia near the town of Potgietersrus members of *Mapogo* had sjambokked and also dragged a suspect behind a car. One of the victims identified a local businessman as the leader and the police launched a manhunt for him (he was later arrested) and his accomplices who all went into hiding (Mulaudzi, 1998).

Throughout the Northern Province region the *Mapogo* vigilantes soon became synonymous with sjambokking (whipping with long stockwhips) their victims before dumping them on the doorsteps of police stations, or worse, on the steps of funeral parlours – a routine commonly referred to by members as “*Mapogo* medicine”. The group continued to claim that crime had plummeted in areas where they were operating. Locals testify to the fact that any vehicle or property marked with the notorious leopard/tiger-head logo is left untouched by resident criminals. Members pay up to R440 monthly membership fee (this amount is usually for a business or large-scale farming operation wishing to have their protection). Its influence was also spreading south into Mpumalanga and Gauteng provinces with branches being opened in a number of towns (a branch was even opened in Pretoria). Most members give the same kind of reasons for joining: desperation about the crime rate and a belief that the police are either unwilling or unable to deal with the problem (Altenroxel, 1998).

For Magolego Mapogo's justice is rooted in an African notion of justice, particularly of a retributive nature rather than concentrating on Western type processes such as investigation and cross-examination in a court of law. According to Von Schnitzler et al. (2001: 17):

...the emphasis is said to be on instant justice and a more victim-centred approach. Rather than relying on seemingly endless trials obstructed by the rights enjoyed by the accused, and which often only lead to small bail payments, as well as a corrupt police force that rarely manages to return stolen goods to the victim, Mapogo responds with swift, violent punishment and the promise to repair the damage done to the victim.

By May 1999 the group claimed a total membership of 35 000 in the four northern provinces of South Africa (the Northern Province, Mpumalanga, Gauteng and Northern Cape). Of these *Mapogo* chairman, Magolego, claimed 10 000 were white paid-up members who had joined the group for protection. Magolego said that most of these whites were farmers who had seen the continuation of attacks on them in 1999 (Lubisi, 1999). Mapogo's success was variously attributed not only to its violent methods but also to its ability to deliver instant 'justice'. The alleged reduction in crime also helped its growing popularity but it was also alleged that it was successful in its containment of crime largely by creating fear within communities itself.

Regardless of efforts by the authorities to stamp down on their activities *Mapogo* continued throughout 1999 and 2000 with their brutal vigilante activity but with a number of new twists. Members added a number of bizarre measures to their interrogation repertoire, namely a 'secret' ointment called *moriana sehlera*, which they smear on the sjamboks (whips) that all members carry while on patrol. The ointment, having as one ingredient a potent local peri-peri sauce, is smeared on the sjamboks when they publicly whip suspects. Threatening to feed their victims to crocodiles unless they confess has also become part of *Mapogo* 'medicine' while *Mapogo* members still drag suspects behind speeding cars or electrocute them until they are forced to confess after which the alleged suspects are handed over to the police. However, police complain that *Mapogo* members largely fail to provide substantiated evidence in court for each suspect handed over. Accordingly not a single conviction against such suspects handed over by *Mapogo* has been obtained in the Northern Province's courts (Lubisi, 1999; Mtshali, 2000). (Ironically the cases against Magolego in particular for murder and assault were repeatedly postponed and eventually dismissed.) By mid-2000 hundreds of people had been subjected to *Mapogo*'s vigilante punishments and had suffered severe beatings. According to one report more than 20 people had died from these beatings (Ngobeni, 2000b). At the same time *Mapogo* had a claimed membership of between 35 000 and 40 000 and had spread not only to the neighbouring provinces of NorthWest and Mpumalanga but also to Gauteng and Free State further south having opened more than 90 branch offices. In Gauteng between mid-1999 and the beginning of 2000 branches had been established in such urban areas as Alberton, Centurion, Hammanskraal, Pretoria, Springs and Vereeniging (Ngobeni, 2000a).

In June 2000 *Mapogo*'s chairperson, Magolego, started a professional security services firm called *Mapogo a Mathamaga Security Services* but still using the same logo as the main organisation. The new company, while ostensibly operating like any other security firm and not using sjamboks, still recruits its guards from the ranks of *Mapogo*. The establishment of this company was an apparent effort to recruit more respectable and

wealthier clients especially in predominantly white suburbs and neighbourhoods – members who might otherwise be reluctant to join an unregistered organisation having a background of vigilante and brutal activities (Ngobeni, 2000c).

In early 1999 Magolego had also entered the political arena as a candidate for the United Democratic Party (UDM) in the national elections in May of that year. Having only won a seat in the provincial legislature and seeing his pretensions to being a player on a national level thwarted he later resigned his seat. Although citing the pending case (for murder) as one of the reasons for his resignation his detractors contended that his new political colleagues had not been appreciative enough of the ‘many’ votes he had brought in. However, his entry into and the perception that he had used Mapogo members to support his foray into politics became one of the reasons for the internal dissension that erupted within its ranks towards the end of 1999.

At the time a further concern, especially of the provincial authorities, was the fact that *Mapogo*, having grown so fast, appeared to be out of control with local structures often unaccountable to the Executive Committee or other regional structures. Several branches appeared to act independently of any control mechanisms. Such loose regulating structures merely lent themselves to members becoming a law unto themselves and meting out punishments irrespective of organisational control mechanisms or control regulations contained in the *Mapogo* constitution. Concerns about Magolego’s dictatorial management style and his flaunting of the agreements with the provincial government to work within the law, also led to internal dissatisfaction. There were also allegations and accusations that Magolego was only in the business of ‘vigilantism’ for his own enrichment (vide his establishment of the Security Services company). In addition, the apparent lack of accountability of the management structures for the organisation’s funds led to a split within the organisation. Eventually Magolego dismissed the entire Executive Committee. In September 1999 a rival organisation was launched also using a Sotho proverb as its name – *Sekhukhuni se bonwa ke Sebataladi* – meaning that ‘if one commits a crime, one should know (be warned) that people will see you and be watching’ (Ngobeni, 2000b).

The year 2000 saw the increasing fragmentation of the organisation. During the year, in response to calls from a number of different quarters the police in the Northern Province stepped up their efforts to prosecute Mapogo members for vigilante acts with over 300 cases under investigation against 600 Mapogo suspects. However, in August 2000 the authorities were eventually forced to dismiss the murder and assault charges from 1998 against Magolego and eleven other Mapogo members because of a lack of evidence. Apparently witnesses were too frightened and intimidated to testify in court against him and his accomplices. According to Senior Superintendent Phuti Setati, the SAPS spokesperson in the region, complainants in the Northern Province had by October 2000 withdrawn about 30 cases against Mapogo while another 20 were dropped because of a lack of evidence. Other cases had also been closed as unsolved while Mapogo members had only been tried in as few as 15 cases. Despite this setback the Northern Province Directorate for Public Prosecutions’ Senior Prosecutor, Dr Silas Ramaite, announced in October 2000 that a special task team would be established to specifically look into all the unresolved cases pending against Mapogo (Nkosi, 2000).

However, in the first three months of 2001 the Special Police Unit (nicknamed *Gijima Tsotsi* – catch the criminals/gangsters) under Capt. Fanie Molapo, set up to specifically investigate Mapogo activities in Mpumalanga province, was able to arrest nine members

of Mapogo from the Malelane and Komatipoort areas for crimes ranging from murder, assault and feeding suspected criminals to crocodiles (Lubisi, 2001).

While the start of 2001 saw Magolego attempting a regrouping and tightening of his control over *Mapogo* structures it would appear that the organisation as a whole, and the security services company in particular, were experiencing a slowdown in momentum if not actual stagnation. There was also a growing realisation that the long-term future of the organisation lay within the structures of the law and not extra-legal. While *Mapogo* remains a force of considerable impact in the rural areas of the Northern Province the implementation of the wideranging Rural Farm Safety Plan and the reorganisation of civil defence structures (FarmWatch and the former Commandos) would appear to be undercutting some of the motivations (lack of protection and crime) for its operations and the support given to it by members of the communities in which it operates. But it remains to be seen whether Mapogo as a whole and individually will attempt to conform to the rule of law and respect for human rights in their daily anti-crime activities. However, Magolego, as president of Mapogo, remains unrepentant in criminal justice terms. At public meetings he still openly touts for members by claiming that criminals need to be physically punished and 'squeezed as sponges' to extract information. He is disdainful of co-operating with the police and his methods are clearly illegal if not outright criminal. In short Magolego maintains that:

*We [South Africans] are a desperate nation, the state is no protector and we have to protect ourselves. ...Without corporal punishment against criminals our government will never stop crime.*²⁷

In essence the underlying problem of Mapogo 'justice' is that they do not see forcibly detaining or kidnapping an alleged suspect for a number of hours, a whipping or assault or even murder in extracting a confession as being either unjust, illegal or a criminal act but justified on the spurious basis of 'rampant and out of control' crime and the perceived lack of action by the state to deal with it. Their approach points to a fundamental and basic flaw in their concept and understanding of the principles of legality, law and order, court processes, burden of proof, collecting evidence that will stand up in a court of law and the correct use of freely given confession statements. Their apparent adherence as an organisation to the principle of resorting to the use of violence and fear as a first approach to containing crime is in fact a violation of universal principles of human rights and respect for individual dignity of people. Furthermore, we can go so far as to say Mapogo activities end up undermining the fragile constitutional democracy that so many are trying to embed in the psyche of all South Africans. Overall, vigilantism constitutes a serious threat to the rule of law. By undermining the rule of law you undermine a central principle of democracy.

