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Master of Laws (LLM)

**What is the effect of a state centric approach on
policing in South Africa? A review of policy**

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ABSTRACT

A state centric approach to policing has had a detrimental effect on security governance in South Africa. This approach is an enduring legacy of the Hobbesian worldview which places the state at the centre of security governance. However, the multiplicity of policing actors throughout the history of South Africa undermines the notion that the SAPS have monopoly on security governance. The popularity of the state police in the public's perception of security governance highlights a need of a policing approach which gives the SAPS a role as well as acknowledges other policing actors; minimal policing is a plausible alternative.

CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

The Westphalian model of governance is based on the ‘Peace of Westphalia, which ended the Thirty Years War (1648) in Europe, is taken to mark the beginning of the modern international system as a universe composed of sovereign states, each with exclusive authority within its own geographic boundaries.’¹ Hobbes expanded on this principle and asserted that the sovereign state needs to be at the centre of security governance in a jurisdiction to preserve peace.² This Hobbesian influence which places the state at the centre of security governance has been enduring. In South Africa, the South African Police Service (SAPS) has attempted to monopolise policing despite notions prevalent in the early 1990s, concerning the importance of democratic policing, which for example, promotes partnership policing. Dirk van Zyl Smit and Elrena van der Spuy have pointed out;

‘it is true that in South Africa, as elsewhere in the transitional world, reform of policing in its widest sense has been reduced to a much narrower reorganisation of law enforcement. The grand alliance of state, market and civil society in pursuit of the ‘governance of security’ as originally anticipated, has failed to materialise.’³

The SAPS is by no means unique in this desire to monopolise policing; it is ‘an international phenomenon.’⁴ Indeed, research on policing in Australia and the United Kingdom show that the police attempt to remain at the centre of security governance.⁵ However, a state centric approach to policing is not necessarily desirable, particularly in a developing country such as South Africa in which the state may lack the resources and capability to provide efficient security to citizens.

For instance, in South Africa the two key policing policy documents: The 1996 National Crime Prevention Strategy (NCPS)⁶ and the 1998 White Paper on Safety and Security⁷ highlight the limitations of the state and advocate a collaborative, multi-agency approach to

¹ Stephen, Krasner ‘Compromising Westphalia’ (1995) 20 *International Security* 115.

² Hobbes, Thomas *Leviathan* Malcolm, Noel (ed) (2012)

³ Van Zyl Smit, Dirk and Van der Spuy, Elrena ‘Importing criminological ideas in a new democracy: Recent South African experiences’, in Tim Newburn and Richard Sparks (eds) *Criminal justice and political cultures: National and international dimensions of crime control* (2004)

⁴ Marks, Monique, Shearing, Clifford and Wood, Jennifer ‘Who should the police be? Finding a new narrative for community policing in South Africa’ (2009) 10 *Police Practice and Research: An International Journal* 149.

⁵ Johnston, Les ‘“Keeping the family together”: Police community support officers and the ‘police extended family’ in London’ (2007) 17 *Policing and Society* 135

⁶ Department of Safety and Security, *National Crime Prevention Strategy* (1996)

⁷ Department of Safety and Security, *White paper on safety and security: In service of safety 1999-2004* (1998)

policing. The NCPS recognised that in post-apartheid South Africa a network of security providers as opposed to just the state police would be needed to effectively tackle policing.⁸ The White Paper on Safety and Security attempted to clarify some of the ideas from the NCPS and identified the role of various government departments from the local to national level that can collaborate in the area of crime prevention. This multi-agency approach is not a new concept in South Africa. During the apartheid period the states' approach to policing was based on the acknowledgment that the state police was not in a position to provide adequate security provision by themselves.⁹ In black areas people were responsible for their own security governance as the state police was more concerned with addressing resistance to the apartheid state than security provision.¹⁰ Furthermore, in the mid-1970s the South African apartheid government facilitated the growth of the private security industry. This was achieved by recruiting the services of private security in strategic places as defined by the National Key Points Act 1980, because the state police was considered as lacking capacity to adequately provide security, during this period of heightened political tension.¹¹ Despite forward looking policies, implementation has been weak and the police have sought to be at the centre of policing. This dissertation will show that this state centric approach to policing has been a failure that has proven to be resource intensive and unsustainable for the government.

Although the NCPS and the White Paper are useful policy documents they do not adequately address implementation strategies. This is challenging for the government because it has to implement policies to address crime without a clear 'single composite framework' resulting in oscillating policy positions: from crime prevention to a 'war on crime' approach.¹² The high crime rates in South Africa, offer a partial explanation to the popularity of the 'war on crime' approach to policing because the government and politicians are under pressure to address the crime problem. Furthermore, this 'war on crime' has also resulted in the militarisation of the police with human rights issues being perceived to be getting in the way of fighting crime. Therefore, resources spent on the 'war on crime' have resulted in a shift

⁸ Shaw, Mark and Shearing, Clifford 'Reshaping Security: An Examination of the Governance of Security in South Africa' (1998) 7 *African Security Review* 8

⁹ Ibid at 4.

¹⁰ Ibid.

¹¹ Singh, Anne-Marie *Policing and Crime Control in Post-Apartheid South Africa* (2008)

¹² Van der Spuy, Elrena 'Crime and its Discontent: Recent South African Responses and Policies' in *Crime and Policing in Transitional Societies Conference* (2000) 167 available at http://www.kas.de/wf/doc/kas_4865-1522-2-30.pdf?040622164853, accessed on 11 November 2013.

towards emphasis being placed on crime control at the expense of the long term crime prevention policies in addressing crime.¹³ The result has been that crime prevention has been reduced either to mere political rhetoric or at best to a narrow focus on reforming the criminal justice system.¹⁴ This, however, does not suggest that the state has no role to play in policing.

1.2 Relevance of topic

Garland¹⁵ and Hillyard and Tombs¹⁶ amongst others have asserted that high crime rates have become an accepted feature of modern social life. Policy makers, civil society, private businesses and academics have attempted to address the challenges of security governance in modern society. A review of literature highlights two approaches to security governance: the state centric approach that argues that security is a public good best provided by the state and the nodal approach that argues that empirical reality determines which policing actor should be at the centre of security governance, the state need not normatively be at the centre. The state centric approach to policing has proven popular in South Africa. This research question is relevant because it outlines the detrimental effects of the state centric approach on policing and seeks to offer an alternative policing model; minimal policing as advocated by Marks and others. Minimal policing gives the state police an indispensable position in security governance based on a clearly defined role which acknowledges that the state cannot have monopoly in policing thus supports and recognises non-state policing actors.¹⁷

1.3 Research question

This dissertation aims to outline the effects of a state centric approach on policing in South Africa. Below is the proposed structure of the dissertation.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Garland, David 'The limits of the sovereign states: strategies of crime control in contemporary society' (1996) 36 *The British Journal of Criminology* 448.

¹⁶ Hillyard, Paddy and Tombs, Steve 'Beyond Criminology', in Hillyard, Paddy, Pantazis, Christina, Tombs Steve, Gordon, Dave (eds) *Beyond Criminology* (2004) 13.

¹⁷ Marks, Monique and Wood, Jennifer 'South African policing at a crossroads: The case for a 'minimal' and 'minimalist' public police' (2010) 14 *Theoretical Criminology* 326.

➤ Chapter 2: State-centred v. Nodal theory

This chapter will analyse the nodal model to policing advanced by Clifford Shearing and his colleagues. The nodal model is based on the premise that modern society comprises plural centres of security governance. Therefore, this model views the state as ‘one’ node among many nodes and refuses to give the state conceptual priority. This approach has been criticised by Loader and Walker (2006) who argue that the state should be at the centre of policing provision as security is a public good. In a developing country such as South Africa, the state may lack the necessary capacity to have a monopoly on security governance or to successfully ‘anchor’ security networks; therefore the nodal approach is better suited as it recognises that different policing actors play a unique role in security provision without giving conceptual priority to any one node in light of empirical contexts.

➤ Chapter 3: A historical overview of shifts in policy objectives

This chapter will outline the changes in government policy on policing in South Africa. Examining shifts in policy is important because it highlights the tendency of the state to revert to a state centric approach to policing despite evidence that a non-state centric approach is more appropriate. The NCPS and White Paper on Safety and Security which advocate for multiple policing actors working in partnership to implement crime prevention initiatives have been abandoned for the ‘war on crime’ state centric approach to policing.

➤ Chapter 4: Partnership policing: private security

This chapter builds on the previous chapters; partnership policing was advocated in the NCPS and White Paper on Safety and Security. The relationship between the state and the private security will be examined because South Africa has one of the largest private security industries in the world. The indispensable role of private security in the security governance of South Africa undermines any notion of state monopoly on policing. This chapter is relevant because it highlights that a state centric approach to policing has undermined partnership policing.

➤ Chapter 5: Partnership Policing: community policing

This chapter is an extension of Chapter 4 but will examine partnership policing from the perspective of community policing. Community policing is important because in the early 1990s it was advocated as the vehicle to build the relationship between the SAPS and the community after the years of police brutality under the apartheid regime. The chapter will assess the implementation of the government policing on community policing and also evaluate the role of Community Police Forums (CPFs). The chapter is relevant because it highlights the adverse effect of a state centric approach in the implementation of community policing. The Khayelitsha Commission into Policing will also be examined because it highlights the lack of capability of the SAPS to provide adequate security for all citizens.

➤ Chapter 6: Conclusion

The dissertation will conclude that policies on security governance need to be grounded in reality in order for implementation to occur. Minimal policing is a plausible alternative to address the tendency for the state to adopt a state centric approach to policing. This is because it is grounded in reality; the SAPS are given a role that recognises the unique capability and resources while the role of non-state policing actors is also acknowledged.

1.4 METHODOLOGY

This is a desktop review of secondary data collection. Merriam has rightly pointed out that ‘documents of all types can help the researcher uncover meaning, develop understanding, and discover insights relevant to the research problem.’¹⁸ Desktop analysis of documents has various advantages that include being cost-effectiveness and availability.¹⁹ However, this type of research also has the disadvantage of lacking sufficient detail and susceptibility to bias; some academic articles and government policy reports are written for a specific purpose and to promote a certain ideology. Therefore, primary research in addition to desktop review of data would have been ideal in order to mitigate issues of unreliable and outdated secondary information; however time constraints made primary research unpractical.

¹⁸ Merriam, Sharan *Case study research in education: A qualitative approach* (1988) 118.

¹⁹ Glenn, Bowen ‘Document analysis as a qualitative research method’ (2009) 9 *Qualitative Research Journal* 31-32.

To write this dissertation, I looked at academic journal articles, books, policy documents, legislation, and newspapers. Access to this information was mostly through the UCT library database. Google scholar was also used to access academic articles. Government websites were used to attain policy documents. Various online websites were used to access relevant newspaper articles and useful documents.

CHAPTER 2: STATE CENTRED VS NODAL THEORY

2.1 INTRODUCTION

This chapter outlines different theoretical paradigms: state centred and the nodal approach to security governance. I argue that the nodal approach is best placed to address the policing challenges in South Africa because it does not make the normative claim that the state should monopolise policing. It urges for an empirical approach and recognises that for instance; non-state actors such as private security may be important nodes in security provision. The nodal approach is therefore, a more realistic and practical approach that can potentially result in the adoption and implementation of policing policies that: encourage partnership between state and non-state policing actors, address the sensitive issue of unequal security and accountability of non-state policing actors.

This chapter will be divided into three sections. The first section critically assesses the nodal model advanced by Shearing and his colleagues. The nodal model rejects the state centric approach to policing that argues for the state to always be at the centre of policing and advocates that we should not give conceptual priority to any node. The second section examines Loader and Walker's 'state-anchored pluralism' model which places the state at the centre of policing governance. The chapter concludes that both the nodal model and the state-anchored pluralism model are more similar than different as both models are concerned with providing equitable policing provision. The nodal approach is better suited to a developing country such as South Africa which has 'areas of limited statehood' such as Khayelistsha; spaces in which the ability of the state to enforce law and order is limited.²⁰ Therefore, like advocated by the nodal approach both state and non-state policing actors should be supported to promote rule of law principles in the provision of policing services to citizens.

2.2 NODAL SECURITY GOVERNANCE

A brief outline of the Hobbesian worldview will be useful to set the context for an understanding of the state centric approach to policing that is rejected by the nodal approach. The framework for the state centric approach to policing is based on the Hobbesian

²⁰ Honke, Jana *Transnational companies and security governance* (2013) 1.

worldview which advocates for state authority over civil society to facilitate peace; ‘during the time men live without a common power to keep them all in awe, they are in that condition which is called war, and such a war as is of every man against every man.’²¹ The Hobbesian worldview perceives of sovereignty as state authority to use force in exercising its mandate to protect the citizenry. The notion that the state is viewed as best placed to provide security for all is based on the assumption that non-state actors are undemocratic.²² The state centric approach to policing has been a defining feature of the Westphalian model of governance which states that the sovereign state has ‘exclusive authority within its own geographic boundaries.’²³ State sovereignty is a complex political concept but the wider meaning for the purposes of this dissertation is that the state has the capacity to control a territory against threats from both internal and external forces, as well as to protect its citizens from crime and ‘criminal depredations.’²⁴ The Hobbesian concept that the state has legitimate monopoly over security governance in a given jurisdiction is based on this understanding of sovereignty. Indeed, the Hobbesian vision of state governance is accurately illustrated in the giant Leviathan whose body comprises of the people who have elected him to be their legitimate ruler.²⁵ The Leviathan carries in the left hand a sceptre that symbolises his legitimacy and the right hand a sword which is a symbol of his physical power to ‘crush resistance to his rule.’²⁶ This idea is further expressed in the notion of the state police as the ‘thin blue line’ that through the use of force can bring order and prevent anarchy. However, the nodal theorists argue that this Hobbesian and Westphalian worldview is inaccurate and fails to depict the reality of plural sites of security governance with a multiplicity of policing actors.

Kempa et al have rightly asserted that we now live in a ‘post- Westphalian’ era with multiple sites of governance and ‘policing is a central function of governance.’²⁷ Despite the wide usage of the term ‘governance’, there lacks consensus on the definition of the term. Sand (2004) quoted in Burris et al (2008) has asserted that the literature on governance is

²¹ Hobbes op cit (n2).

²² Marks, Monique and Goldsmith, Andrew ‘The State, the People and Democratic Policing: the Case of South Africa’, in Wood, Jennifer and Dupont, Benoit (eds) *Democracy, Society and the Governance of Security* (2006).

²³ Stephen D. Krasner *Problematic Sovereignty: Contested Rules and Political Possibilities* (2001) 24.

²⁴ Garland op cit (n15) 448.

²⁵ Clifford Shearing and Jennifer Wood ‘Nodal Governance, Democracy, and the New ‘Denizens’ (2003) 30 *Journal of Law and Society* 1.

²⁶ Ibid at 1.

²⁷ Kempa, Michael, Stenning, Philip and Wood, Jennifer ‘Policing Communal Spaces: A Reconfiguration of the ‘Mass Private Property’ Hypothesis’ (2004) 44 *British Journal of Criminology* 562.

“numerous, diverse and fragmented, and has not formed any consistent tradition.”²⁸ Burris et al have highlighted that the popularity of governance as a topic risks the danger of ‘becoming a point of false rhetorical convergence, a term that means all things to all people.’²⁹ Despite these challenges, Kempa et al have defined governance as the ‘organized efforts to manage the course of events in a social system.’³⁰ Security governance is therefore, complex, with plurality of actors.³¹ This complexity effectively undermines the state centric approach to policing because the state lacks capability to be solely responsible for security governance in a dynamic environment.

