SOUTH AFRICA: CRIME IN TRANSITION

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INTRODUCTION

Political and social transformation have affected South Africa profoundly. New and non-racial forms of democratic government have been established at national, provincial and now also at local level, and reconstruction and development have (slowly) begun. But the process has been far from painless: while political violence has ended – excluding in some parts of KwaZulu-Natal – the transition to democracy has been characterised by rising levels of crime.

There is a clear and crucial link between South Africa's transition and the growth in crime rates which has accompanied it. But, it would be dangerously simplistic to argue that crime is purely a consequence of the transition. Indeed, there is strong evidence to suggest that its roots lie in the apartheid system which the negotiated transition sought to end. There is little doubt, however, that the increase in criminality from 1990 – and in the decade before – cannot be divorced from the political, social and economic changes that have ended apartheid.

Increases in crime from 1990 are consistent with the experiences of other countries undergoing transition to democracy: as change proceeds, society and its instruments of social control – formal and informal – are reshaped. The result is that new areas for the development of crime, which are bolstered by the legacies of the past, open up.

Inevitably, newspaper headlines, police reports and the experiences of citizens have brought the issue of crime to the public agenda. To many, the problem has assumed crisis dimensions as the country is swamped by a 'crime wave'. And crime is seen by both the political *élite* and the media as a threat to the stability of the new democracy and a deterrent to investment. "*Crime*", the populist Premier of Gauteng, Tokyo Sexwale, has declared, "*is the soft underbelly of the Reconstruction and Development Programme*."[1] Crime is therefore implicitly and explicitly seen as a central test of the capacity of the Government to rule and the new democracy to consolidate.

The transition has not brought with it a system of criminal justice that is immediately in a position to respond to these challenges. The institutions of criminal justice remain weighed down by public perceptions that they are tools to enforce the rule of the minority over the majority, rather than instruments to deliver protection to all. Also, the state security apparatus, while monstrously efficient in defending white rule through 'insertion' or 'fire force' policing, is too underresourced and underskilled to take on conventional policing functions. The Government – with its desire to control the pace of transformation and ensure that policing functions remain firmly in its control – has sought to retain policing as a central function, despite growing evidence that a centralised approach to crime control and prevention fails to take local problems into account. Pretoria-centric controls undermine the establishment of clear accountability links between local communities and the police, reinforcing perceptions that the South African Police Service (SAPS) remains unaccountable and unresponsive to citizens' needs.

Of course, citizens have not necessarily always reacted to growing levels of crime by demanding that politicians do something about it. Rising crime rates have effectively prompted South Africans to create substitute policing institutions, a trend which has strengthened throughout 1996. The private security industry continues to grow, while vigilante groups have consolidated their position. The dangers of the growth of alternative forms of policing are obvious: they represent initiatives outside of and uncontrolled by state authority that are able (and often willing) to replace the formal public policing apparatus.

The challenges that await the new order should not be underestimated – nor are they easily resolved. Indeed, the Government is faced with a dilemma. A failure to act reinforces public perceptions that government is weak, while overreaction – with characteristic 'fire force' policing – leaves the impression that not much has changed. There is also little comparative evidence to draw on. Most countries emerging from a period of transition (many with a lesser socio-economic divide than South Africa), have not yet been able to reduce their crime rates significantly. There is thus much to learn from the country's experience – but to date, the lessons are few.

A CRIMINAL SOCIETY

Crime and politics in South Africa have been closely intertwined. In the era of race domination, apartheid offences were classified as crime, while those people engaged in 'the struggle', particularly from the mid-1980s onwards, justified forms of violence as legitimate weapons against the system. Instability prompted a growing number of South Africans to acquire weapons: the use of guns to settle personal and family disputes became more common. Into this complex mix, violence was grafted in KwaZulu-Natal from the mid-1980s, and on the Reef from 1990. Actions which were strictly violent crimes, were seen by their perpetrators as a legitimate defence against political 'enemies'. The result was a society in which the use of violence to achieve political and personal aims became endemic.

Measuring crime during apartheid's last decade reveals contradictory trends. At the height of political conflict during the 1980s, increases in some crimes appeared to have bottomed out. Political liberalisation brought a crime explosion, in an apparent following of patterns within other societies (like states in Eastern Europe and those emerging from the former Soviet Union) undergoing sustained periods of democratic transition. As social controls are loosened, spaces open which allow growth in criminal activity. And, in developing countries attempting to make the transition, fewer resources mean that the cost of a growth in crime is far higher (even if rates of increase are comparatively smaller).[2]

But, at the outset, any understanding of criminality in South Africa is complicated by the fact that it is difficult to effectively measure the extent of lawlessness, or its costs. Recording crime relies on a two-stage process: victims or bystanders need to report the crime to the police, who then need to record it. In fact, only a portion of some offences makes it that far. In South Africa, the collection of statistics has been complicated by the historic divide between people and police, and the vagaries of apartheid recordkeeping. South African Police figures, for example, historically excluded those of the bantustans – statistics show all recorded crime in KwaZulu-Natal, for example, as occurring in the 'white' Natal section. This implies that the 'dark figure' of unrecorded crime in the country is substantial.