In urban terms *Mapogo's* counterpart can, in certain ways, be compared to the establishment and operations of the other major organised vigilante grouping in South Africa, namely People Against Gangsterism and Drugs (PAGAD).

People Against Gangsterism and Drugs (PAGAD)

Of the two illustrative cases of vigilantism groupings in present-day South Africa used in this chapter PAGAD represents the most complex, as well as the most well organised in militaristic terms. It is also an urban-based grouping concentrating more on urban crime problems, in particular drug dealing and gangsterism. It was launched towards the end of 1995 in the Western Cape, particularly drawing support from the conservative religious

neighbourhoods of the Cape Flats of Cape Town (the initial success of PAGAD in the Western Cape led to the manifestation of other offshoot anti-crime structures in South Africa such as People Against Gangs and Drugs (PAGAD) in KwaZulu-Natal; People Against Drugs and Violence in the Eastern Cape; and People Against Crime and Drugs (PACAD) in Gauteng). Initially its structures followed a loosely Muslim hierarchy (although in September 1996 tension between the key founding groups which constituted PAGAD developed into factional polarisation which separated the Qibla Islamic extremists (from the Qibla Mass Movement – an anti-apartheid movement inspired by the Islamic revolution in Iran which was basically a pro-Shi'ite fundamentalist force) from the moderate and militant populists). The concepts of unity, togetherness and standing up for truth and justice are very prevalent at PAGAD meetings. Although PAGAD regards itself as a broad inter-religious movement, very early on it committed itself to the Shariah Islamic Code of Law as a broad ethical code (Tayob, 1996: 34-35). Moreover, militancy within PAGAD provoked concern and criticism from more moderate Muslim scholars and clerics, some of whom have become targets of a PAGAD bombing campaign alongside their attacks on alleged druglords on the Cape Flats. On 14 November 1996 at least 19 prominent academics and eight Muslim organisations made a combined public statement in which they stated, that while they had initially supported the emergence of PAGAD some months before, they were then deeply concerned at the level of militancy that was being displayed by the organisation (in violently targeting alleged druglords and gang leaders) and that PAGAD's confrontational and intolerant approach was putting ordinary citizens at risk (Rossouw, 1996: 4-5).

In August 1996 PAGAD burst into the public consciousness with the very public execution of Rasaad Staggie, a well-known leader of the Hard Livings Gang on the Cape Flats. His murder had occurred after a PAGAD march on his house. Staggie had come out to confront the marchers and had been set alight and shot in full view of the police and the TV cameras.

The PAGAD *modus operandi* in the Western Cape was to organise anti-crime campaigns during which marches are held to the houses of persons believed to be involved in criminal activities, in particular drug dealing and other gang-related crime (extortion, prostitution, burglary and dealing in stolen goods). While the marches were deemed legitimate democratic protests they were soon supplemented by armed attacks and bombings of houses of known criminals (usually using homemade petrol, nail or pipe bombs – PAGAD made use of grenades tied to a can of petrol, sometimes a nail bomb, which was a homemade grenade with nails attached and called a 'Pagad grenade' or steel pipes filled with industrial explosives or other explosive formula mixtures). Typically violent PAGAD actions involved bomb attacks, drive-by shootings or stand-off shootings at the residences of alleged druglords. For the first six months of 1998 (January to June) there were sixty-one such pipe bomb attacks in Cape Town alone. (Unfortunately the targets have not always been criminals and have included opponents of PAGAD for instance the bombing of the house of an academic²⁸ from the University of Cape Town on 13 July 1998).

The increasing militancy of PAGAD members was fuelled by the refusal of the police (after clashes with PAGAD marchers) to talk to or deal with PAGAD and the police's stated intentions to deal with and treat them as "just another gang" (*Mail & Guardian* Editorial, 1996). This led to individuals within PAGAD becoming frustrated and their activities becoming divided between overt actions through public meetings and the issuing of ultimatums (to druglords to desist immediately with their criminal activities or face the consequences) and covert actions like assassinating known criminal leaders and bombing

their houses and otherwise disrupting their activities. The covert actions were driven by the establishment of cell structures and the so-called 'G-Force' of enforcers (who were conspicuous at marches and rallies with the public display of firearms and the wearing of Islamic scarves covering their faces. Although PAGAD never hesitated to use force against gangsters and drug dealers they viewed the police as fair game if the latter got in their way (five policemen were shot and wounded in a skirmish at the Bellville Magistrate's Court in Cape Town on 17 December 1996). One of PAGAD's leaders, Ali 'Phantom' Parker, went so far as to declare a Jihad (holy war) on druglords and the police. In response the then Deputy National Commissioner of the SAPS, Zola Lavis, declared that:

Pagad's naked aggression, especially against the police, shows quite clearly that it has embarked on a policy of deliberate criminality. As far as the SAPS is concerned, Pagad has generated into just another gang and is now firmly part of the crime problem in the Western Cape. (SAPA, 1996b).

Lavis further commented that it appeared that PAGAD was busy distancing itself from its original objective of combating crime. By the end of 1996 PAGAD continued to escalate their activities through their covert cell structures and low-intensity warfare in the form of guerrilla-type urban terrorism on alleged drug dealers in the Western Cape. The objectives and organisation of PAGAD's covert operations, especially its para-military orientation, differentiate it from a pure vigilante group, while at the same time not obviously being a political terrorist group although its modus operandi is similar to both.

From its initial formation PAGAD was not structured as a formal organisation with a specific constitutional code of conduct or organisational administrative procedures. Its membership is therefore difficult to quantify. The patterns of militancy in their activities indicate the preference for both paramilitary-style attacks on alleged drug dealers undertaken largely by members of the G-Force, as well as mass marches by PAGAD supporters with the intention of serving as a popular show of force accompanying the public delivery of ultimatums to druglords. Associated with these marches was a considerable amount of physical intimidation, in some cases of assault, as well as the forceable entry of private premises. From August 1996 up to January 1997 (their first six months of public activity) PAGAD covert structures were responsible for 50 violent actions against drug dealers. These incidents had increasingly involved the use of explosives (Friedman, 1997). Due to these activities, PAGAD members have been charged with a variety of crimes, *inter alia* public violence, sedition, attempted murder, murder, malicious damage to property, and possession of illegal firearms, to name a few.

PAGAD is also distrustful of community police forums and the criminal justice system. According to the media crime has decreased in the areas in which PAGAD operates. However, a good deal of their activities have been misdirected. This was demonstrated from a docket analysis (see Botha, 1998: 18). Some of the victims had never been drug dealers or gangsters; or had retired from their drug/gang-related activities no longer being active; a number had never been drug dealers or belonged to a gang or were only shebeens (informal tavern) owners – which activity is not illegal but criminal activity like drug dealing is associated with the sale of liquor from shebeens – while other victims have had the misfortune of living in houses previously occupied by drug dealers and gangsters. Innocent victims have also been subjected to accusatory interrogations at local mosques as a result of incorrect information from informers.

PAGAD argues that its actions are a natural response of citizens feeling the brunt of the failure of the state to protect them (from the activities of criminals, and in the Western Cape particularly from the proliferation of gang-related activities such as drug dealing) since PAGAD perceived the state to be impotent to act against gang and drug lords. Rasaan Staggie and his twin brother Rashied had been charged with numerous counts of drug dealing and even murder but had not been convicted and appeared to be able to carry on their criminal activities with relative impunity. This failure to deal effectively with such high profile criminals in the Western Cape was a strong motivating factor for the continuation of the PAGAD activities of confrontation and force. This confrontation was two pronged. Firstly directed against government incompetency – the police and the courts (criminal justice system) as corrupt or inefficient organs of the state. Secondly, directly and very publicly confronting those who perpetrate the crime. PAGAD's activities were also motivated by their dissatisfaction with the way the government handled crime and PAGAD also partly saw themselves as a pressure group which would put pressure on the government to enforce the laws to get rid of drugs and gangs from the country (to act more strictly and to be seen to take action, there were many complaints from PAGAD that the police themselves were in collusion with the criminals and that was why they did not take action against them, let them out on easy bail terms, lost dockets or simply ignored them).