Agnew has made a convincing argument that undermines the Westphalian model of governance, particularly the understanding pertaining to the sovereign state. He argues that the political authority of the sovereign state is ‘not necessarily predicated on and defined by strict and fixed territorial boundaries.’³² This is because, firstly, political authority is defined as ‘the legitimate exercise of power’ and the basis of this legitimacy is not consistent across time and space, for example, the legitimate rule by the monarchy in medieval Europe is different from the modern legitimate basis of Western democracies.³³ Secondly, especially in the age of ‘globalization’ authority is not derived from the state alone but from a wide range of sources such as international businesses and civil society movements.³⁴ Similarly, Braithwaite states: ‘the corporatization of the world during the twentieth century....meant that the greatest regulatory capabilities lay with corporations themselves...by the mid-90s for the first time, a majority of the largest ‘economies’ in the world were transnational corporations rather than states.’³⁵ Notwithstanding, the exact influence of transnational corporations on state sovereignty, the fact still remains that the state is no longer the primary actor domestically or the international arena. Therefore, the state lacks the basis to claim monopoly of security governance in a given jurisdiction.

²⁸ Burris, Scott, Drahos, Peter and Shearing, Clifford ‘Changes in Governance: A Cross-disciplinary review of current scholarship’ (2008) 41 *Akron Law Review* 1

²⁹ Ibid at 7.

³⁰ Kempa, Michael, Shearing, Clifford and Burris, Scott ‘Changes in Governance: A Background Review’(2004) available at http://www.temple.edu/lawschool/phrhcs/salzburg/Global_Health_Governance_Review.pdf accessed on 17 March 2014 p2.

³¹ Ibid at 3-4.

³² Agnew, John ‘Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics’(2005) 95 *Annals of the Association of American Geographers* 441.

³³ Ibid at 441.

³⁴ Ibid at 442.

³⁵ Braithwaite, John ‘The New regulatory state and the transformation of criminology’ (2000) 40 *The British Journal of Criminology* 229.

Agnew's point about authority being derived from a wide range of sources is closely related to Foucault's (1990) argument concerning 'governing through enrolment.'³⁶ Foucault (1990) argues that the power of governance is widely shared.³⁷ Power is understood as being everywhere because it is not possible for one person to own, possess or hoard.³⁸ Power should be understood not as the sole possession of one person but according 'to the number of other people who enter into the composition.'³⁹ The power to govern is derived from the ability to enrol others to work in fulfilling one's objectives; which is exercising 'governance at a distance.'⁴⁰ Again, it therefore follows that the state cannot be in sole possession of the power to exercise security governance.

In response to the plural actors and dynamics of security governance, Shearing and his colleagues have advocated for a nodal approach to policing. A node is 'not a virtual entity' but has 'some institutional form' with the necessary 'stability and structure to enable the mobilization of resources, mentalities and technologies over time.'⁴¹ Although the nodal position acknowledges that some nodes such as the state are bigger than others, the nodal approach does not give conceptual priority to the state. Therefore, Shearing rejects the Hobbesian view of the state and asserts that the state police are one node 'among many' policing providers.⁴² Bayley and Shearing argue that the drastic changes in policing governance have resulted in the state losing its perceived monopoly, if there ever was a monopoly on policing.⁴³ They claim that 'modern democratic countries...have reached a watershed in the evolution of their systems of crime control...[and] [f]uture generations will look back on our era as a time when one system of policing ended and another took its place.'⁴⁴ This is particularly evident with the rise of private security which operates in all spheres of private and public life. However, Crawford (1999)⁴⁵ and Jones and Newburn

³⁶ Foucault, Michel *The History of Sexuality Volume 1: An Introduction* (1990).

³⁷ Ibid.

³⁸ Latour, Bruno 'The powers of association', in Law, John (ed.) *Power, Action and Belief: a New Sociology of Knowledge?* (1986) 265.

³⁹ Ibid at 265.

⁴⁰ Ibid at 265.

⁴¹ Kempa, Shearing & Burris (n30) 12.

⁴² Shearing, Clifford 'Reflections on the Refusal to Acknowledge Private Governments', in Wood, Jennifer and Dupont, Benoit (eds) *Democracy, Society and the Governance of Security* (2006) 27.

⁴³ Bayley, David and Shearing, Clifford 'The Future of Policing' (1996) 30 *Law and Society Review*

⁴⁴ Ibid at 585.

⁴⁵ Crawford, Adam. *The local governance of crime: Appeals to community and partnerships* (1999) Oxford: Oxford University Press.

(2002)⁴⁶ have questioned the assumption by Bayley and Shearing⁴⁷ that the current policing practices are ‘watershed’ moments that differ from past practices. This is because an examination of the historical processes shows that ‘policing provision has become less rather than more fragmented.’⁴⁸ While there have been far reaching changes, there has also been as identified by Boutellier and Van Steden ‘consistencies and continuities that still exist in the authorization and provision of policing.’⁴⁹ Jones and Newburn assert that the decline of ‘secondary social control’ agents for example, the caretakers who performed the surveillance function created a security vacuum that has been filled by private security.⁵⁰ Therefore, the rise of private security is merely an increase ‘in a general trend towards the formalisation of social control.’⁵¹ Although Jones and Newburn make an important observation, the relevant point for the purposes of my argument remains undisputed; in fact Bayley, Shearing, Jones and Newburn are in agreement that policing has never been adequately provided by the state alone. The exception of this is the so-called ‘Golden Age’ of policing in the 1950s in which the United Kingdom metropolitan police was viewed to have successfully fulfilled their duties.⁵² Scholars such as Reiner have questioned the reliability of the statistics collected during this period; for example challenges of underreporting of crime were and are still widespread.⁵³

Notwithstanding, the extent nature of policing continuity or break from the past, it is clear that the state centric approach to policing is not an accurate depiction of security governance in the modern society. There have been changes in ‘rhetorical aspirations’ that the state should govern the public arena for the public good and leave the private sphere to self-govern within broad limits within the law.⁵⁴ Burris et al assert that ‘rhetorical aspirations reached its institutional apotheosis in the middle decades of the 20th century, and have been in accelerating decline’ since the rise of ‘globalization’ which is linked to the information

⁴⁶ Jones, Trevor and Newburn, Tim ‘The Transformation of Policing? Understanding Current Trends in Policing Systems’ (2002) 42 *British Journal of Criminology* 129-146.

⁴⁷ Bayley & Shearing op cit (n43) 585.

⁴⁸ Jones & Newburn op cit (n46) 136.

⁴⁹ Boutellier, Hans, and Ronald van Steden ‘Governing nodal governance: The ‘anchoring’ of local security networks’ (2011) *International and comparative criminal justice and urban governance. Convergences and divergences in global, national and local settings*.

⁵⁰ Jones & Newburn op cit (n46).

⁵¹ Ibid at 139.

⁵² Robert Reiner ‘Policing a Postmodern Society’ (1992) 55 *The Modern Law Review* 761.

⁵³ Ibid at 768.

⁵⁴ Burris et al op cit not (n28) 14.

economy.⁵⁵ The information economy has opened new spaces such as cyber space and is governed according to the interests of non-state actors who affect the public interest.⁵⁶ More importantly, this neat distinction between private and public space is no longer relevant because of the rise of what Shearing and Stenning have labelled ‘mass private property.’⁵⁷ Mass private property is private property that has the appearance of a public space that is open to all citizens. However, although, these mass private properties appear to be public spaces, they are not public in the conventional meaning of the term.⁵⁸ This is because access to the space is dependent on invitation and compliance of the requirements demanded by private owners who govern the space using the services of private security.⁵⁹ On the other hand, the apparent division between public and private;

‘has always been an inspirational rather than an empirical distinction... [as] these... spheres have always..been hybrids.’⁶⁰ Kempa et al go further, and assert that the public-private sphere distinction has not only become blurred into hybrid spheres but they argue that the distinction itself is invalid.⁶¹

This blurring between public and private space undermines a state centric approach to policing because the state lacks jurisdiction to act in private or hybrid spaces unless they are invited by property owners.

Similarly, the state centric approach to policing is not consistent with the practical reality of policing in the developing world; it is empirically obvious that the state never had any form of monopoly. Baker’s research has shown that the state police in Africa have failed to replace non-state policing actors because the state police are ‘widely perceived, as indifferent, inept, inefficient and corrupt.’⁶² Furthermore, in South Africa for example, the state police is absent from rural areas and security governance has been the responsibility of the local community.⁶³ Baker argues that non-state policing in Africa has legitimacy because it is determined by ‘local historical, social, economic and political circumstances’ which is to the contrasted with the state police which is arguably a foreign concept introduced by colonial governments.⁶⁴ However, Nina and Scharf have pointed out that state and non-state policing

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Shearing & Wood op cit note (n25) 409.

⁵⁸ Ibid at 410.

⁵⁹ Ibid.

⁶⁰ Kempa et al op cit note (n30) 15.

⁶¹ Ibid.

⁶² Baker, Bruce *Multi-Choice Policing in Africa* (2008) 74-75.

⁶³ Scharf, Wilfried ‘Justice and Community Policing in Post-Apartheid South Africa’ (2001) 32 *IDS Bulletin*.

⁶⁴ Baker op cit (n62) 100.

actors interact in a complex political and social spectrum that is at one hand cooperative and the other hand non-cooperative; there is no simplistic dichotomy between state and non-state policing actors with the state having the upper hand.⁶⁵ Baker has described the diversity of policing actors in African countries as ‘multi-choice policing’ as people have a wide array of policing actors to choose from that are appropriate to their particular needs; this reiterates the inability of the state to exercise monopoly on security governance.⁶⁶

This section has shown that a state centric approach to policing is misleading and inconsistent with historical and modern traditions; policing has been provided by multiple actors especially in developing countries such as South Africa.⁶⁷ Furthermore, the rise of mass private property, security networks and non-traditional crime such as cybercrime has not only eroded the traditional public and private policing distinction but undermines the argument that the state should have monopoly on policing. New understandings of security governance emphasise the importance of placing both state and non-state actors as relevant in policing provision.

2.3 STATE-ANCHORED PLURALISM IN SECURITY GOVERNANCE

2.3.1 The state anchored approach:

This section will discuss the state anchored approach. This approach is state centric and argues that the state should always be at the centre of security governance. Loader and Walker have proposed the anchored pluralism approach as an alternative to the nodal model of policing governance. Loader and Walker have questioned the practical application of the nodal approach which refuses to give the state a privileged position. Loader and Walker⁶⁸ criticism of the nodal theory is based on the position that the state is required to monitor and regulate other policing nodes to ensure they are consistent with the rule of law. This effectively means that ‘the state in fact continues to assume a far from insignificant role in

⁶⁵ Nina, Daniel and Scharf Wilfried ‘Introduction: The other law?’ in Nina, Daniel and Scharf Wilfried (eds) *The other law: Non-state ordering in South Africa* (2001).

⁶⁶ Baker op cit (n62) 173.

⁶⁷ Ibid.

⁶⁸ Loader, Ian and Walker, Neil ‘Necessary Virtues: The Legitimate Place of the State in the Production of Security’, in Wood, Jennifer and Dupont, Benoit (eds) *Democracy, Society and the Governance of Security* (2006)

their preferred conception of security.’⁶⁹ However, this critique of the nodal theory assumes that the state is the only entity that can regulate and monitor other policing nodes; private security is arguably effectively regulated through the market.⁷⁰

2.3.2 Policing as a public good

The anchored pluralism approach attempts to place the state at the centre of security governance because security is viewed to be a public good. Loader builds on the work of Manning (1997)⁷¹ to argue that at least in the UK, the public police hold a “sacred” symbolic role of ‘law, order and nation.’⁷² The symbolic power held by the police is explained by Bourdieu’s (1991) thesis on symbolic power.⁷³ Bourdieu argues that symbolic power is the tacit power exercised obliviously by a person in a position of authority to make people willingly conform to a particular worldview without putting up resistance.⁷⁴ Loader and Walker (2007) argue that security is a ‘thick’ public good.⁷⁵ Security as a ‘thick’ public good consists of two dimensions; the first dimension entails freedom from fear, although this freedom is subjective as it is based on one’s perception and experience of a particular social environment and the adequacy of its safety mechanisms.⁷⁶ Secondly, security as a public good presupposes a recognisable public that possesses collective interests.⁷⁷ This argument goes beyond the ‘thin’ public good perception of security rooted in the political theory of social contract advanced by Hobbes and Locke which is essentially security is pursued by the collective based upholding mutual interests.⁷⁸ Loader and Walker are arguing that security and particularly the pursuit of security is the glue that holds political communities together. Similarly Bayley argues for state policing in a plural policing environment;

governments will inevitably remain central to crime prevention in modern societies-not because other institutions are not important but because the state cannot renounce the responsibility. The maintenance of

⁶⁹ Ibid at 177.

⁷⁰ Stenning, Philip ‘Powers and Accountability of private police’ (2000) 8 *European Journal of Criminal Police and Research*

⁷¹ Manning, Peter, *Police Work: The Social Organization of Policing* 2ed (1997) Camb.Mass: MIT Press.

⁷² Loader, Ian ‘Consumer culture and the commodification of policing and security’ (1999) 33 *Sociology* 387.

⁷³ Bourdieu, Pierre *Language and Symbolic Power* (1991)

⁷⁴ Ibid.

⁷⁵ Loader, Ian and Walker, Neil ‘Locating the Public Interest in Transnational Policing’ (2007) European University Institute Working Paper Law No 2007/17 1-31.

⁷⁶ Ibid at 4.

⁷⁷ Ibid.

⁷⁸ Ibid.

domestic order is as crucial to the legitimacy of government as defence against external enemies.⁷⁹

Loader and Walker assert that security as a public good has an instrumental role in the ‘very making and sustenance of the collective project of common “publicness.”’⁸⁰ Therefore, the commodification of security services is problematic because it has undermined ‘people’s capacity to enact inclusive, negotiated solutions to the problem of order, such as those promised by community mediation.’⁸¹ This destroys the “thickness” of social bonds in society and makes it more difficult to link policing issues to democratic values such as equality and justice.⁸² Furthermore, commodification of security services effectively means that the consumers of these services have ‘turned their backs on democratic politics as a means of providing policing and security, and opted instead to exercise what control they can by market means which excludes poor communities who cannot afford this option.’⁸³ Marks and Goldsmith agree with this point and argue that the state centric approach to policing can address the issue of unequal policing provision which places poor communities in South Africa at a disadvantage.⁸⁴ They argue that for poor communities ‘while the state may be distant, the alternatives too often are unaffordable and/or unpalatable.’⁸⁵ Similarly, Marks and Wood (2010) assert that non-state policing actors can be susceptible to becoming heavy handed and undermine democratic principles that value individual human rights.⁸⁶ However, this position presupposes that the state is not susceptible to undemocratic policing. Indeed, Loader and Walker have acknowledged the importance of curbing the arbitrary power of state policing.⁸⁷

The concept of policing being a public good has been challenged by the work of Crawford who advances the notion that policing is a club good. Webster suggests that ‘most public realms serve particular publics and are better conceived of as *club* realms.’⁸⁸ Samuelson (1954) distinguished between a “pure public good pure private good” dichotomy: with public

⁷⁹ Bayley, David *Police for the future* (1994) 144.

⁸⁰ Loader & Walker op cit note (n68) 4.

⁸¹ Loader, Ian ‘Consumer culture and the commodification of policing and security’ (1999) 33 *Sociology* 385

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ Marks & Goldsmith op cit (n22).

⁸⁵ *Ibid.*

⁸⁶ Marks & Wood op cit (n17).

