



**Name:** Ciaran O'Reilly  
**Student Number:** ORLCIA001  
**Degree Programme:** MPhil (Human Rights) Law by Coursework and Minor  
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**Supervisor:** Dr. Dee Smythe  
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Signature: Ciaran O'Reilly Date: 04/09/2012

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## CONTENTS

CHAPTER ONE: INTRODUCTION	3
CHAPTER TWO: ACADEMIC DISCOURSE ON VIGILANTISM IN SOUTH AFRICA	7
CHAPTER THREE: SOUTH AFRICAN MEDIA AND PUBLIC DISCOURSES ON VIGILANTISM	24
CHAPTER FOUR: SOUTH AFRICAN STATE DISCOURSE ON VIGILANTISM	37
CHAPTER FIVE: CONCLUSION	50
BIBLIOGRAPHY	55

## CHAPTER ONE: INTRODUCTION

Reports of vigilantism are common in South African media today, where it is portrayed as a growing trend of reactionary violence against the perception of a high crime rate in the country and a criminal justice system which is failing the public.<sup>1</sup> At the same time, the South African Police Service has positioned itself as taking measures to combat the high level of crime which has been blamed for this vigilantism, and publicly denouncing those who take the law into their own hands, both through comments in the media and their own press statements.<sup>2</sup> This dissertation will provide an overview of the three major discourses on vigilantism in South Africa; within academic literature, the media and public arena, and from the South African state itself. In doing so, I hope to contribute to the understanding of how vigilantism is depicted, described and discussed in South Africa today.

In choosing this particular topic, I was compelled by both professional and personal interests. With regard to the latter, the presence of high-profile incidents of vigilantism in South Africa's national media first provoked interest and concern, given the often violent nature of these incidents. Thus it would seem that any attempt to shed further light on the issue of vigilantism would seem to have potential benefits for the wider social good. On the academic level, this paper hopes to contribute to the understanding of vigilantism as a socio-legal issue in South Africa by providing a solid overview of the major recent discourses on the subject, exploring how it is discussed, described and interpreted by academics, media, the public and the South African government.

The methodology of the paper will be a focus on reviewing the literature. The academic aspect will seek to clarify the most recent thoughts and perspectives on the issue, particularly as contrasted with literature on the subject in the latter part of the

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<sup>1</sup> Glynnis Underhill 'Mob justice blamed on police failure' *Mail & Guardian* 21 June 2012, available at <http://mg.co.za/article/2012-06-21-e-blamed-on-police-failure>, accessed on 3 July 2012; Philani Nombembe 'Murder linked to rise in vigilantism' *Times Live* 11 July 2012, available at <http://www.timeslive.co.za/thetimes/2012/07/11/murder-linked-to-rise-in-vigilantism>, accessed on 13 July 2012.

<sup>2</sup> Phumza Sokana 'Vigilantism not the answer, say cops' *Mail & Guardian* 5 August 2010, available at <http://mg.co.za/article/2010-08-05-vigilantism-not-the-answer-say-cops>, accessed on 4 July 2012; South African Police Service (SAPS) 'Police arrest vigilante's who mistook a mentally unstable man as a thief' available at [http://www.saps.gov.za/\\_dynamicModules/internetSite/newsBuild.asp?myURL=1709](http://www.saps.gov.za/_dynamicModules/internetSite/newsBuild.asp?myURL=1709), accessed 15 July 2012.

twentieth century. This literature will also be referenced and employed as an analytical tool in later sections, when exploring media reports, public opinion and government statements.

Before going further, it is imperative to first clearly define what is meant by the term ‘vigilantism’. Buur summarises the various ways in which vigilantism has been defined in the past, citing authors Johnson, Rosenbaum and Sederberg, Harris and Nina.<sup>3</sup> He notes that given South Africa’s particular experience with vigilantism, suggests that it must be understood somewhat on its own terms. For the purposes of this paper, the departure point from which vigilantism will be understood in a general sense, and from which I will consider the South African example, will be that suggested by Buur:

“In some of the more influential international literature, notably Les Johnson (1996; 2001), forms of vigilantism are described as: 1) social movements that give rise to premeditated acts of force and corporal punishment or the threat to use violence or corporal punishment; 2) activities that arise as a reaction to transgression of relatively well established, sometimes institutionalised, norms; 3) acts that are focused upon crime and/or social control in the form of providing security to participants and members of established orders; and 4) groups that are seen as constituted outside legal frameworks enforced by the state (see also Abrahams 1998: 8-9).”<sup>4</sup>

Definitions are vital for understanding vigilantism in South Africa. As Nina has pointed out, there have been many decades in which relatively formalised forms of self-policing have existed and been accepted by both state and population alike.<sup>5</sup> Today some of these bodies still exist, while our perception of vigilantism has changed. Current academic writing on vigilantism in South Africa presents a picture of a phenomenon with somewhat different motives, origins and forms than in the past.

Vigilantism in South Africa is not a new phenomenon, but rather an evolution from long-existing traditional structures of community ordering.<sup>6</sup> Community-based

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<sup>3</sup> Buur, L. ‘Introduction: Vigilantism and the policing of everyday life in South Africa’ (2004) 63 (2) *African Studies* at 141.

<sup>4</sup> Ibid.

<sup>5</sup> Nina, D. ‘Dirty Harry is back: Vigilantism in South Africa – The (re)emergence of the “good” and “bad” community’ (2000) 9 (1) *African Security Review* at 20.

<sup>6</sup> Seekings, J. ‘Social ordering and control in the African townships of South Africa: an historical overview of extra-state initiatives from the 1940s to the 1990s’ in Scharf, W. and Nina, D. (eds) *The Other Law: Non-state Ordering in South Africa* (2001) at 73.

bodies such as people's courts developed, at least in part, from such traditional structures of self-ordering, and grew in response to indifference and/or inability of apartheid government to provide fair and adequate policing and order within African, Asian and Coloured communities. Such bodies functioned with protocols and procedures for dispute resolution, most of which involved monetary compensation for victims. The clientelist nature of the apartheid regime made the legitimacy which traditional courts enjoyed uncertain and varying across the country. Parallel to such bodies have also always been individuals and groups willing to inflict physical harm upon those who are deemed to have broken the law as defined by such bodies, in an effort to create order and protection for township inhabitants and avenge the victims of such crimes.<sup>7</sup>

These community structures were notably more prevalent amongst rural migrants new to rapidly expanding urban areas, tied to notions of traditional life and identifying themselves as against the perceived immorality of urban society. Seekings argues that as time progressed, such urban dwellers themselves were required to establish similar means of extra-judicial order, as crime continued at its high rate under an apartheid state which remained indifferent.<sup>8</sup> Separated from their kin and the social stigma and pressure which sanctions by such a network would produce, offenders within the urban areas were less easily admonished for their actions as time passed. This was particularly so in the context of large, growing urban populations.

Toward the end of the apartheid era, a more political form of vigilantism developed, with the lines between vigilante, criminal and political activist often blurred.<sup>9</sup> Today's vigilantism exists beyond such a socio-political context, yet the legacy of transition era turmoil and the pre-existing social and cultural influences are all considered in recent academic literature on vigilantism in modern South Africa.

This thesis progresses as follows: In Chapter Two I describe the recent academic literature concerning vigilantism in South Africa. Established authors on the subject, including Buur, Simpson, Kynoch and Glaser, will be considered to provide an overview of recent academic thinking with regard to vigilantism in South Africa. In

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid at 77.

<sup>9</sup> Charney, C. 'Vigilantes, clientelism, and the South African state' (1991) 16 *Transformation* at 16.

also noting how vigilantism was perceived and understood by academics during the transition era, this thesis hopes to comprehensively define and illustrate current thinking on the issue.

Chapter Three focuses on the public discourse around vigilantism, specifically looking at how it is framed and described within the media and spoken of by the public. International media will be briefly considered but I will focus mostly on domestic media, while civil society research into public perceptions around crime, vigilantism and the efficacy of the state and South African Police Service (SAPS) will also feature.

Chapter Four considers what the South African state is saying about vigilantism. Quotes in the media, press releases and public speeches will be considered in an effort to understand how, if at all, the state has positioned itself in recent times on the issue of vigilantism.

Finally, in Chapter Five I will note and assess the observations and conclusions of the preceding chapters. In addition, I will suggest possible avenues for improvement for the state with regard to their discourse on vigilantism, particularly as it relates to engaging in dialogue and communication with the media and public, and how that may translate to a real effect on the incidence of vigilantism in South Africa.

## CHAPTER TWO: ACADEMIC DISCOURSE ON VIGILANTISM IN SOUTH AFRICA

### **Introduction**

This paper is concerned with an exploration of the three major discourses, or literatures, regarding vigilantism in South Africa – academic, media and public, and political. In this chapter, I will explore both recent and previous academic writing on the issue, separated loosely into two periods. These two periods will be: the years directly before, during and after the transition to democracy – i.e. from the late 1980s until 2000 – and the years from then until now. The first period will herein be referred to as the ‘transition era’, reflecting the social and political character of this important period in South Africa’s history. Its dominance within the academic literature, due to the politicisation of vigilantism (both the term and the phenomenon itself) legitimises its particular selection, as does its important place within the history of the country. The second period, from approximately 2000 onwards, can be viewed as the post-transition era in which vigilantism is no longer politicised but continues to exist in this new, democratic South Africa. In making this comparison, I hope to illustrate how academic literature has developed, looking beyond the immediate political turmoil of the transition era in order to understand why vigilantism still continues in South Africa today.

### **Transition era literature on vigilantism**

Academic literature on vigilantism in South Africa from the 1980s until the beginning of the new century was for the most part based on a political perspective – i.e. it was seen as politically motivated and a political issue. During this time, groups such as the Inkatha were empowered and facilitated by the apartheid state in an effort to resist the political ambitions and activism of the ANC and its supporters. The ANC themselves were branded as terrorists and criminals by the state, terms also often conflated with that of ‘vigilante’, while seeing themselves as acting for the good of the South African people – a perspective and rhetoric common to vigilantism as we understand it today. During this time, vigilantism for non-political crimes was also a common element in society and with an escalating degree of violence, together with the loose and fluid appellation of ‘vigilante’, ‘criminal’ and ‘terrorist’ by and to various groups acting within society, both political and non-political alike.

Vigilantism was framed centrally within the context of the political struggle of the 1980s and early 1990s all the way through to the subsequent transitional stage of the mid and late 1990s. Taking one of Charney's articles from 1991, one can get a sense of how pivotal the role of politics was in the academic discourse about vigilantism at the time. Charney explores the development of 'political vigilantism' in South Africa, a term that it is explicitly qualified in recognising its political nature but nevertheless inherently constituted and influenced by the contemporary discourse on the political nature of violence, crime and vigilantism.<sup>10</sup> This fluidity in definition and interpretation of vigilantism is significant, in that the entire discourse can be influenced by the status and position of those who are making such definitions and thus be constitutive of the political and social order at any one time. Charney's work provides a valuable illustration of the typical perspective within contemporary academic literature concerning vigilantism during the transition era.

Charney charts the complex relationships between the state and the various vigilante groups, and within and between the groups themselves. The vigilante groups' relationship with the public was complex, shifting in loyalties and degrees of support as violence and disruption spread across communities. This all existed within what Charney describes as a clientelist or patrimonial state, where control and obedience was maintained through cooperation with and manipulation of 'local-level middlemen', who in turn ensured distribution of some goods and services among their particular community in exchange for loyalty to them and the state.<sup>11</sup>

All too often the vigilante violence leading up to and during the transition era was perpetuated by vendettas and feuds – a localised and personalised form of vigilantism which Harris also observes ten years later.<sup>12</sup> The issue of trust and faith in the criminal justice system and the state in general is key to what Charney recognises as a possible way forward in eradicating vigilantism.<sup>13</sup> By cooperating with local community structures and addressing their issues directly, the state may greatly de-legitimise the relevance and authority of vigilante groups. The 'new' South Africa, Charney argues, would and should shun its former clientelist persona, and cease to play with and against local political and social fractures.

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<sup>10</sup> Charney, C. op cit note 9 at 3.

<sup>11</sup> Charney, C. op cit note 9 at 8.

<sup>12</sup> Harris, B. "'As for Violent Crime that's our Daily Bread": Vigilante violence during South Africa's period of transition' (2001) available at <http://www.csvr.org.za/wits/papers/papvtp1.htm>, accessed at 10 June 2012.

<sup>13</sup> Charney, C. op cit note 9 at 9.