On 11 May 1996 approximately 3 000 PAGAD supporters had marched to Parliament, where they handed an ultimatum to the then Minister of Justice, Dullah Omar (a Muslim himself) in which they demanded swift action against gangs and druglords within 60 days. The memorandum had also warned that failure to do so within the specified 60 day deadline would prompt PAGAD to take the law into its own hands – the ostensible state failure to act had in part prompted the march and attack on the Staggie brothers in August 1996. As a consequence July 1996 had witnessed the start of the violent PAGAD action with one pipe-bomb incident and three shootings at the houses of alleged drug dealers (Botha, 1998: 21-22). In another meeting with a delegation of national ministers and senior police officers on 3 December 1996 the PAGAD delegation had demanded that their members be exempted from the provisions of the Regulation of Gatherings Act which outlaw the wearing of masks and the carrying of firearms at public rallies. They had also demanded that the authorities supply them with a list of all people detained in connection with drug offences – those who had been convicted but received a suspended sentence, as well as those who had served jail terms for drug offences but had been released – so that they could be monitored. PAGAD had, somewhat ingeniously, argued that the wearing of masks and the public carrying of firearms were part of their constitutional rights to self defence (Hartley, 1996).

The programmes initiated by PAGAD revolved around direct campaigns in the form of 'ultimatum marches'. These would start off with a meeting to discuss the problems of gangs and drugs. At such a general meeting community members are called upon to identify known gang leaders in their neighbourhoods. The local PAGAD group would then organise a march against one of these gang leaders and deliver a 24-hour ultimatum. The ultimatum would typically demand that all illegal activities by this particular person were to stop forthwith or such identified individual would have to face the consequences of non-compliance with the demands (Nina, 1996). (According to police figures PAGAD had conducted 54 such protest/ultimatum marches between 4 August and 26 December 1996 (Botha, 1998: 20).

Since January 1997 PAGAD's marches and meeting were characterised by the open display of firearms by its supporters, the use of armed marshals and military-style discipline. PAGAD also engaged in offensive armed training and some of its members were involved in the procurement of legal and illegal firearms, hand grenades and explosives. At a public gathering at City Park Stadium on 9 February 1997 the National Co-ordinator for PAGAD, Abdus-Salaam Ebrahim openly stated that:

To gangsters like Staggie, Kapai, NaCN, Pot, Pak, Narked, Saks, Colin, Glen Khan and the countless other gangster, we say to you on this Day of End, this is the year 1997, if you don't stop your illegal activities, then the People are going to wipe yourself and your activities from the face of the earth. For this is the year that we will use all our energies, forces and power which Allah bestowed on us to eradicate gangsterism and drugs by any means necessary from society (Botha, 1998: 28).

After this speech there was a noticeable increase in the acts of violence by PAGAD members in the Western Cape in the form of explosives and shootings while non-violent activity decreased proportionally. 1997 also saw a greater use of the so-called 'Pagad grenade' in bomb attacks over the use of petrol or pipe bombs. Moreover, there was also the move from small bomb devices to much larger (stronger) explosive devices. These violent activities are currently continuing and at the beginning of August 1998 there was a pipe-bomb blast at the offices in Bellville of the Special SAPS Unit investigating PAGAD activities. June, July and August had also witnessed numerous bombings of houses of alleged gangsters as well as opponents/critics of PAGAD. (In one bombing incident in July 1998 two members of PAGAD were killed and one seriously injured when a pipe bomb exploded in their pickup van (bakkie) on their way late at night to another bomb attack.) The police were able to raid a number of houses of PAGAD members and found evidence of bomb manufacturing.

Police statistics for 1998 showed that out of 667 violent attacks²⁹ recorded in the Western Cape, 188 were blamed on PAGAD with 28 suspects being arrested (all linked to PAGAD) (Carter & Merten, 1999). The PAGAD campaign against identified druglords and gang members continued with renewed vigour throughout 1999 against both druglords and the police. 1999 had started with a bomb blast,³⁰ a number of assassinations and an audacious raid on a police station in the Western Cape (all attributed to PAGAD). Even more shocking, on 14 January 1999 Capt. Bennie Lategan, who investigated a number of sensitive cases involving PAGAD and a member of the Special Gang Investigation Team in the Western Cape was assassinated in his car at an intersection in Cape Town in a drive by shooting (10 of the 15 bullets fired in this incident hit him) (SAPA, 1999). It was believed that one of the reasons he was killed was the fact that he was a vital witness in a number of PAGAD cases.

It would appear that while PAGAD started out, and prided itself, as being anti-drug and against gangsterism it soon became anti-government as well. In the early days it had garnered a fair amount of public support, specifically in the poorer neighbourhoods on the Cape Flats. The main reason for this support has been attributed to the lack of police action and the belief that the police services had no interest in solving or dealing with these crime problems since they only affected poorer communities. According to the Human Rights Committee:

For most of its chequered campaign, Pagad has not seen a way to work together with state agencies that are supposed to be dealing with the problem of gangsterism and drugs, maintaining that a reason for its existence is the lack of faith the organisation has in the criminal justice system, especially regarding the inability to successfully prosecute gangsters. Pagad has often publicly declared that state agencies are part of the problem itself, police collusion with [criminal] gangs a core reason why the organisation cannot rely on the official system to penetrate the pervasive gangsterism on the Cape Flats (HRC, 2001: 41).

In addition, behind this perception of state agencies being either unable or unwilling to deal effectively with the Cape Flats criminal gangs has also been the charge that many police and court officials are corrupt, that dockets are being 'sold' and that some work together to protect gangsters from prosecution. In support of this contention PAGAD members point to the fact that over the years very few gang leaders have been prosecuted for any crimes. If they are prosecuted and serve time in prison it is only for minor offences.

For instance in the case of the Staggie twins, Rashied and Rashaad, leaders of the Hard Livings gang, at the time of Rashaad's death on 4 August 1996 had over the years faced 65 criminal charges during a 27-year period. Although the brothers had spent a limited time in prison when they were young on relatively minor charges, most of the serious cases had failed to come before the courts. In 14 of the cases charges were dropped after dockets were "destroyed"; in one case a complainant was paid a sum of R13 000 by the Staggies for damages but on the condition that all charges against them be dropped. In one case of rape the investigation officer felt that the charge had been false. Similarly a Staggie rival, Edmund Lonty has since 1988 been charged inter alia with murder, attempted murder, kidnapping, assault, dealing in and possession of drugs, possession of illegal firearms, assaulting police, damage to property and resisting arrest, but it has been estimated that at least 19 of the cases against him have either failed or been withdrawn (HRC, 2001: 41).

While initially trying to project a broad-based support image PAGAD has become largely associated with the Muslim sectors of the Cape Town community since most of its meetings are still being held in local mosques, its leaders use Arabic words in describing their actions while its supporters chant slogans in Arabic while some wear scarves covering their faces. Since their launch in 1996 with mass demonstrations there has occurred a change in tactics to a more sophisticated terror campaign through a bombing campaign. Fear is also instilled especially in the law enforcement agencies with death threats and assassinations of officers. Apart from the attacks on police stations and individual policemen members of the judiciary have also come under attack and threat. In September 2000 the magistrate for the Wynberg Court, Pieter Theron was assassinated. He was believed to have been killed because he was the presiding magistrate in a number of cases involving members of PAGAD charged with 'urban terrorism'. In addition, a judge of the High Court, Judge Nathan Erasmus, began receiving death threats after refusing bail to the National Co-ordinator for PAGAD, Abdus-Salaam Ebrahim, in December 2000. In March 2001 Judge Erasmus had also sentenced Mansoer Legget, a member of PAGAD, to 11 life terms on 11 counts of murder committed over a five-month period. After the murder of Magistrate Theron the police had launched Operation Lancer as a national operation to investigate urban terror and PAGAD. Part of the functions of this operation were also to provide special 24-hour police protection to all investigators, prosecutors,

magistrates and judges in the Western Cape who were working on PAGAD cases and had received threats.

However, one of the problems in the government's crackdown on PAGAD activities³¹ has been their inability to produce accurate intelligence for successful arrests and hard evidence with which to prosecute PAGAD members. The underground activities of PAGAD's armed wing, the G-Force, were revealed publicly for the first time only in 2000 when a former member of the Grassy Park G-Force cell, Mansoer Manuel, who later became a National Intelligence Agency informer, testified in the Wynberg Court (HRC, 2001: 7). While a number of G-Force members thought to be responsible for the vigilante violence have been arrested very few have been convicted. By April 2001 less than 20 PAGAD members (of which only two were from PAGAD's G-Force) had been successfully convicted and sentenced. In addition, a number of cases against PAGAD members have recently collapsed with the murder of several witnesses who were either in the Witness Protection Programme or had left their safe houses to return to their homes or to visit family.