⁸⁷ Loader & Walker op cit (n68) 195.

⁸⁸ Webster, Chris ‘Property rights and the public realm: Gates, green belts and gemeinschaft’ (2002) *Environment and Planning B* 398.

good characteristics being “non-excludable,” “indivisible” and “non-rival.”⁸⁹ Non-excludable is defined as goods provided for all, indivisibility means that the good has to be consumed as a whole and non-rivalry means that the ‘one person’s consumption of the good does not prevent someone else from using it.’⁹⁰ Crawford argues that few goods possess all three qualities and qualify to be identified as “pure public goods.”⁹¹ Many public goods ‘suffer congestion’ and thus a distinction “between “pure public goods” and “crowded public goods” is needed, with the latter being limited in supply thus could be described as “ ‘quasi’ or semi-public goods.”⁹² These quasi/semi public goods can be understood to be club goods, the term ‘club’ being appropriate because these goods are ‘available to members of a club but restricted in some form or other to non-members.’⁹³ Club goods have an inclusion and exclusion dynamic to them which is clearly evident in public policing, enjoyment of the policing service ‘is not necessarily without limit within a society.’⁹⁴ For example, limitations can be placed by virtue of municipality boundaries.

This section highlights the challenging issue of security being a public good that is supposedly best provided by the state because it is not motivated by profit unlike some non-state policing actors such as private security. Furthermore, advocates of the state anchored approach argue that the state is able to curb the undemocratic tendencies of non-state policing actors. However, this position is undermined by the fact that in developing countries there are spaces of limited statehood in which the police lack authority. Policing being a public good does not necessarily translate into the state being best placed to provide this service. This is particularly evident in developing countries in Africa that face challenges of limited resources and police corruption.⁹⁵

⁸⁹ Samuelson, Paul ‘The pure theory of public expenditure’ (1954) *Review of Economics and Statistics*

⁹⁰ Crawford, A ‘Policing and security as “club goods”: The new enclosures?’, in Wood, Jennifer and Dupont, Benoit (eds) *Democracy, society and the governance of security* (2006) 118.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid at 120.

⁹⁴ Vaughan, Barry ‘The provision of policing and the problem of pluralism’ (2007) 11 *Theoretical Criminology* 354.

⁹⁵ Tankebe, Justice ‘Public Confidence in the Police: Testing the Effects of Public Experiences of Police Corruption in Ghana’ (2010) 50 *British Journal of Criminology* 312

2.4 CONCLUSION

This chapter has outlined the different theoretical paradigms on policing with the aim of arguing that the nodal approach is a more realistic approach to policing for instance, in spaces of limited statehood. It is clear that there is consensus on the fact that there exists plurality in policing actors. The contentious issue in literature is around the role of the state in this plural policing environment. Shearing and his colleagues advocate the nodal model of policing which argue for the state to be viewed on conceptual equal footing with other policing actors. On the other hand, Loader and Walker take a different approach and advocate for the state to be at the centre of policing provision because security is a 'public good.' However, asserting that policing is a public good is simplistic as Crawford identified in his work on 'club goods.'

Shearing, Loader and Walker agree on the necessity to ensure that policing provision should be equitable and just to all members of society but differ on the mechanisms for doing so: the former stating this can be done through the market or co-production to ensure poor communities have a say in their security production and the latter stating the state is best placed to ensure equitable security provision. It is possible that the state has a role to play provided that it is committed to democratic principles. However, this does not suggest that the market cannot be regulated to act in a democratic and accountable manner. In a developing country like South Africa with limited resources the state maybe unable to provide policing services as advocated by Loader and Walker. Therefore, the nodal approach that places state and non-state actors on equal conceptual footing is more appropriate as it encourages different actors to bring their strengths in policing and play their unique role in the provision of security provision.

Chapter 3: A historical overview of shifts in policy objectives

3.1 INTRODUCTION

In order to evaluate the effects of a state centric approach on policing in South Africa, a review of policy is necessary. This chapter will outline the changes in government policy on policing in South Africa; varying between the nodal approach on one side to a state centric approach on the other. Examining changing policy positions is important because it highlights the tendency of the state to revert to a state centric approach on policing despite having policy documents that argue otherwise. This chapter will show the negative outcomes of shifting towards a state centric approach to policing. To assess these shifting policy positions this chapter will examine the three broad policing approaches taken by the South African government: social crime prevention, neo-liberal and ‘war on crime’ approach. However, the shifts do not neatly fit in specific time frames as there are a lot of overlaps. As mentioned Van der Spuy argues that ‘there is no single composite framework in terms of which South African policies regarding crime have been constructed.’⁹⁶ This can be seen with the competing principles with government promoting crime prevention strategies which acknowledge the role of poverty and unemployment in crime causation to the ‘war on crime’ language which portrays those who commit crime as ‘rational opportunists.’⁹⁷ Furthermore, recent political rhetoric and official government documents still mention the crime prevention approach to policing advocated by the NCPS and White Paper on Safety and Security as necessary in the long term fight against crime, while implementing the state centric approach to policing under the guise of the war on crime.

This chapter is divided into three sections. Firstly, the social crime prevention approach to policing will be discussed. Secondly, the chapter will assess the neo-liberal approach to policing. Thirdly, the ‘war on crime’ response to high crime levels will be discussed.

3.2 SOCIAL CRIME PREVENTION APPROACH (1990/4-1998)

South Africa became a democratic state after holding the 1994 elections which saw the African National Congress (ANC) government under President Mandela coming into power.

⁹⁶ Van der Spuy op cit (n12)

⁹⁷ Ibid.

There was a surge in crime post 1994, which resulted in South Africa being described as a high level crime society.⁹⁸ These high crime rates put political and public pressure on the newly elected government. In February 1995, President Mandela's state of the nation speech confirmed that government was addressing the issue;

‘We must take the war to the criminals and no longer allow the situation in which we are mere sitting ducks of those in our society who, for whatever reason, are bent to engage in criminal and anti-social activities. Instructions have therefore already gone out to the minister of safety and security, the national commissioner of the SA Police Service, and the security organs as a whole to take all necessary measures to bring down the levels of crime.’⁹⁹

The then National Police Commissioner George Fivaz in response to Mandela swiftly revealed the 1995 Community Safety Plan (CSP) which was ‘a package of short-term policing measures aimed at tackling the priority crimes in the country.’¹⁰⁰ However, in the SAPS 1996-1997 Annual Plan, Fivaz stated that ‘Addressing the underlying cause of criminal deviance and violence in South Africa is ultimately a long-term priority for government - with economic development and nation building (being) key prerequisite to creating safety and security.’¹⁰¹ In 1995, again in response to Mandela an interdepartmental team that consisted of civilian officials started working on the first National Crime Prevention Strategy (NCPS) which was premised on long term crime prevention strategies.¹⁰² The NCPS can be contrasted from the short term law enforcement orientated CSP. It is arguable that the ideological contest between the SAPS implementing the CSP which emphasises short term law enforcement strategies and the civilian officials coming up with a long term crime prevention strategy (NCPS) was evident as early on as 1995.¹⁰³

The NCPS is a crime prevention policy document that was intended to be the framework for interdepartmental efforts on crime prevention. It is based on the notion that in order for the crime problem to be tackled effectively a paradigm shift is needed; the police should not only

⁹⁸ Altbeker A (2007) *A Country at War with Itself: South Africa's Crisis of Crime*

⁹⁹ Mandela, Nelson ‘Closing address by President Nelson Mandela in the debate on the State of the Nation Address, Parliament - Cape Town’ (1995) available at http://www.mandela.gov.za/mandela_speeches/1995/950224_debatesona.htm, accessed on 10 January 2014.

¹⁰⁰ Rauch, Janine ‘Changing Step: Crime Prevention Policy in South Africa’, in Pelsler, Eric (ed) *Crime Prevention Partnerships* (2002) 9-26.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Masiza, Zondie and Ntlokonkulu, Libhongo *Enhancing policy implementation: Lessons from the the National Crime Prevention Strategy* (2002) 10.

focus on crime control but also crime prevention. The 1998 White Paper on Safety and Security defined crime prevention as encompassing;

‘all activities which reduce, deter or prevent the occurrence of specific crimes firstly, by altering the environment in which they occur, secondly by changing the conditions which are thought to cause them, and thirdly by providing a strong deterrent in the form of an effective criminal justice system.’¹⁰⁴

The NCPS advocated for a holistic approach to addressing the crime problem; crime control being viewed as reactive and failing to deal with the root of the problem. The NCPS identified areas of crime that are particularly problematic: organised crime, white-collar crime, crime involving firearms, crimes against women and children, vehicle hijacking, corruption in the justice system and inter-group violent conflict.¹⁰⁵ These problematic crime areas were to be addressed around the four pillars of the NCPS. The four pillars were:

- Re-engineering the Criminal Justice System (effective and efficient system that is based on crime prevention and upholding human rights principles)
- Reducing Crime through Environmental Design (reduce environmental opportunities for crime)
- Community Values and Education (seeks to collaborate with communities on crime control and prevention strategies)
- Transnational Crime (addresses the international organised crime and border control).¹⁰⁶

The 1998 White Paper on Safety and Security attempted to clarify some of the ideas from the NCPS and identified the role of various government departments from the local to national level that can collaborate in the area of crime prevention.¹⁰⁷ The White Paper on Safety and Security advocated for a nodal approach to policing by highlighting the need for non-state actors to be involved in addressing crime. The White Paper states;

‘There are many important partners in the fight against crime. These include, among others, organisations of civil society, particularly business and community organisations, citizens who volunteer for service as Police Reservists as well as the private security industry which performs a useful role. The role of such players is, in principle, one of partnership with the State.’¹⁰⁸

¹⁰⁴ The White Paper on Safety and Security op cit (n7).

¹⁰⁵ National Crime Prevention Strategy op cit (n6) 13.

¹⁰⁶ Ibid.

¹⁰⁷ Rauch op cit (n100) 9-26.

¹⁰⁸ The White Paper on Safety and Security op cit (n7) 7.

Despite the NCPS and White Paper on Safety and Security advocating state and non-state crime prevention partnerships implementation has been unsuccessful.¹⁰⁹ This may be due to the SAPS taking a state centric approach to policing; undermining state and non-state crime prevention partnerships.¹¹⁰ This is evident in the preeminent place the state's criminal justice system is given by the SAPS. For example, cybercrime is an example of a security challenge that is best addressed using partnership policing. The private industry (internet service providers) is better placed to protect the public from cybercrime than the SAPS.¹¹¹ However, the SAPS considers justice administered when an individual has been blamed and punished for a crime and would therefore be inclined to take a cybercriminal through the criminal justice system which private entities find inefficient, time consuming and expensive.¹¹² Furthermore, going through the criminal justice system does not necessarily result in recovering the financial loss caused by cybercrime.¹¹³ Similarly the state centric approach to policing is one reason that implementation of the crime prevention strategy has largely been narrow and conducted 'in a piecemeal fashion' in a manner that reinforces law enforcement.¹¹⁴ Indeed, this explains why the first pillar of the NCPS, re-engineering the criminal justice system has proved to be the most popular with government departments.¹¹⁵

The NCPS was undermined by shifting government policy from a crime prevention approach under the Mandela government to a more aggressive state centric policing approach under the Mbeki government. The NCPS was developed under the Mandela government in the same vein as the Reconstruction and Development Programme (RDP). The RDP was a policy framework that advocated for an integrated, holistic socio-economic policy framework which aimed to uplift all South African citizens and create a more equitable society mostly through redistribution of wealth.¹¹⁶¹¹⁷ The RDP also identified the need to address crime and causes of crime through the utilisation of community policing;

¹⁰⁹ Shearing, Clifford 'Making South Africans Safe: Possibilities and prospects' (2008) 1 *Acta Criminologica* 5

¹¹⁰ Ibid.

¹¹¹ Matagu, Peterson, Ondimu, Gladys and Ipu, Christopher 'Effects of Cybercrime on State Security: Types, Impact and Mitigations with the Fiber Optic Deployment in Kenya' (2011) *Journal of Information Assurance and Cybersecurity* at 12.

¹¹² Phillips, Llad 'The Criminal Justice System: Its Technology and Inefficiency' (1981) 10 *The Journal of Legal Studies*

¹¹³ Ibid.

¹¹⁴ Berg, Julie and Shearing, Clifford 'Design principles for more effective security governance' (2011) 36 *SA Crime Quarterly* 22-23.

¹¹⁵ Rauch, Janine *Police Transformation and the South African TRC* (2004)

¹¹⁶ Dixon, Bill 'Development, crime prevention and social policy in post-apartheid South Africa' (2006) 26 *Critical Social Policy*

‘Adaption and implementation of local crime prevention and crime combating strategies according to community needs.’¹¹⁸ Similarly, the NCPS was also a product of the Mandela’s government approach to addressing crime using a whole of society approach that engaged with the community on crime prevention strategies. However, the realities of political, economic and social factors meant that the Mbeki government revised the RDP and NCPS for what was considered a more realistic policy; Growth, Employment and Redistribution strategy (GEAR) and the National Crime Combating Strategy (NCCS).¹¹⁹ The RDP and NCPS were argued to have been created under the euphoria of the first democratic government; and have been viewed as great policy documents that were not very practical and effective ‘to real crime control.’¹²⁰ The next sections will discuss the GEAR and NCCS in greater detail.

This section has shown that the first democratic government under Mandela came up with the NCPS and the White Paper on Safety and Security; both forward looking policy documents that are in line with the nodal approach to policing as they emphasize state and non-state policing partnerships in addressing crime. However, implementation of these policies was undermined by a shift towards state centric approaches to fighting crime adopted under the Mbeki government.

3.3 NEO-LIBERAL APPROACH

Neoliberalism is a political philosophy that promotes free trade in the global economy with limited interference from the state. The political philosopher John Gray encapsulated this by stating that;

‘Every governmental intervention has real costs, and there is strong evidence to suggest that the vagaries of governmental policy constitute the chief source of economic disturbance in recent decades. It is a *general truth* ... that the imperfections of the market are never sufficient to justify intervention.’¹²¹

¹¹⁷ Breetzke, Gregory Dennis ‘Understanding the magnitude and extent of crime in post-apartheid South Africa, Social Identities’ (2012) 18 *Journal for the Study of Race, Nation and Culture* 309.

¹¹⁸ Reconstruction and Development Programme, Office of (RDP), *The Reconstruction and Development Programme* (1994) 74.

¹¹⁹ Breetzke op cit (n117).

¹²⁰ Gastrow, Peter and Shaw, Mark ‘In Search of Safety: Police Transformation and Public Responses in South Africa’ (2001) 130 *Daedalus* 268.

¹²¹ Gray, John *Liberalism* (1986) 71.

The Growth, Employment and Redistribution strategy (GEAR) policy adopted under the Mbeki government is based on the premise the growth in the economy through investment in the private sector is needed to achieve the objectives of the RDP.¹²² This policy has been accused of promoting the implementation of neo-liberal policies that are ‘seen to favour big business over the working class and its implementation in city councils and municipalities has resulted in the collapse of basic services in regions that need them most, notably the townships.’¹²³ Neoliberalism as a philosophy is not state centric because the state is not placed at the centre of service provision.