Graeme Simpson has written on the issue of violence in South Africa for many years, both before and after the end of apartheid. On my reading thereof, his work shows an evolution of opinion on violence and crime which reflects the wider shift within academia with regard to vigilantism over this same time period. Writing in the early 1990s, Simpson speaks of the relationship between violence and political activism. He explores how violence and social disorder was constituted by and constitutive of the transition to democracy.<sup>14</sup> He notes how the disassembly of former methods of repressive social control by the state during the latter stage of transition and early years of post-apartheid governance, in order to allow for a legitimate and genuine process of democratisation, produced a temporary vacuum of authority with regard to justice, order and the use of force – the ‘de-regulation of social control’.<sup>15</sup> It is easy to see how in this space, social control efforts such as vigilantism became blurred with the simultaneous and common political violence and activism. Competing groups sought to protect but also to represent their communities, fighting to frame themselves as both guardians of everyday community life and potential leaders of the ‘new’ South Africa.

Simpson also notes that the media discourse around violence and social ordering played a key part in the transition process. Media publications, with their respective agendas and historical biases toward particular racial or political groups, greatly informed the process of defining and securitising violent actions as either legitimate or illegitimate.<sup>16</sup> I will return to this concept in greater detail later when I discuss how the media’s ability to define and depict vigilantism continues to play an important part in the current public discourse regarding vigilantism.

The state’s response and overall discourse around violence and political activism is also something of interest to Simpson. For him, the way in which crime statistics were collected and categorised says more about the bias endemic to the state at the time, rather than actually providing reliable information with regard to crime and its victims.<sup>17</sup> For Simpson, ‘it is of particular significance to note the different terms in which the political violence statistics are described or ‘labelled’ by the different monitoring organizations.’<sup>18</sup> As Simpson sees it, the period of transition

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<sup>14</sup> Simpson, G. ‘Political Violence’ (1992) 3 *South African Human Rights Yearbook* at 212.

<sup>15</sup> *Ibid* at 213.

<sup>16</sup> *Ibid* at 215.

<sup>17</sup> *Ibid* at 217.

<sup>18</sup> *Ibid* at 218.

and the increasing degree of conflict and crime undermined both official and unofficial means of social ordering, as the apartheid state's authority was continually undermined and challenged while community structures of ordering and protection were threatened, attacked and politicised.<sup>19</sup>

A sub-section within alleged vigilante violence of the transition era is what Simpson and others described as the 'third force' – an element of organised criminality with 'interests rooted in the apartheid past, and which was determined to spurn internecine violence in order to destabilise the very processes of negotiation and democratisation.'<sup>20</sup> This was essentially a mutually-beneficial relationship between the apartheid state and aligned criminal organisations serving political and material interests for both, by the latter's violence destabilising the political process and momentum of the ANC and its supporters.<sup>21</sup> At the time, many of these large-scale and arbitrary violent attacks were attributed to members of Inkatha and the ANC. However for the most part Simpson argues that these particular incidents, such as random killing sprees on trains, served the material interests of the individuals involved, rather than any identifiable political cause.

Simpson's writing underlines that key distinction between more recent interpretations of vigilantism and that of the transition era. The contemporary understanding of vigilantism was so closely related to political activism, that it was necessary to examine and determine which incidents of violence could be distinguished as non-political vigilantism, political vigilantism/violent activism or non-political crime. Writing today, without the complex context of a state in transition suffering from a great deal of social and political disorder, academic writers have a different task in making such distinctions and interpretations.

Writing eight years later in 2000, Simpson notes that continuing vigilantism is fuelled more by non-political factors than in the early 1990s. Specifically Simpson argues that given the preceding years of violent struggle, many remain distrustful of the legal system and disillusioned by the newly democratic South Africa:

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<sup>19</sup> Ibid at 239.

<sup>20</sup> Simpson, G. 'Rebuilding Fractured Societies: Reconstruction, reconciliation and the changing nature of violence - Some self-critical insights from post-apartheid South Africa' (2000) *Centre for the Study of Violence and Reconciliation*, Johannesburg at 6.

<sup>21</sup> Simpson, G. op cit note 14 at 231-232

“It may be argued – [vigilantism] is as much the product of communities feeling under attack and unprotected (due to the absence of any effective victim empowerment services), as it is a manifestation of their loss of confidence in criminal justice institutions more generally.”<sup>22</sup>

Simpson’s later writing remarks upon criticisms of the states that have also been made by other academia, media and public alike in pointing to the failing policies and efforts by the South African state and criminal justice system. Simpson also makes an important point with regard to pre-apartheid society and vigilantism. He argues that the effect of continued vigilantism may perpetuate the environment of a self-serving violent sub-economy, the kind which characterised those arbitrary violent incidents of the transition era mentioned above, and a society in which safety, security and justice are commodities no longer automatically, equally or fully granted to all simply by right of citizenship.<sup>23</sup>

Victim empowerment is another relevant topic on which Simpson has written about in recent years. The right and desire of victims of crime to seek and enjoy justice and/or retribution against those who have wronged them is a fundamental element of vigilantism and its role in any society. Simpson argues that this idea lies within the wider context of South Africa’s transition to post-apartheid democracy and the discourse regarding punitive and restorative models of justice.<sup>24</sup>

Charney, Simpson and others show that academic literature regarding vigilantism immediately before and during the end of apartheid, was conscious of the wider political and social processes at the heart of this transition. Upon achieving democracy, the ANC worked to heal and move on from old wounds by granting amnesty for human rights abuses had to be reconciled with a duty to ensure that the new political and criminal justice systems could be respected and trusted. It was an environment in which vigilantism could no longer be accepted or legitimised if the new South Africa were to gain the trust and support of all South Africans. And yet, the granting of amnesty, together with decades of engrained distrust of the state, risked undermining that very goal and pushing people towards informal and community-based groups in whom some people had more faith to protect them and the moral fibre of their communities. Once again, definitions are constitutive of how

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<sup>22</sup> Simpson, G. op cit note 20 at 17.

<sup>23</sup> Ibid at 14.

<sup>24</sup> Simpson, G. “‘The Politics Fits the Crime’: Competing Interpretations of Victim Empowerment in South Africa’ in *Crime and Policing in Transitional Societies* (2000) 1 at 215.

violence is viewed and responded to, as Simpson notes that in post-apartheid South Africa violence is ‘increasingly labelled as criminal rather than political in nature’.<sup>25</sup> The same too can be said of vigilantism. I will discuss this issue in greater detail in Chapter Three, when considering the media and public perception of crime and vigilantism in South Africa.

Writing in 1999 about urban violence and gangsterism in South Africa, Kynoch reflects the same general perspective familiar to literature at the time, highlighting the politicised nature of vigilantism and the role of the state as playing both enemy and facilitator of such activity before the end of apartheid – whichever worked best to disrupt and undermine the momentum and legitimacy of groups such as the ANC.<sup>26</sup> Kynoch mentions an aspect of early vigilantism which has been reflected in recent times – the development of vigilante groups into criminal organisations themselves. In Kynoch’s words,

“As these defensive associations expanded and grew more powerful, they engaged in predatory behaviour that rendered them indistinguishable from the gangs they originally mobilised against.”<sup>27</sup>

Kynoch therefore recognises a characteristic of vigilantism in South Africa which long existed before the 1980s and 1990s – vigilante groups have had a history of overstepping their original ‘mandate’, becoming ultra-violent and unaccountable for their actions. Examples abound in South Africa’s history, from the attacks against the youth of East London in 1958<sup>28</sup> and the rampant violence in Soweto of the 1960s and 1970s<sup>29</sup> to recent organisations such as PAGAD and the more recent and well-reported executions across the country (including some by necklacing) by informal vigilante groups.<sup>30</sup>

Louw has written on vigilantism in both the last years of the twentieth century and the first of the twenty-first. She argues in 1997 that understanding

<sup>25</sup> Simpson, G. op cit note 24 at 215.

<sup>26</sup> Kynoch, G. ‘From the Ninevites to the hard livings gang: township gangsters and urban violence in twentieth-century South Africa’ (1999) 58 (1) at 56.

<sup>27</sup> Ibid at 57.

<sup>28</sup> Charmey, C op cit note 9 at 16.

<sup>29</sup> Glaser, C. ‘Whistles and Sjamboks: Crime and Policing in Soweto, 1960–1976’ (2005) 52 (1) *South African Historical Journal* at 133.

<sup>30</sup> Pumza Fihlani ‘Is necklacing returning to South Africa?’ *BBC* 12 October 2011, available at <http://www.bbc.co.uk/news/world-africa-14914526>, accessed on 10 June 2012; Pumza Fihlani ‘Are vigilantes the answer to Cape Town gang threat?’ *BBC* 10 August 2011, available at <http://www.bbc.co.uk/news/world-africa-13807528>, accessed 10 June 2012.

vigilantism is about looking at the role and responsibility of the state.<sup>31</sup> Louw places the blame for high crime after the fall of apartheid on the preceding years of political turbulence and the legacy of the apartheid government. While not generally considering any factors or history before the 1980s, Louw does recognise that academic consideration of crime and vigilantism in South Africa has been greatly informed by the political and social zeitgeist, and predicts a change in the literature which would reflect expected improvements in policing and democratic governance:

“Explanations here have focused mainly on political and social circumstances in the country since it is changes in these areas that have dominated the transition period. In future, as government becomes more regulated and problems in the criminal justice process and policing in particular are ironed out, the links between development, unemployment and crime will probably become the focus in the crime debate, especially in the search for long term solutions.”<sup>32</sup>

Other authors have noted, while acknowledging that recent levels of crime are higher than they have been before, that they have also been even higher in the past, such as the murder rate of the 1950s referenced by Glaser [see below].<sup>33</sup> I would argue that a combination of approaches must be combined if one is to make the most of what has been researched and written about vigilantism in South Africa. Both long-standing social and cultural factors continue to inform vigilantism in conjunction with the more recent disrupting effects of the transition to democracy and the perceived failure of the ANC government to protect the country’s growing population from crime. It is this approach which authors in more recent times have sought to take, looking beyond the effects of the end of apartheid and transition to democracy, in order to explain and address continuing vigilantism in South Africa today.

### **Recent literature on vigilantism in South Africa: beyond transition era politics**

In giving a historical account of crime and violence in South Africa from 1976 until 2004, Super argues for a careful consideration of the importance of definitions during a time at which various state and non-state groups were vying for legitimacy and authority amongst the wider population. She acknowledges the common slippage in

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<sup>31</sup> Louw, A. ‘Surviving the transition: trends and perceptions of crime in South Africa’ (1997) 41 *Social Indicators Research* at 137.

<sup>32</sup> *Ibid* at 165.

<sup>33</sup> Glaser, C op cit note 30 at 120.

definition and behaviour between political activism, criminal violence and vigilantism which characterised the latter years of the twentieth century in South Africa. This is particularly relevant today when one considers that vigilante groups are at times tolerated or indirectly supported by state authorities or when individual peaceful protests are reduced to violence and criminal behaviour.<sup>34</sup>

Super also notes that the manner in which an act was defined as constituting vigilantism during the transition period, as opposed to criminal violence or terrorism, relied largely on the political and social position of those making such definitions. Thus, an act of violence by a member of the ANC at the time may have been decried by the state as criminal vigilantism or terrorist behaviour, while in the eyes of the organisation's supporters it may have been accepted as a necessary act of social ordering and/or political expression.<sup>35</sup> Of course within the context of such fluid and shifting definitions, non-political crime continued within South Africa, often being difficult to distinguish from political violence and criminality aimed against both the state and rival 'vigilante' groups. In this environment, non-political vigilantes continued to mete out punishment to alleged criminals alongside those accused of political crimes.<sup>36</sup>

Super observes that the transition to democracy has been blamed for the apparent rise in South Africa's crime.<sup>37</sup> In the new democratic order, the ANC sought to reduce the legitimacy of vigilantism within the public discourse.<sup>38</sup> This was done in an effort to effectively close the chapter on the politicised violence which saw the ANC to power, in order to bring about a liberal democracy whose authority and monopoly over the use of force could be respected and trusted. In this context, one can understand the wider academic perspective that modern vigilantism no longer pertains to a political goal or ideology but rather serves practical, social or cultural purposes. Its origins lie in pre-existing concepts and practices of self-ordering within South African communities and its facilitating context is now that of a modern democracy which many perceive to be failing in its duty provide for and protect all of its citizens.

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<sup>34</sup> Super, G. 'The spectacle of crime in the 'new' South Africa: A historical perspective (1976-2004)' (2010) 50 *British Journal of Criminology* at 181.

<sup>35</sup> *Ibid* at 168.

<sup>36</sup> *Ibid* at 169.

<sup>37</sup> *Ibid* at 180.

<sup>38</sup> *Ibid*.

Writing in 2005, Glaser examines such pre-existing factors by exploring the issue of community-based crime prevention in Soweto between 1960 and 1976. In doing so, Glaser seeks to fill the gap which he and others have identified within the academic literature concerning vigilantism prior to the transition era.<sup>39</sup> Therefore Glaser contributes not only to the collective knowledge and understanding of South Africa's experience of vigilantism, but also reveals a telling aspect of how it has been discussed and debated within academia to date.