While PAGAD continues to be blamed for many of the bomb attacks questions have been asked about criminal elements exploiting the situation. Analysts have identified gang links and the possibility that protection rackets for targets like restaurants and nightclubs are being run as a result of the bombing campaign.

From the above descriptions of the activities and modus operandi of these two vigilante organisations it can be seen that both in fact represent 'new' forms of vigilantism. Their manner of organisation, and their modus operandi are forms that have only originated in South Africa after the 1994 democratic elections. It is also obvious that the South African authorities are not only facing an uphill battle to contain and put an end to their vigilante activities but also to deal with the causes of those actions, namely the high levels of crime and the violent behaviour and criminal depredations of criminals. The state response, not only to these organised types of vigilante organisations, but also to community vigilante actions, has been varied but also unfortunately fragmented and disjointed. Dealing with PAGAD in the Western Cape, Mapogo in the Northern Province and community vigilantism as manifested in areas like Diepsloot differ widely in conceptualisation, scale of inception and implementation. The response has also differed between the state and civic organisations. However, the response and concern about their activities started well before April 1994.

'Muzzle them or regulate them'

By the early 1990s People's Courts had become totally discredited in the eyes of many with extensive media reports of widescale abuses and gross punishments being perpetrated. In essence they had become feared institutions violating human rights in the townships. This situation had led to efforts to either replace them with other forms of community justice or to reassert community control and accountability over them.

Ever since their inception in the mid-1980s various state organisations, the courts and the police tried to stop their operations or at least to control them. Since victims were most often far too scared to come forward and press charges or act as witnesses in trials for fear of retribution and further punishment, members of Peoples' Courts often built up a certain degree of immunity from prosecution. One initiative to overcome this bias was launched by the then Ciskei government in 1990. The Ciskei military government had merely issued a decree whereby the state was given the power to prosecute assault cases even if charges

had not been laid by the complainant. This meant that the Ciskei police would then investigate all assaults whether reported or not. However, this would presume that the police themselves would have witnessed such assault since they would still be faced with the same problem of the reluctance of anyone to come forward and give evidence for fear of reprisals.

Many civic organisations called publicly for the cessation of the activities of People's Courts in their areas but to no avail. Even though their operations were clearly labelled as a crime in itself they continued to operate, largely because the people themselves had lost all faith in the police and had taken to reporting all crimes to their local People's Court. In May 1990 300 delegates from community organisations attending a conference organised by the Alexandra branch of the United Democratic Front (UDF) to address the issue of escalating crime and the operations of People's Courts had roundly condemned People's Courts. One of their main objections to them was the fact that the People's Courts were controlled by youngsters having no legal experience at all and who dished out sentences and punishment to older people, that they were not co-ordinated, accountable to anyone in authority, they lacked order and physically abused people. The conference had appealed to residents of townships to stop taking cases to the People's Courts. Although most civic organisations publicly distanced themselves from the activities of People's Courts the assaults, beatings and necklacings continued.

As a result of this conference decision and against the background of acknowledged excesses done in the name of 'People's Courts' the Port Elizabeth People's Civic Organisation (PEPCO) at the end of May 1990 issued guidelines for the running of street and area committees which it hoped would at the same time curb the excesses of People's Courts by instilling a culture of democratic decision-making and accountability for all local structures. The guidelines specifically stated that street committees should not handle cases such as rape, murder and culpable homicide, but that these should rather be referred to the authorities. However, the guidelines allowed the street committees to handle misdemeanours but the emphasis to be shifted away from punishment to 'education'. In essence the guidelines still set up a framework for the People's Courts to operate and were thus a tacit acceptance that they would still operate as part of a community justice system in the townships i.e. outside of the formal criminal justice system and as a law unto themselves. In a Rand Supreme Court judgement in 1988 by Justice F. H. Grosskopf concerning the activities of People's Courts in Alexandra during 1986 he had found that members of the local People's Court had been taking part in unlawful anti-crime campaigns and had showed themselves to be woefully ignorant of the law and prejudiced in addition to disregarding basic human rights.

In October 1990 the ANC had issued a document (*The genesis of People's Courts and the march to People's Power*) which, although acknowledging that the People's Courts had become discredited by the abuses, excesses and the way that they dispensed justice, nevertheless supported People's Courts in principle. The reason given for this stance was that People's Courts served the valuable function of filling the vacuum created by the people's loss of faith in the state's system of law and order. However, to make them effective the ANC proposed that they should be based on the ANC's M Plan blueprint for the formation of street, area branch committees in each area while their members should be politically educated about the objectives of these structures. However, this last point has been one of the criticisms levelled at the People's Court structures, i.e. that they have become vehicles for promotion of the specific political ideals of those political parties which control them. In addition, they were also used to ensure community discipline through

intimidation and to check that all toed a specific party line. In practice the People's Courts have become intolerant of any dissent. One black journalist was found 'guilty' before he even appeared in 'court' because he had written 'negatively' about young comrades of the People's Courts who flogged older people. He was sentenced in absentia to 500 lashes 'to be meted out at a later date'. (He was hauled before a People's Court at a later date on which occasion six lashes were administered to him.) In another case an accused's uncle tried to plead on behalf of his nephew and received 15 lashes for his efforts. There were cases where people were thrashed for ignoring a stayaway call while others were punished for being 'guilty' of not participating in a consumer or rent boycott. In certain instances People's Courts became a vehicle and licence for thuggery and violence.

As the outcry against their activities rose some People's Courts themselves tried to shy away from the use of physical punishment. Instead monetary fines were in some cases substituted. However, some of those fined objected to this as well as to the amounts fined. One Khayelitsha man who had objected to being fined R700 for slapping his wife in a public argument was punched and kicked by the 'jury' of a People's Court and threatened with eviction from his shack if he did not pay the fine.

In January 1991 the Alexandra Civic Organisation (ACO) went so far as to call for the legalisation of People's Courts because of the negative perceptions of Alexandra residents towards the 'white' judicial system coupled to the escalating crime in the township. However, the ACO president, Moses Mayekiso, had assured the public that these new 'community courts' would only be established along strict guidelines, be controlled by a body of adults and follow a set of rules as laid down by the community. It was hoped that these community courts would obviate the use of kangaroo courts, which were often constituted at the whim of an individual.

In recognition of this situation a number of South African National Civics Organisation (SANCO) regional organisations helped set up programmes for the training and regulation of the People's Court structures. In Port Elizabeth, following a conference in May 1992, PE SANCO helped train members of its Anti-Crime Committees (ACC) and published proposals for a uniform model for ACCs and community courts. In addition they proposed that the ACC responsibilities be limited to investigation with disputes being referred to community courts that would in essence become community based institutions of conflict resolution and would not have any functions for administering punishment. Similarly in December 1993 the Western Cape SANCO, aware of the need for self regulation, invited the Community Peace Foundation of the University of the Western Cape to run a training programme for its local structure in Guguletu. This programme aimed to help street committees/disciplinary committees solve cases and draw up guidelines for these committees to follow when dealing with difficult cases (Nina, 1993).

Not all Peoples Courts were prepared to follow strict guidelines or ones that denied them the recourse to severe punishment. In December 1994 the residents of the Ivory Park squatter settlement went so far as to draw up their own rough penal code. This was in response to the outcry, which had erupted following the severe punishment given by residents to two men, accused of burglary. After being found guilty by the Ivory Park Peoples Court they had been hacked to death and burnt. The punishments⁷ ranged from 40 lashes and a two-year banishment from the area for contempt of court to necklacing or execution at gunpoint for murder. Their 'guidelines' were subsequently adopted by other squatter settlements in the Gauteng region. Regardless of the severe punishments contained in the Ivory Park 'Punishment Code' residents of the area still seemed to be in

favour of Peoples Courts since they felt such courts helped maintain law and order in the settlements by acting as a deterrent and scaring thugs away through the severe nature of punishments meted out. Furthermore, community leaders seemed powerless to stop their activities (Khupiso, 1995a).

The situation in the rural areas was also further complicated in March 1995 by the efforts of the ANC to accommodate traditional leaders (chiefs and headmen) in local government structures – all to try deflect their opposition to the forthcoming elections. The ANC had proposed that chiefs' basic functions and powers should include developing and improving land under their control, allocating communal land, hearing both civil and criminal matters and imposing tribal levies and certain 'taxes and fees'. However, it was the proposal that they should adjudicate in criminal matters in tribal courts which had raised the ire of SANCO who said that this proposal would merely encourage the setting up of kangaroo courts in the rural areas (Zwane, 1995).