3.3.1 An example of neo-liberal approach to policing

An example of a GEAR inspired project relevant to the subject of policing is the City Improvement District initiative (CIDs) being implemented in and around urban spaces throughout South Africa. These CIDs are modelled after the Business Improvement Districts in American cities. The CIDs comprise of private bodies who had stepped in to fill in the gap created by the state in service provision. Needless to say, these CIDs pursue a neoliberal approach to achieve urban renewal in the city centre to achieve economic development with policing being primarily the responsibility of business owners in the CID.¹²⁴ The CID in Cape Town city centre has been characterised by keeping this business hub a clean and secure environment.¹²⁵ This has essentially meant ‘non-desirables’ which are street vendors, homeless and street children have been targeted for expulsion from the city centre.¹²⁶ Nina and Russell have observed that instead of these CID ‘being concerned about individual civil rights or human rights, private security of the “new” public space is more concerned about how to create conditions which can assist in promoting the logic of capital accumulation and the avoidance of any interference with this process.’¹²⁷ On the other hand, Berg observes that CID’s do not in themselves create socio-economic inequalities but simply reflect a pre-

¹²² Williams, Paul and Taylor, Ian ‘Neoliberalism and the Political Economy of the ‘New’ South Africa’ (2000) 5 *New Political Economy* 33.

¹²³ Breetzke op cit (n117) 310.

¹²⁴ Paasche, Till ‘The softer side of security’: The role of social development in Cape Town’s policing network’ (2013) 45 *Geoforum* 263-5

¹²⁵ City of Cape Town, *City improvement district by-law (2003)*

¹²⁶ Samara, Roshan ‘Youth, Crime and Urban Renewal in the Western Cape’ (2005) 31 *Journal of Southern African Studies*

¹²⁷ Nina, Daniel and Stuart, Russell ‘Policing by any means necessary: Reflections on privatisation, human rights and police issues—Considerations for Australia and South Africa.’ (1997) 3 *Australian Journal of Human Rights* 163.

existing reality and should not be blamed for bringing societal challenges to the surface.¹²⁸ Notwithstanding the challenges of social equality the CIDs are relevant because they are an example of a nodal approach to policing as security in the CID area is provided by private security which is better resourced than the state police; with more personnel, surveillance equipment and vehicles to provide effective security for businesses.¹²⁹ The state police also assist when called in by private security; therefore, state and non-state policing actors work in ‘formal co-operation’ to secure the CID.¹³⁰

3.3.2 NEDCOR Project on Crime, Violence and Investment

A discussion on the neo-liberal policy approach is incomplete without mentioning the NEDCOR Project on Crime, Violence and Investment. The project was funded by the private sector in 1996 in an attempt to identify the cause of the rising crime rates in South Africa and give recommendations on what can be done to address the high crime. It is interesting to note that the NEDCOR Project was conducted during the same year that the NCPS was enacted, when the government was pursuing a crime prevention approach to policing. The NEDCOR project identified that the public perceived crime and violence as more problematic than unemployment and education.¹³¹ The report takes a Hobbesian worldview and argues that ‘the most basic and fundamental duty of any government – which is why people are willing to give the government the right to use force against criminals to protect citizens.’¹³² The NEDCOR Project expressed concern that the;

‘new democratic government was “soft” on crime which led to the ‘inevitable speculation that the country may become “ungovernable.”’¹³³ This soft on crime perception has resulted in the increased emigration of skilled persons and, it is argued, has ‘prevented foreign investment and tourism from increasing substantially.’¹³⁴

The NEDCOR report also gives the state primary responsibility on crime prevention contrary to the NCPS: it states that ‘if a government continues to fail in the area of crime prevention, it will eventually fail in all other areas: investment will cease; unemployment and poverty will

¹²⁸ Berg, Julie ‘Private policing in South Africa: The Cape Town city improvement district — pluralisation in practice’ (2004) 35 *Society in Transition* 242.

¹²⁹ Minnaar, Anthony ‘Private-public partnerships: Private security, crime prevention and policing in South Africa’ (2005) 18 *Acta Criminologica*

¹³⁰ *Ibid* at 236.

¹³¹ NEDCOR, *NEDCOR Project on Crime, Violence and Investment* (1996) 16.

¹³² *Ibid*.

¹³³ *Ibid*.

¹³⁴ *Ibid* at 14.

increase; development programmes will be perverted; and citizens will leave the country in desperation.¹³⁵ Samara has convincingly argued that the current discourse in South Africa which argues that high levels of crime is a big obstacle to development in the country, results in crime being relocated ‘from the realm of development, as a social problem, back into the realm of security, as a law enforcement problem.’¹³⁶ This is unfortunate because instead of promoting the nodal approach to policing advocated in the NCPS, it promotes state centric approach to policing as the discussion reverts to the state being given primarily responsibility to take charge and be responsible for addressing crime. This ignores the fact that the state does not have the necessary resources and capabilities to take primary responsibility for security provision.

Furthermore, Samara asserts that his research in Cape Town has concluded that the tough stance on crime in Cape Town;

‘is becoming the rationale behind social development efforts, both at the practical and conceptual levels. Rather than law enforcement and criminal justice being reformed to function as part of broader development initiatives in the townships, they are instead becoming stand-ins for social development.’¹³⁷

Dixon has highlighted the unfortunate development of ‘criminalizing social policy’; social policies such as skills training for the unemployed are implemented not as an end in themselves but because they are seen as crime prevention measures.¹³⁸ Similarly Stan Cohen argues that the ‘objective of lower crime rates’ should be ‘independent of and irrelevant to the struggle against poverty, inequality and repression.’¹³⁹ Although, it is important to avoid conflating ‘crime prevention with economic and developmental policy, the failure to understand crime and its causes in ecological terms in the country will result in future policy discussions taking place in an analytical and empirical vacuum.’¹⁴⁰ It is clear that giving the state primary responsibility for addressing crime will inevitably result in the blurring of social development policies with law enforcement; the state has difficulty in having a paradigm shift in which crime prevention is separated from a preoccupation with criminal sanctioning and punishment.

¹³⁵ Ibid at 16.

¹³⁶ Samara, Tony Roshan ‘State Security in Transition: The War on Crime in Post Apartheid South Africa’ (2003) 9 *Social Identities: Journal for the Study of Race, Nation and Culture* 281.

¹³⁷ Ibid.

¹³⁸ Dixon, Bill ‘Development, crime prevention and social policy in post-apartheid South Africa’ (2006) 26 *Critical Social Policy* 173.

¹³⁹ Cohen, Stan ‘Western Crime Control Models in the Third World: Benign or Malignant?’ in Cohen, S (ed) *Against Criminology* (1988) 193.

¹⁴⁰ Breetzke op cit (n117) 311.

This section has shown that the business community does not share the same view of what the appropriate policing model to facilitate development in South Africa should be: the NEDCOR Project showed that part of the business community support a Hobbesian state centric approach to policing while businesses operating in the CIDs recognise the need for a non-state centric approach to policing and seek the services of private security. These differing ideologies in the business community which one would assume support a nodal approach to policing highlight the enduring popularity of the Hobbesian state. Unfortunately this state centric approach to policing is detrimental to government policy making and implementation. The pressure to address crime means: firstly, the state loses the incentive to pursue social development policies as an end in themselves; leading to the criminalization of social policy, secondly, the state loses motivation to implement crime prevention policies based on nodal approach to policing.

3.4 THE WAR ON CRIME: (1998- present)

The ‘war on crime’ has been used to describe the adoption of a tough stance on crime by the state; consisting of ‘comprehensive police action to exterminate crime by incapacitating criminals.’¹⁴¹ Although the NCPS and the White Paper on Safety and Security have not been officially replaced by another policy document, the current Zuma government has continued implementing the state-centric war on crime approach adopted under the Mbeki government in the late 1990s.

The SAPS was inadequately prepared to deal with the crime crisis that ensued after the end of apartheid. Rauch has pointed out that it ‘never occurred to the leaders and members of the African National Congress (ANC) – the main democratic opposition party – that the police, who had been so ruthlessly effective against them, would be any less effective against criminals in the new era.’¹⁴² The apartheid police although effective against opponents of the state was not well trained in conducting criminal investigations as most of their criminal

¹⁴¹ Dubber, Markus ‘Policing possession: The war on crime and the end of criminal law’ (2001) *Journal of Criminal Law and Criminology* 831.

¹⁴² Rauch, Janine ‘Police Reform and South Africa’s Transition’ in in *Crime and Policing in Transitional Societies Conference* (2000) at 119, available at http://www.kas.de/wf/doc/kas_4865-1522-2-30.pdf?040622164853, accessed on 11 November 2013.

investigations relied on confessions most times secured from individuals ‘under duress.’¹⁴³ Crime control was not a priority for the apartheid government.¹⁴⁴

In response to the increasing crime rates in the country the Mbeki administration response was to take a ‘war on crime’ stance. The National Commissioner of Police, under the Mbeki administration Jackie Selebi, and the Minister of Safety and Security Steve Tshwete took an uncompromising tough stance against crime and issued a series of statements that signalled a change in tone from the NCPS. In 2009, Tshwete in his address to police officers was quoted to have said police should deal with criminals as “a bulldog deals with a bull’ and if human rights bodies interfered he would ‘reason with them.”¹⁴⁵ Political rhetoric blamed the restrictions imposed by the human rights based Constitution which seemingly protected criminals and hindered the police from doing its job.

Unfortunately this skewed viewpoint of human rights hindering police officers sheds light on the increase of police brutality in South Africa.¹⁴⁶ The SAPS have made headlines as a result of the killing of Mido Macia a taxi driver from Mozambique and the Marikana massacre in which the police opened fire on striking mine workers resulting in 34 deaths.¹⁴⁷ While the post-apartheid police has undergone a transformation and is required to operate within the confines of the law, there has been an increase of unacceptable incidents of police brutality.¹⁴⁸ Bruce rightly points out that although the police have public sympathy to take a tough stance with ‘criminals’ the police management have failed to realise that ‘[u]ltimately the SAPS will only be able to build a sense of self-worth among its members and true public respect through setting far higher standards for itself than are demanded from it by many members of the public.’¹⁴⁹ A state centric approach to policing might result in the state police being more inward-looking with individual human rights failing to be given prominence.

¹⁴³ Ibid at 121.

¹⁴⁴ Collier, Paul ‘Policing in South Africa’ (2004) 6 *Public Management Review* 7.

¹⁴⁵ Lewis, Colleen ‘The Politics of Civilian Oversight: Serious Commitment or Lip Service?’ in Goldsmith, Andrew and Lewis, Colleen (eds.) *Civilian Oversight of Policing: Governance, Democracy and Human Rights* (200a) 31.

¹⁴⁶ Bruce, David ‘New wine from an old cask? The South African Police Service and the Process of Transformation’ (2002) Paper presented at John Jay College of Criminal Justice, available at <http://www.csvr.org.za/docs/policing/newwinefromold.pdf>, accessed on 3 December 2013.

¹⁴⁷ The Guardian, ‘South Africa reports of police brutality more than tripled in the last decade’ available at, <http://www.theguardian.com/world/2013/aug/22/south-africa-police-brutality-increase>, accessed at 29 October 2013).

¹⁴⁸ Bruce op cite (n145).

¹⁴⁹ Ibid.

3.4.1 The National Crime Combating Strategy

The Mbeki administration implemented the National Crime Combating Strategy (NCCS) between 2000 and 2009, and it was a crime reduction police strategy that was based on focusing on crime ‘hot spots’ throughout the country. The NCCS was to have two phases: a crime reduction phase which consisted of heavy policing in identified high crime areas and the stabilisation phase in which implementation of crime prevention strategies would occur.¹⁵⁰ The NCCS consisted of what has been labelled ‘Operation Crackdown’ because of the heavy handed approach to policing by the state.¹⁵¹ Operation Crackdown was an intelligence driven endeavour which mapped out the ‘geographical hot spots’ of crime and organised crime in particular.¹⁵² However, despite the crime prevention rhetoric, no actual long term social crime prevention programme was adopted during Operation Crackdown.¹⁵³ Matthews has highlighted that Operation Crackdown not only failed to have a long term impact on crime rates but resulted in crime displacement as crime simply moved to less policed areas.¹⁵⁴ Furthermore, he asserts that due to the magnitude and resource intensive nature of the exercises, police officers were taken from their stations which impacted on the ability of police officers to build relations with their local community.¹⁵⁵

The tough on crime strategy has also led to collaborations between the military and the SAPS. The routine deployment of the military to perform policing duties, has raised questions on whether it is constitutional; ‘the army is not a police fist.’¹⁵⁶ Samara’s illustration of a joint five hours operation between the SAPS and military in Cape Town which involved around 200 personal and consisted of instant roadblocks being enacted in high crime spots in which the military airdropped from helicopters and searched 600 cars is a good example of these joint operations.¹⁵⁷ These collaborations are clearly contrary to the community policing approach advocated in the NCPS, nor the best use of resources. This is because no serious crimes were identified except traffic violations ranging from failure to

¹⁵⁰ SAPS Bullentin, *The New Strategic Focus of The SA Police Service For 2000 to 2003* (2000)

¹⁵¹ Rauch op cite (n141).

¹⁵² South African Police Service, *The Strategic Plan for the SA Police Service 2005-2010* (2005) 36.

¹⁵³ Samara op cite (n135).

¹⁵⁴ Matthews, Iole ‘Government Responses in South Africa: Policy and Implementation’ in *Crime and Policing in Transitional Societies Conference* (2000) at 188, available at http://www.kas.de/wf/doc/kas_4865-1522-2-30.pdf?040622164853 , accessed on 11 November 2013.

¹⁵⁵ Ibid.

¹⁵⁶ Johan Burger ‘The army is not a police fist’ available at http://thenewage.co.za/blogdetail.aspx?mid=186&blog_id=1905, accessed on 1 March 2014.

¹⁵⁷ Samara op cit (n135).

show driver's licence and not wearing seatbelts.¹⁵⁸ The operation was symbolic gesture because Anton de Cock, the Stellenbosch police spokesperson was quoted to have asserted that "We want to show the criminals that we are here and alert, and show the tourists that we are protecting them."¹⁵⁹

In 1998, this tough on crime approach resulted in parliament passing legislation that imposed minimum sentences for a range of crimes. However, this legislation was not expected to be permanent but viewed as a temporary response to the high increase in crime. For example, in the *Malgas v The State*, Marais pointed out that minimum sentencing 'intended to be relatively short-term responses to a situation which it was hoped would not persist indefinitely.'¹⁶⁰ Steinberg has argued that 'the fact that a "temporary" piece of legislation has *de facto* become permanent is, perhaps, a symptom of just how muddled and unconsidered Parliament's crime-fighting policies have become.'¹⁶¹

Furthermore, the increase in the number of people going through the criminal justice system has clogged the system. This has resulted in overcrowding in the prisons and delays in the court system.¹⁶² A study conducted by the UNDP (2004) shows that South Africa is the highest spender on the criminal justice system in the world. The data compared the spending of countries between the period of 1997 and 1998; 2004 and 2005, for example in 2004 South African spent \$130 per person and the other countries on average spend \$66 per person.¹⁶³ Despite South Africa having a high budget on the criminal justice system, it seems more funds are needed to enable the system to cope with the increase of arrests resulting from the tough on crime strategy. This unfortunately takes attention and resources away from crime prevention initiatives envisaged in the NCPS.

3.5 CONCLUSION

The state centric 'war on crime' policing approach adopted by the government is unfortunate because not only does it undermine values underpinning the NCPS but has also resulted in an

¹⁵⁸ Ibid at 290.

¹⁵⁹ Ibid.

¹⁶⁰ *The State v Malgas* 2001(3) SA 220 (SCA) para 7.

¹⁶¹ Steinberg, Jonny *Prison overcrowding and the constitutional right to adequate accommodation in South Africa* (2005)

¹⁶² Rauch op cit note 115 at 26.