Barring the undertaking of a comprehensive victimisation survey in South Africa, official crime statistics are the only ones available. If they are to be useful, they should not be analysed for minutiae and rejected out of hand, but probed for broad trends. There is a common perception, for example, that crime in South Africa only began to increase from 1990 onwards in conjunction with the process of political transition. In fact, most serious crime, notably murder, robbery and housebreaking, began to increase from the mid-1980s onwards.

It must be emphasised that South Africa's crime problem is not recent: the society has always been 'crimo-generic', given the levels of inequality and political conflict. The decade 1980 to 1990, in which the apartheid state was most strongly challenged, showed significant increases in crime. According to police figures, serious offences rose by 22 per cent, and less serious ones by 17 per cent; murders increased by 32 per cent, rape by 24 per cent, and burglary by 31 per cent.[3]

The increase in levels of crime peaked in 1990, the year in which the political transition began. Recorded levels of almost all crime showed absolute increases for the period 1990 to 1994. While the murder rate declined by 7 per cent, in line with declining levels of political violence (from 16 042 fatalities in 1990 to 14 920 in 1994), other crimes increased phenomenally during this period: assault increased by 18 per cent, rape by 42 per cent, robbery by 40 per cent, vehicle theft by 34 per cent, and burglary by 20 per cent. There was also an increase in crime of the affluent: although no accurate figures are available, commercial crimes increased significantly during this period. Trends throughout the country were not uniform, with the greatest increases occurring in the urban complexes around Johannesburg, Durban and Cape Town.

The problems related to the recording of crime suggest that Government will need to continually manage perceptions of increasing crime levels for the next decade. If police reform succeeds and wealth is distributed more evenly throughout society over time, recorded levels of crime will continue to rise. This will apply particularly to property crime: a growth in the insurance industry, the numbers of cars on the road, the number of telephones and the approachability of the police (through, for example, a single emergency phone reporting system) will allow higher levels of reporting. These increases will need to be managed by Government – something which the Ministry of Safety and Security has conceded that it is not adequately prepared to do.

The above outcome will mainly apply to less serious crimes. Given the greater likelihood of being reported, figures for crimes, such as murder, may be more accurate. South Afirca leads a comparative measure of citizens killed in crime-related instances in a range of countries. The figure for the first six months of 1996 of 30 citizens killed per 100 000 head of population is nearly four times that of the United States. And hospital records (which are often more accurate than crime statistics) show that every day, 2 500 South Africans require treatment as a result of stabbings, beatings and shootings. Indeed, reporting figures for the first part of 1996 continue to show dramatic increases in levels of reporting for assaults, domestic violence and rape.[4]

The growth in organised crime in the new democratic order has also been dramatic. There are now said to be 481 criminal organisations in the country (although police definitions of these remain unclear) that engage in a wide range of activities, ranging from weapons, drug and vehicle smuggling. Countering organising crime is a priority. Comparative evidence from other countries in transition suggests that, unless organised crime operations are countered soon after their formation, they have the potential to harden, penetrate the state and form parallel and competing centres of power. The rise of criminal enterprises in parts of Eastern Europe, the former Soviet Union and West Africa illustrates these developments.[5]

The impact of crime on the country, however, is not uniform, and increases in crime appear to affect different parts of South African society in different ways. This implies that, since not all South Africans are equally exposed to dangers, different strategies should be used in different areas to curb crime. Thus, while crime in general has increased over the past decade, this does not necessarily apply to all crime, nor do all areas of the country suffer equally. A broad examination of statistics over time, shows that the Northern Province displays high levels of property crime, but a comparatively low figure for violent crimes. KwaZulu-Natal shows high levels for property and violence related offences. The Northern and Western Cape show high assault figures, yet comparatively smaller readings for theft and housebreaking. The Free State consistently shows the lowest reported rate for all categories of crime.

These provincial variations suggest that national crime figures may be deceptive, since levels of victimisation and forms of criminality vary between provinces. For instance, while vehicle hijacking is feared nationally, almost all cases occur in Gauteng. This conclusion is reinforced by local police station figures which show that categories of crime vary considerably between station areas. A detailed examination of crime totals for various magisterial districts in Gauteng shows that districts with very high crime rates and those with very low crime rates are often situated close together.[6]

These conclusions are hardly surprising. It is an established truth in policing that the causes and consequences of crime are often locally specific and, as such, require locally driven answers. While this principle is generally recognised in South Africa, particularly given the political imperatives of a society in transition, it has not necessarily been subscribed to by policy- makers. The result is a messy breakdown of police functions and levels of accountability which serve to hinder police effectiveness.

Most serious is the fact that there is currently no connection between elected local government and police agencies. Community Police Forums (CPFs), designed to give local communities a say in policing priorities, have been written into the Constitution. But the introduction of CPFs has not been unproblematic. At the outset, such structures, given their volunteer nature, are seldom representative. In addition, since CPFs can do little to influence the operational priorities of the police – depending of course on the personalities involved – they are often little more than toy telephones.