One of Glaser's main observations regarding vigilantism during this time period concerns the difference between the role of the state under apartheid versus that of the newly democratic South Africa. Today, the South African state exists to provide, protect and represent all citizens equally. Under apartheid the state's attitude towards crime and policing could often have been described as indifferent and/or hostile towards effective policing within Coloured, Asian and African communities. It was only until vigilante groups became politicised and thus represented a real threat to the state did an apartheid-era government ever create a substantial policing presence within these communities.<sup>40</sup>

Glaser also remarks that community bodies established in the first half of the twentieth century within Soweto, such as local civic guards and parents' associations, did not immediately seek to take the law into their own hands. Rather, they made continuous requests to the government for improved policing and other useful social measures in fighting crime.<sup>41</sup> Such requested measures were particularly aimed at young people, given the perception at the time that the majority of crimes in Soweto were perpetrated by ill-disciplined and under-served youth.<sup>42</sup> Glaser points out that there was a degree of cooperation between these bodies and the local government, although their efforts were ultimately undermined by central government policies regarding crime in such communities.<sup>43</sup> Given the definitions and parameters discussed earlier, such efforts cannot be understood as vigilantism - these groups neither sought corporal punishment nor to act outside of state structures. However it is beneficial to acknowledge the former manifestations of community-based policing

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<sup>39</sup> Glaser, C. op cit note 30 at 119.

<sup>40</sup> Ibid at 120.

<sup>41</sup> Ibid at 121.

<sup>42</sup> Ibid at 121.

<sup>43</sup> Ibid.

from which vigilantism has evolved in South Africa, and the context of public and political discourse about such bodies.

Glaser observes that South Africa has experienced high levels of crime for many years, with a murder rate in Soweto during the 1950s (and for many years after) that made 'Chicago and New York, cities with legendary reputations for crime, seem tame by comparison.'<sup>44</sup> While Simpson, Buur and others have argued against taking too much stock in apartheid-era statistics and research with regard to crime, the media sources and material referenced by Glaser cannot be readily dismissed. At the very least, it illustrates that media reporting of high crime rates and frequent violence have long existed in South Africa, rather than being a modern phenomenon.

A major difference under the apartheid system was what Glaser explains as the random township raids by the SAPS, contrasting starkly with an otherwise non-existent presence of police officers within the communities on a regular basis.<sup>45</sup> Therefore non-apartheid related crimes such as rape, theft and murder continued unabated and rarely investigated, further fuelling the necessity and desire by communities to police themselves.

'Under apartheid, the police and judicial institutions enforced racial discrimination. The police were primarily concerned with liquor or pass raids, the suppression of dissident political activity; they were chronically ineffective in controlling everyday 'crime' and settling disputes'.<sup>46</sup>

Buur also notes the historical origins of vigilantism, from traditional forums of community regulation and ordering to the politicisation of bodies such as the people's courts during the 1980s and 1990s.<sup>47</sup> During this latter period, Buur states that the previous indifference by the apartheid state towards crime in the townships was replaced by a significant increase in raids and operations designed to crack down on both criminal violence and vigilantism. This was done in an effort to reduce the conflation and amalgamation of such activities with political activism, as vigilante groups and people's courts were subsumed by those looking to garner support and legitimacy in the fight against the apartheid regime.<sup>48</sup>

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<sup>44</sup> Ibid at p120.

<sup>45</sup> Ibid at 125.

<sup>46</sup> Seekings, J. op cit note 6 at 71.

<sup>47</sup> Buur, L. op cit note 3 at 142.

<sup>48</sup> Super, G. op cite note 35 at 168.

Tshehla argues for a culturally-oriented perspective in order to discuss and understand South Africa's history of vigilantism, identifying the role of traditional structures in maintaining order and preventing crime.<sup>49</sup> Long-standing structures of addressing grievances have long existed in relation to the enforcement of customary law in South Africa. These first began as ordered and quasi-legal structures within communities through which criminal and civil disputes could be heard and resolved.<sup>50</sup> Occasionally violence was meted out to those who were deemed to have gravely transgressed against another individual or the community and/or its intrinsic moral code. Due to the social fracturing effects of migration to South Africa's growing urban centres and the policies of apartheid, these structures began to lose their connection with traditional justice and formal hierarchies of traditional leadership.<sup>51</sup> The latter decades of the twentieth century which saw the escalation of political activism further contributed to their change. Violence became more commonplace, with 'necklacking' in some areas becoming a symbol of the violent nature of this new politicised, youth-led and often reactionary form of vigilantism. Vigilante groups' rhetoric today does share many similarities with those of previous generations, presenting themselves as upholding the moral code of the community as well as providing physical protection.

Glaser points to a gap in the academic literature which he has identified in relation to discussing vigilantism before the politically-charged and troubled era at the end of apartheid. In addition Glaser also points out, like others, that community-based policing has long existed in South Africa in some form or another for many decades. Finally, Glaser argues that his academic retrospective may suggest that a possible compromise, with regard to the use of force and legitimacy in the role of policing and social order, between civic guards and the SAPS may offer a solution to the recent 'crime crisis'.<sup>52</sup>

Nina's depiction of post-apartheid 'popular power' is interesting in that he, like Simpson, Super and Glaser, also acknowledges the role and status of the state and criminal justice system. He notes the training of community members in the early 1990s as an attempt to reconcile their traditional understanding and methods of

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<sup>49</sup> Tshehla, B. 'Traditional justice in practice: A Limpopo case study' *ISS Monograph Series* (2005) at 15.

<sup>50</sup> *Ibid* at 17.

<sup>51</sup> *Ibid* at 23.

<sup>52</sup> Glaser, C. *op cit* note 30 at 139.

justice with the rhetoric of human rights and constitutional law.<sup>53</sup> As Scharf explains, this developed into the ‘community policing’ which was at the heart of initiatives such as the establishment of Community Policing Forums (CPFs).<sup>54</sup>

Nina claims that ‘the emergence of vigilantism in post-1994 South Africa is a continuation of old practices of popular justice and policing.’<sup>55</sup> This is of course true to an extent, but as noted earlier only inasmuch as South Africans cannot be said to have ever enjoyed a truly fair and functioning criminal justice system which represented the interests of all.

Seekings’ chronological exploration of ‘social maintenance’ in South Africa from the 1940s demonstrates a strong South Africa heritage of community-based self-policing. This was based on a combination of necessity, in the face of an indifferent and abusive apartheid state, and informed by traditional power structures which pre-dated colonialism. Seekings’ observes that as migration into urban areas continued in the second half of the twentieth century, and without the requisite amount of jobs and infrastructure necessary to support such population growth, crime and violence rose in these areas.<sup>56</sup> Interestingly, the emergence of the ‘tsotsi’ began in the 1940s, and became a problem so great as to compel the central government to briefly sanction direct vigilante action against such individuals. So Seekings argues that vigilantism has taken many forms throughout South Africa’s history – not solely reactionary physical violence but also a combination of patrolling, vigilance, formal dispute hearings between individuals and liaison with white-run local administrations.<sup>57</sup>

Vigilantism in South Africa is increasingly recognised within the academic discourse as a method of social ordering which is based on both historical and cultural precedent and contemporary social and political factors. It is a phenomenon which continues to blur the lines of the reach, legitimacy and sovereignty of official state structures and the use of force. Buur presents many examples to show that such blurring is systemic, while demonstrating that media coverage of vigilantism is selective and overly simplistic.<sup>58</sup> Reporting of vigilantism fails to identify the

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<sup>53</sup> Nina, D. op cit note 5 at 24.

<sup>54</sup> Scharf, W. ‘Community justice and community policing in post-apartheid South Africa’ (2001) 32 (1) *IDS Bulletin* at 77.

<sup>55</sup> Nina, D op cit note 5 at 19.

<sup>56</sup> Seekings, J. op cit note 6 at 79.

<sup>57</sup> Seekings, J. op cit note 6 at 95.

<sup>58</sup> Buur, L op cit note 3 at 142.

complexity of motives and the fluidity between state and non-state action, rather choosing to frame it as purely reactionary and ad hoc violence in response to the perception of a high level of crime in South Africa.<sup>59</sup> By seeing vigilantism as a form of ‘everyday policing’ which exists for a variety of social, political and cultural reasons, rather than simply to reduce and punish crime, Buur argues for a more nuanced understanding of vigilantism in South Africa.

Kynoch has written recently on the legacy of violence and crime in South Africa, particularly as it became both politicised and heightened during the years of transition, in an effort to understand recent high levels of crime. In doing so Kynoch acknowledges, as do authors such as Simpson, Super and Nina, that there has been much slippage between criminality, political violence and vigilantism. So too have these terms been defined and delineated in differing ways over the years, as those with the social and political capital to make such definitions have sought to influence the public discourse for their own interests.

Kynoch also recognises that the particular role of the state and its stance on and approach to both crime and vigilantism, has greatly influenced the degree to which vigilante groups have been tolerated and/or supported within South African communities. In particular, Kynoch notes that many vigilante groups became ‘corrupt, and preyed on the communities they were supposed to defend’.<sup>60</sup> Writing in 2005, Kynoch also states that ‘necklacing’ – an act of vigilante violence almost exclusively used as punishment for alleged political crimes during the era of transition – is ‘almost unknown in recent years’.<sup>61</sup> However, recent media reports have suggested that necklacing is now becoming more common<sup>62</sup>, suggesting that one legacy of the politicisation of transition-era vigilantism has been to place within the public consciousness a familiarity and affinity with this particularly violent form of execution, to be used now against those accused of non-political crimes against the community.

Most important to take from Kynoch’s work is his suggestion to look beyond a narrow consideration of the politicised violence of the 1980s and 1990s, and understand that community-based approaches to self-policing and social ordering

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<sup>59</sup> Ibid.

<sup>60</sup> Kynoch, G. ‘Crime, conflict and politics in transition era South Africa’ (2005) *African Affairs* at 511.

<sup>61</sup> Ibid.

<sup>62</sup> Fihlani op cite note 31.

have long existed in South Africa before that time and continue to do so. In this respect, Kynoch's argument reflects other recent authors, such as Buur and Glaser, that the pre-transition era has been somewhat overlooked within the academic literature. Thus Kynoch suggests that vigilantism will continue to enjoy support within some South African communities unless the issues which compel communities to support such groups are genuinely recognised and understood in their economic, social and cultural context.<sup>63</sup> While it is not within the remit of this paper to fully explore these factors themselves, it is worthy to note that they are long-established and range from a distrust of official state institutions, particularly the SAPS, to a history of localised violence and conflict which has been perpetuated in part by decades under a repressive state, and more obvious socio-economic factors such as poverty and a generally high level of crime across the country. Another important aspect is South Africa's pre-existing tradition of localised and community-based methods of social ordering and crime prevention.

Harris' work in 2001 also argues from this perspective, looking at vigilantism during the period of transition to democracy but also considering more established social, economic and cultural factors in order to suggest a way forward in dealing with the phenomenon.

Much of Harris' research concerns media coverage of vigilantism during this period, an area which I will consider in the next chapter. Just as others have observed a history of violence in South Africa, Harris' acknowledges that vigilantism in South Africa must be considered in the context of a country which has experienced high levels of violence and crime for decades.<sup>64</sup> Vigilantism directly before and during the transition to democracy undoubtedly informed, and was informed by, the political turmoil and change of its time. However Harris' remarks suggest that the preceding decades of violence and high crime, together with the effects of a repressive state, socio-economic degradation and complex cultural norms propose greater questions as to the meta-origins and underlying causes of vigilantism which go far beyond any medium-term periods of socio-political change.

In the midst of exploring the causes and possible solutions for vigilantism, Harris observes that violent corporal punishment, which often results in death, is a central characteristic of vigilantism in South Africa. She argues that such extreme

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<sup>63</sup> Kynoch, G. op cit note 61 at 497.

<sup>64</sup> Harris, B. op cit note 12.

action is not simply predicated upon a desire to fight crime in the face of a perceived failing of the criminal justice system.<sup>65</sup> Like Buur, Harris points to several ways in which vigilantism is propagated and ‘serves’ the community, making any state policy to reduce vigilantism set to fail if it is based upon a simple mono-causal interpretation of vigilantism as simply reactionary to high crime rates. Specifically, Harris identifies the following factors behind vigilantism in South Africa:

- Tradition
- Emotions, prejudice and revenge
- Gender
- Individuals, personalities and leaders
- Revenge violence and its ability to transmigrate; and
- Politics.<sup>66</sup>

This list is similar to Buur’s and others’ argument with regard to the complex role of vigilantism within modern South African society. One can also see from this list that Harris recognises the large degree to which personal grievance and prejudices continue to inform and perpetuate vigilantism. A general misunderstanding and/or frustration with the post-apartheid democratic state has also compelled some to place their trust in vigilante groups, quite apart from any view of crime as having escalated or heightened since the transition. Harris argues this is specifically related to a prevailing distrust of the criminal justice system and a lack of education and awareness amongst the population about due process and criminal law.<sup>67</sup>

Harris elaborates on the role of the public, and in particular those who witness acts of vigilante violence, in perpetuating the legitimacy and tacit support which vigilantes can enjoy.<sup>68</sup> I would posit that a propagation of fear, based on second-hand accounts and rumour, may allow vigilante groups’ actions and tactics to become common knowledge, expanding their reach and control and thus also their apparent ability to deter future crimes. Media coverage of particular incidents and the wider public discourse on the issue of vigilantism undoubtedly contributes to this process, facilitating an image of vigilante groups which creates a level of fear. These same avenues of discourse and communication can also be the downfall of vigilante

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<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

groups, as communities' distrust and fear of their escalating violence can eventually cause wide disapproval and waning support for their behaviour.