¹⁶³ Albeker, Antony *Paying for crime: South African spending on criminal justice* (2005) 12

increase in police brutality as political rhetoric has eluded to the idea that the constitution protects the human rights of ‘criminals’ at the expense of innocent citizens. This undermines the argument highlighted in Chapter 2 that the state centric approach to policing is desirable as the state is best placed to protect the public interest. This section has also shown that the state centric ‘war on crime’ policing approach has failed to deliver and is not sustainable: firstly, it is resource intensive and expensive for the state to sustain and secondly, the criminal justice system has failed to cope with the increase of people passing through the system. Furthermore, Berg and Shearing argue that the popularity of the punitive criminal justice system undermines the implementation of a holistic crime prevention approach to security governance.

It is interesting to note that the neo-liberal approach to crime has argued that rising crime rates have been an impediment to development in South Africa. This has unfortunately led to crime being classified ‘as a law enforcement problem’ again contrary to the NCPS position.¹⁶⁴

¹⁶⁴ Samara op cit note 137.

CHAPTER 4: PARTNERSHIP POLICING: private security

4.1 INTRODUCTION

Chapter 2 has argued that the state centric approach to policing is misguided and fails to consider the complexity and requirements of modern day security governance. Chapter 3 has shown that the South African government has forward looking policing documents such as the NCPS and the White Paper on Safety and Security but the tendency to draw back to state centric approach to policing result in these policy documents not being implemented. This chapter seeks to build upon the previous chapters through discussing partnership policing. Partnership policing has been identified as necessary in the NCPS and White Paper on Safety and Security to address complex security challenges facing the country; again reinforcing the nodal approach to policing which argues that the state need not always be at the centre of policing. The chapter will focus on partnership policing between the state and private security because private security has become an integral part of security governance in modern societies. The preeminent role of the private security in the security governance of South Africa undermines any notion that the state has monopoly on policing. This chapter will examine the effect that a state centric approach on policing has towards the implementation of partnership policing in South Africa.

This chapter will be divided into four sections. The first section will give a historical overview of partnership policing. The second section will discuss private security in South Africa. Thirdly, the chapter will discuss state and private security partnerships in South Africa. Fourthly, brief examples of partnership policing between the state and SAPS will be assessed: outsourcing and security governance in the CIDs. Lastly, regulation of the private security industry in South Africa will be examined.

4.2 PARTNERSHIP POLICING: the historical overview

For the purpose of this chapter policing partnerships will be defined as Public-Private Partnerships (PPP). Busch and Givens have described public-private partnerships as ‘collaboration between a public sector (government) entity and a private sector (for-profit)

entity to achieve a specific goal or set of goals.’¹⁶⁵ These partnerships can be undermined because the private and public entities have different mentalities and approaches to policing.¹⁶⁶ A nodal perspective refers to ‘mentalities’ as ‘the culture of the node, its way of thinking about itself and the world around it.’¹⁶⁷ Therefore, the police mentality to policing is around law enforcement, processing criminals through the criminal justice system, whereas the private security industry mentality has traditionally been around crime prevention and risk management, although this is changing.¹⁶⁸ The question then becomes, is it possible for state and non-state policing actors to have an effective policing partnership? To the extent that the state and non-state policing actors have different mentalities, both parties need to have a paradigm shift and realise that every policing actor brings different but important perspective that is needed for the effective provision of security.

4.2.1 Influence of neo-liberalism on partnership policing

Neo-liberalism has played an important role in promoting partnerships; neo-liberalism has advocated that it is cost effective to enrol different policing actors to work in partnership. Neo-liberalism with its emphasis on austerity has resulted in governments around the world adopting a “responsibilization” strategy which encourages citizens to take responsibility for their own security provision.¹⁶⁹ Matthews has rightly observed that ‘[r]esponsibility for crime control has moved from the centre and is increasingly exercised ‘at a distance’ by a combination of statutory, private and voluntary agencies.’¹⁷⁰ Kempa et al have described this as the state’s attempt to share ‘power as a means of exercising it.’¹⁷¹ However, the ‘rule at a distance’ strategy can be undermined by complex and dynamic market conditions; as illustrated by the difficulty in regulating service providers and negotiating the expensive contracts in the Private Finance Initiative (PFI) an initiative which is part of the broader PPP in the United Kingdom.¹⁷²

¹⁶⁵ Busch, Nathan and Givens. Austen ‘Public-Private Partnerships in Homeland Security: Opportunities and Challenges’ (2012) 8 *Homeland Security Affairs* 1.

¹⁶⁶ Berg op cit (n114).

¹⁶⁷ Burris, Scott (2004) ‘Governance, Microgovernance and Health’ (2004) 77 *Temple Law Review* 342.

¹⁶⁸ Berg op cit (n114) 290.

¹⁶⁹ Garland op cit (n15) 453.

¹⁷⁰ Matthews, Roger ‘Crime and control in late modernity. Review essay’ (2002) 6 *Theoretical Criminology* 224.

¹⁷¹ Kempa et al op cit (n30) 2.

¹⁷² Johnston, Les , Button, Mark and Tom Williamson ‘Police, governance and the Private Finance Initiative’ (2008) 18 *Policing and Society: An International Journal of Research and Policy* 232.

Secondly, the ‘rule at a distance’ position ‘fails to explore the extent to which, and the manner by which, governance is constituted in relations between plural nodes.’¹⁷³ However, to the extent that this ‘rule at a distance’ policing approach has been successfully implemented; the challenge is that in a developing country like South Africa, the ‘rich are able to benefit from their capacity for self-direction (e.g. by living in gated communities protected by security guards) while the poor are unable to enjoy equivalent benefits.’¹⁷⁴ This challenge was briefly discussed in Chapter 2 regarding the issue of socio-economic equalities in the CIDs. Private security working in gated communities or the Cape Town CID does not undermine the necessity of multiply policing actors but simply highlight existing structural inequalities in society that are outside the scope of policing policy.

One can argue that the NCPS and White Paper on Safety and Security can be viewed as ‘responsibilisation strategies to encourage the public to play a part in their own safety’ because the government recognised that it was not capable of providing security to all citizens by itself.¹⁷⁵ Although the White Paper identifies private security as a potential policing partner to the SAPS, it unfortunately fails to explain and expand on the nature of the partnerships. Clarno and Murray have observed that the relationship between the SAPS and private security is characterised by a combination of ‘cooperation and competition.’¹⁷⁶ Chapter 2 highlighted that in the Cape Town CIDs private security and the SAPS have a cooperative relationship. The next section will argue that the relationship can be a competitive because the SAPS have a tendency of adopting a state centric approach to policing. Partnership policing between the state and non-state policing actors is complex because of a range of factors that will be discussed in the following sections. There exists discrepancy between the official political rhetoric and actual implementation of the policy.

This section has shown that partnership policing derives from a recognition that a single policing node is incapable of providing effective security services.¹⁷⁷ Indeed, one can argue that this responsibilisation strategy is essentially an acknowledgment by the state that it does not have the capacity to provide security for citizens.

¹⁷³ Ibid at 240.

¹⁷⁴ Ibid at 228.

¹⁷⁵ Berg, Julie ‘Private policing in South Africa: The Cape Town city improvement district — pluralisation in practice’ (2004) 35 *Society in Transition* 226

¹⁷⁶ Clarno, Andy and Murray, Martin ‘Policing in Johannesburg after apartheid’ (2013) 39 *Social Dynamics: A journal of African studies* 221.

¹⁷⁷ Berg op cit (n174)

4.3 PRIVATE SECURITY IN SOUTH AFRICA: A historical overview

This section will examine private security in greater detail; a historical overview of private security in South Africa shows that state and non-state policing partnerships are not a new phenomenon.

Private security has a long history which predates the formation of Peel's 1829 public police. Schonteich noted that one of the earliest recorded history of private security were the 'temple priests in the ziggurat at Ur, enlisted by wary Sumerian moneychangers in the third millennium BC to protect their lucrative banking operation.'¹⁷⁸ Similarly, private security has a long history in South Africa. The industry played a central role in policing particularly towards the end of the apartheid regime. Shaw argues that during the 1980s the South African government actively recruited private security to fill in the security provision gap left by SAPS when it was focusing on containing political resistance against the apartheid regime.¹⁷⁹ In 1980, The National Key Points Act was enacted to protect sites that the apartheid state considered to be important to national security. This act was a huge boost to the private security industry and contracts were lucrative and highly sought after.¹⁸⁰ These close links with the apartheid government resulted in the private security industry suffering from what Shaw has labelled 'a crisis of legitimacy' in the first couple of years after 1994.¹⁸¹ After the democratic elections of 1994, the relationship between the state and the private security industry changed; from the 'industry being viewed as an ally of the state to a potential threat.'¹⁸² There have been allegations that private security was behind perpetuating political unrest in the 1980s and 1990s before the signing of the Unity Accord, and would therefore be a threat in the new South Africa.¹⁸³ The belief was premised on the fact that most of the senior police and military personnel under the Apartheid state were now working in the private security industry.¹⁸⁴ Political rhetoric gave voice to these concerns; with the Deputy Minister of Intelligence Services, Joe Nhlanhla (1995), quoted to have stated that;

¹⁷⁸ Schonteich, Martin 'Unshackling the crime fighters: Increasing private sector involvement in South Africa's criminal justice system' (1999) 7.

¹⁷⁹ Shaw, Mark *Crime and Policing in Post-Apartheid South Africa: Transforming under Fire* (2002)

¹⁸⁰ Singh, Anne-Marie *Policing and Crime Control in Post-Apartheid South Africa* (2008) 44.

¹⁸¹ Shaw op cit (n178) 112.

¹⁸² Berg, Julie and Nouveau, Jean-Pierre 'Towards a third phase of regulation: Re-imagining private security in South Africa' (2011) 38 *SA Crime Quarterly* 25.

¹⁸³ Minnaar op cit (n129) 95.

¹⁸⁴ Ibid.

‘third force elements see the private security industry as a haven from where to continue their third force activities of destabilisation.’¹⁸⁵ This statement shows that the new government felt threatened by the private security industry and was therefore not in a position to claim monopoly on policing. In fact, one could argue that the government had a huge incentive to pursue a nodal approach to policing in order to facilitate partnership with private security and change the dynamics of the relationship to create good working relations based on mutual trust.

4.3.1 Growth of the private security industry

Government scepticism failed to have a negative impact on the growth of the security industry which has been described to be one of the largest and fastest growing in the world; contributing around 2% of the Gross Domestic Product (GDP) of South Africa.¹⁸⁶ The Private Security Industry Regulatory Authority (PSIRA) current figures state that there are 400 000 active security officers which translate to three private security officers for every police officer in the SAPS.¹⁸⁷ The growth of the private security industry post-1994 has been explained by various factors. The retrenchment of the apartheid police and military personnel during the transition period in the mid-1990s resulted in most of these former officers moving into the private security industry.¹⁸⁸ The escalation of crime in the new democratic South Africa has also been argued to have played a significant role in the growth of the industry as the affluent segment of the society lost faith in the public police and turned to the private sector for protection.¹⁸⁹ However, Carrier has highlighted the fallacy of this “vacuum” theory which states that the rise of private security in South Africa is linked to the security vacuum created because the public police was unable to fulfil their role to provide security for citizens.¹⁹⁰ This “vacuum” theory ignore that the policing approach of the police and private

¹⁸⁵ Abrahamsen, Rita and Williams, Michael ‘Security the city: private security companies and non-state authority in global governance’ (2007) 21 *International Relations* 244.

¹⁸⁶ Berg & Nouveau op cit (n181) 23.

¹⁸⁷ Private Security Industry Regulatory Authority, *Annual Report 2012/13* (2013) 12 Private Security Industry Regulatory Authority available at http://www.psira.co.za/psira/dmdocuments/annual_report/Annual_Report_20122013.pdf, accessed on 2 December 2013.

¹⁸⁸ Taljaard, Raenette ‘Private and public security in South Africa’ in Gumedze, Sabelo (ed) *The private security sector in Africa* (2008) 76.

¹⁸⁹ Ibid.

¹⁹⁰ Carrier, Ryan ‘Dissolving boundaries: Private security and policing in South Africa’ (1999) 8 *African Security Review* 37.

security is different and therefore attract different stakeholders.¹⁹¹ For example Spitzer and Scull have observed that private security is popular with the corporate sector as it is more risk management focused which better suits the needs of the private sector. Furthermore, private security is flexible and ‘can be more readily adjusted to changing levels of consumer demand.’¹⁹² This is possible through their ability to hire part-time and temporary personnel depending on demand.¹⁹³ The nodal approach to policing is attractive because it is flexible; empirical reality should determine which policing actor is at the centre of security governance as different security providers have strengths that appeal to different service users in specific contexts.

The partnership between the state and private security providers is desirable because it acknowledges the different strengths and capabilities of policing actors. This section has shown that the apartheid state promoted the nodal approach to policing particularly when political unrest was at its highest in the 1980s; the state recognised that it was incapable of providing adequate security to all citizens and enrolled the services of private security.

4.4 The SAPS and private security

This section will examine the relationship between the SAPS and private security in South Africa. The relationship between the SAPS and private security is important as South Africa has been recognised to have one of the biggest private security industries in the world. Stenning identified six stages that occur between public and private policing partnerships.¹⁹⁴ The first stage consists of denial on the part of the police of the need of partnering with private security, the second stage is a begrudging recognition of private policing by the police, the third stage consists of hostility in which the police feel undermined and threatened by private security providers, the fourth stage is an attempt to regulate private policing providers through legislation, the fifth stage is active partnership which is mostly based on what Jones and Newburn termed ‘junior-partner’ model.¹⁹⁵ This ‘junior-partner’ model is

¹⁹¹ Ibid at 38.

¹⁹² Spitzer, Steven and Scull, Andrew ‘Privatization and capitalist development: the case of the private police’ (1977) 23 *Social Problem* 26.

¹⁹³ Schonteich, Martin ‘Unshackling the crime fighters: Increasing private sector involvement in South Africa’s criminal justice system’ (1999) 14.

¹⁹⁴ Stenning, Philip ‘Private police and public police: towards a redefinition of the police role’ in Loree, Donald (ed) *Future Issues in Policing* (1989)

¹⁹⁵ Jones, Trevor and Newburn, Tim *Private Security and public policing* (1999) Oxford: Clarendon Press.

state centric in that the police are regarded as the senior partner who does “real policing” with private security providers as supporters.¹⁹⁶ Shearing argues for a sixth stage in partnership; equal partnership.¹⁹⁷ The nodal approach advocated by Shearing and his colleagues is discussed in Chapter 2; it refuses to give conceptual priority to the state police and asserts that empirical reality should determine which actor should be at the centre of security governance.

The relationship between SAPS and private security is dynamic, however, at times is based on the ‘junior-partner’ model. This is because the SAPS vision of partnership as identified by Minnaar,¹⁹⁸ Berg,¹⁹⁹ Manzo²⁰⁰ is that they control the relationship with the private security providing a supportive role. Nonetheless, the private security industry in South Africa wants to be in partnership with SAPS. Therefore it is not surprising that after the 1994 democratic elections; individual private security firms approached the SAPS with the view of formalising partnerships on ‘an ad hoc basis.’²⁰¹ In 2013, Jenny Reid writing for the Security Association of South Africa stated; ‘The police often do not have the skills or resources that are available to the private security industry. Would it not make sense for both parties to serve the people? SASA would certainly welcome such a partnership’²⁰² However, it is questionable whether the private security industry shares the same vision of the ‘junior-partner’ model advanced by the SAPS. In 1996, a number of private security companies submitted a request to the SAPS Task Team of Partnership Policing requesting for the extension of various “ powers and rights” to private security officers: such as the use of blue lights on private security “rapid response” vehicles.²⁰³ These requests were denied, arguably because of the state centric approach to policing which argues that the police should be given additional powers because they are accountable to the public and have the constitutional mandate to provide security for all citizens, whereas the primary concern for private security is protecting their clients.²⁰⁴

¹⁹⁶ Stenning op cit (n193) 180.