Local station commissioners report through the police command structure to the National Commissioner in Pretoria and so have little incentive to respond to community needs. Promotions and transfers depend on the hierarchy in Pretoria and not on the community's voice on the ground. The problem of accountability is compounded at provincial level. Provincial MECs for Safety and Security are tasked under the Constitution with monitoring and oversight functions over the police – in effect they have little say (beyond political influence) over operational policing issues in their provinces.

The result is often (although not always) that local policing priorities are subsumed under a complex bureaucratic structure directed from Pretoria. The centralisation of police functions is based on a political imperative to maintain the coercive apparatus of the state controlled from the centre. To break up the police agency, the argument goes, may invite exploitation and abuse from the provinces and further down the spectrum at local level. Also, there is some doubt about the capacity of many localised structures and station commanders to take full responsibility for policing in their area. Proponents of centralised policing argue that to devolve policing functions would result in effective services in some areas and poor ones in others. These arguments are spurious: given adequate degrees of regulation and the maintaining of certain key police functions at national level – like public order and organised crime investigations – would prevent abuse from occurring. The key to better policing is to allow communities to take responsibility for safety and security, rather than assuming that they are incapable of doing so.

Colonialism, with its specific brand of policing, required a centralised police agency, as did apartheid with its desire to control and suppress opposition groups. Ironically, the post-apartheid Government, in seeking to establish social order and to transform the policing functions of the state, argues for the need to retain centralised control of the police function. The result is increasing levels of disorder in many local communities and little democratic linkage to ensure accountable forms of policing at local level.

CRIMINAL JUSTICE IN CRISIS

Beyond its policing function, South Africa's system of criminal justice is in crisis. If its ability to prevent, process and deter crime is any measure of its effectiveness, then reform of the system is now not only a necessity, but a national priority. Unfortunately, the system is not easily fixed. It is not characterised by a single problem which can be resolved speedily, but is characterised by multiple blockages, many of which cause delays in other parts of the criminal justice pipeline. The system, stretching across the departments of Safety and Security, Justice and Correctional Services, has never been a unified one. The links between the various departments are weak and the involvement of departments such as Welfare, Education and Health – who have key roles to play in the prevention of crime – is minimal.[7]

Broadly, if it functioned effectively, the system should consist of both proactive and reactive components. Proactive crime prevention strategies are key to the longer term reduction of crime in South Africa. But they are themselves limited without effective institutions to process (and rehabilitate) offenders once crime has been committed. While the development of

proactive solutions to crime should be a priority, the focus – at least in the short to medium term – should rest on transforming the reactive components of the criminal justice system. Within this context, however, there is significant scope for the development of proactive strategies – rehabilitation of offenders being the most obvious.

Inevitably, reform efforts after 1994 concentrated almost exclusively on the front end of the criminal justice system – essentially the visible component of policing. Community policing has been the watchword of police efforts to sell themselves as more acceptable to the majority of the South African public – in truth, that focus has been as important a tool to transform citizens' views of the police, as it has been to the change in ethos among police officers themselves. The transformation of the most publicly visible component of the criminal justice system is still far from complete. But equally serious problems characterise the system further along – these are primarily in the areas of the detection of crime, the prosecution of offenders and in the system of incarceration.

What has virtually been ignored by the policy-makers in the new order has been the issue of detecting crime. The consequences have been severe. In 1995, only a quarter of all robberies were resolved, one fifth of all housebreakings, one tenth of all vehicle thefts and about 50 per cent of all murders.[8] Hardly surprising, South Africa's detectives have always been a threatened breed – under apartheid the quick road to promotion for bright and ambitious officers was through the security branch, in the new order the fast track is uniform or visible policing. This has been exacerbated in the past year by the large numbers of experienced detectives leaving the services for the more handsome pickings of the private sector and by the difficulty of recruiting more detectives.

Currently, there are few incentives for detective work – uniform officers work four days on and four days off, good detectives often work seven days a week with no overtime, under poor and dangerous conditions with little support. Most detectives, often with no training (only about 26 per cent have been on a detective course), carry upwards of fifty dockets. There is no mentoring or assistance programme to speak of and the vast majority of new detectives are thrown in at the deep end. There is also a high degree of inexperience – only 13 per cent of all detectives (and these mainly in specialised units) have more than six years on-the-job experience.

The position has been aggravated over time by structural changes in the police. Given that station level detectives were seen as ineffective, specialised units were created – the nett result has been the removal from stations of experienced officers and the loss of morale among ordinary street level detectives. In a recent development, the SAPS has mooted a detective academy to train detectives and pass skills from specialised units to station levels officers.

The Department of Justice is also not blameless. Most public prosecutors have little experience and magistrates courts are often badly managed. Constant postponements frustrate witnesses who often fail to appear when cases are finally heard. Most critical though, is the interface between detectives and public prosecutors. Greater co-operation and co-ordination between justice and police officials at this point in the system would ensure a higher rate of prosecutions. At the moment, prosecutors and investigating officers in the lower courts often only meet each other for the first time when the detective is in the witness box.

While both departments protest that the systems are in place to ensure effective functioning, what appears to be a common problem is a lack of skilled (and motivated) middle management. Old order civil servants are disillusioned and new or recently promoted officials have little experience and (often deliberately) receive no support.