As with others recent authors, Harris acknowledges that the definition and understanding of what constitutes vigilantes has relied heavily on the contemporary politics and the agenda and status of those making such definitions. Thus, the period of transition saw vigilantism associated with political violence and applied loosely to acts of violence when such appellation served a particular political, social or material interest.<sup>69</sup>

Ultimately Harris concludes that vigilantism in South Africa is borne of a wider culture of violence and facilitated by support from those who maintain divergent attitudes regarding crime, policing and the state, including a distrust and misapprehension of the new criminal justice system.<sup>70</sup> Thus Harris argues that if the South African state is to address vigilantism, it must address the real and practical failings of the CJS, and take a straightforward approach that understands vigilantism as a crime with all of its personal, political, social, and cultural causes, and in spite of the many ways in which communities and vigilantes themselves may seek to legitimise and defend their role and authority. According to Harris, a key strategy in this regard should be to provide public education and training which somehow narrows the degree of legitimacy which vigilantism enjoys and in turn increases the level of understanding of and trust in the new criminal justice system.<sup>71</sup>

## **Conclusion**

Academic writing on the issue of vigilantism in South Africa has attempted to grasp the complex range of relationships, definitions, motives and behaviour involved. The issue of defining and identifying vigilantism is one which is ever-changing, and dependent upon the contemporary social and political environment.

During the 1980s and 1990s, those within the media, public and political spheres sought to impose an interpretation of vigilantism which furthered their respective agendas. As I will explore in the following chapters this relationship continues as media, the public and the state continue their discourse on vigilantism in South Africa. What previous authors showed in particular is the degree to which the

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

political dimension of vigilantism dominated the academic, public and political discourses in the latter years of the twentieth century.

More recent academic literature has developed beyond that central socio-political focus, looking to both more recent and more traditional causes for today's vigilantism. Authors have pointed to a legacy in South Africa which includes commonplace violence and a familiarity with localised, community-based forms of traditional social ordering and crime prevention. Others have recognised that personal feuds and vengeance, socio-economic degradation and disillusionment with the post-apartheid criminal justice system are also major factors. Furthermore, some authors have pointed to a legacy of repression and mistrust, engendered under apartheid, which undermines trust and faith in the SAPS and the state itself, even today. Among all of these, most agree that the continued high level of crime in South Africa is a central tenet to any understanding of modern vigilantism's legitimacy in South Africa.

By placing today's vigilantism in the context of the human rights-centric post-apartheid state, Buur, Simpson, Kynoch, Glaser and other recent authors have all argued for an understanding of vigilantism that must be done with an appreciation of the country's legacy of violence and community-based ordering. It must be done together with a recognition of the numerous social, political, economic and cultural factors which influence how vigilantism is formed and supported, all within the context of the media and public discourse regarding high crime and poor policing in South Africa.

## CHAPTER THREE: SOUTH AFRICAN MEDIA AND PUBLIC DISCOURSES ON VIGILANTISM.

‘Media reports have been less ambiguous. Recent media representations talk [...] vigilantes belong[ing] to brutal and undisciplined "mobs" or "crowds" that consist mainly of men (though not invariably) with no clearly defined social or political identity such as membership in known political organisations. Events seem to have been fast-paced, emotionally charged and relatively spontaneous — all in all, descriptions distinctly prone to public excesses of reification, which are not helpful when trying to understand a phenomenon as complex as vigilantism.’<sup>72</sup>

### **Introduction**

Both South African and international media have in recent years reported an increase in the rate and violence of vigilantism in South Africa. As I have discussed earlier, the role of the media in reporting on and defining vigilantism in South Africa has always been important in shaping the public and political discourse.

In this chapter, I will explore examples of recent media coverage of both crime and vigilantism in South Africa, particularly domestic sources. This will hopefully provide an insight into both the apparent nature of vigilantism today, and how it is presented to the public by the media. Undoubtedly public opinion and media coverage are constituted by each other, and it is difficult to determine to what degree to which this is true. It is also difficult but equally important to consider the role of the state, particularly in being sensitive to public and media discourses on this issue. I will return to this latter subject in Chapter Four.

This chapter will also consider public opinion toward vigilantism, as presented by both academia and civil society research. Examples in the media which quote and refer to public opinion will also be included, in order to present an overview of the varying ways in which vigilantism in South Africa continues to enjoy considerable, though seemingly reluctant, support among some communities.

In conclusion, I will summarise both the media and public discourse, and argue that there is a degree of simplification within media coverage which may be unhelpful for the state in improving relationships with the community and developing effective policies against vigilantism which relate to dialogue, cooperation and public relations.

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<sup>72</sup> Buur, L. op cit note 3 at 139-140.

### Media coverage of vigilantism in South Africa

When vigilantism is covered in South African media, it is generally due to a recent specific incident of violence against an alleged criminal. The violence and swiftness of the vigilantism is usually emphasised, and it is nearly always qualified by a note on the high level of crime across the country. In addition, reports are often accompanied by eyewitness quotes which confirm the brutality involved and claim that the motive for such actions is the continued inadequacies of the SAPS. The particular incident is also usually contextualised within the perceived increase of vigilantism, even being referred by one major media outlet as a ‘vigilantism crisis.’<sup>73</sup> This is an understandable approach for media organisations given their nature as profit-making corporations, albeit ostensibly ones entrusted as guardians of truth and balance in society.

Buur has argued that this coverage does not do justice to the complexities of each incident, nor the phenomenon of vigilantism in South Africa as a whole,<sup>74</sup> while other authors’ have argued similar points, requiring a consideration of whether such complexity is truly considered within the media discourse. Below are extracts from recent media coverage on vigilantism in South Africa, both domestic and international:

- ‘Ncedile Gigi’s unrecognisable remains have not been buried since March, when a mob took the law into its own hands, beating and then torching the 26-year-old in crime-ridden Khayelitsha ... The death of Gigi and 10 other young men in the township since January reflects an alarming loss of trust in the police in SA’s townships, where rates of robbery, rape and murder are among the highest in the world.’<sup>75</sup>
- “Seeing a stone going through someone’s face is horrible. The other day I called the police and a person managed to escape. I have seen the community attack an innocent man. You never know how the police will react. The police have been heard to say: ‘Call us when people are dead, not for thieves; this requires investigation.’”<sup>76</sup>

<sup>73</sup> Underhill, G. op cit note 1 (1).

<sup>74</sup> Buur, L op cit note 3 at 140.

<sup>75</sup> ‘Mob justice on the increase’ *IOL News* 15 July 2012, available at <http://www.iol.co.za/news/crime-courts/mob-justice-on-the-increase-1.1341497#.UEV3h7L8uSp>, accessed on 23 July 2012.

<sup>76</sup> Underhill, G. op cit note 1 (1). This quote is from a witness of vigilantism, and while not an editorial comment or direct reporting, its inclusion within the report is an editorial decision which forms part of the media discourse.

- ‘Last year’s police statistics show that of the 46 killings committed on an average day in South Africa, 5% are a result of vigilantism. Beating and stoning are two of the most common ways the killings are carried out. Many people in poor communities like New Brighton township have lost faith in the police and see vigilantism as the best way of keeping the streets safe.’<sup>77</sup>

A brief glance at the recent headlines also gives one an insight into the recent media discourse around vigilantism in South Africa – ‘*Mob Justice on the Increase*’, ‘*14th murder as mob kills robbery suspect*’, ‘*Are vigilantes the answer to Cape Town gang threat?*’, ‘*Mob justice blamed on police failure*’, ‘*Vigilantism not the answer, say cops*’ etc<sup>78</sup>. Such reporting seems to facilitate a sense of confrontation between the state and public, the former being ultimately at fault for the conditions in which vigilantism is deemed reluctantly necessary by the latter.

If Buur is correct that this coverage is not representative of vigilantism, with much left ignored and unexplored by the media and in the public arena, then it would imply difficulties in reconciling the discourses of the media and academia. Buur, Harris and others have argued for an understanding of vigilantism which recognises vigilantism as fulfilling various functions within communities and being based upon motives not generally mentioned in the media. Harris has explained that much vigilantism is based upon local power dynamics, prejudices and personal feuds, which for the most part is left unconsidered within a media discourse which often emphasises the notion of strangers collectively acting to avenge and protect a victim and the community at large. So while it is beyond the remit of this paper to fully explore the many ways in which vigilantism occurs today in South Africa, it does seem that there exists a considerable disconnect between the media and academic discourses with regard to how vigilantism is being discussed and considered in South Africa today. As I will explore in Chapter Four, this also has implications for the state’s attempts at communication and dialogue with the public on this issue, as the media’s role as information provider can so easily editorialise and skew state attempts to publicise policing successes, reform and information about the criminal justice system.

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<sup>77</sup> Fihlani, P. op cit note 31 (1).

<sup>78</sup> Op cit note 76; Maregele, B. ‘14th murder as mob kills robbery suspect’ *Cape Times* 11 July 2012, available at <http://www.iol.co.za/capetimes/14th-murder-as-mob-kills-robbery-suspect-1.1338761#.UEV6jrL8uSp>, accessed on 23 July 2012; Fihlani, P. op cit note 31 (2); Underhill, G. op cit note 1 (1); Sokana, P. op cit note 2 (1).

What the media reporting also reveals is a focus on the apparent ineptitude and corruption of the SAPS and the wider criminal justice system. Both anecdotal evidence and statistics garnered from SAPS and NGO-based research concerning police behaviour, corruption, investigation techniques and conviction rates are often provided by reporters to substantiate this claim. This is also not necessarily a modern phenomenon, given that Simpson references the Community Agency for Social Enquiry which looked at media coverage of violence in South Africa in from 1990 to 1991 and noted that 'direct collusion between members of the SAP and IFP supporters was reported.'<sup>79</sup> This kind of coverage, while necessary and newsworthy, helps to facilitate the prevailing discourse that while vigilantism is often violent (and therefore undoubtedly criminal behaviour itself), the fault lies not with the vigilantes but with the state. As I will explore later, the ethics and standards of the SAPS are issues also commonly examined not just by the media and public but also within academic literature and civil society research, though perhaps more cautiously and with greater context. There is of course usually an inclusion by the media of reactions and responses by the state to such criticisms and to the particular incidents of vigilantism, which I will consider further in Chapter Four.

If I return to the common elements of media reporting which I mentioned earlier, one can re-create the 'typical' example of vigilantism in South Africa today as presented by the media – an incident of extreme violence perpetrated against one or a few alleged criminals by a large group of strangers on an ad hoc basis in reaction to an alleged crime, which can range from petty offences to violent crime, and necessitated by an environment of generally high crime and poor policing. As mentioned, the relationship between media discourse and public opinion is complex and reciprocal, but given this 'typical' presentation of vigilantism in the media, it is important to consider the possible implications of such reporting on public attitudes towards both vigilantism and the state.

Simpson, writing in 1992, considered the issue of definitions and labels, including the role of the media:

“Nowhere is the effect of such 'labelling' more evident than in the role of the media. Through shaping popular perceptions of causation and explanation, the commercial media - especially in an environment of suspicion and distrust

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<sup>79</sup> Simpson, G. op cit note 14 at 219.

in which rumour easily becomes rampant - arguably plays an important role in shaping the trajectory of the violence itself. The selective choice of labels by the press is itself seldom politically untainted. More importantly, commercial media short-hand often dictates a search for (readable) mono-causal explanation. This is itself, often reflective of the dominant ideological discourse.”<sup>80</sup>

Simpson goes on to argue that racial fault lines were accentuated during the politically and socially tumultuous years of the 1980s and 1990s by the language and images of media tailored to particular groups – appealing to and in turn perpetuating racial prejudices and stereotypes. This in turn created particular attitudes along ethnic and racial lines amongst the white population which undermined political negotiations and efforts toward achieving greater equality and rights for Africans, Coloureds and Asians.<sup>81</sup>

Media language and reporting may greatly contribute to legitimising the use of vigilante violence today by allowing complaints against the SAPS to be voiced in a manner which seeks to excuse the violence and shift the blame upon the state. For example, SABC News recently published a story which implied that Interpol had just published a report decrying South Africa as the ‘World’s Rape Capital’.<sup>82</sup> However, upon investigation it is apparent Interpol made no such statement and have in fact not released comparative rape statistics in many years.