¹⁹⁷ Shearing op cit (n42).

¹⁹⁸ Minnaar op cit (n129) 161.

¹⁹⁹ Berg op cit (n174).

²⁰⁰ Manzo, John ‘How private security officers perceive themselves relative to police’ (2009) 3 *Security journal* 192–205.

²⁰¹ Minnaar op cit (n129) 98.

²⁰² Jenny Reid ‘Does proposed New Private Security Bill address real problems?’ available at <http://www.sasecurity.co.za/page.php?id=37>, accessed on 10 February 2014.

²⁰³ Minnaar op cit (n129) 112.

²⁰⁴ Clarno & Murray op cit (n175) 221.

A review of literature sheds light on further misconceptions: the rise of private security is interpreted as a threat to the authority of the state and that private security is comprised of ‘illegitimate actors’ such as ‘mercenaries.’²⁰⁵ These interpretations fail to grasp ‘the shifting structures of security and authority emerging from privatisation.’²⁰⁶ Firstly, the state has never had total monopoly of policing and authority is ‘not necessarily a zero - sum game and it is equally possible that private force can strengthen and support the authority of the state.’²⁰⁷ Chapter 2 discussed the fallacy of the Hobbesian concept which states that the public police are best placed to have monopoly on security governance. For example, the rise of ‘mass private property;’ public places that are privately owned such as shopping malls have changed the policing of space.²⁰⁸ These public spaces by virtue of private ownership are primarily policed by private security which means a huge aspect of public life is policed privately which calls ‘into question the conventional explanations of the distinction between the roles of public and private policing.’²⁰⁹ Stenning has rightly observed that ‘it is now almost impossible to identify any function or responsibility of the public police which is not, somewhere and under some circumstances, assumed and performed by private police in democratic societies.’²¹⁰ However, advocates for a state centric approach to policing suggest that private security providing identical services to the state police is somehow undemocratic because private security is not accountable to the public but to private clients.²¹¹ This position fails to acknowledge that the private market can be an effective method of regulation.

Similarly, Loader and Walker argue that private security and other policing actors threaten the authority of the state to the extent that they prevent the state from being the ‘anchor of collective security provision.’²¹² This is because the state has the ability to build trust in a political community ‘upon which the liberty and security of citizens depend.’²¹³ Ronald van Steden and Nalla have asserted that the public police have a unique symbolic role ‘of maintaining formal social control.’²¹⁴ More research is needed to establish whether non-state

²⁰⁵ Abrahamsen & Williams op cit (n184) 238.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ Stenning op cit (n70).

²⁰⁹ Bayley & Shearing op cit (n43).

²¹⁰ Stenning, Philip ‘Powers and Accountability of private police’ (2000) 8 *European Journal of Criminal Police and Research* 328.

²¹¹ Ibid at 345.

²¹² Loader & Walker op cit (n68).

²¹³ Ibid at 171.

²¹⁴ Van Steden, Ronald and Nalla, Mahesh ‘Citizen satisfaction with private security guards in the Netherlands: Perceptions of an ambiguous occupation’ (2010) 7 *European Journal of Criminology* 231.

actors like private security officers can have a similar symbolic role ‘in the public imagery.’²¹⁵ It is arguable that based on the research that is available, private security officers in South Africa have direct and indirect sources of power that enables them to maintain ‘formal social control.’ The direct source of power is from legislation. Although, private security personnel have the same legal status of ordinary citizens unlike the public police, they still have considerable authority thorough property and contract law to adequately fulfil their duties.²¹⁶ The 1977 Criminal Procedure Act gives private security officers considerable powers. Section 42(3) of the Criminal Procedure Act 51 of 1977 states that ‘the owner, lawful occupier or person in charge of land’ may arrest any person who is believed to have committed or in the process of committing a crime. Schonteich has noted that the private security contracts include a clause that states that private security personnel guarding property ‘are lawfully in charge of the property they protect.’²¹⁷ This insertion gives effect to the Criminal Procedure Act and grants the security guards complete ‘powers of arrest for any offence committed on the property they are assigned to guard.’²¹⁸ On the other hand, the indirect source of private security officers’ power is derived from three sources. Firstly, private security officers have significant powers derived from ‘symbolic’ authority acquired through the use of uniforms that are similar to the ones used by the public police.²¹⁹ Secondly, private security officers have considerable powers by their ability to deny individuals access to areas and resources, for example airport departure lounges.²²⁰ Lastly, private security officers are able to derive power as a result of the public’s ‘misunderstanding of the law.’²²¹ The amount of power exercised by private security suggests that the discussion should progress from the state centric ‘junior-partner’ model because the state has legitimate authority through public accountability to the effective regulation of policing actors (both state and non-state) in the age of nodal security governance. The issue of accountability and regulation of private security is important and a detailed discussion on the subject will follow in the last section of this chapter.

²¹⁵ Ibid.

²¹⁶ Stenning op cit (n193) 332.

²¹⁷ Schonteich op cit (n192) 34.

²¹⁸ Ibid.

²¹⁹ Berg, Julie ‘Challenges to a formal private security industry-SAPS partnership: Lessons from the Western Cape’ (2004a) 35 *Society in Transition* 120.

²²⁰ Mopasa, Michael and Stenning, Philip ‘Tools of the trade: The symbolic power of private security - an exploratory study’ (2001) 11 *Policing and Society: An International Journal of Research and Policy* 72.

²²¹ Stenning op cit (n193).

This section has shown that the relationship between the SAPS and private security is complex and based on the state centric ‘junior-partner’ model. The ‘junior-partner’ model derives legitimation from the flawed state centric assumption that the police must be at the centre of security governance because it is accountable to the public. This ‘junior partner’ model unfortunately fails to adequately capture the enormous power and influence of private security. Indeed the highlighting of public accountability of the police as superior to the accountability of private security through the market inadvertently does a disservice to the discussion of regulating all policing actors in a nodal environment.

4.4.1 Examples of partnership policing: outsourcing and security governance in the CIDs

Partnership between the private sector and the police has primarily been implemented through outsourcing. The private security industry is better resourced in comparison to the police.²²² Outsourcing is defined as ‘the contracting out of certain services to either an external company or individual contractor and payment for those services being rendered.’²²³ Outsourcing has been conducted in line with the government’s RDP policy which seeks to promote communities that have been previously disadvantaged by encouraging them to tender for the SAPS outsourcing contracts.²²⁴ In considering the outsourcing of services the SAPS made the decision not to outsource core policing functions.²²⁵ SAPS determine what consists of core policing and non-core policing functions.²²⁶ For example, SAPS decided that using private security to guard prisoners in courts is a non-core activity.²²⁷ This emphasis on distinguishing core and non-core activity is arguably an attempt by the state to keep control of security governance because the state has discretion to determine whether particular policing functions are core or non-core.

An example of partnership policing between private security and the SAPS is in the City Improvement Districts (CIDs) modelled after Business Improvement Districts in American

²²² Shaw op cit (n178).

²²³ Ngoveni, P and Minnaar, Anthony ‘The Relationship between the South African Police Service and the Private Security Industry: Any role for outsourcing in the prevention of Crime’ (2004) 17 *Acta Criminologica* 48.

²²⁴ Ibid at 50.

²²⁵ Ibid at 49

²²⁶ Ibid.

²²⁷ Ibid at 50.

cities. As discussed in Chapter 3, private security in Cape Town city centre has played a central role in policing the CID in the city's pursuit to become a 'world class' city.²²⁸ Berg's research has noted that there was 'very little standardized co-operation ...between the SAPS and private security in the Western Cape' prior to the creation of the CID.²²⁹ The CID initiatives have facilitated a "cooperative and interactive" relationship between SAPS and the various private security firms that are contracted to work in the CID.²³⁰ The fact that private security is bound by public law when working in public spaces might explain the need for the security industry to work in cooperation with the public police. For example, the private security working in the CCDs routinely hand over suspects to the SAPS as well as do the 'relevant paperwork on behalf of the police and providing video footage as evidence of the transgression.'²³¹ When working in public spaces private security seem to buy into the 'bandit-catching' approach to policing adopted by the police.²³² This is unfortunate as it inevitably leads to a state centric approach to policing where the private security industry becomes an extension of the public police.²³³

This brief section has shown that on one hand SAPS acknowledge the important role of private security through outsourcing services to private security. However, on the other hand SAPS promotes a state centric approach to policing as a way of retaining power: evident through wide discretion to determine core from non-core policing functions and perpetuating a 'bandit-catching' approach in partnership with private security. This is a manifestation of the 'junior-partner' model that views the police as the real professionals and private security as mere supporters.

4.5 REGULATION OF PRIVATE SECURITY

This section will discuss the regulation of the private security industry in South Africa. Although it is widely accepted that the industry is regulated through the market, the South

²²⁸ The Provincial Development Council of the Western Cape, *Integrated development planning and urban renewal in Cape Town* (2002) 35.

²²⁹ Berg, Julie 'Challenges to a formal private security industry-SAPS partnership: Lessons from the Western Cape' (2004a) 35 *Society in Transition* 113-116.

²³⁰ Ibid.

²³¹ Berg, Julie 'Seeing like private security: Evolving mentalities of public space protection in South Africa' (2010) 10 *Criminology and Criminal Justice* 295.

²³² Ibid.

²³³ Johnston, Les From 'Pluralisation' to 'the Police Extended Family:' Discourses on the governance of community policing in Britain (2003) 31 *International Journal Of The Sociology Of Law*

African government has also enacted legislation to regulate the industry.²³⁴ Regulation of private security has been necessitated by the fact that growth of the industry has resulted in increasing intrusion into individuals' personal space and 'possible infringements of accepted civil liberties.'²³⁵ Shearing and Stenning observed that;

'Private security's emphasis on prevention directs its surveillance not so much to breaches of the law ... as to *opportunities* for such breaches. As a consequence, the objects of private security surveillance tend to be not just potential troublemakers but also those who are in a position to create such opportunities for breaches. Thus, the target population is greatly enlarged.'²³⁶

With such wide ranging power, it is clear that the accountability and regulation of the security industry is of vital importance. Regulation of the private security industry in South Africa is needed to 'ensure that security officers in any security discipline who interact with the public are trustworthy and competent.'²³⁷ Similarly, the previous Security Officers Interim Board stated that '[r]egulation is intended to ensure a legitimate, trustworthy and competent private security industry which is optimally capable of contributing to the achievement and maintenance of sufficient levels of safety and security in our country.'²³⁸ As highlighted earlier in the chapter, private security is held accountable mainly through the market to its clients.²³⁹ In South Africa, the government has attempted to regulate private security through legislation.

In 1987, the Apartheid government passed the Security Officers Act to create the Security Officers' Board in order to register and better regulate security companies. This was a state centric inspired legislation created primarily because the government had a vested interest in a professional and regulated private security industry.²⁴⁰ The Act required composition of the Security Officers' Board to include six representatives from the private security industry selected by the Minister of Law and Order. This was problematic because the Minister was susceptible to abuse of power and select Board members as a form of political patronage

²³⁴ Stenning op cit (n209) 345

²³⁵ Mopasa, Michael and Stenning, Philip 'Tools of the trade: The symbolic power of private security - an exploratory study' (2001) 11 *Policing and Society: An International Journal of Research and Policy* 67

²³⁶ Shearing, Clifford and Stenning, Philip 'Snowflakes or good pinches? Private security's contribution to modern policing' in Donelan, Rita (ed) *The Maintenance of Order in Society* (1982) 97- 98.

²³⁷ Ibbotson, Jenny 'How the private security industry should be regulated' (1998) 16 *Security Focus* 10.

²³⁸ Security Officer's Interim Board, *Policy Paper on the principles regarding the future regulation of the occupation of security officer and related matters* (2000) 82.

²³⁹ Stenning op cit (n209) 345.

²⁴⁰ Berg & Nouveau op cit (n181) 25.

based on their personal support of the Minister's policies.²⁴¹ This state centric approach which gave the Minister huge powers in the regulating of the private security industry undermined the creation of a truly professional and independent private security industry but facilitated the extension of the powers and influence of the state in security governance.

Unfortunately, post-1994 legislation has continued to view the private security industry as an extension of the state. This is because the legislation imposes state-like responsibilities on the private security industry. For example Section 2(1) of the 1997 Security Officers Amendment Act which replaced the Security Officers Act of 1987 states that the industry must act in the 'public interest.' Similarly, Section 3 of the 2001 Private Security Industry Regulation Act states that the objective of the Act is to ensure that the industry is regulated in order to ensure that it complies with 'public and national interest.' The Act fails to clarify the meaning of public and national interest. These legislations are state centric in that they show that the government has difficulty with viewing private security as legitimate policing actors and not merely supportive of the state in discharging its duties.

The topical Amendment Bill (2012) has been formulated to fill regulatory gaps left by the Private Security Industry Regulation Act of 2001. The Amendment Bill is to formally establish partnership between the state and the private security industry. The Amendment Bill seeks to amend Section 3 of the 2001 Act to include a paragraph; that promotes 'crime prevention partnerships between the private security industry and organs of the state responsible for crime prevention.' This Bill does not clarify what the form of these partnerships. It is interesting to note that while government policy documents such as the NCPS and the SAPS Strategic plan 2010/2014 are consistent with the Bill on the importance of government partnership with private security, political rhetoric show that the current ANC government is still not entirely comfortable with the private security industry. The Minister of Police, Mr Nathi Mthethwa on commenting on the Bill in an 2012 interview with Security SA stated; 'the ability of criminal networks to infiltrate the industry and the vulnerability of the industry to such infiltration poses a major threat to the government's capacity to address crime.'²⁴² This statement arguably undermines the notion that the private security industry is an important partner in the fight against crime in South Africa. Similarly, the Bill

²⁴¹ Berg, Julie 'The Private security industry in South Africa: a review of applicable legislation' (2003)16 *South Africa Journal of Criminal Justice* 182.

²⁴² SecuritySA 'SASA responds to the Minister' available at <http://www.securitysa.com/44255n>, accessed on 23 March 2014.

seeks to amend Section 20 of the 2001 Act to include; ‘51 per cent of the ownership and control is exercised by South African citizens.’ The government has cited national security reasons for this new ownership clause. The Shadow Minister of Police for the Democratic Alliance, Dianne Kohler Barnard has rightly pointed out that the government has no proof to the allegations that foreign owned private security companies pose a threat to South Africa’s national security.²⁴³ This Bill is yet another example of the state centric approach to policing because the idea behind the bill is that non-state policing agencies cannot be trusted and presents potential threats to the security of citizens.

This section has shown that regulation of the private security industry is influenced by a state centric approach to policing with the state seeking to extend state-like responsibility to the industry. The section also shows the contradiction of the state centric approach in regulating the private security industry because on one hand the industry is expected to consider the public interest and on the other hand the Amendment Bill (2012) gives the impression that the industry presents a potential security threat to the country.

4.6 CONCLUSION

This chapter has analysed partnership policing between the state and private security in South Africa because policy documents NCPS and White Paper on Safety have reiterated the importance of such partnership in addressing crime. However, the chapter has highlighted that implementation of such partnerships have been hugely undermined by the state’s need to reinforce authority through pursuing a state centric approach to policing.