South Africa's prisons are also in dire need of reform. Ironically, the prisons have been fuller in the past – in the mid-1980s more than four in every 1 000 citizens were in jail – but apparently better managed. Staff shortages, prisoner and warden unrest and increasing corruption – many escapes are seemingly orchestrated by bribing prison officials and the Department is often referred to as the Department of Corruptional Services – are bringing the crisis to a head.

South African prison conditions are near Victorian. The announcement that Correctional Services would begin issuing condoms – hoping at least to protect unwilling prisoners forced into sexual intercourse from AIDS – has brought the issue into sharp relief. Most prisons are dank and dark – maintenance budgets are limited – and internally, some jail areas are virtually controlled by the prisoners themselves, and not by wardens.

To be fair, the problem is not all of Correctional Services' making – about one quarter of all South Africa's 130 000 inmates are still awaiting trial. In effect, Correctional Services must cater for those whose passage through the criminal justice system is blocked at the point where crime is investigated and processed through the courts. Given that those prisoners awaiting trial are not yet sentenced, but are merely held in custody by Correctional Services pending the outcome of their court cases, the effect is that they are not considered to be full-fledged convicts and are not privy to (albeit) limited privileges, such as prison clothes and recreational services.

The clearest indication that the system is failing, lies simply in the fact that more than half of those who have been imprisoned will again commit crimes on their release. Rehabilitation in South Africa's prisons (admittedly like most other countries in the world) is a farce – and the likelihood of improvements in future are slim, given that any new budgetary allocations will be for yet more prisons and staff to guard them. Public opinion is also geared more to the curbing of crime than to the rehabilitation of prisoners (although the two are closely linked), and convicts are widely viewed as deserving the conditions under which they live. Business Against Crime, a prominent private sector initiative aimed at ending lawlessness, for example, while supplying resources to the front end of the criminal justice pipeline where criminals are caught, has displayed little interest in its back waters where crime is often learned – SAPS officers refer to prisons as the 'universities'.

At least part of the problem lies in the rigidity of the South African penal system – alternative forms of sentencing are virtually unavailable and where they are, magistrates (influenced by public perceptions that the system is criminal-friendly) seem unwilling to use them. In Europe and North America, parole and correctional supervision are increasingly seen as modern alternatives to locking people away. In some US states, up to 80 per cent of all convicted prisoners are on probation or parole – in South Africa, the comparative figure is 20 per cent. Furthermore, parole in South African prisons is determined by the Department of Correctional Services itself – an open invitation for bribery and an easy (but inappropriate) mechanism to release pressure on the prison system.[9]

In effect, the Department virtually has the power to alter sentences established by an independent judiciary. What is urgently needed, is an investigation into community forms of sentencing for some categories of offenders. This would mean the appointment of a greater number of supervisors (as opposed to prison wardens) – there are currently only 1 100 supervisors for a total of 33 340 convicted offenders (including those who have been granted parole) serving their sentences outside of the prisons – and the enlisting of business and government support to ensure alternative forms of sentencing to prison.

Corruption throughout the criminal justice system is said to be pervasive – although few figures are available, the current prosecution rate can only be the tip of the iceberg. Corruption – bred by declining morale, poor controls, management and training within the system itself – is a symptom rather than a cause. And it should not be viewed as an issue outside of and unrelated to the poor functioning and management of the criminal justice system. But, its consequences for public perceptions of the institutions of criminal justice are severe.

The dilemma here is that any large crackdown on corruption is bound to undermine the already flagging public confidence in the criminal justice system. But denial of the extent of the problem will continue to undermine public confidence in the institutions of criminal justice. This will be particularly so if, in the longer term, it becomes common knowledge and the experience of ordinary citizens that the system's representatives – in the form of the police, court and correctional officials – are open to corruption. This dilemma is one of the most

significant challenges awaiting policy-makers in the next five years. The only alternative is unattractive in the short term – some high profile prosecutions.

GOVERNMENT INITIATIVES

The growing weakness of the criminal justice system has not escaped Government. The recently released National Crime Prevention Strategy (NCPS) has as its central task the bringing together of departments involved in crime control and prevention and the co-ordination of their activities. This suggests a more unified approach to the problems of the criminal justice system. But the greatest strength of the crime prevention strategy – its inclusive and comprehensive nature – also holds the potential to be its greatest weakness. The very complexity and wide ranging nature of the strategy suggests that co-ordination and leadership will be critical success factors.

While the strategy provides a vision for a society that has begun to confront the problem of criminality eating at its core, the ability to manage the process of reform of the criminal justice system still has to be demonstrated. The strategy – an 88-page document in small, single-space type – aims to draw together key roleplayers in Government in an attempt to provide the basis for the restructuring of the criminal justice system, and in the longer term, more effective crime prevention programmes.[10]

The development of the strategy involved six core government departments: Correctional Services, Defence, Intelligence, Justice, Safety and Security, and Welfare. This is in itself an important development: a holistic (as opposed to sectoral) approach to crime prevention which has been sorely lacking. What is also clear from the document is the reorientation of the intelligence community which now, and it seems increasingly, will assume a crime combating role in relation to specific types of crime.