Media coverage of vigilantism may also convey a sense of community bond and security, in that each incident is usually framed as one in which strangers come to the aid of one another. This image of community unity is somewhat disingenuous, given the probability that many of the crimes within townships are perpetrated by residents of those same communities, and the degree to which vigilantism is afflicted by personalised conflict, mistaken identity and excessive violence. This image may further legitimise the use of vigilantism, given that it fails to consider vigilante violence based on such personal grudges, feuds, vendettas and/or the use of violence against innocent people. This latter point is also vital, given that the concept of human rights, particularly those of the vigilantes’ victims, is rarely mentioned despite

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<sup>80</sup> Ibid at 214-215.

<sup>81</sup> Ibid at 215-216.

<sup>82</sup> ‘South Africa, world’s rape capital: Interpol’ *SABC News* 19 April 2012, available at <http://www.sabc.co.za/news/a/a424c0804af19b5e9583fd7db529e2d0/South-Africa,-worlds-rape-capital:-Interpol-20121904>, accessed on 14 June 2012.

the centrality of human rights rhetoric which underlines the post-apartheid South African state and its legal institutions.

At this point, I would like to return to some recent headlines regarding the level of crime and criminal justice system within South African media:

- ‘IPID to probe Khayelitsha cops’<sup>83</sup>
- ‘NPA to focus on sex crime victims’<sup>84</sup>
- ‘Cops to get sexual offence training’<sup>85</sup>
- ‘Terrorised by perpetrators and victimised by the legal system’<sup>86</sup>
- ‘South Africa, world's rape capital: Interpol’<sup>87</sup>

One may infer from even this small sample of recent headlines that sexual violence is often put forward as the most rampant serious crime affecting South Africa today. Civil society research, SAPS press statements and crime statistics reveal that it is indeed at a very high rate. I will return to the issue of sexual offences and the SAPS later.

The overall impression given in these reports and those discussed earlier is that if the SAPS was doing its job correctly, such violence would not happen, and because they are apparently not, the vigilantes have no other choice but to inflict violence upon anyone accused of a crime. I will turn now to consider the South African public’s position on vigilantism, as researched and recorded by academia, civil society and the media.

## **Public opinion on crime and vigilantism**

### *Understanding context*

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<sup>83</sup> Felix, J. & Koyana, X. ‘IPID to probe Khayelitsha cops’ *Cape Times* 17 July 2012, available at <http://www.iol.co.za/capetimes/ipid-to-probe-khayelitsha-cops-1.1342818#.UEV9ObL8uSp>, accessed on 24 July 2012.

<sup>84</sup> Van Wyk, A. ‘NPA to focus on sex crime victims’ *EWN* 6 June 2012, available at <http://www.ewn.co.za/2012/06/06/NPA-tackles-specialised-sex-offences-courts>, accessed on 14 June 2012.

<sup>85</sup> ‘Cops to get sexual offence training’ *News 24* 28 May 2012, available at [http://m.news24.com/news24/SouthAfrica/News/Cops-to-get-sexual-offence-training-20120528?utm\\_source=news24-am-newsletter&utm\\_medium=email&utm\\_campaign=Newsletters](http://m.news24.com/news24/SouthAfrica/News/Cops-to-get-sexual-offence-training-20120528?utm_source=news24-am-newsletter&utm_medium=email&utm_campaign=Newsletters), accessed on 13 June 2012.

<sup>86</sup> Swart, H. ‘Terrorised by perpetrators and victimised by the legal system’ *Mail & Guardian* 26 April 2012, available at <http://mg.co.za/article/2012-04-26-terrorised-by-perpetrators-and-victimised-the-legal-system/>, accessed on 15 June 2012.

<sup>87</sup> Op cit note 83.

Writing in 1997, Louw points out that in addition to the influence of the political climate, other socio-economic factors were at play in relation to public attitudes toward crime and policing in South Africa in the latter years of the transition era:

“Crime and violence have dominated South Africa’s transformation over the past two decades. High crime rates cause widespread feelings of insecurity and fear which undermine popular confidence in the democratisation process [...] Surveys show that crime rather than socio-economic issues now dominates people’s concerns, and that fear of crime is increasing. Currently, fewer people feel safe and believe the government has the situation under control than in previous years.”<sup>88</sup>

Louw goes on to mention the perception at the time of writing that PAGAD was a growing threat to state sovereignty.<sup>89</sup> Even when we consider this notably politicised vigilante group in South Africa of recent years, we can see that their Islamist identity and controversial tactics (including the infamous bombing of the Planet Hollywood restaurant) were far less identifiable and related to any recent society-wide cause for policing reform. Thus I would argue that PAGAD in fact bears more resemblance to the ‘third force’ groups mentioned by Simpson, intent not on genuine reform within the existing state but more self-serving political and material interests. As with many vigilante groups throughout South Africa’s history, PAGAD’s violent actions eventually alienated them from those communities from whom they had once enjoyed support.

Simpson identifies the existence of conflict along several fault lines in South African society, not just that of criminal and victim, in contributing to the commonplace use of violence and prejudice within society against other groups and the state.<sup>90</sup> These include social, racial and economic divisions. Simpson also notes the specific legacy of the apartheid regime as legitimising the use of violence in society, a context which must be acknowledged when considering public attitudes about vigilantism in South Africa:

“[...] dramatic social insecurity, bred of a sense of transitional disintegration, has articulated particularly destructively with the racial, class-based and ethnic identities and hostile stereotypes generated or reinforced by decades of apartheid. Furthermore, the historically socially-sanctioned resort to violence

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<sup>88</sup> Louw, A. op cit note 32 at 137.

<sup>89</sup> Ibid at 137-138.

<sup>90</sup> Simpson, G. op cit note 14 at 213.

as a means of both maintaining political power (on the part of the NP government) and as a means of resistance (on the part of the liberation movements) [has resulted in] a dramatic increase in the quantitative and qualitative levels of social, political, criminal and domestic violence in the society.”<sup>91</sup>

So one can argue that current public opinion about vigilantism in South Africa is not simply fuelled by frustration with the criminal justice system – it is also based within the context of a society with complex socio-economic disparities and long-held attitudes about the use of violence, the delineation of different groups in society and the state itself.

### *Deconstructing support for vigilantism*

Sekhonyane and Louw released the findings of their extensive research into crime, vigilantism and the state in South Africa in 2002. Part of this work illustrated public attitudes towards crime and the SAPS in relation to vigilantism, providing some valuable insight into the ways in which the South Africans have been talking about and perceiving vigilantism in recent years.

Taking the example of the vigilante group Mapogo-a-Mathaga (herein referred to as ‘Mapogo’), Sekhonyane and Louw illustrate how and why it is that vigilante groups enjoy support in South Africa. Mapogo was selected for their study ‘not only because it is the largest group in the country, but also because it is unique in that it has support across race and class lines in both urban and rural areas.’<sup>92</sup>

Mapogo originated in the Northern Province, an area of nationally high unemployment, illiteracy and poverty, and was founded in August 1996.<sup>93</sup> Sekhonyane and Louw put forward many reasons why Mapogo enjoyed public support, from the socio-economic underdevelopment to inadequate policing capacity, inability to access the criminal justice system and high crime.<sup>94</sup>

Further important context is provided when Sekhonyane and Louw examined public attitudes towards crime and sentencing. In order to explore the direct link between negative perceptions of the criminal justice system and support for vigilantism, Sekhonyane and Louw refer to the Idasa study on PAGAD in 1996. In

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<sup>91</sup> Ibid at 214.

<sup>92</sup> Sekhonyane, M & Louw, A. ‘Violent justice, vigilantism and the state’s response’ (2002) *ISS Monograph 72* at 2.

<sup>93</sup> Ibid at 24.

<sup>94</sup> Ibid at 19, 24.

doing so, they illustrate that the two defining characteristics of those people who specifically support violent vigilantism are 'perceptions of safety' and 'performance ratings of the police and courts'.<sup>95</sup>

Another study referred to by Sekhonyane and Louw was conducted by the ISS and revealed that 'of 13 659 respondents in 45 police station areas across the country, [...] nearly half (47 per cent) of people said the quality of policing in their area had deteriorated over the past four years. A third (32 per cent) said there had been no change and 21 per cent said policing had improved.'<sup>96</sup> In referencing a further ISS study, Sekhonyane and Louw observe some telling trends with regard to public perspectives on sentencing. The vast majority (75 per cent) supported the reintroduction of the death penalty for serious crimes, while 51 per cent also felt the need to introduce corporal punishment.<sup>97</sup> Interestingly, when mitigating circumstances and context was provided for hypothetical crimes (including if the crime was committed in the name of vigilante activity), most respondents chose sentences which were more lenient than those currently provided by the penal code.<sup>98</sup>

Given Mapogo's results and the prevailing public attitudes at the time of this study, it is understandable why the group enjoyed support. However as we have seen with other vigilante groups, communities may often shift their collective opinion and/or support, particularly if a vigilante group's behaviour becomes excessively violent or criminal in nature. In fact, Kynoch argues that communities' tolerance of vigilantism may be based not upon respect or admiration but rather fear, particularly when their behaviour is visibly criminal and can no longer be considered as for the benefit of the community.<sup>99</sup>

Looking at the consequences of vigilantism in South Africa, Sekhonyane and Louw point to the inherent criminality of vigilantism itself. Here we see can again how important is the element of labelling and interpretation - the designation of criminality in this instance does not refer to the way in which vigilantes become criminals in the eyes of the community, because their once-supported violent actions have been deemed to cross a subjective threshold of collective tolerance and moral standard. Rather, Sekhonyane and Louw refer to the actual penal code and how in the

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<sup>95</sup> Ibid at 12.

<sup>96</sup> Ibid at 11.

<sup>97</sup> Ibid at 12.

<sup>98</sup> Ibid.

<sup>99</sup> Kynoch, G. op cit note 61 at 510.

context of such an existing and legitimate framework by which South African society has agreed which actions to be considered as crimes, the assaults and trespasses against habeas corpus common to vigilantism can be seen as nothing but criminal.<sup>100</sup>

In addition, Sekhonyane and Louw argue that such vigilante efforts are also inherently self-defeating, if predicated upon the notion of a criminal justice system which is failing South Africans. They make this argument by pointing out that any and all vigilantism undermines the criminal justice system in two major ways. First, it threatens the legitimacy of the state and the rule of law itself, the very system which communities wish to see greatly strengthened and improved. Secondly, with every investigation and case taken against vigilantes, time, money and effort is lost which could be going towards tackling other crime.<sup>101</sup>

### **Public attitudes toward reporting a sexual crime to the SAPS**

Much of what has been said in relation to the causes of vigilantism in South Africa today relates to a negative public perception of the SAPS. I would like to briefly explore this area by using the example of reporting sexual crimes in South Africa.

When raped or assaulted, the victim of a sexual offence may often not report the incident to the police or other authorities. Among the many possible reasons for not doing so can be a negative perception of the police. I would argue that a 'negative perception' can be understood to include any possible expectation of mistreatment or inadequacy of care by the police. This includes for example, a fear that the police are unable or unwilling to protect complainants against revenge by the alleged offender or a belief that complainants may be treated poorly by police staff members upon reporting the incident.

In a recent study undertaken to examine under-reporting amongst rape victims, 3 per cent of respondents said they did not report because of a negative attitude toward the SAPS.<sup>102</sup> While this may not be a significantly large amount, it is important to note that a further 16.2 per cent claimed that fear of retribution by the perpetrator prevented reporting.<sup>103</sup> I would suggest that this should also be considered a negative perception of the SAPS – 16.2 per cent of those who did not report presumed that the police could not or would not offer protection from their

<sup>100</sup> Sekhonyane, M & Louw, A. op cit note 93 at 37.

<sup>101</sup> Ibid at 31.

<sup>102</sup> Smythe, D. *Non Reporting* (2011).

<sup>103</sup> Ibid.

alleged attackers, thus failing in their fundamental duty to protect. If we combine these two categories, it means that 19.2 per cent - almost 1 in 5 - of all rape victims in South Africa did not report because of some negative perception or expectation of the police.

Much of the media, academic research and civil society studies describe abuses, errors and wilful indifference by the SAPS when handling rape and sexual assault cases. Rape Crisis Cape Town has noted that many victims of rape who do report the crime, amid 'widespread reports of police corruption' and are exposed to considerable 'insensitivity'.<sup>104</sup> The organisation also points out that many women will not report because of the number of 'women who get raped by the police'.<sup>105</sup> A further study by Smythe has shown that many of those who have reported being a victim of rape to the SAPS have felt that the police were:

"not very empathetic", "impatient and unsympathetic", "seemed to disbelieve her", "didn't seem interested in her story and made (her) feel guilty about what happened" and were "very rude".<sup>106</sup>

This same research observes that victims reported delays of several months just to give their initial statement, contact details taken incorrectly by police officers, lacking investigative procedures and even a misunderstanding of what actually constitutes the offence of rape.<sup>107</sup> Several examples are also noted in which the perpetrator or his associate attempted to bribe the investigating officer in order to have the case dropped. Two cases in particular highlight not just the element of incompetence or indifference but police officers actively working against the victim. The first concerns a victim who was threatened with physical violence for insisting on laying a charge while the second victim was contacted by the officer and told that he wanted to date her and would 'come to her house later to sleep with her'.<sup>108</sup>

Given the high rate of sexual crimes in South Africa, it is worth considering how easily the behaviour and attitudes of the SAPS may become common knowledge among the public. If this is the case, those who are raped may consider their options carefully in light of the perceived treatment of rape victims by the

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<sup>104</sup> Rape Crisis Cape Town 'Rape in South Africa', available at <http://www.lib.uct.ac.za/law/files/2012/03/Writingguide2012.pdf>, accessed on 19 July 2012.