Given the extensive powers enjoyed by private security, regulation of the industry becomes very important in a democratic society. A review of the regulation legislation show that South Africa has come a long way and the industry is expected to not only act in its own interest but also consider national and public interests with emphasis on promoting employment and human rights of employees’ and South African citizens respectively. The 2012 Private Security Industry Regulation Amendment Bill shows that the government and the private security industry have a tenuous relationship. The current Zuma administration seems to

²⁴³ Democratic Alliance ‘Private security regulations: Minister must put citizens’ safety first, 30 October 2012, available at <http://www.da.org.za/newsroom.htm?action=view-news-item&id=11526>, accessed on 4 February 2014.

contradict itself by viewing the private security industry both as a viable partner in fighting crime and a national security threat. A change in mentality by the public police and policy makers is needed in order for partnership policing to succeed; the public police need to abandon the need to be at the centre of policing and acknowledge that non-state actors need not become an extension of the police to be effective, but their different policing approaches can bring new insights into addressing new security challenges caused by advancing technologies.

Chapter 5: Partnership policing: community policing

5.1 INTRODUCTION

Chapter 4 discussed the importance of partnership policing in South Africa, and focused on the relationship between the state and private security. Chapter 4 showed that the historical relationship between the state police and private security in South Africa was based on the acknowledgement by the state that a single policing actor cannot provide adequate security provision. This chapter is an extension of Chapter 4 but will focus on partnership policing from the perspective of community policing. Community policing is relevant because in the 1990s it was epitomised as the vehicle to build the strained relations between the community and the SAPS and also promote democratic policing in South Africa. However, a state centric approach to policing has had an adverse effect on community policing in South Africa as this Chapter will highlight.

Community policing is premised on the notion that citizens are natural partners of the police because they have more knowledge about the challenges facing their local community. Community policing is consistent with the nodal approach to policing because it accepts that policing is everyone's business.²⁴⁴ Johnston and Shearing have asserted that '[t]he mobilisation of local knowledge is fundamental to the construction of just and democratic forms of security governance.'²⁴⁵ Tilley has described communities as 'repositories of information.'²⁴⁶ Community policing at its best can build the relationship between the police and the local community as open communication assist both parties to understand each other's values and challenges.²⁴⁷

This chapter is divided into five sections. The first section considers the definitions of community and community policing and argues that there exists no homogenous community that share similar ideas on policing and crime prevention. Secondly, the chapter discusses policy that has influenced community policing in South Africa. The third section evaluates

²⁴⁴ Shearing op cit (n42).

²⁴⁵ Johnston, Lee and Shearing, Clifford, *Governing Security: Explorations in Policing* (2003) 140.

²⁴⁶ Tilley, Nick (2008) 'The development of community policing in England: networks, knowledge and neighbourhoods' in Williamson, Tom (ed) *The handbook of knowledge-based policing: current conceptions and future directions* (2008) 96.

²⁴⁷ Ayling, Julie 'Force Multiplier: People as a Policing Resource' (2007) 31 *International Journal of Comparative and Applied Criminal Justice* 85

the role of Community Police Forums (CPFs) as the main expression of community policing in South Africa. The last section discusses the Khayelitsha Commission on policing.

5.2 Definitions of ‘community’ and ‘community policing’

Definitions of ‘community’ and ‘community policing’ undermine a state centric approach to policing because the state lacks the complete knowledge to implement suitable policing strategies without cooperation from the local community. The concepts of ‘community’ and ‘community policing’ are complex. It is interesting to note that in academic literature ‘community’ and ‘crime’ are ‘co-joined as a binary hierarchy, as the promotion of the former is envisioned as a strategy to reduce, or even defeat, the latter.’²⁴⁸ I think the reason for this is related to Crawford’s observation that ‘[c]ommunities are often portrayed as the antithesis of violence and crime. On the contrary, however, the collective values of a community may serve to stimulate and sustain criminality.’²⁴⁹ Notwithstanding the challenges of community being an ‘open textured concept’ Taylor has given a useful working definition of ‘community.’²⁵⁰ Taylor has observed that there are three attributes common to all communities:

‘The first and most basic of these ‘core’ characteristics is that a set of persons who compose a community have beliefs and values in common ... The second characteristic is that relations between members should be direct and they should be many-sided. Relations are direct to the extent that they are unmediated — by representatives, leaders, bureaucrats, institutions such as those of the state, or by codes, abstractions and reifications ... The third and final characteristic of community is that of reciprocity.’²⁵¹

Clarke rightly points out that communities are sites of governance, which are influenced by plural actors with competing and contradictory value systems.²⁵² Indeed, communities are contested constructions and not ‘naturally occurring entities.’²⁵³ This does not mean that the ‘community’ lacks political and social capital but that it ‘cannot be taken for granted’ as has been evidenced by the challenges of implementing community policing.²⁵⁴

²⁴⁸ Hughes, Gordon and Rowe, Michael ‘Neighbourhood policing and community safety: Researching the instabilities of local governance of crime, disorder and security in contemporary UK’ (2007) 7 *Criminology and Criminal Justice* 320.

²⁴⁹ Crawford, Adam *Crime prevention and community safety: Politics, policies and practices* (1999) 158.

²⁵⁰ Taylor, Michael *Community, anarchy and liberty* (1982)

²⁵¹ Ibid.

²⁵² Clarke, John *Changing Welfare, Changing States* (2004)

²⁵³ Ibid at 124.

²⁵⁴ Hughes & Rowe op cit (n246) 337.

There lacks consensus on the definition of community policing. Eck and Rosenbaum argue that community policing is ‘simultaneously ambitious and ambiguous’ which has been popular as ‘a plastic concept, meaning different things to different people.’²⁵⁵ Similarly Gordon asserts that because the concept of community policing is vague, it enables the various role players to adapt the meaning to suit their own interests.²⁵⁶ The concept of community policing presupposes to a huge extent the existence of a homogenous united community that share the same vision of community and crime prevention. However, the legacy of apartheid in South Africa means that community policing is understood differently across racial and socio-economic lines. The affluent, predominantly white communities tend to support ‘community-driven solutions to crime, black people in poorer areas would prefer to see intervention by national government and more effective policing.’²⁵⁷ This diversity of approaches across different communities highlights the importance of a nodal approach to policing because it shows that the state will have difficulty anticipating differing security needs without the cooperation of other policing actors working in these communities.

Trojanowicz and Bucqueroux have produced an authoritative definition of community policing. They argue that it is a policing philosophy; ‘based on the concept that police officers and private citizens working together in creative ways can help solve contemporary community problems related to crime, social and physical disorder, and neighbourhood decay.’²⁵⁸ Traditional policing performed by the public police is bureaucratic and primarily concerned with ‘crime control, limited public interaction, random (motorised) patrol, shift work, coordinated central dispatch and territorial organisation of responsibility.’²⁵⁹ On the other hand, community policing broadens the police mandate ‘from a narrow crime fighting one to one that addresses wider issues such as fear of crime, social and physical disorder and neighbourhood problems.’²⁶⁰ Community policing would therefore regard the fighting of crime not as an end in itself. Improving the community’s quality of life so that citizens can

²⁵⁵ Eck, John and Rosenbaum, Dennis ‘The new police order: Effectiveness, equity, and efficiency in community policing’ in Rosenbaum, Dennis (ed) *The challenge of community policing: Testing the promise* (1994) 3

²⁵⁶ Gordon, Diana ‘Democratic consolidation and community policing: Conflicting imperatives in South Africa’ (2001) 11 *Policing and Society: An International Journal of Research and Policy* 136.

²⁵⁷ Newham, Gareth ‘Strengthening democratic policing in South Africa through internal systems for officer control’ (2005) 36 *South African Review of Sociology* 182.

²⁵⁸ Trojanowicz, Robert and Bucqueroux, Bonnie *Community policing: A contemporary perspective* (1990) 5

²⁵⁹ Manning op cit (n71).

Trojanowicz, Robert and Bucqueroux Bonnie *Community policing: a contemporary perspective* 2nd ed (1998) ²⁶⁰

feel secure and can enjoy their environment is viewed as equally important. This understanding of community policing is consistent with a holistic nodal approach outlined in the NCPS which does not focus exclusively on the criminal justice system but seeks to work with different state and non-state actors that can make a direct or indirect impact on crime prevention.

This section has shown that definitions of community and community policing necessitate a nodal approach to policing because the state cannot adequately provide security provision without the insights and cooperation of the local community.

5.3 Community policing in South Africa

I disagree with Brogden's statement that 'community policing is as American as cherry pie.'²⁶¹ This is because community policing is not an American phenomenon. Baker makes a valid point which is that community policing is not new in South Africa.²⁶² The public police in South Africa was only centralised in 1913. This police mostly operated in urban areas and in rural areas communities were, and arguably still are, responsible for their own security provision. Before 1913 'all policing was local, voluntary and discretionary, whether by African villages and clans, or by white collective responses in the "frontier spirit."²⁶³ This undermines the state-centric approach to policing that seeks to have monopoly on policing because historically security governance in South Africa was conducted by multiple actors.

As mentioned in the previous Chapter the apartheid state recognised the necessity for policing to be conducted by multiple actors. When the apartheid government was facing political challenges in the 1970s and 1980s the government enrolled white citizens to cooperate with the state through the creation of local intelligence structures to identify organised resistance against the state.²⁶⁴ The Minister of Police and the Commissioner of Police were the driving force behind Neighbourhood Watch schemes being enacted in white neighbourhoods throughout South Africa in 1985. The main idea behind these schemes was to protect private property in these neighbourhoods through encouraging the residents to

²⁶¹ Brogden, Mike 'Community policing as cherry pie' in Mawby, Robert (ed) *Policing across the world* (1999) 167.

²⁶² Baker, Bruce 'Living with non-state policing in South Africa: the issues and dilemmas' (2002) 40 *The Journal of Modern African Studies*

²⁶³ Ibid at 32

²⁶⁴ Shaw & Shearing op cit (n8).

actively pursue surveillance and work in cooperation with the police.²⁶⁵ Schärf has asserted that the abolishment of the Influx Control laws in 1986 proved to be a rallying point for some of the neighbourhood watches because some members of these watches ‘seem to have assumed that the mere presence of black people on their street constituted ‘suspicious’ behaviour.’²⁶⁶ The state police was not interested in protecting all South African citizens which meant that black communities were left to cater for their own security. Again this created a wide range of security governance: informal justice which encompassed a wide range of policing initiatives ranging from dispute resolution forums to street committees.²⁶⁷ Informal justice developed out of traditions and customs that promote ‘the reconciliation of disputing parties and the restoration of harmony within the community.’²⁶⁸ This shares some similarity with community policing which values mediation in order to solve community problems and restore order and ‘harmony.’²⁶⁹ Indeed, Gordon has noted that the concept of community policing was popular in South Africa precisely because of this link to traditional communitarian principles.²⁷⁰

Community policing became prominent during discussions on police reform in the early 1990s. Brogden and Shearing have asserted that the state police ‘ensured that sustained brutality’ was experienced by blacks during the apartheid period.²⁷¹ This meant that for the majority of the population, the state police as an institution was distrusted and viewed as a symbol of state abuse and harassment. The new democratic government faced the challenge of building the legitimacy of the police in the eyes of South African citizens after the end of apartheid. Policy makers and civil society argued that community policing would be an important platform to mend the relationship between local communities and the SAPS. The 1995 Police Service Act, Section 18(1) advocated for a collaborative partnership between SAPS and their local communities to enable ‘joint problem identification and problem-solving.’ Similarly, the then Department of Safety and Security (1997) defined community policing as ‘a collaborative, partnership-based approach to local level problem solving.’ In 1997, the Community Policing Policy Framework and Guidelines was published by the

²⁶⁵ Schärf, Wilfried ‘Community policing in South Africa’ (1989) *Acta Juridica* 219

²⁶⁶ Ibid.

²⁶⁷ Ibid at 40.

²⁶⁸ Monaghan, Rachel ‘Community-based justice in Northern Ireland and South Africa’ (2008) 18 *International Criminal Justice Review*.

²⁶⁹ Ibid at 94.

²⁷⁰ Gordon op cit (n256) 131.

²⁷¹ Brogden, Mike and Shearing, Clifford *Policing for a New South Africa* (1993) 16.

Department of Safety and Security. The document outlined the five elements of community policing policy:

- service orientation- which is providing a professional SAPS to address community needs
- partnership- which facilitates cooperation between SAPS and the local community
- problem-solving -with the objective being the identification of the root causes of crime
- empowerment which consists of giving the local community a role in addressing crime in their area
- Accountability- in which the police is held accountable in the implementation of their duties by the community.²⁷²

However, the 1998 White Paper on Safety and Security dramatically changed government policy on community policing. This paper outlined community policing, not as a vehicle to hold the police accountable to its community but as a ‘bedrock of effective law enforcement’ thus promoting a state centric approach to policing.²⁷³ Community policing is then viewed as a police instrument which provides ‘intelligence for police and other local officials ([identifying flashpoints, crime patterns and community anti-crime priorities]).’²⁷⁴ This makes community policing an extension of the police; a useful resource in local security networks.²⁷⁵ Dixon rightly points out that the SAPS was now not ‘only back in control of policing, but under clear instructions to prosecute the fight against crime using tactics that owed as much to aggressive order maintenance as community problem-solving.’²⁷⁶ This state centric approach to community policing in which the SAPS is at the centre of policing and the community plays a secondary role as a junior partner to the police undermines the collaborative partnership between the police and the community envisaged in the 1995 Police Service Act. Community policing requires a paradigm shift from the well-entrenched traditional notion that the police and the criminal justice system are the best placed institutions to address crime.²⁷⁷ Otherwise, community policing is reduced to another

²⁷² Department of Safety and Security, *Community Policing: Policy Framework and Guidelines* (1997) South Africa Police Service, Department of Safety and Security

²⁷³ White Paper on Safety and Security op cit (n7) 24.

²⁷⁴ Gordon op cit (n256)133-134.

²⁷⁵ Johnston, Les From ‘Pluralisation’ to ‘the Police Extended Family:’ Discourses on the governance of community policing in Britain (2003) 31 *International Journal Of The Sociology Of Law* 199-200.

²⁷⁶ Dixon, Bill ‘Community policing: ‘Cherry pie’ or melkert?’ (2004) 35 *Society in Transition* 261.

²⁷⁷ Berg & Shearing op cit (n114).

‘mechanism to achieve better bandit catching, than a way of involving the police in wider strategies to enhance community involvement in crime prevention.’²⁷⁸ This is particularly unfortunate for poor communities because a state centric approach to policing fails to ‘shift the focus of policing resources to poor areas’ by giving the inhabitants a voice in their security governance.²⁷⁹

Gordon has questioned the South African government’s commitment to community policing because it has failed to invest the necessary resources: both financial and the person power needed to successfully implement community policing.²⁸⁰ One of the challenges facing community policing has been the failure of the SAPS to address issues of limited resources and corruption. Partnership between the police and communities can be implemented through the community giving under-resourced police financial assistance. Unfortunately this can encourage corruption and impede on accountability.²⁸¹ It is challenging to hold the police accountable in a state centric approach to policing. This is because such an approach creates a hierarchy; with the police being given more authority than the community. The next section will discuss the accountability of police through the Community Police Forums.