At a different level the strategy indicates another significant shift in the discourse of safety and security in South Africa: from 'community policing' (which is barely mentioned in the document) to 'crime prevention' and the building of 'partnerships', both between government agencies and with outside organisations in business and civil society in an effort to stem the tide of crime.

The document provides a detailed analysis of the reason for the growth of crime in the country – seen (correctly) as a complex intermeshing of a diversity of factors – and outlines steps under way in various government departments to counter crime. Outside of the repair of the criminal justice process, three key issues – environmental design, education and transnational crime – are identified as being critical areas for intervention to reduce crime. In addition, the strategy lays down eighteen nationally driven programmes to be implemented. These are diverse, ranging from improving information systems (poor information transfer is at the heart of the system's problems), victim empowerment and support, and mechanisms to counter organised crime.

What is notably absent from the list of new programmes are specific preventive strategies related to drug use, the proliferation of small arms and the gang problem in certain parts of the country. While all are covered either directly or indirectly within various sections of the document, it would have been worth consolidating current initiatives and developing specific strategies to form two or three additional (and high profile) prevention programmes. These areas are of increasing concern given that they hold the potential to spawn wider forms of criminality.

The issue of increasing drug usage, for instance, is a critical one. Government response to the drug problem has historically been fragmented and poorly funded with no co-ordination between reactive and proactive programmes. What needs to be explored is the establishment of a law enforcement body separate from the current police and intelligence structures which would provide leadership in the areas of both prevention and enforcement.

On a different level, it is a pity that the strategy does not contain a more detailed section on initiatives by local government. International experience suggests that the key to crime prevention lies at the city level. The strategy could have advanced the process and the

debate at local level substantially, had the issue of crime prevention at a metropolitan level, for example, been emphasised. A useful mechanism in other countries has been the establishment of city forums to compare experiences and determine joint guidelines for crime prevention.

Nor have South African city authorities been idle. Many are beginning to work on crime prevention plans and the establishment of further local authority police agencies. But central Government has dragged its heels on these developments – as yet, no framework exists for local government policing or crime prevention strategies, and, if current developments are anything to go by, local governments will run ahead of the national authorities in this sphere. Many, including crime ridden Johannesburg, are in the process of formulating plans for city police services designed to supplement the SAPS.

What the NCPS does correctly suggest, however, is that local level initiatives should be able to take account of conditions and circumstances at local level in tailoring individual programmes. But, the consequences are not clear, should local authorities stray outside the broad boundaries delineated by the strategy. The document could have suggested guidelines to contain, or where necessary, focus any such initiatives.

The key to the success of the strategy is co-ordination – otherwise it simply becomes a reflection of a wide variety of programmes which may eventually have occurred in one form or the other. A related problem with such a large and complex initiative is that, at a national level, it is virtually immune to measurement – there is a danger that success will simply be equated with a flurry of activity (in this case, committee meetings) rather than any real decreases in crime.

Given the number of players involved, the complexity of the strategy should not be underestimated. Apart from, and in conjunction with the eighteen programmes initiated through the strategy, there will be various initiatives in line function departments and the seeking of partnerships with outsiders.

While the document makes allowance for monitoring at department and programme level, the extent to which the whole enterprise will be subject to review is not clear. While it would be inappropriate, given the difficulty of interpreting crime statistics, to suggest that the crime rates should be cut by a given percentage by the year 2000, programme deliverables need to be more clearly outlined. It is thus of concern that the strategy – despite the fact that it is a framework for implementation – contains virtually no time frames (although in some cases it appears that these are still to be determined) for the completion of the various programmes.

Management is further by committee – an interministerial committee will supplement the Cabinet Committee on Security and Intelligence and will consist of the ministers of Safety and Security, Correctional Services, Defence, Justice, Welfare and Intelligence. The committee will meet only quarterly, or can be convened on an *ad hoc* basis should it be required. Underneath the ministerial committee will be a committee of directors general which will also be chaired by Safety and Security as the lead department.

With no deadlines to work to, the committees, which have apparently already met, have made little progress as yet. A publicly released set of objectives and deadlines would have provided some accessible points of measurement to judge any progress. Without these, the danger is that the plan will be perceived as simply another paper strategy creating expectations which the Government will not be able to meet.

Indeed, this has already occurred. High profile media coverage of specific instances of criminal activity has turned the spotlight once again on the issue of crime. Government responses that these are just individual instances (or a media plot) fundamentally misunderstand the role of the press. Unless government law enforcement agencies are seen to work on the ground – in the short term – where most citizens experience crime, no amount of strategies formulated in Pretoria will bring relief. In fact, quite the opposite will occur: if every fresh outburst of crime is met only with words and no visible implementation, public cynicism will grow. The success of the strategy is critical. Failure will bring growing

disillusionment with conceptions of proactive crime prevention, which is central to the long term solution of disorder in South African society. Instead, there will be a continued growth in reactive, self-help, and increasingly violent solutions to crime.

CITIZEN RESPONSES

The increasing failure of the criminal justice system to deter or punish offenders has been marked by a growing trend among citizens to take the law into their own hands. None of these are new – all have already occurred in some form or the other under apartheid rule. What is significant, though, is the growth of extra-state mechanisms of law and order, in conjunction with declining confidence among the citizenry in the ability of the police to secure a safe environment. Forms of alternative protection vary – the wealthier components of society can afford to contract responsibility for their safety to the private security sector, less fortunate communities are more likely to take their own initiatives.