There is no doubt, however, the kind of People's Courts (in essence kangaroo courts) that still operate in many townships all over the country, in which people have been summarily tried and subjected to physical punishment - even death - should be outlawed. Society cannot and should not tolerate the random meting out of such so-called 'justice'. Whatever the reasons for the emergence and acceptance of the People's Courts' form of community justice, they have no place in a democratically run society. On one level the objection to them is basic: the people running them are unqualified to do so. They have no legal background or training and there is no appeal from their decisions. There is a total lack of objectivity, the 'judges' and 'prosecutors' are too closely involved in the community where the alleged crime of the perpetrator occurred. Emotional and other political considerations tend to override legal considerations. Furthermore, there is often a wide interchange of roles by 'officers' of a People's Court - they are not only arresting officers but often also witnesses, accusers, judges, prosecutors and executioners. Since there is not the option of incarcerating those found guilty in prison punishments tend to be of the severe physical kind. In addition, the 'officers' of People's Courts, being so powerful in their own communities and unaccountable to any higher structures, are themselves never prosecuted in their own courts for any 'crimes' they might perpetrate, i.e. they tend to be above their own law. Furthermore, the People's Court structures are accused of not having a code of conduct by which to operate which makes it impossible for them to have a uniform mode of conducting trials or of meting out punishment. All these points do not make for a healthy situation of respect for law and order and can in no way be said to be an expression of 'community justice'.

For some citizens, the problem is the morality of an elite whose liberalism over questions of crime and punishment, notably the death penalty (declared unconstitutional by one of the first decisions of the new Constitutional Court in 1996) rights of suspects to bail (in accordance with the principles outlined in the new Constitution adopted in 1996 and the Bill of Rights) keeping jail numbers down to manageable proportions and so on, is out of touch with what they believe is overwhelming popular support for less humane measures.

In the late 1990s were also a number of efforts by the authorities to establish some form of official community courts for urban areas in particular the informal settlements where little formal criminal justice structures exist. The idea is to have these community courts similar to the rural experience in the tribal authority communal areas, the *Khoro* or *Kgotla* system. A particular proponent of this was the then provincial premier of Gauteng, Mathole Motshekga (a lawyer by training himself). His idea was to have community courts in areas

where there are few formal structures in order to bring 'justice to the people'. The concept would have a lay magistrate drawn from the community (a community leader or respected resident). There would be a prosecutor, also drawn from the community. Neither would necessarily have any formal training although both would go on short orientation courses provided by the Department of Justice. Behind the community court proposals was the need to take away some of the load from formal courts which are currently being overloaded by petty cases. The formal courts are also largely inaccessible to the average informal settlement resident unable to afford legal fees. The community-based courts would essentially be able to deal with problems and disputes that arise daily in a community. The advantage of such courts would be the immediacy of dealing directly with a case brought before it (one of the big problems in the criminal justice system being the long postponements of cases before they come to trial). The Department of Justice would oversee the operations and accredit lay magistrates and prosecutors. Unlike the People's Courts the Community Courts would adopt a constructive punishment role, i.e. most sentencing to be of a community service nature or fines with the more serious cases obviously being passed on to the higher courts. The prime objective of the Community Court punishments to be to educate and rehabilitate the offender. It was hoped that community control and accountability towards the Community Courts would undercut the kangaroo courts operating in the townships and also do away with the worst excesses and abuses of community justice. By being more accessible and addressing the problems of petty crime they would also address the community's concerns about rampant crime and the failure of the formal criminal justice system to deal with criminals. (Mafata, 1998). A Community Courts Bill was drafted but is currently still under discussion before being presented in Parliament.

At the beginning of 1999 the Gauteng government tried to harness widespread public anger and outrage against perceived escalating crime by launching a public campaign to set up 1980s-era style street committees in an effort to constructively engage communities in the fight against crime. The then Gauteng MEC for Safety & Security, Paul Mashatile, was a strong proponent of setting up street and block committees since he felt that this would be the only way of getting the community involved by way of small units to really reach the people on the ground in order to achieve any sort of success in a provincial anti-crime campaign. The difference for Mashatile of the apartheid-era committees and the present envisaged ones was that "*then it was an alternative to the state machinery, while today it will be complementary to the criminal justice system. The focus today.... Will be the elimination of crime.*" The old M-Plan of the ANC consisted of command structures that in the past stretched from the local civic association that had representatives of block committees, who in turn consisted of representatives of street committees. The new street committees in the Gauteng model envisaged the community policing forum on top, followed by area sub-forums, block communities and eventually, street communities at the lowest level. The Gauteng Secretariat for Safety & Security planned to assist their establishment in each community so that they would not mushroom on their own by themselves in an uncontrolled manner. The structures to be monitored by the Secretariat on an ongoing basis. A further major safeguarding mechanism built into the new model was that the police would be involved and informed of what the committees were up to. The first such street committee model was implemented in Ivory Park (the scene of the first vigilante killing in early January 1999). The Ivory Park CPF was divided into eight zones, each under a sub-forum, and in turn the local police station dedicated one policeman to liaise with every two sub-forums as a link between the police and community. Furthermore, to promote this new concept of community policing, to co-ordinate crime prevention and to deal with vigilantism the Gauteng government declared the month of March 1999 as 'Safety & Security' month

during which Mashatile and the Gauteng Premier Motshekga toured the province promoting the street committee system (Masipa, 1999). At a series of 'Don't do Crime' rallies the new street committee/CPF model was strongly punted by Mashatile. However, in encouraging communities to 'fight crime' individuals were still inclined towards taking the law into their own hands, and in their eyes, quite justifiably so as part of their efforts to combat crime since the authorities were still perceived to be totally ineffective in dealing with crime in their neighbourhoods.³²

The most important thing in this situation was for the authorities to formalise the whole system of 'informal vigilante' justice by channelling these anti-crime activities into a more formal structure, i.e. the new CPF/street committees in liaison with the local police structures. This would then serve the purpose of legitimising the already existing informal structures. One instance of this type of formalising was the acceptance and formal agreement in early 1999 by members of the Cape Amalgamated Taxi Association (CATA) in Guguletu, Cape Town of suspending their vigilante activities³³ and to now advising victims of crime to report their complaints directly to the police instead of to the taxi association. The issue of kangaroo courts convened by taxi associations had first emerged in Guguletu in mid-1998 before spreading to other Cape Town townships. The Guguletu township had been outraged by a police assault in 1998 on a journalist, Thabo Mabaso of the *Cape Times*, who had gone to report a crime but instead had been severely beaten up in the Guguletu Police Station charge office landing up in hospital. The community, feeling that the police did not take their complaints seriously, had consequently turned to the local taxi association for justice. Soon victims of crime preferred to report incidents to members of CATA who in turn convened kangaroo courts and meted out punishment to the alleged culprits.³⁴ However, after the publicity surrounding the April 1999 TV broadcast of their vigilante activities on SABC the police special task team, which was investigating 30 dockets involving 57 serious charges related to CATA-inspired vigilante actions, arrested eight ringleaders of the self-styled policing and justice group operating from one of the taxi ranks in Guguletu (HRC, 2001: 18). As a result the CATA taxi association had held a meeting where its members had decided to "*stop taking complaints from the public*" and "*to leave the police to do their job*". In a deal hammered out with the police CATA were given a list of police officers to which they could directly complain while CATA would follow up on all complaints laid with them to ensure that the police did their job properly (Joseph, 1999).

Conclusion: 'We cannot wish popular justice away'

While it is important to understand the 'new' vigilantism in the South African context of a country in transition and change it also has a number of implications and consequences for any developing democracy. Firstly, vigilantism is a form of usurping state power. No government can allow this to happen and still try to maintain the rule of law. However, vigilantism can only occur if vigilante organisations and ordinary citizens are given the space to act because of the perceived failure of the state to deal with the issues of criminal violence. Therefore the state needs to assert its authority, enforce its laws effectively and efficiently and put functioning systems of criminal justice and policing into those areas that need it the most, namely the poorer urban neighbourhoods, informal settlements and deep rural areas such as the former homelands.

Secondly, the state needs to be seen to act swiftly to counteract vigilante actions, and to prosecute and convict perpetrators. However, the flip side of the coin remains that the whole criminal justice system needs to be unclogged, speeded up, corruption stamped out, etc. so that criminal cases can be dealt with, in their own right, quicker. The public needs to see justice happen to criminals caught and handed over to the authorities. In terms of the

functioning of criminal justice system ordinary citizens need to be socialised into and made aware of the fact that everyone, irrespective of whatever crime they may be accused of perpetrating, has the right to accessing a court of law to have his or her case heard in a fair and public hearing. It therefore is incumbent on the authorities to provide better access to courts to the general public even if this is only the more informal Community Court system. All accusations must be tested in an independent and impartial setting. Vigilantism patently denies this right. Our Constitution also protects the rights of arrested, detained and accused persons requiring that they be subjected to due legal process. Again the spontaneous and premeditated acts of 'community justice' happen so quickly that they circumvent this right.