<sup>105</sup> Ibid.

<sup>106</sup> Smythe, D. *Refractory Systems* (2011).

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

criminal justice system. Vigilantism thus becomes more of a possibly legitimate alternative for those rape victims who are seeking justice, and who do not trust the SAPS.

In the next chapter, I will look more closely at corruption and sentencing, in the context of examining how the state is responding to criticism and voicing its stance on vigilantism. However, I will note here that a direct and explicit dialogue by the South African state addressing such research and the negative public perception of SAPS employees is distinctly lacking.

### **Conclusion**

In considering the media and public discourse regarding vigilantism in South Africa, I would suggest that there is a need for greater research into the relationship between media reporting and public opinion. An excellent point of reference would be the PIPA study in the USA regarding the correlation between news sources and knowledge of and support for military intervention by the USA in Iraq. Their results starkly illustrated how the particular style, language and selective reporting of different media organisations greatly influenced their audiences' knowledge and understanding of the threat posed, if any, by Iraq and also the degree to which these same audiences would support military action against Iraq.<sup>109</sup> If a similar study were to be conducted in South Africa with regard to vigilantism, it could provide a valuable insight into how public support for vigilantism and mistrust of the state may be influenced by media coverage.

A recent aspect of vigilantism and how it has been reported is the element of xenophobia, particularly during the township violence of 2008. Many articles then framed the xenophobic violence as a form of vigilantism, targeted against the perceived criminal and social threat of foreigners. Therefore, another suggested area of research would be to examine media coverage from that period until now, as it relates to public attitudes about foreigners. For the purposes of this paper, I will simply note that vigilantism against xenophobia has and does occur, falling within the larger phenomenon of general vigilantism and presumably creating additional political concerns and pressures for both the state and SAPS.

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<sup>109</sup> 'Misperceptions, the media and the Iraq war' 2 October 2003, available at [http://www.pipa.org/OnlineReports/Iraq/IraqMedia\\_Oct03/IraqMedia\\_Oct03\\_rpt.pdf](http://www.pipa.org/OnlineReports/Iraq/IraqMedia_Oct03/IraqMedia_Oct03_rpt.pdf), accessed 18 June 2012.

Given that much of the academic literature, including the study by Sekhonyane and Louw, recommends that the SAPS take steps to improve communication and cooperation with communities, the role of the media would seem vitally important. By engaging with the media, recognising the power and potential of using such avenues of national communication and dialogue, the state may influence the public discourse around vigilantism within society. Of course traditionally the media is the champion of the people and the state may struggle to utilise it in this way without being misrepresented and without having first showing tangible efforts to reduce crime, etc. This relationship will be discussed in greater detail in the next chapter.

In considering the relationship between the SAPS and the South African public, Du Plessis and Louw suggest the following:

“A public relations strategy is needed that is more creative than simply restricting public information to that about police successes and selecting statistics that show a “stabilization” in crime levels. Survey results confirm that this is not working. Improving perception requires building public confidence in the police and courts. Naturally, this means better performance as discussed above. But simply providing better information about what to expect, how the justice process works, and where to get further assistance would be useful.”<sup>110</sup>

Such a sentiment regarding communication and education on crime and policing is repeated time and again within the academic literature and civil society research, and its potential to foster the kind of public trust and cooperation which would help to undermine support for vigilantism is clear. In the next chapter, I will explore the state’s response to vigilantism and criticism within academia, media and the public of the SAPS’ performance.

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<sup>110</sup> Du Plessis, A. & Louw, A. ‘Crime and Crime Prevention in South Africa: 10 Years After’ (2005) *Canadian Journal of Criminology and Criminal Justice* at 437.

## CHAPTER FOUR: SOUTH AFRICAN STATE DISCOURSE ON VIGILANTISM

### **Introduction**

The importance of role of the state is a common element of academic writing on vigilantism in South Africa. The relationship between the state and vigilantes has ranged from direct cooperation to conflict. In addition, the manner in which the state has framed and defined vigilantism has greatly informed the latter's role in the social and political environment. More recently it is the state's direct response to vigilantism and also crime which has come under scrutiny by academia, civil society, the media and the public.

In this chapter, I will lay out the recent discourse by the government on vigilantism in South Africa. In doing so, I hope to illustrate what the state is saying about the issue and the way in which other discourses perceive and discuss the state, crime and vigilantism. I will begin by continuing with an element of the previous chapter, with regard to criticism of behaviours and standards of the SAPS. In particular, I will look at investigation techniques and conviction rates, as discussed and assessed by academics, civil society and the South African public. Next, I will look at the recent discourse from the state on vigilantism, with a focus on recent statements in the media, press releases and public speeches. In conclusion I will summarise and consider how the state's response to and depiction of vigilantism relates to the academic, media and public perspectives. In particular, recent statements have sought to express that the state in no way tolerates or advocates vigilantism. In general however, the state discourse is predominantly silent on the issue, instead producing statements and comments which seek to highlight crime prevention and prosecution successes.

### **The South African state's relationship with vigilantes**

Evidently, South Africa has always experienced some form of parallel or extra-judicial means of ordering. From the outset of colonialism and into the period of apartheid governance, a large degree of crime and social order issues were left to be decided and acted upon by appointed members of the African and Coloured communities. This relationship has shifted and changed over the years, with the government at times sanctioning local vigilante efforts while at other times banning and disbanding organised night patrols or networks of community watchmen. We

have seen earlier how the South African state has at times tolerated and collaborated with community-based groups, such as the civil guards and the Civilian Protection Services during World War Two, in order to better coordinate and deliver policing in certain communities.<sup>111</sup> However, the central government under apartheid generally undermined any such efforts, when it was deemed either unnecessary and/or in conflict with wider policy. We have also seen how the state has more recently implicitly or indirectly facilitated and supported localised vigilantism, such as the examples given by Buur of collusion and cooperation by members of the SAPS:

‘the distinction between the state and what normally falls outside the state becomes blurred when, just to take two examples, police officers are members of a vigilante group, at the same time as having to police transgressions (see Jensen forthcoming), or when police officers sit in on community courts.’<sup>112</sup>

The apartheid government struggled with this issue, unwilling to be burdened with the expense and effort of taking such populations into the legal fold (nor granting the requisite rights such a move would demand), yet intimidated by the implications of allowing local power structures too much power or legitimacy. Indeed, many vigilantes have been arrested and incarcerated for their criminal behaviour, particularly when it has led to the deaths of their victims. For example, many of Mapogo’s members have been imprisoned for their use of excessive corporal punishment.<sup>113</sup>

Vigilantism became greatly politicised during the violent and uncertain years toward the end of apartheid. Recent comments by the state have sought to explicitly distance the government from any sense of legitimacy for vigilantism. This could be seen as an effort to engender trust and faith in the post-apartheid state and its new human rights-centric democratic system. Part of this process at one time included amnesty for some guilty of crimes as part of the apartheid regime. Simpson highlights the difficulty of expecting widespread respect for the state and criminal justice system in such an environment, which bears obvious relevance for the subsequent rate of crime and the support for vigilantism:<sup>114</sup>

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<sup>111</sup> Charney, C. op cit note 9 at 7; Glaser, C. op cit note 30 at 136.

<sup>112</sup> Buur, L. op cit note 3 at 145.

<sup>113</sup> Sekhonyane, M & Louw, A. op cit note at 27.

<sup>114</sup> Simpson, G. op cit note 24 at 216.

Simpson goes on to reiterate that in the years following the transition to democracy, distinguishing criminality from political activism was a priority for those newly in power. This was done in light of this new social and political landscape and the new perspective and desire for change from the past.<sup>115</sup>

### **A discourse of defence: the state responding to criticism**

Much of what the South African state says about vigilantism today is in the context of defending itself from criticism about its inefficacy in the face of high crime, which allegedly leads citizens to look to vigilantes for protection and justice. As mentioned in previous chapters, the perceived failure of the SAPS to properly protect against and investigate crimes, as well as a general distrust in the criminal justice system, has been suggested as the predominant cause of vigilantism in South Africa today. Given this argument, it is pertinent not only to look at how the state speaks about vigilantism and its response to the issue in light of such criticism, but also to consider the criticism itself.

Investigative techniques and procedures after a case has been opened have attracted criticism, with many pointing to a lack of communication with local communities and the structural and practical difficulties for detectives working within the SAPS. In commenting on previous attempts by the SAPS to address the local cooperation element of successful policing, Shaw notes that there was no little between elected local government and police agencies. Community Police Forums, given their volunteer nature, were from their inception seldom representative and did little to influence the operational priorities of the police.<sup>116</sup>

Sekhonyane and Louw highlight the role of cooperation and communication between communities and the SAPS in eliminating vigilantism.<sup>117</sup> They argue that there was also a lack of internal communication and cooperation between the government departments and bodies which make up the criminal justice system.<sup>118</sup> This is a major barrier to reform, in addition to a lack of focus and strategic direction with regard to both crime prevention and crime punishment.

Much has also been made of the problem of corruption within the SAPS, often highlighted through both the media and civil society research. Common

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<sup>115</sup> Ibid.

<sup>116</sup> Shaw, M. 'South Africa: Crime in transition' (1997) 17 *Institute for Security Studies* at 4.

<sup>117</sup> Sekhonyane, M & Louw, A. op cit note 93 at 36.

<sup>118</sup> Ibid.

examples include dockets being ‘lost’ in return for a bribe paid by the offender. Such corruption, together with poor victim treatment, will inevitably contribute towards any prevailing negative public attitudes about the criminal justice system and in particular the SAPS.<sup>119</sup>

Other problems identified within the criminal justice system in South Africa include lenient sentencing and the lack of effective rehabilitation for incarcerated offenders, while structural changes and weaknesses such as inexperienced magistrates and prosecutors have undermined the Department of Justice and its public image. Sentencing in particular has often been criticised as inconsistent and inadequate:

‘In this study 15.6% of rape convictions received less than the mandated 10 years minimum sentence. The other prescribed sentence for rape, life imprisonment, was very rarely observed. Thirty-four (or 41%) of men convicted of rape were eligible for life imprisonment. This was handed down in only three cases.’<sup>120</sup>

Minaar has argued that when communities hear of offenders serving short sentences in prison, or being released after paying a relatively small bail for a serious crime, they are filled with collective disappointment, fear and anger.<sup>121</sup> One could perhaps argue that such results constitute an implicit and unintended discourse by the state, as the public takes meaning from such results as a sign by the South Africa government that they are either unwilling or unable to do better.

Even when crime fighting initiatives have been successful, there has been some unforeseen negative consequences. For example, the Cape Town Partnership – itself a good example of community and SAPS cooperation – succeeded in greatly reducing crime in the city centre, but resulted in displacing criminal elements and beggars to the surrounding suburbs and townships.<sup>122</sup>

When the SAPS have embraced a tough policing stance, the elements of publicity, discourse and image have been again pivotal. However, it has been noted that such efforts are somewhat myopic, as the issue of prison space and quality was

<sup>119</sup> Smythe, D. *op cit* note 103.

<sup>120</sup> Tshwaranang ‘Violence Against Women in South Africa Fact Sheet’ available at <http://www.tlac.org.za/reports/>, accessed on 21 June 2012.

<sup>121</sup> Minnaar, A. ‘The new vigilantism in post-1994 South Africa: Crime prevention or an expression of lawlessness?’ (2001) *Institute for Human Rights and Criminal Justice Studies* at 12.

<sup>122</sup> Samara, T.R. ‘State Security in Transition: The War on Crime in Post Apartheid South Africa’ (2003) 9 (2) *Social Identities* at 278.

left unmatched. Even with low arrest rates, prisons are struggling to deal with those arrested, particularly those awaiting trial:

‘Trends in policing and in sentencing, matching the ‘get tough’ rhetoric of the political elite, suggest continued growth in South Africa’s imprisonment rate, and the worsening of overcrowding. It is unlikely that the state will be able to afford to build prisons fast enough to accommodate large influxes of new inmates, even with the introduction of private, for profit prisons. It is also unlikely that the drive to make the court system more efficient will be able to keep up with arrests, meaning the numbers of people in prison awaiting trial will remain high.’<sup>123</sup>

As mentioned earlier with the example of sexual violence, victims may not report a crime to state officials for a variety of reasons, including a negative perception of the police or the criminal justice system generally. However if victims do not report, it does not mean that they don’t wish to see the perpetrator face some form of justice. Barriers to reporting create a situation in which vigilante groups provide a seemingly quick, effective and direct method of ‘justice’ which can allow the victim to feel vindicated and relieved.