Unlike the security business in Europe and North America, the South African private security industry has not been subjected to scrutiny. The sector has grown rapidly since 1980. Initially, it expanded at about 30 per cent per year, slowing to 10-15 per cent in the last five years. (There has been an estimated annual average growth rate of 18 per cent since the late 1970s.) The exact value of the industry is difficult to quantify – a recent estimate suggested that the guarding industry alone was worth around R3,6 billion. Private security officers outnumber the public police by about 2 to 1.[11]

The South African industry, in comparison with security sectors elsewhere, shows some unique traits – a mix between a sophisticated electronic sector and the physical provision of guards. It is also distinguished by a comparatively higher growth on the reactive side. Traditionally, both in South Africa and elsewhere, security companies have played a proactive function: guards patrol defined areas to prevent crime, modelled very much on the concept of the 'bobby on the beat'. In South Africa, the combination of electronic and guarding functions has led to a marked growth in the 'armed response' sector: panic buttons relay electronic signals *via* a control room to armed security officers patrolling in cars, who therefore play roles far more similar to the state's traditional law and order function.

The growth in the South African industry has not reflected broader trends in the economy. Indeed, there seems to be an inverse relationship, with the industry growing remarkably in poor economic conditions. In the pre-election months, when most business in the country stagnated, security reflected record growth. Since the election there has been some stabilisation, although the rise in crime is again boosting security companies. But, to some degree, parts of the market, like guarding, are increasingly showing signs of saturation.

The development of the private security sector in South Africa, however, has not been untroubled. Appeals for more powers for certain categories of security guards are likely to fall on deaf ears if the public and official perception is that private security officers are untrained and act unprofessionally. Public perceptions, whether the industry likes it or not, are shaped by individual instances of abuse – for example, the deaths of sixteen people in a stampede caused by security guards armed with electric batons at Tembisa, north-east of Johannesburg in July 1996, or the notorious case of security officer Louis van Schoor's killing of 41 alleged burglars over a number of years.

The dangers of replicating the Tembisa incident is real. More and more, private security companies operate in the so-called private-public sphere; that is, private property which is open for public usage, for example, shopping malls or university campuses. There is also a growing trend to use private means in purely public spheres, such as policing urban neighbourhoods or central business districts. In more extreme cases, private firms engage directly in public order activities, like the clearance of squatters.

Growth in the private security industry does not necessarily release pressure on the public police. In fact, quite the opposite is true: the industry puts mechanisms in place – guards, alarms and detection devices – to gather information which can be fed to the police. Rather than decreasing demands on the police, private security may overburden it in some areas. The clearest indicator of this in South Africa is the issue of 'false alarms' – in KwaZulu-Natal

between January and April 1996, the SAPS travelled 170 000 km in response to electronic alarm activations, accounting for 40 per cent of all complaints in the province, with only 1 per cent being valid.[12]

To argue that private security serves as a useful component to state structures – as the industry increasingly does – ignores their differing goals. The private company seeks to protect the interests of its client, while the police theoretically defend the rights of citizens. In the main (and barring some cases in the private investigation sector), private companies are more concerned with the prevention of loss than the detection of offenders. In particular, the exercise of discretion by such private security personnel will often be far more influenced by their perceptions of their immediate employer, than any generalised concept of the public interest. Thus, offenders will only be handed over to the justice system if this is in the perceived interest of the client. This implies that in South Africa, as elsewhere, public and private policing do not fit as neatly together as first assumed.

If the public policing activities of private security continue to grow, what are the policy alternatives? Greater regulation, beyond that offered by the Security Officers Board – a statutory body staffed and funded by the industry – is only valid if it can be enforced, which is currently not the case in South Africa. One option, given that the public at large are exposed to private policing, is the establishment of an independent complaints mechanism – over and above any ordinary recourse individuals may have under the law – to provide a publicly accessible means to oversee the industry. But, with or without such a mechanism, the industry will remain contract driven, in the final analysis responsible to individual clients rather than the public at large.

While business and the wealthier sections of society seek to buy safety, the less fortunate have sought to confront the problem more directly. While by no means the first of such actions, the campaign by the vigilante group People Against Gangsterism and Drugs (PAGAD) in the Western Cape – who publicly murdered an alleged drug dealer and has maintained an armed presence in parts of some of the Cape townships – has brought the issue of citizen action to a head. But they are a real danger to the new order, should such initiatives become a permanent feature of the debate on community safety in South Africa.[13]

Indeed, South Africa is beginning to display many similar characteristics to the crime wracked states of Latin America. In Brazil, where the army has been summoned to control crime in major urban areas, vigilante policing is nothing new. The use of vigilante squads in the crowded urban complexes around Rio de Janeiro and Sao Paulo (and increasingly in small towns in the interior), are justified because of the inefficiency of Brazil's established judicial institutions. These experiences hold some profound lessons for South Africa.