Fundamental to trying to put an end to vigilantism is the right to life. Far too many of the incidents result in the arbitrary killing of alleged suspects. The state must be seen to better protect the rights of all of its citizens. Furthermore, many of the acts strip its victims of dignity by either making them undress, parading them naked through a community or subjecting them to degrading forms of assault or beating. The very public performance of these 'punishments' also leads to the public ostracisation, shunning or even expulsion of victims from communities. Allied to the right to life and human dignity is the obvious right of the security of the person and democratic freedoms as guaranteed by our new Constitution and Bill of Rights. Overall vigilantism represents a serious violation of all these human rights and no state wishing to claim to be fully democratic can allow vigilantism to be perpetrated and thrive in a vacuum or the absence of state control. It represents a far too serious threat to the continued growth and strengthening of democratic principles at grassroots level.

Among its recommendations contained in its quarterly report the Human Rights Committee had *inter alia* recommended that more effective community policing harnessing both the Community Police Forums (CPFs) and the new Community Safety Forums (CSFs)³⁵ approach and the introduction of community courts be instituted in order to curb vigilantism in those communities that have benefited little from the justice system. In particular the HRC felt that community courts would shift the emphasis from retributive justice to a more restorative one. According the HRC the

thrust behind this recommendation springs from the state's inability to successfully incorporate disadvantaged communities in the criminal justice system, with reasons ranging from problems of access to issues of corruption and mistrust. Community courts possess several advantages over the formal justice system that effectively address many of the underlying reasons motivating popular justice (HRC, 2000: 87).

This view is backed up by another research report by the Centre for the Study of Violence and Reconciliation (CSVR) which recommended that the public and the community police should be trained to fight crime within the boundaries of the law. Furthermore, that the efforts and activities of anti-crime groups in communities should be harnessed in line with the provisions of the law. Moreover, that their vigilante actions should be deflected into positive crime prevention programmes regulated by local police and Community Police Forum supervision (Harris, 2000). This approach needs, according to Harris (2000: 58), to be implemented within a framework that addresses:

the real and practical failings of the CJS; prioritising the tackling of vigilantism as a form of crime, and educating the public and authorities about the workings of

the CJS (to address misperceptions about due process)...since contemporary vigilantism cannot be separated from the formal criminal justice system (CJS).

Overall, Harris (2000:61-63) postulates that any vigilantism prevention programme will need to be strengthened by a broader strategy of a public human rights education campaign so that a human rights culture can be further inculcated at a grassroots level. One of the aims of such a strategy would be to delegitimise violence as the primary solution to problems (especially of crime) in communities by offering “*individuals alternative, non-violent options for vigilante incidents that are explained as emotion-driven, i.e. motivated by revenge, anger, jealousy, prejudice and fear.*” (Harris, 2000: 62).

However, that vigilantism has become embedded in many communities desperately trying to combat crime is a given fact. Moreover, it cannot be doubted that vigilantism in its various forms continues to remain rife, as witnessed by vigilante incidents from across the country during the first three months of 2001, and poses a continuing problem. The following extracts from a letter to the editor of the *Mail & Guardian*, written in mid-1999, well illustrate some of the above points and raises many of the issues that still surround the whole perpetration of vigilante actions in South Africa.

Vigilantism is an insult to black South Africans

I am appalled at the manner in which vigilantism is taking root in our new nation. Worse still is the way in which our Constitution and human rights are undermined when vigilante groups take the law into their own hands by convening kangaroo courts and sentencing suspects to the most horrendous and barbaric sentences. In some cases, particularly in Khayelitsha's squatter camps, sentences include castrations in the case of male [rape] suspects and/or flogging until death. What I fail to understand is that the activities of these people take place in broad daylight and/or with the knowledge of the police, but in most cases, they [the police] fail to intervene or stop these criminal acts.

I am also surprised by the deafening silence of the communities to these shocking revelations. If the authorities continue to ignore this problem, the confidence of society in our justice system will plummet.

It is understandable that our courts are taking a strain with the huge workload they have to deal with in the face of escalating criminal activity. Be that as it may, people who take the law into their own hands are rendering themselves worse criminals than the ones they seek to punish.

It is high time that our government showed some sense of responsibility by stopping these barbaric acts, and for society at large to distance itself and actually challenge this evil behaviour.

Zinasele Kani, Pretoria
(Letters: *Mail & Guardian*, 21-27 May 1999)

This letter again raised all the old issues surrounding informal and vigilante justice in South Africa. It would appear that vigilante activities will continue in the foreseeable future, particularly so long as the perceptions surrounding the lack of police service delivery, poor success rate at apprehending criminals and the continuing backlog in effectively prosecuting and convicting them remains so strong in all communities. This is tied to the lack of trust in the police, feelings that are exacerbated about perceptions concerning police corruption and their perceived involvement in criminal activities or their

'protection' of gangsters. It will be a long and hard uphill struggle to overcome the present culture of vigilantism in South Africa and to channel these unlawful activities into more formal legitimate systems and structures of crime prevention. As Nina (2000: 27) states:

It is likely that South Africa's long tradition of popular forms of justice will continue. What is unclear, is whether this tradition will continue to adopt, on certain occasions, a vigilante mode. A clear, swift and intelligence response is needed from the state to handle this problem. ...The possibility exists that, should the state fail to take the necessary measures against vigilantism, this form of popular justice will remain a constant feature of South Africa.

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ENDNOTES

¹ This is an updated and consolidated version of a series of conference papers dealing with different aspects of vigilantism in South Africa inter alia Peoples' Courts, mob justice, necklacing, and specific vigilante style organisations written over the last few years. A shortened version appeared as a chapter titled: The 'new' vigilantism in Post-April 1994 South Africa: Searching for explanations. In: Feenan, D. (Ed.). 2002. *Informal Criminal Justice*. Advances in Criminology series (Aldershot: Dartmouth/Ashgate Publishing).

² I have chosen to use and stick throughout this report to the term vigilantism since it is my belief that it best covers in the broadest possible meaning the acts described. In the South African context many different terms have been used to describe these acts. Most are dependant on the perspective from which they are being analysed and range from popular or informal justice to mob, extra-judicial, street or simply 'rough' justice. Additionally, other terminology associated with vigilantism refers to such structures as People's or Community Courts, 'kangaroo' courts, street or block committees, neighbourhood watches or - in more legalistic terms - alternative dispute resolution (ADR) courts. Many are interchangeable but are also indicative that there is no one definitive perspective on the phenomenon of vigilantism currently being experienced in South Africa.

³ The term is loosely used here to denote the use of extra-legal acts by both the liberation movements through vigilante acts of 'self-protection', the activities of People's Courts, Street Committees and Self Defence Units (SDUs), as well as those of state sponsored groups (usually older persons of a conservative orientation such as the 'Witdoeke' (White Scarves) in the Crossroads settlement near Cape Town) against the young 'comrades' (youth) in the townships and informal settlements. While not always politically or ideologically motivated both were often in response to the political conditions prevailing at the time. The latter were seen more as surrogates or proxies of the repressive state system while the former were motivated by ideals of pushing the 'struggle' forward and making the townships 'ungovernable'.

⁴ The latter were in particular labelled as being "vigilante" and have been described as:

violent, organised and conservative groupings operating within black communities, which although they receive[d] no official recognition, [were] politically directed in the sense that they act[ed] to neutralise individuals and groupings opposed to the apartheid state and its institutions (Coleman, 1998)

⁵ The 1990s street committees were based largely on a South African National Civics Association (SANCO) model whereby a community elected a street committee responsible *inter alia* for settling disputes mostly of a civil nature (sometimes these were also of a domestic violence or conflict form). Community problems were referred to this committee and if unable to resolve them would be passed on to the Section Committee (neighbourhood) level then to the Area Committee and finally Civic Association (regional) level. Although the SANCO guidelines stipulated that criminal cases of a violent nature should be referred to the police this did not always happen. Some of these street committees operated successfully through 1995 as did other similar models of informal justice in the migrant labour hostels and in informal (squatter) settlements that were growing at a rapid rate on the fringes of most major urban centres (HRC, 2001: 14)

⁶ For more detail concerning the activities of the so-called warlords in the KwaZulu-Natal region see Minnaar, A. 'Undisputed kings': Warlordism in Natal. In: Minnaar, A. (Ed.). 1992. *Patterns of violence: Case studies of conflict in Natal*. Pretoria: HSRC; and Minnaar, A. 1992. *Squatters, violence and the future of the informal settlements in the Greater Durban Region*. Pretoria: HSRC.