### **State comments on vigilantism featured in the media**

The SAPS have been directly quoted in much of the recent media coverage on vigilantism in South Africa. This has generally been reactionary comments on particular incidents, which include statements against vigilantism in general.

Below are some examples of how the state’s position on and reaction to vigilantism is presented in the media, which illustrate the type of rhetoric used by the state in such circumstances and how the media in turn portrays such statements and measures:

- ‘Residents say they have been forced to take the law into their own hands after being failed by the police and the justice system. The Social Justice Coalition, an NGO, has called on Western Cape Premier Helen Zille to establish a commission of inquiry into policing in Khayelitsha. [...] Zille said last month that her cabinet had endorsed establishing the commission.’<sup>124</sup>
- ‘A suspected thief was killed by a crowd of vigilantes in Dunoon near Milnerton yesterday, bringing the number of such killings in the city in recent

<sup>123</sup> Ibid at 291.

<sup>124</sup> Op cit note 1 (2).

months to 14. The attack follows national police commissioner General Riah Phiyega's decision to step in and attempt to resolve the issue of vigilantism. [...] Phiyega intervened after Western Cape police failed to comment about complaints regarding the breakdown in policing during this time. [Helen] Zille and Phiyega have agreed that a three-week investigation be conducted [...] Police spokesman Andre Traut [said] we haven't had anyone come forward with any information either [and] a docket had been opened, but no arrests had been made.'<sup>125</sup>

- 'Phiyega, South Africa's first woman police chief, is under pressure to restore credibility and boost morale in a scandal-plagued force. Sorting out Khayelitsha would be a step in the right direction. Shiny new police vehicles are now patrolling the township's potholed streets, part of a visible policing strategy intended to deter crime [...]'<sup>126</sup>
- 'Western Cape police on Monday cautioned Khayelitsha residents against vigilantism, saying "bundu courts" were not the answer [...] Constable Mthokozisi Gama said police urged people to come forward with information on the whereabouts of the killers. Residents should not fight crime with crime'<sup>127</sup>
- 'Police Department spokesperson Zweli Mnisi had a strong message for all vigilantes: "Hand criminals over to the police or you will be arrested when you take the law into your own hands [...] can never support it. There are always ways of dealing with criminality and vigilantism in not one of them [...] South Africa is a country governed by rules and regulations. We will unfortunately arrest anyone who takes the law into their hands.'"<sup>128</sup>

Evidently, the South African state is continuing to employ the same policy of publicly vilifying vigilantism and distancing itself from any sense of legitimacy for such actions. It is presumably hoped that doing so will facilitate reinforcement of its authority and monopoly on the use of the force, together with shoring up faith and trust in the criminal justice system.

There is somewhat of a dichotomy in public opinion with regard to vigilantism – some media reports that vigilantes enjoy strong support (including from the victims of the alleged criminals)<sup>129</sup>, making police investigations very difficult, while other reports focus on communities which are expressing anger and intolerance

<sup>125</sup> Op cit note 79 (2).

<sup>126</sup> Op cit note 76.

<sup>127</sup> 'Police warn Khayelitsha residents against vigilantism' *Mail & Guardian* 23 November 2009, available at <http://mg.co.za/article/2009-11-23-police-warn-khayelitsha-residents-against-vigilantism>, accessed 11 July 2012.

<sup>128</sup> Sokana, P. op cit note 2 (1).

<sup>129</sup> Olifant, N. & Zulu, X. 'Rape victim thankful for 'vigilante justice'' *IOL News* 27 October 2006, available at <http://www.iol.co.za/news/south-africa/rape-victim-thankful-for-vigilante-justice-1.300438#.UEaXNLL8uSp>, accessed on 14 July 2012.

with rising violence by vigilantes. One recent example of the latter reported how a vigil of about 200 in Khayelitsha was held in memory of those recently murdered in the name of vigilantism, and included quotes railing against both the state and the vigilantes by spokespersons for organisations Treatment Action Campaign and the Social Justice Coalition.<sup>130</sup> This relates directly to the earlier suggested study of media coverage and public opinion, but also bears great importance for SAPS attempts to investigate vigilantism, if communities are truly reticent and uncooperative. Much of the media reporting discussed earlier also suggests that support for vigilantism is essentially reluctant and simply based on a mistrust and frustration with the SAPS.

Specific incidents of criminality by government authorities are also frequently covered by domestic media, reinforcing the perception of corruption, nepotism and fraud within the criminal justice system, and the government as a whole. For example, take the case of Richard Mdluli – former head of Police Crime Intelligence and plagued by allegations of corruption, fraud and even murder.<sup>131</sup> He is currently suspended and under investigation, although despite this some domestic media report that he is ‘tipped to be the next commissioner’.<sup>132</sup> Another example would be that of NPA advocate Lawrence Mrwebi. He has been linked to Mdluli in relation to improperly dropping charges against Mdluli and having a part in the suspension of fellow advocate Glynnis Breytenbach, who was investigating Mdluli for fraud at the time.<sup>133</sup> He has also now been linked, due to leaked internal memos seen by the Mail & Guardian, to intervention in two other politically sensitive cases, both involving allegations of political misconduct, fraud and corruption.<sup>134</sup>

Such incidents of alleged corruption, fraud and political impropriety can only but contribute to a wider negative perception of the criminal justice system among the South African public and make it harder for the state’s attempt at a discourse

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<sup>130</sup> Damba, N. ‘Vigilantism fuels violence, residents say’ *The New Age* 2 July 2012, available at [http://www.thenewage.co.za/55000-1011-53-Vigilantism\\_fuels\\_violence\\_residents\\_say](http://www.thenewage.co.za/55000-1011-53-Vigilantism_fuels_violence_residents_say), accessed on 22 July 2012.

<sup>131</sup> ‘Crime intelligence unit ‘spent R5m on Mdluli family’ *Mail & Guardian* 22 April 2012, available at <http://mg.co.za/article/2012-04-22-crime-intelligence-unit-spent-r5m-on-mdluli-family>, accessed on 27 July 2012.

<sup>132</sup> Ndabeni, K. ‘Ramogibe’s family still lives in fear’ *Mail & Guardian* 20 April 2012, available at <http://mg.co.za/article/2012-04-20-ramogibes-family-still-lives-in-fear>, accessed on 27 July 2012.

<sup>133</sup> Jones, G. ‘Lawyer argues Mdluli linked to Breytenbach’s suspension’ *Mail & Guardian* 26 July 2012, available at <http://mg.co.za/article/2012-07-26-mdluli-linked-to-breytenbach-suspension>, accessed on 28 July 2012.

<sup>134</sup> Sole, S. ‘Crime unit head accused of meddling’ *Mail & Guardian* 6 July 2012, available at <http://mg.co.za/article/2012-07-05-crime-unit-head-accused-of-meddling/>, accessed on 23 July 2012.

which presents itself as being tough on crime and corruption to be taken seriously. Any state which seeks to assert itself as the sole legal and moral authority in matters of crime and punishment, will struggle in the face of continuing media coverage of corruption and criminality within its own institutions.

### **Direct state comments on vigilantism**

“We are aware that emotions run high, as a result of certain criminal incidents, but that does not give any person the right, to take the law into their own hands. Communities must respect the law and give alleged offenders the opportunity to face their trials.”<sup>135</sup>

An ISS report from 2001 on the South African government’s response to vigilantism concluded that the efforts against organised groups such as PAGAD and Mapago were inadequate and poorly planned.<sup>136</sup> The report concludes that ‘unless a coherent and multi-layered proactive strategy is developed, this phenomenon will remain for many more years to come.’<sup>137</sup> Most telling of all, the report shows that it is the same systemic weakness, contradictions and policing inadequacies of the criminal justice system upon which much public criticism is based, that seems to have hindered any coherent attempts by the South African state to deal conclusively and swiftly with vigilantism.<sup>138</sup>

We have seen earlier how many recent authors have highlighted the need for greater standards of crime prevention and crime investigation in order to undermine vigilantism. The state themselves have stressed that to do so requires cooperation from the public, while the media sources discussed earlier also imply that any measures to curb vigilantism will rely upon cooperation with the communities in which the incidents occur, which at present feel isolated and underserved by the criminal justice system. Thus, the level of non-vigilante crime in South Africa areas must be reduced in order to foster the kind of respect and trust in the criminal justice system which is necessary for cooperation against vigilantism, if we are to put stock

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<sup>135</sup> Eastern Cape Provincial Commissioner, Lt General Celiwe Binta in SAPS ‘Vigilante attack condemned’ available at [http://www.saps.gov.za/\\_dynamicModules/internetSite/newsBuild.asp?myURL=1642](http://www.saps.gov.za/_dynamicModules/internetSite/newsBuild.asp?myURL=1642), accessed on 29 July 2012.

<sup>136</sup> ‘Out of hand? Government’s response to vigilantism’ (2001) 5 *ISS Crime Index*.

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*

in the prevailing academic, media and public discourses regarding the reasons for continued vigilantism in South Africa.

Specific charges have been brought by the state against vigilantes over the years, and recent efforts by the SAPS are no different. Much of the media coverage illustrates that many murder dockets have been created, although the investigations of such crimes have been difficult. The need for community members to come forward and assist in these investigations has been repeatedly stressed by SAPS spokespersons. The apparent lack of cooperation from communities with regard to identifying those responsible or providing any relevant information is put forward by the SAPS both in media comments and press statements as a significant hindrance. The indirect effect of such is to shift the blame back on the communities in which the vigilantism occurs, rightly or wrongly.

Some of the media coverage quoted earlier refers to a recently instigated investigation into policing standards and practices in Khayelitsha by the Independent Police Investigative Directorate, after a number of murders linked to vigilantism which were indirectly blamed on inadequate and poor policing. Issues of concern reportedly include police misconduct, lawless behaviour, abuse of power and that people see police as aggressors instead of protectors.<sup>139</sup> In announcing this investigation, we can see that the state is explicitly acknowledging the fact that vigilantism is based upon negative perceptions of the police, which may be well-founded.

In addition, the NPA recently announced that previously disestablished dedicated sexual offences courts would be re-introduced.<sup>140</sup> The NPA have said these courts will 'prevent sexual offences and to ensure swift justice.'<sup>141</sup> As we have seen the issue of crime, and specifically sexual violence, is one of great depth and complexity, garnering much academic, media and public attention. It is beyond the remit here to fully explore the various ways and means in which the South Africa state can and does address the issue, but the NPA announcement does illustrate a strand of the state's discourse with relation to sexual crime in the country, and the implicit acceptance of the need for reform in the criminal justice system.

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<sup>139</sup> Felix, J. & Koyana, X. *op cit* note at 84.

<sup>140</sup> Van Vyck, A. *op cit* note at 85.

<sup>141</sup> *Ibid.*

Since 1 January 2012, SAPS have released hundreds of press statements. In the months of August and July 2012 alone, the SAPS released over 300 press statements on their website related to crimes, investigations, witness requests and convictions during those two months, four of which related to vigilantism.<sup>142</sup> Over the course of the eight months between 1 January and 31 August 2012, only ten press statements concerned vigilantism, only one of which referred to vigilantism in Khayelitsha, despite considerable media coverage of that same issue.<sup>143</sup> My examination of this same time period within the domestic press found very few positive stories about the SAPS in either the Times, Mail & Guardian or SABC News – three of South Africa’s largest news providers – despite the many press releases related to successful operations and lengthy sentences for serious offenders. Recently, the fatal shooting of Marikana miners has dominated much of the media’s coverage.

Thus, while the SAPS may be achieving some success, making arrests and even seeing joint operations targeting large numbers of suspects, they may not be communicating this well to the South African public. Perceived failures, corruption and incidents such as that at the Marikana mine serve only to further undermine the state’s discourse when seeking to discourage citizens from taking the law into their own hands. A question here arises about the relationship between the state and media, and the responsibility of the latter to occasionally discuss success stories in the fight against crime. Such coverage may alleviate negative perceptions of the state and erode support for vigilantism. However, given the continued high levels of crime in South Africa, media organisations may argue that isolated successes do not reflect the wider trend and thus do not warrant attention.

Within the press statements from the SAPS during the month of August 2012, only one directly related to vigilantism. Three statements in July referred to vigilantism, each reiterating the state’s condemnation of such action.<sup>144</sup> None referred to incidents of vigilantism in Khayelitsha, where media coverage of vigilantism during this month was focused. The case in August concerned the murder of an alleged violent arsonist, murdered by 53 people. In their statement, the SAPS

<sup>142</sup> SAPS ‘SAPS News Page’ available at [http://www.saps.gov.za/\\_dynamicModules/internetSite/news.asp](http://www.saps.gov.za/_dynamicModules/internetSite/news.asp), accessed on 2 August 2012.