Ironically, vigilante action, which (at least in the rhetoric of its proponents) is an attempt to strengthen state institutions, often has the opposite effect: the further weakening and undermining of official criminal justice channels and the creation of alternative centres of power (and by definition coercion) outside of the state security apparatus. This rings partiuclarly true in South Africa. Here, as in Latin America, vigilante actions against criminals are essentially a response to state ineffectiveness, combined with a culture of violence and an inability of the state to defend its own areas of responsibility from vigilante incursions.

Perhaps more to the point, vigilante actions are encouraged by perceptions that the perpetrators themselves will not be threatened by counter-measures from the state. Indeed, this conclusion is easy for citizens to draw: if a state is ineffective in deterring the criminals who originally contributed to the potential for vigilantism, it also lacks the capacity to deter the vigilantes. This is illustrated by state responses in Latin America to vigilantism: essentially an attempt to co-opt rather than to confront. Police Commissioner George Fivaz's recent assertion (while of course not condoning vigilante violence) that the police wish to work in 'partnership' in the Western Cape with vigilante groups, is a classic response.

It must be recognised that what is achieved by vigilante behaviour is not necessarily useful. Vigilante action is essentially reactive – it aims to (violently) suppress. And, it tends to be applied in an *ad hoc* manner. Even though the violation of formal legal boundaries may be

supported by the majority of the community (as in Sao Paulo and on the Cape Flats), vigilantism is disorderly and unpredictable, having consequences unforeseen at the time it has been initiated. It often simply solidifies the very opposition which it has aimed to undercut. It is not for nothing that the gangs on the Cape Flats have resolved their differences in order to counter the common threat that now faces them.

Moreover, when law enforcement officials themselves participate – either directly or indirectly – in acts of violence, the moral validity (or the remains of it) of the formal legal system is undercut. One of the most serious developments around vigilante violence in the Western Cape is thus the widespread public perception that the police (frustrated by their own inability) have stood back and allowed 'natural justice' to take its course.

Over the medium to longer term, the greatest danger of vigilante action is that it will spread and become institutionalised – an accepted mechanism to police what is increasingly viewed as the unpolicable. Assuredly, new complexities will develop over time. Police members who are seen to be in cahoots with criminals, for instance, could become targets for attack, thus upscaling and complicating the conflict.

Vigilante actions in South Africa, while their causes and aims may differ, are nothing new. The use of vigilantism to achieve political ends was a common feature of the last decade of apartheid and the transition to democracy in South Africa. The difference was that these forms, like the 'wit doeke' on the Cape Flats and the impis in KwaZulu Natal, enjoyed state support. The principle of using violent action outside the formal institutions of the state is already well established.

The growth of self and private policing provides a ready base from which violent vigilante actions can grow. In Soweto, for example, groups like Youth Against Crime – a motley collection of youngsters who patrol some section of the township – can easily be upgraded into violence-driven vigilante groups. Indeed, the events in the Western Cape were watched with interest by groups in Soweto – while their organising principles are not as strong as those of PAGAD, nor are they as tightly organised, they do contain the potential for violent action.

If the dangers of vigilante action are manifest, what then are the solutions? The only alternative is the most difficult one: the establishment of an effective system of criminal justice as a matter of national priority. The South African state, no matter what the degree of breakdown within its institutions of criminal justice, still retains the capacity for such an alternative, if it is confronted in targeted way. Seeking to co-opt vigilante leaders and placate criminals, while it will ensure peace in the short term, will over time undermine the last shreds of public confidence in the criminal justice system. The greatest danger is to do nothing – allowing vigilantism, because it has short term advantages to the state, to run its course.

CONCLUSION: CRIME AND DEMOCRACY
Just as the transition affects crime, so crime affects the transition. Not long ago, the new Government's willingness to compromise politically – and the affluent minority's willingness to compromise in turn – in the interests of racial accommodation, seemed the most likely determinant of democratic prospects. Ironically, however, unexpected success in this area could be nullified by the emergence of crime as a, if not the central determinant of the attitudes towards the new democracy of local affluent minorities, and perhaps also of international investors.

High levels of crime affect all South Africans. But the effect in the new democracy appears to vary between racial groups. For affluent, suburban whites, growing evidence suggests that it is the prime threat to confidence in the new order and the factor most likely to prompt continued emigration among a sector of the society whose mobility is high and whose commitment to majority rule is conditional. Since skills and resources are disproportionately concentrated in this group, its flight from attacks on persons and property would weaken democracy's economic foundation. There is also evidence that predominantly white residents of the suburbs may react to crime by seeking to insulate themselves physically from the mainly black poor who are seen as its perpetrators. That would entrench a form of social

distance which will impede attempts to create a common South African loyalty.