⁷ The term 'strongman' was used to describe the violent activities in the Western Cape informal settlement of Crossroads in an article by Du Toit, P. & Gagiano, J. 1993. Strongmen on the Cape Flats. *Africa Insight*, 23(2), pp. 101-111.

⁸ For more detail on this aspect of the early 1990s violence see Minnaar, A. (Ed.) 1993. *Communities in isolation: Perspectives on hostels in South Africa*. (Goldstone Hostels Report). Pretoria: HSRC.

⁹ See Minnaar, A. deV. 1996. Self Defence Units: Historical background to their formation and activities, and future role in community policing. Paper presented to a National Standards & Management Services, SAPS workshop on Self-Defence Units, Police College, Pretoria. 12 June

¹⁰ For analyses of some of these types of violence see the following:

Ki A. 1994. 'Coaches of fear': An analysis of train attacks in the Southern Transvaal region, 1990-1993. Centre for Conflict Analysis, HSRC. Unpublished research report.

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¹¹ Nina (2000) has argued that the contemporary vigilantism in South Africa is merely a continuation by other means of the popular forms of pre-1994 justice. See Nina, D. 2000. *Dirty Harry* is back: Vigilantism in South Africa – The (re)emergence of the 'good' and 'bad' community. *African Security Review*, 9(1), November. Pp. 18-28.

¹² For a more detailed analysis of this form of vigilantism and the activities of the rurally-based vigilante organisations in the Tsolo and Qumbu areas (The *Mfelandawonye Wamapondomise Burial Society* and the *Inkumpa* vigilante organisations) of the former Transkei region in the Eastern Cape province see Minnaar, A. de V. & Potgieter, A. 1998. *Violence in Tsolo and Qumbu (Transkei) (1993-1997)*. (Lawlessness, criminality and community conflicts: Some problems for law and order in the Tsolo and Qumbu districts – Anthony Minnaar) (Information management and crime prevention in the community conflict in Tsolo and Qumbu in the former Transkei – Adelle Potgieter). Institute for Human Rights & Criminal Justice Studies Occasional Paper No. 3, May 1998/Conflict Series 2/98.

¹³ The following incident is a clear example of typical post-1994 South African vigilantism: In the first incident of 1999, on the night of 6 January, a street committee patrolling the Goniwe Section of Ivory Park near Midrand in Gauteng had 'arrested' six men who were then severely assaulted and doused with petrol and set alight by a quickly-gathering mob estimated at more than 400 people. Two died instantly, while the other four were admitted to hospital with two dying later of their burns. All six victims were accused of being gangsters and of violating a 9pm curfew in the area. Similarly to many other such cases in previous years, and even though six detectives were assigned to the case, the SAPS came up against a wall of silence in their efforts to apprehend any members of the vigilante mob, particularly since potential witnesses were reluctant to testify (Reuters, 1999).

¹⁴ For more detail on these incidents see Minnaar, A. deV. 1997. Witchpurging in the Northern Province of South Africa: A victim profile and an assessment of initiatives to deal with witchcraft. Paper presented to the 9th International Symposium on Victimology: Caring for victims. Vrije Universiteit, Amsterdam, The Netherlands. 25-29 August.

¹⁵ According to Nina & Stavrou (1993: 1) Peoples' Courts were established:

In the heyday of the people's revolt in South Africa in the mid-1980s, [when] the members of the African community organised their own mechanisms for the dispensation of justice (e.g. people's courts) in a move to organise people's power.

They also arose as a result of a call by the then banned ANC to make apartheid unworkable. Initially they were quite democratic and were charged with administering 'people's justice'.

¹⁶ **Execution by necklacing**

The necklace method of execution, which involves placing a petrol filled tyre (the petrol assists the tyre to burn fiercely) around the neck of the victim and then setting this alight, is a particularly South African activity. It apparently originated in the townships surrounding Uitenhage and Port Elizabeth in the Eastern Cape in 1985 as a method of getting rid of political opponents, specifically unpopular town councillors of the Black Local Authorities Councils. It is a particularly painful death and the victim suffers excruciating pain in the process with death sometimes being caused not only by the burns but by asphyxiation either from the fumes released by the burning rubber or the sudden extraction of the oxygen surrounding the tyre as it bursts into flame. One of the motivations behind this method of killing is the link to traditional religious beliefs whereby it is believed

that if you burn a person you destroy the spirit or soul. This in turn means that the link to the ancestors is destroyed for the surviving family. This represents the ultimate insult since the surviving family members are unable to ask their ancestors' spirits to intercede with God to ensure that the family receives protection from all evil or harm as well as its share of success and good fortune. While these motivations were lost in the events surrounding the political violence of the time the necklace method became the accepted and preferred form of getting rid of people considered to be particular 'enemies' of the community. There was a particular sense of finality about this method.

The significance of necklacing is evident from the following incident where in March 1994 the body of an IFP member in the township of KwaMakhutu south of Durban, who was killed by allegedly ANC supporters in the township, was dug up the day after his burial and then an attempt was made to necklace (i.e. burn) the body. This was a blatant attempt to drive home the insult and stigmatise the person (and his spirit) by burning and destroying the body completely.

In the 1980s the necklace method of execution was used most frequently for getting rid of those identified as 'collaborators', 'government stooges', 'sell outs', 'informers' (the so-called *impimpis*) or 'enemies of the people' (an estimated 350-400 people were killed by this method from 1985 to 1990 while for the period 1990 to July 1995 it would appear upwards of 500). Initially in 1990 as the political rivalries between the ANC and Inkatha became intense necklacing was used to get rid of political opponents. However, as the 1990s progressed it began also to be used for the killing of criminals. By the mid-1990s with the slow decline in overtly political violence much of the vigilante action in townships began to be directed at criminal elements and gangs.

In mid-1995 police in Gauteng became aware of a new form of necklacing that surfaced in certain informal squatter settlements. Apparently the new so-called 'internal combustion' technique required the victim to drink petrol before being given a petrol-soaked cigarette or match. Police stated that the intention of this method seemed to be to preclude any chance the victim might have of being rescued since if a victim was burning from inside they stood no chance of surviving such an ordeal. The first cases were reported from the Ivory Park squatter camp near Midrand where post-mortems of Peoples' Court victims found that their respiratory tracts had been burnt and there were traces of petrol in their stomachs.

Witchpurging and necklacing

The necklace method of execution is also common in witchpurging incidents. People accused of practising witchcraft are 'removed' from society by this method because of a number of beliefs attached to communities actions in ridding themselves of suspected 'witches'. The belief is that a community can only be protected from further bewitching if the suspected witch's or wizard's soul is destroyed. This can then only be done if the accused person is burnt i.e. burning destroys the spirit or soul and the witch can then not come back and haunt or punish the perpetrators. This is why suspected witches are not simply killed but are either tied up and thrown back into their houses or huts which are then set alight or have a tyre filled with petrol put around their neck and then set alight. Such witchpurging incidents are only supposed to take place after a community meeting, i.e. the tribal court or *Khoro/Kgotla* identifies who has been causing harm to the community (a drought, sickness or unexplained deaths or even lightning strikes) or delegates an *inyanga* (diviner/traditional healer) to 'sniff or point out' the culprit. After the guilty person or persons have been identified a joint communal decision is taken to rid the community of such a witch. Suspects have very little chance of deflecting punishment once they have been accused of practising witchcraft. Traditionally the young men of the community are the delegated executioners and they would then carry out the witchpurging action by means of a necklacing or burning of the victim. Again in such situations there is very little chance of the perpetrators being identified and arrested. They are seen as acting for the whole community and are consequently fully protected by the communal code of silence. Until recently the police have been unable to arrest the executioners in witchpurging incidents unless they happened to have witnessed such incidents themselves and could identify the perpetrators. Such community justice is felt to be a completely justifiable action since it rids a community of someone who is causing a perceived harm (through bewitchment or the use of witchcraft for own gain). However, in recent months a number of arrests have occurred where elderly women have been burnt by youths who apparently acted on their own initiative in getting rid of suspects accused of witchcraft activities without first either holding a communal meeting or making use of the services of an *inyanga* (diviner/soothsayer/medicine man). In a number of such cases it has been found that members of victim's families have been prepared to come forward, identify perpetrators, act as witnesses and give evidence in trials. Something that would have previously been unheard of or would have condemned them to ostracisation or expulsion from a community (for more information on witchpurging see Minnaar, 1997).