<sup>143</sup> SAPS ‘SAPS don’t condone acts of vigilantism’ available at [http://www.saps.gov.za/\\_dynamicModules/internetSite/newsBuild.asp?myURL=1536](http://www.saps.gov.za/_dynamicModules/internetSite/newsBuild.asp?myURL=1536), accessed on 4 August 2012.

<sup>144</sup> SAPS op cit note 143.

stressed their condemnation of vigilantism and urged those who are victims of crime to cooperate with police and abide by the law themselves. It was however also noted in the press statement that several charges had been made against the vigilantes' victim in the preceding days by several community members.<sup>145</sup> Incidentally, this particular mass arrest of vigilantes was not covered by the Times, Mail & Guardian or SABC News.

Also published by the SAPS in August 2012 were press releases related to police investigations and arrests against both SAPS and government employees, while many stressed the lengthy sentences handed down to convicted criminals, the long and hard work of investigating officers and the collaborative efforts of both statutory and community bodies.<sup>146</sup> Several requests for assistance from the public were also published by the SAPS in August 2012, particularly with regard to cases of murder. Many of these requests included the offer of a financial reward.

This would all suggest that the current general discourse of the SAPS is one which is attempting to position itself as being tough on crime wherever possible, including when such crime is perpetrated by their own employees, and that community cooperation is essential to success. There is a distinct lack of direct commentary or dialogue on vigilantism by the SAPS, except when quoted in the media context of commenting on a particular incident.

Much like the press statements, recent public speeches made by SAPS higher management have neglected the issue of vigilantism. Indeed, no speeches since the beginning of 2012 have mentioned it in any way.<sup>147</sup> Without any explicit explanation by the SAPS, it would be only conjecture to explain the motives for this conspicuous lack of direct or proactive comment. It may be that the South African state has deemed vigilantism as not an issue deserving of such consideration. Alternatively it may be that the state has reasoned that the best approach for undermining the support for and legitimacy of vigilantes is to publicise policing successes and planned organisational reform, in order to improve their own public image and perception with regard to crime prevention and prosecution.

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<sup>145</sup> SAPS 'Vigilantism leads to murder' available at [http://www.saps.gov.za/\\_dynamicModules/internetSite/newsBuild.asp?myURL=2169](http://www.saps.gov.za/_dynamicModules/internetSite/newsBuild.asp?myURL=2169), accessed on 30 August 2012.

<sup>146</sup> Op cit note 143.

<sup>147</sup> Ibid.

## Conclusion

The South African state's recent discourse on vigilantism can be considered as being of two constituent elements – quotes within the media when responding to a particular incident and very occasional press releases reporting ongoing investigations into particular incidents. There is little evidence to suggest that the latter receives much public attention, nor is there much in the way of proactive statements in relation to vigilantism as a wider problem for society or about the negative public perceptions of the SAPS which may be contributing to vigilantism's continued support in some communities.

The wider discourse of the state is currently focused on crime and the abundance of press releases produced every month by the SAPS focus on three main areas: successful operations and investigations, even against SAPS and government employees; lengthy sentences handed down to serious offenders; and requests for witnesses to come forward in order to assist with particular investigations. Nevertheless, and despite media often quoting local residents as claiming that it is continued poor policing which forces them to take the law into their hands, there is a conspicuous lack of direct and explicit engagement by the state with the South African public on the issue of vigilantism.

Vigilantism will undoubtedly continue until the point at which community members feel that the police are genuinely concerned for the people's welfare, and that they will make concerted efforts at reducing and punishing crimes. In fact, it will take a multi-party approach, including the involvement of the community itself, for all crime to be reduced, including vigilante crime. Given the power of rhetoric, perception and attitudes for effective cooperation, the clear communication and public visibility of reform and success within the SAPS could thus be argued as being equally important as the reform and success themselves.

Louw made observations and recommendations in this regard in 1997 which still bear relevance today:

‘[...] it is important to consider people's perceptions about crime in conjunction with official statistics, since the former can provide valuable information which is lost due to crime reporting and recording problems [...] Politically, the way that people respond to growing feelings of insecurity and lack of confidence in the government and the police, is important.’<sup>148</sup>

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<sup>148</sup> Louw, A. op cit note 32 at 162.

The incidents of state corruption and fraud discussed earlier, as well as incidents such as that the Marikana mine, must also be taken into account when considering the role of the state's discourse on vigilantism. As long as such incidents continue to happen and be reported upon, the public consciousness will incorporate such images and perceptions into its particular discourse on the ability of the criminal justice system to protect South Africans. The state's attempts over the years to 'get tough' on both crime and vigilantism will always be undermined by any competing discourse which questions its moral and legal authority.

## CHAPTER FIVE: CONCLUSION

Valji and Harris have argued that the sensationalist role of media reporting on vigilantism fails to consider the complex factors behind the phenomenon and in turn helps to perpetuate the legitimisation of vigilantism, particularly by so explicitly placing the blame for it on a state failing to provide adequate policing.<sup>149</sup> That argument goes to the heart of what this paper has considered – the nature and role of major discourses on vigilantism as a socio-legal issue in South Africa, and their effect on each other and the real phenomenon itself.

I began by evaluating academic thinking on the issue, by looking at two distinct periods – the ‘transition era’ and since 2000. This literature analysis revealed that South Africa has had a complex experience with vigilantism, and the way in which it has been discussed, characterised and labelled has greatly influenced its nature and effect on South African society. Academics have written about vigilantism in South Africa for decades, influenced and informed by the wider social and political climate at the time of writing. Just as vigilantism has been shaped by contemporary social and political events, so too has been the academic analysis of that vigilantism. Academic writing on vigilantism in the latter years of the twentieth century was concerned with the politicisation of vigilantism, the changing fortunes of various groups acting within the struggle and their shifting roles as representatives of the community and as figures of social ordering and control. Authors at this time could not ignore the complex relationship between the state, public and these groups. The state referred to these groups at different times as terrorists, criminals or vigilantes, depending on their allegiance and motives.

Recent literature recognises that this era left an important legacy which bears keeping in mind. For example, we have seen the BBC reporting on the practice of ‘necklacing’, once predominantly reserved for the punishment of alleged traitors, now apparently re-emerging as a common means of retribution against alleged non-political criminals in the country’s townships.<sup>150</sup> Its symbolic power and association

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<sup>149</sup> Valji, N & Harris, B. ‘Vigilantes push us further from justice’ *Centre for the Study of Violence and Reconciliation*, available at [http://www.csvr.org.za/index.php?option=com\\_content&view=article&id=2316:vigilantes-push-us-further-from-justice&catid=139:media-articles&Itemid=37](http://www.csvr.org.za/index.php?option=com_content&view=article&id=2316:vigilantes-push-us-further-from-justice&catid=139:media-articles&Itemid=37), accessed on 4 August 2012.

<sup>150</sup> Fihlani, P op cit note 31 (1).

with defiance may play some part in its re-emergence in a society which claims to be greatly fearful of criminals in their community.

Authors who have written in more recent years have sought to look beyond the immediate socio-political environment in order to understand the underlying causes of vigilantism, which continues despite the introduction of democracy to South Africa. Long-established means of community-based ordering and conflict resolution, the legacy of the apartheid state, personal relationships, prejudices and a substantial fear of crime are now all recognised within academic literature as important contributing factors to South Africa's vigilantism. Authors have argued that, while agreeing the role of crime and policing standards are major factors, by seeing vigilantism as a phenomenon which exists for a variety of social, political and cultural reasons, rather than simply to reduce and punish crime, it would allow for a more nuanced and effective understanding of vigilantism in South Africa today.

Following the academic analysis, I turned to media reporting and public opinion on vigilantism in South Africa. As we have seen media coverage has always played a part in how South Africans have viewed and treated vigilantes. There are examples during the transition era in which particular media outlets catered to a specific readership, writing to either denounce or support a particular group.<sup>151</sup> Today we see vigilantism presented and discussed within the South African media in a particular way – a simplistic mono-causal depiction which is centred on a frustration with the state and the standards of policing which compels community members to react violently in order to protect themselves and their property. Occasionally within media coverage, voice is given to the state and those communities which are opposed to such vigilantism and its excessive violence.

This examination suggested that there is a considerable disconnect between the media and academic discourses with regard to how vigilantism is being discussed and considered in South Africa today. This also has implications for the state's attempts at communication and dialogue with the public on this issue, as the media's role as information provider can so easily editorialise and skew state attempts to

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<sup>151</sup> For example, Baloyi notes that the Sunday Times publication in 1985 which attributed the death of Mfunzelwa Nglongo to the ANC served only to fuel violence and rivalry between the ANC and IFP; Baloyi, J. S. 'An investigation into vigilantes and political violence in Kwazulu-Natal, 1985-1994' available at <http://www.sahistory.org.za/archive/investigation-vigilantes-and-political-violence-kwazulu-natal-1985-1994>, accessed 29 July 2012.

publicise policing successes or engage with the various complex elements which academic authors have worked to highlight.

Public attitudes seemed often contradictory, as both media reporting and civil society research revealed that South African communities have at different times both supported and denounced vigilantism. This was often predicated upon the level of violence employed and whether the motives of vigilantes could be considered as self-serving rather than for the safety and morality of the community. However, public attitudes as generally represented within the media often revolve around frustration with the criminal justice system, which leaves them with no choice but to engage in vigilantism in order to protect themselves from the perceived onslaught of crime. Authors such as Charney have argued that the issue of trust and faith in the criminal justice system and the state in general is key to recognising and developing a forward in eradicating vigilantism.<sup>152</sup>

One interesting article cited by Sekhonyane and Louw revealed that when mitigating circumstances and context was provided for hypothetical crimes (including if the crime was committed in the name of vigilante activity), most respondents chose sentences which were more lenient than those currently provided by the penal code.<sup>153</sup> Such studies would suggest that further research is required to understand this fluidity and inconsistency among the South African public with regard to knowledge of the criminal justice system and attitudes towards crime and punishment.

The third and final discourse on vigilantism which I explored was that of the state. The South African state's recent discourse on vigilantism can be considered as being of two constituent elements – quotes within the media when responding to a particular incident and very occasional press releases reporting ongoing investigations into particular incidents. There is little evidence to suggest that the latter receive much public attention, nor is there much in the way of proactive statements in relation to vigilantism as a wider problem for society or about the negative public perceptions of the SAPS which may be contributing to continued support for vigilantism in some communities.

Recent state comments on vigilantism have been mostly confined to media reports in which they are called to comment on a particular incident. There have also

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<sup>152</sup> Charney, C op cit note 9 at 23.

<sup>153</sup> Sekhonyane, M & Louw, A. op cite note 93 at 12.

been very few press statements, simply reporting the details of an incident and stressing the need for crime victims to respect the rule of law and due process. Much like the press statements, recent public speeches made by SAPS higher management have largely neglected the issue of vigilantism.

There is some evidence, such as the investigation into policing in Khayelitsha, to suggest that the most recent approach by the state has been to focus on a discourse which recognises the need for improving policing and reducing crime, perhaps a tacit acceptance of existing inadequacies and their relationship to vigilantism. Regardless it would suggest that, despite a lack of direct engagement, the South African state is aware of the public, media and civil society criticism regarding its crime prevention and prosecution efforts. Whether such awareness translates to tangible results can only be ascertained in the crime statistics, academic research and media reporting of the coming years.

Any state which seeks to assert itself as the legal and moral authority in matters of crime and punishment, will struggle in the face of continuing media, public and academic discourses which highlight poor policing standards, high crime, and corruption and criminality within its own institutions. In the context of other cultural, social and political factors which facilitate and support the use of vigilantism in South Africa, the state must thus make a concerted and visible effort to engage, recognise and address such criticisms, if it is to actually impact on vigilantism.

Given the argument that greater communication and cooperation between the state and local communities would be key element to eradicating vigilantism, it seems logical for the state to begin such a process by engaging directly with delay with the South African public on the issue, and not in a reactive context. Direct community meetings, press conferences and public events might all circumvent the potential for selective and reductionist media reporting, and produce a meaningful dialogue. If the state is to get to grips with its role in fighting vigilantism, then creating a proactive discourse based upon a meaningful public dialogue with local communities which highlights policing reform and educates as to the criminal justice system would seem the first important step in that direction. In the interim, academics will undoubtedly continue to discuss the various nuances which inform and influence vigilantism in South Africa while the media simultaneously presents a sensationalised and simplistic image. Any state discourse must navigate these

representations in order to engage with and transform the prevailing public discourse about policing and vigilantism, a discourse which reveals that South Africans are seemingly quite willing to reject vigilantism when the South African government demonstrates its genuine intention and ability to fulfil its mandate in preventing and prosecuting crime across the country.

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