For much of the black majority, exit is neither a feasible nor a desired option. And, since this section of society has been living with high rates of violent crime for decades, concern at a relative increase is far outweighed by enthusiasm for a new order in which black people are full citizens. There is, as yet, no visible evidence that crime is substantially denting black confidence in democracy. In addition, recent research suggests that black citizens see crime as a symptom of social and economic inequalities rather than a product of democracy's 'weakness'. Survey results suggest that white and black citizens view increasing crime and state responses from diametrically opposed positions: whites see crime as a breakdown of policing standards and the weakness of the new order, blacks view increasing lawlessness as a sign that the new democracy has not been consolidated and that its institutions need strengthening.[14]

This state of affairs will not last – indeed, important constituencies in the growing black middle classes' views are beginning to converge with their white compatriots. If the personal safety of black citizens declines still further, enthusiasm for measures to 'restore order' where democratic liberties are threatened, could grow. The majority of black South Africans (and indeed ANC members) now support a return to capital punishment.[15]

The perception that achieving safer communities is beyond the means of the state, or an apprehension that citizens' sanest response to the threat is to insulate themselves from society, could ensure declining political participation. The signs of this, although only partly in response to crime, are already there – recent surveys suggest that the ANC has lost 10 per cent of its support, but that this has not been distributed to any of the other parties in the political system.[16] The perception that an elected government cannot perform the most fundamental function of state authority – to protect the persons of its citizens – could reduce confidence in the new democracy.

What are the prospects, then, that crime will decline significantly? The evidence does not permit a clear and confident answer. Both here and in other societies, the roots and cures of crime are far too complex to permit definitive predictions or trends. The polarised conventional wisdom of the debate – that crime will decline as soon as development takes off, or the moment the police are elevated to their 'rightful' place and adequately resourced – are at best unproven and likely to remain so for some time. And even if crime rates stabilise, it appears likely that reported crime will rise. This could influence public debate by masking success, if any, in combating crime.

An underemphasised constraint on the reduction of crime, particularly its violent variety, is a grim legacy of the transition period – the ready availability of weaponry, which also erodes one of the key prerequisites of democratic transition: the state's ability to monopolise the instruments of coercion. This may be enhanced by a vicious circle in which the widespread use of illegal arms prompts continued demands for greater access to legal ones, despite the fact that widespread legal white access to weapons since the 1980s has not prevented the growth of violent crime (and in fact probably encouraged it).

These realities create ironic dilemmas for a new democratic government. On the one hand, confidence in the new order will decline if the authorities are seen to abandon any attempt to address crime in the (probably dubious) hope that citizens will adjust to an unpleasant reality. On the other hand, promises of a concerted 'war on crime' in a context in which the capacity to tackle the problem is clearly limited, may have destructive consequences. These will affect the authorities, as well as the democratic system – both by creating expectations on which it may be unable to deliver, and by encouraging support for strategies which may be both inimical to civil liberties and unlikely to succeed.

The longer the dilemma remains unresolved, the more likely it is that the democratic authorities, and therefore the political process, will cease to be seen as credible guarantors of personal safety. For those unable or disinclined to emigrate, 'self-policing' and reliance on private security will be seen as more viable protections. While the impact of these choices on democracy may be difficult to determine, at the very least they suggest a declining

relationship between security on the one hand, and accountability and legality on the other. As the more affluent, in particular, are forced to rely increasingly on their own responses to crime, the more likely they are to seek to insulate themselves from the rest of the society, entrenching in a new form, the old divisions which the transition has meant to overcome.

ENDNOTES

1. Business Day, 4 August 1994.
2. For a more detailed argument on the relationship between crime and political transition, see M Shaw, Partners in Crime? Crime, Political Transition and Changing Forms of Policing Control, Centre for Policy Studies, Johannesburg, 1995.
3. See M Shaw and L Camerer, *Policing the Transformation? New Issues in South Africa's Crime Debate*, ISS Monograph Series, 3, Institute for Security Studies, Halfway House, 1996.
4. Unpublished crime statistics, January – June 1996, Crime Information Management Centre, South African Police Service, Pretoria.
5. See M Shaw, *The Development of Organised Crime in South Africa*, in Shaw and Camerer, *op. cit*.
6. L Glanz, *Crime in Gauteng*, unpublished paper, Human Science Research Council, Pretoria, 1995.
7. For an overview of problems across the criminal justice system, see Re engineering the Criminal Justice System, a joint project of the Ministries of Safety and Security, Justice, Welfare and Correctional Services and Business Against Crime, June 1996.
8. The actual figure is probably lower than this; see L Glanz, *The Not So Long Arm of the Law*, Indicator SA: Crime and Conflict, 5, Autumn 1996.
9. See M Thinane, *End of the Line: South Africa's Overcrowded Prisons*, Indicator SA: Crime and Conflict, 7, Spring 1996.
10. National Crime Prevention Strategy, Departments of Correctional Services, Defence, Intelligence, Justice, Safety and Security and Welfare, Pretoria, May 1996.
11. For amore detailed overview of the industry, see M Shaw, *Privatising Crime Control? South Africa's Private Security Industry*, in Shaw and Camerer, *op. cit*., pp. 83-87.
12. Re-engineering the Criminal Justice System, *op. cit*. The figures for the other provinces where statistics are available, are similar.
13. M Shaw, *Buying Time? Vigilante Action, Crime Control and State Responses*, Indicator SA: Crime and Conflict, 7, Spring 1996.
14. D Ehlers, I Hirshfeld and C Schutte, Perceptions of Current Sociopolitical Issues in South Africa, Centre for Sociopolitical Analysis, Human Sciences Research Council, Pretoria, June 1996; this confirms previous survey data. A confidential government poll also drew similar conclusions.
15. *Ibid*.
16. *Ibid*.