¹⁷ One such Anti-crime Committee in the Port Elizabeth township of Kwazakhele was a structure falling under the local South African National Civic Organisation (SANCO). Its aim was to combat crime and the criminal element gangsterism. It consisted of approximately 90 areas and in each of these areas there were ten members. An executive making up the Anti-Crime Committee was elected from these areas and acted as chief co-ordinator of anti-crime activities in the various areas. This executive committee was supposed to report from time to time to the PE SANCO EXCO. Anti-crime committee members were only supposed to apprehend thieves and hand over stolen items found to the respective complainants. During September 1993 this specific Anti-crime Committee was accused of severely assaulting suspects and in that month 18 of its members were arrested for assault. It was also claimed that this committee was involved in detaining, torturing and burning of suspects and were thus merely a continuation of the kangaroo courts which had been particularly active in this township during the 1984-1986 period.

¹⁸ The following incident well illustrates this point. On 15 July 1992 in the East Rand township of Tsakane two men were necklaced when a crowd of almost 500 people attacked and stoned them at a petrol station. One was burnt to death while the other suffered severe burns. The crowd had at first refused to allow the police to take the latter to hospital. The crowd alleged that the two were taxi thieves and that a People's Court had duly sentenced them. Needless to say no one was arrested since the police felt that it was safer to merely disperse the crowd and take the surviving victim to hospital.

¹⁹ Ivory Park is an area that, since its inception as an informal settlement in the early 1990s, has experienced regular acts of severe vigilantism. The most recent of such incidents occurred in November 2000 when four alleged members of the local People's Court killed four suspected thieves by setting them alight (*Sowetan*, 11 November 2000).

²⁰ One of the reasons given in a South African Law Commission discussion paper for the high levels of support given in Black communities for such alternative forms of justice as People's Courts, community or 'popular' justice punishments such as sjambokking (whipping) or physical expulsion from a community is precisely because:

Over the years, South Africa's formal legal system has been perceived by certain sections of the population, notably black South Africans, as illegitimate (because of its association with the apartheid government), as repressive (through its implementation by the police force) or as an expensive process in which the cost of justice is prohibitive (SA Law Commission, 1999: 3).

²¹ Ivory Park Peoples' Court *Code of Punishment*

Adultery: 500 lashes for the man, and banishment or 500 lashes for the woman.

Murder: Necklacing or execution at gunpoint.

Rape: Paraded naked before receiving 400 lashes, or execution.

Child abuse: 380 lashes and banishment.

Motor vehicle hijacking: Death for repeat offenders. Lashes or execution for first timers.

Theft: 50 lashes

Burglary: 200 lashes for first offence. If items not returned to owners, extra 300 lashes.

Assault: 90 lashes.

Assault by a man on his wife: 50 lashes.

Contempt of court: An additional 40 lashes and a two-year banishment from the area.

²² This information is drawn from the monthly regional monitor reports and event database of the Human Rights Committee of SA (HRC), Johannesburg.

²³ This was a joint project of the Institute for Security Studies and the Institute for Human Rights & Criminal Justice Studies of the Technikon SA. The results of the survey were based on 470 interviews and eleven focus group discussions conducted in both rural and urban areas of the Eastern Cape in mid-1999. The results of this research are contained in M. Schonteich. 2000. *Justice versus retribution: Attitudes towards punishment in the Eastern Cape*. ISS Monograph Series. No. 45. Pretoria: ISS. February.

²⁴ The Diepsloot settlement started off in the early and mid-1990s as a temporary 'squatter' holding camp where illegal squatters evicted from farms and other municipal land in the area were placed until the authorities had identified and developed other land for their resettlement. However, despite public protests from surrounding land and homeowners the area was eventually declared a 'formal' squatting area. In other words those squatters evicted from other areas were allocated a small piece of land on which to build their shacks. The Orange Farm area south of Johannesburg had started off in the same way with the authorities

providing minimal services with shacks being allowed to be erected on the assumption that in time the shackowners would build more formal brick structures over a period of time for themselves. In 1999 a start was made in tarring the roads and providing electricity to the area. Moreover a start was also made erecting formal so-called RDP (Reconstruction & Development Programme) houses (small three-roomed brick houses). By the beginning of 2001 approximately 3 850 such houses had already been built in Diepsloot.

²⁵ 'Popular Justice: A case study in Diepsloot'. Marnie Vujovic, a researcher at the Institute for Human Rights & Criminal Justice Studies, conducted the research. One-on-one interviews were conducted with individual police members at the Erasmia police station serving the Diepsloot community; focus group interviews with selected roleplayers in Diepsloot (members of the local SANCO civic, the local Community Police Forum (CPF) and members of the local *Mapogo* branch. In addition a community survey to a sample of 100 residents was also administered.

²⁶ The actual proverb has been interpreted in a number of ways – one being that the leopard mentioned is in fact the perpetrator and the victim is the tiger (if you act like a leopard and attack unsuspecting victims in the dark you (the criminal) must remember that the helpless victim can change into a tiger when sufficiently provoked and hit back strongly)

²⁷ Statements made in Magolego's presentation to an Institute of Security Studies (ISS) seminar: *Is vigilantism an effective anti-crime strategy or an excuse for criminality*. Brooklyn, 8 June 2001.

²⁸ Ebrahim Moosa is a senior lecturer in Religious Studies at UCT and Director of the Centre for Contemporary Islam. In 1996 he had been part of the group of prominent clergy that had condemned the violence being used by PAGAD.

²⁹ According to the HRC 2001 quarterly report there had been 728 incidents in the Western Cape during 1998 of which 200 were directly linked to PAGAD activities. However, these included not only drive-by shootings and arson attacks but also those involving pipe-bomb attacks. This report states that 225 people had died and 475 wounded in these attacks and in 1999 the number of attacks had declined to 371 but with the targets changing to police stations, bars and gay venues (HRC, 2001: 2).

³⁰ Between October 1998 and the end of 2000 there were 21 bomb blasts at public venues and police stations (as opposed to the firebombing of houses of individuals) for which no one has claimed responsibility. Four of the eight blasts in 2000 were car bombs packed with fertiliser explosives. Three people died and more than 100 were injured in the 19 attacks on public places (HRC, 2001: 2) (such as the high-profile blast at the Planet Hollywood restaurant at the V&A Waterfront complex in August 1998 and the 1999 New Year's Eve bombing, also at the V&A Waterfront).

³¹ Since 1997 millions have been spent on special operations in the Western Cape like Operation Recoil and Operation Good Hope to combat PAGAD's alleged urban terrorism. Joint operational structures involving the police, the Directorate for Special Investigations (the Scorpions), intelligence agencies and the South African Defence Force (SANDF) were also set up. However, the special People's Crimes Against the State Unit – formerly the PAGAD Task Team – have also failed to break the cycle of terror in the Western Cape.

³² The Gauteng community court plan lost some of its momentum when the new provincial premier Mbhazima (Sam) Shilowa and a new MEC for Safety & Liaison, Nomvula Mokonyane, were installed in June 1999.

³³ In April 1999 a good deal of publicity was generated with the thrusting into the national and international spotlight with a TV broadcast about CATA's vigilante activities on SABC 3's *Special Assignment* programme. The broadcast had dealt with a case of a young woman being gang-raped in Guguletu. Receiving no joy from the local police and with the suspects released on bail, she complained to the members of CATA at the local taxi rank. The rape suspects were rounded up by CATA, stripped naked, tied to a pole and the woman rape victim proceeded to severely whip them. This was all filmed by a SABC crew and these whipping scenes were all broadcast in full graphic detail.

³⁴ According to police records more than 25 people were stripped and beaten as a result of the activities of informal courts in the Guguletu area between mid-1998 and mid-1999. These figures are most probably an undercount since many of the actual incidents would not have been reported to the police. The usual punishment included being stripped and assaulted (beaten, kicked and whipped). After extracting confessions from the suspects they would then be paraded naked through the streets. It was also reported that some rape suspects had been forced to drink the urine of their victims, given electric shocks to their testicles or acid and spirits poured over their genitals or into their wounds suffered from the lashings received (HRC, 2001: 17).

³⁵ The most salient feature of the CSF system is its “integrative, consultative format”. Pilot CSFs have currently been set up in a number of areas in the Western Cape. CSFs are a multi-agency approach incorporating representatives from a number of different bodies inter alia the SAPS, local CPF, Justice Department, Correctional Services, Welfare, Education and the local authority or municipality in the area. Each CSF puts together a Community Safety Plan that analyses and prioritises the safety needs of the community itself. For instance a first step in the CSF pilot project in Nyanga was the opening of a new court in the area. Such measures are based on the assumption that one of the reasons for the continuation of vigilantism has been the lack of proximity of judicial services to people (HRC, 2000: 94).