5.4 Community Police Forums: vehicles to community policing?

Community Police Forums (CPF) were viewed as the vehicle to implement community policing. Pelser rightly noted that CPFs were ‘the most visible, if not the only, expression of South Africa's community policing policy.’²⁸² The 1994 Interim Constitution created the Community Police Forums (CPF) at every police station throughout the country. The CPFs were established in 1995 with the aim of holding the SAPS accountable to the local communities as well as foster a collaborative relationship in which the SAPS work in partnership with local communities to tackle crime prevention. These forums are comprised of a committee of representatives from the community who work in close cooperation with their local police. However, Hansen has made an interesting observation which is that in some areas CPFs are dominated by ‘self-styled representatives of the ‘community’ [who range from] long-standing foes of the police – ANC activists and others active in the anti-

²⁷⁸Shaw & Shearing op cit (n8) 8-9.

²⁷⁹ Ibid.

²⁸⁰ Gordon op cit (n 256).

²⁸¹ Gbaffou, Claire-Benit ‘Policing Johannesburg wealthy neighborhoods: the uncertain ‘partnerships’ between police, communities and private security companies’ (2006) 89 *Trialog* 21-26

²⁸² Pelser, Eric The *challenges of community policing in South Africa*, Occasional Paper No 42 (1999)

apartheid movement – while others were local self-styled leaders, religious figures, and people who had been active in apartheid’s political institutions.’²⁸³ Research has shown that CPF participants are not necessarily representative of their communities. CPFs particularly in black areas are not representatives of the community; the elite in these communities (teachers and ministers) often retired, have the time to be actively involved in these forums resulting in the exclusion of the youth and women.²⁸⁴ Gordon asserts that the SAPS ignore this tendency because ‘the better educated people in the community are the easiest to communicate with, but they aren't likely to provide information on the most serious crime problems.’²⁸⁵

Implementation of community policing has differed across racial and socio-economic lines. Newham rightly asserts that evaluating CPFs is challenging because implementation of CPF policy has varied immensely across communities: poor communities with limited resources have struggled to implement successful CPFs and high income communities which tend to be white areas have had more success in implementing CPFs policies.²⁸⁶ This has led to criticisms that attempting to implement a western approach of community policing in South Africa is ‘inappropriate to the social and historical context.’²⁸⁷ Brogden argues that the Western donors and academics who promoted the implementation of community policing in South Africa failed to recognise the conflicting diversities in South Africa not only along racial lines but economic and social inequalities.²⁸⁸ He further asserts that Western concepts in relation to policing and community ‘do not easily translate’ to the South African context. Brogden has suggested that in order for community policing to be successful they ‘must draw on local experiences’ and borrow from the west: only when there exists ‘an attested record of success’ and implementation is carried out with the respect of local knowledge and conditions.²⁸⁹

The advocates of CPFs were academics and civil society who had been active in the anti-apartheid movement and viewed community policing as a means of involving civic

²⁸³ Hansen, Thomas Blom ‘Performers of sovereignty: On the privatization of security in urban South Africa’ (2006) 26 *Critique of Anthropology* 287

²⁸⁴ Gordon op cit (n256) 139-140.

²⁸⁵ Ibid.

²⁸⁶ Newham op cit (n257) 173.

²⁸⁷ Brogden, Mike ‘Implanting community policing in South Africa: A failure of history, of context, and of history (2002) 24 *Liverpool Law Review* 174

²⁸⁸ Ibid at 175

²⁸⁹ Brogden, Mike ‘Commentary: Community policing: a panacea from the west’ (2004)103 *African Affairs* 649.

participation in the new democratic South Africa.²⁹⁰ However, as mentioned in the previous section, by the late 1990s, government priority and focus was not on democratic policing but on addressing the high levels of crime in the country which led to the SAPS adopting a more aggressive stance to policing shifting away from democratic policing.²⁹¹ This change in policy was problematic and resulted in a situation in which the community and the SAPS have different expectations from these CPFs – the former expecting to be involved in police initiatives and the latter seeking to develop the CPF into “eyes and ears” mechanism for crime control.²⁹²

Research has identified that CPFs have been unsuccessful due to lack of resources and a failure by the participants to adhere to policy and legislation guidelines.²⁹³ Furthermore, there has been misunderstanding over partnership: the SAPS have viewed partnership as a means to acquire ‘additional resources for general policing purposes or, in some instances, crime prevention activities’ and members of the CPF saw it as a means to hold the police accountable to the community.²⁹⁴ Research has shown that most police officers think that community policing is not a realistic strategy especially in high crime areas.²⁹⁵ Furthermore, CPFs have for the most part failed to hold police accountable.²⁹⁶ Newham argues that this failure to provide oversight of the police is not surprising because;

‘there is a tension between the objective of building community police partnerships and communities overseeing the police. In some instances, where the CPF has taken it upon itself to expose police corruption or abuses, this has generally led to deterioration in the community-police relationships.’²⁹⁷

This section has shown that CPFs have been ineffective because of lack of resources; which has led Brogden to assert that community policing is a western concept that fails to take the social and historical background of South Africa. One can argue that the primary reason for the failure of the CPFs is the state centric approach to policing adopted by the government. In the 1990s community policing was promoted as an example of democratic policing that can facilitate the building of relationships between the state police and the community after the

²⁹⁰ Monique, Clifford & Wood op cit (n4) 146.

²⁹¹ Cachalia, Firoz ‘Operation Iron Fist after six months: Provincial police strategy under review’ (2007)19 *Crime and Quarterly* 21–27.

²⁹² Ruteere, Mutuma and Pommerolle, Marie Emmanuelle ‘Democratizing security or decentralizing repression? The ambiguities of community policing in Kenya’ (2003) 102 *African Affairs* 590.

²⁹³ Pelser op cit (n282).

²⁹⁴ Dixon op cit (n276).

²⁹⁵ Ibid.

²⁹⁶ Newham op cit (n 257) 173.

²⁹⁷ Ibid.

years of police brutality under the apartheid regime. However, by the end of the 1990s the fight against high crime meant that the SAPS adopted a state centric approach in their community policing which viewed the local community as a police instrument to enforce law enforcement. This undermined the effective implementation of partnership policing that is focused on problem solving and implementing crime prevention initiatives at the local level. A state centric approach to policing also creates challenges on the issue of police accountability.

5.5 A failure in partnership policing: examining the Khayelitsha Commission on policing

The Commission of Inquiry into Allegations of Police Inefficiency in Khayelitsha, or simply known as the Khayelitsha Commission was established in 2012 by the Premier of Western Cape. Section 206 (5) of the South African Constitution states; at the provisional level a commission of inquiry can be appointed to investigate ‘any complaints of police inefficiency or a breakdown in relations between the police and any community.’ Section 206 (5) (b) requires the commission to make recommendations on how the situation can be rectified. The mandate of the commission is to investigate allegations of incompetence of the SAPS operating in the three stations in Khayelitsha which has resulted in a breakdown in relations between the SAPS and the Khayelitsha community.

The first public sitting of the Khayelitsha Commission was held on the 23rd of January 2014. Khayelitsha is a large township in Cape Town that is plagued by poverty, high crime rates, gangs and vigilante activity.²⁹⁸ Khayelitsha has the highest recorded per capita crime in the country with 354 people recorded to have been murdered according to the SAPS figures that were released in September 2013.²⁹⁹ The evidence from this first session showed that a high number of crimes were not reported to the police because the police was viewed as uncaring and unwilling to address any concerns from the community.³⁰⁰ When the community does report crime, shortage of staff and resources mean that the police are ill equipped to meet the demand for service.³⁰¹ For example, information before the Commission pointed out the fact

²⁹⁸ Khayelitsha Commission, Public sitting 23 January 2014 (2014) available at <http://www.khayelitshacommission.org.za/2014-01-10-09-32-1/public-sitting.html>, accessed 5 February 2014

²⁹⁹ Ibid at 23.

³⁰⁰ Ibid at 22

³⁰¹ Ibid at 23.

that ‘in three police stations in Khayelitsha the basic building blocks required for a functional police service are either broken, dysfunctional or missing altogether.’³⁰² For example, poor sanitation particularly makes women vulnerable to attacks when they are walking long distances at night to access toilets. The Advocate representing the SAPS before the Commission, Mr Arendse made a compelling point which is that the police working in Khayelitsha have a wide range of impediments which affect them in fulfilling their duties; the ‘highly dense informal housing in several areas, the very narrow foot paths, the lack of roads, infrastructure and lighting make policing virtually impossible.’³⁰³ This dire shortage of personnel and resources suggest that the state lack capacity to have monopoly over security governance in Khayelitsha.

The Khayelitsha Commission, shows that local communities seek alternative sources of providing security when the state fails to fulfil its mandate to provide security. Menkhaus has rightly asserted that ‘local communities are not passive in the face of state failure and insecurity, but instead adapt in a variety of ways to minimize risk and increase predictability in their dangerous environments.’³⁰⁴ However, the unfortunate consequence of alternative source of policing is that some non-state actors fail to respect human rights or adhere to due process and promote informal justice.³⁰⁵ Evidence from the second public sitting of the Khayelitsha Commission suggested that young people join gangs and vigilante groups as a means of seeking protection. Furthermore, in an ironic way the gangs end up increasing the level of unrest in the community. Mr Mbotshelwa the principal of Esangweni Secondary school in Khayelitsha has said that the increase of gangs in Khayelitsha has led to dropouts because of students’ fear of being attacked by gang members.³⁰⁶ Siphosethu Peter a sixteen year old student at Esangweni Secondary School stated; “I wish something can be done to stop these fights. Every day when the fights start I’m using a back door to escape. Even inside the school we live in fear of what is going to happen after school-time.”³⁰⁷ Similarly, in the second public of the Khayelitsha Commission, Mr Zitwana a community leader in the area stated that the one of the Neighbourhood Watch schemes came to an abrupt end in 2009

³⁰² Ibid at 25.

³⁰³ Ibid at 54

³⁰⁴ Menkhaus, Ken (2007) ‘Governance without Government in Somalia: Spoilers, State Building and the Politics of Coping’ (2007) 31 *International Security* 75.

³⁰⁵ Marks & Goldsmith op cit (n22).

³⁰⁶ West Cape News, ‘Fatal teenage gang fights see pupils pulling out of school’ available at <http://westcapenews.com/?p=3877>, accessed 30 January 2014.

³⁰⁷ Ibid.

because of violence. He explained that the Neighbourhood Watch ended up physically abusing members of the community walking in the streets after ten pm as they argued that ‘if you are walking in the streets at night you are challenging violence or crime because you are calling these people to come and rob you.’³⁰⁸ The above example highlight Marks and Goldsmith’s (2006) concern discussed in Chapter 2 of non-state actors acting in a heavy handed undemocratic manner.³⁰⁹

Similarly, the Zanokhano Business Association and the SAPS community crisis committee gave foreign owned businesses operating in Khayelitsha a two day notice to pack up and leave the area in order to prevent violent attacks on the immigrants.³¹⁰ Mr Mfundisi Mbekwa the chairperson of the SAPS community crisis committee claimed that “[w]e have the right to close the shops in terms of the agreement we had in 2008 after xenophobic attacks. It was agreed that no more new Somali traders should operate around Khayelitsha.”³¹¹ A local business woman who was part of the SAPS community crisis committee meeting made an interesting statement; “We are suffering because of them. Police are aware of the agreement, but are failing to do their job of closing the (new) shops.”³¹² The issuing of a two day’s notice to foreign owned businesses was conducted by non-state actors involved in security governance in Khayelitsha. Again this questions the commitment and capability non-state actors have in protecting vulnerable members of the community such as immigrants from xenophobic attacks.

However, notwithstanding the capacity of non-state policing actors to act contrary to democratic principles, it is not necessarily the case that the state will normatively be able to provide for the public good and adhere to democratic principles that respect to individual human rights. The Commission highlighted that the SAPS has abused its powers in Khayelitsha. Likhona Njamela who works as a volunteer for Khayelitsha civil organisation Social Justice Coalition (SJC) claims that she and a group of residents in Green Point Khayelitsha watched police physically assault a group of teenage gang members with water pipes in 2012. She stated that the police ‘wanted to beat everyone who was on the scene. We

³⁰⁸ Khayelitsha Commission, Public sitting 7 February 2014 (2014) 16 available at <http://www.khayelitshacommission.org.za/2014-01-10-09-32-1/public-sitting.html>, accessed 20 February 2014

³⁰⁹ Marks & Goldsmith op cit (n22).

³¹⁰ West Cape News, ‘Somali shops closed, looted at 2008 trading agreement enforced in Khayelitsha’ available at <http://westcapenews.com/?p=3768>, accessed 30 January 2014.

³¹¹ Ibid

³¹² Ibid

told them ‘no guys, you can't do this.’ The residents were angry and started throwing stones at the police van.’³¹³ A state centric approach is clearly not the best option to redress challenges in security governance in Khayelitsha; a strategy that enables the community and the SAPS to collaborate in problem solving and crime prevention initiatives is needed. It is interesting to note that despite the allegations of police brutality, the Khayelitsha community wants an increase in the visibility of the police and requested an increase in the number of police working in Khayelitsha.³¹⁴ The Khayelitsha community and the SAPS were in agreement that partnership policing was needed to effectively tackle the crime problem in the area.³¹⁵ There was also an acknowledgement that social conditions that facilitate crime such as structural poverty and poor service delivery are beyond the scope of the police.³¹⁶ As highlighted earlier in the chapter, CPFs are one way of facilitating partnership policing between the SAPS and the community. However, the CPFs in Khayelitsha have been unsuccessful due to lack of resources, disorganisation and lack of co-ordination among the various policing actors acting in Khayelitsha.³¹⁷ Another impediment to the CPFs in Khayelitsha is the lack of legitimacy in the eyes of the community.³¹⁸ The state and non-state policing actors would need to build a relationship with the community in order to address security challenges in Khayelitsha.

This section has shown that the Khayelitsha Commission reiterated the fact that the police are not capable of being all things to all people and need to work in co-operation with non-state policing actors. The Khayelitsha Commission has reiterated the important value that the community places on the police; which is to be contrasted to a state centric approach. Indeed the Commission noted that the state is incapable and lacks resources to have the monopoly of policing in Khayelitsha. There exists consensus that partnership policing between the SAPS and the Khayelitsha community is important to implement effective security governance in Khayelitsha.

³¹³ Mail & Guardian, ‘Khayelitsha faces fresh vigilante, police problem’ 24 October 2012 available at <http://mg.co.za/article/2012-10-24-social-justice-coalition-face-fresh-vigilante-problems>, accessed on 30 January 2014.

³¹⁴ Khayelitsha Commission op cit (n298) 117.

³¹⁵ Ibid at 27.

³¹⁶ Ibid at 26.

³¹⁷ Khayelitsha Commission op cit (n308) 97.

³¹⁸ Ibid.

5.6 CONCLUSION

Defining community policing is challenging because it arguably has become everything to everyone. This chapter has attempted to show that notions of 'community' are based on the assumption that there exists a homogenous group; however, issues of social and economic inequality have been shown to undermine implementation of community policing. The main vehicle in implementing community policing in South Africa have been the CPFs which has the mandate to work in partnership with the SAPS as well as hold the local police accountable. The CPFs have been unsuccessful especially in low income black areas such as Khayelitsha because of a lack of resources and a misunderstanding on the purpose of CPFs. The state centric approach to policing which developed as the government's response to the high crime rates undermined community policing; by turning it to a law enforcement mechanism. The Khayelitsha Commission has reiterated the importance of community policing; state and non-state policing actors working in cooperation with local communities to solve problems and implement crime prevention strategies.

CHAPTER 6: CONCLUSION

This dissertation has shown that the empirical reality in South Africa is that the state never had and does not have the monopoly on security governance; private security and various forms of community policing have been a feature of security governance throughout the country's history. Kempa et al have observed that '[t]he state as the monopolist of governance is historically more a rhetorical device than a reality, and contemporarily nothing better than a maladaptive chimera.'³¹⁹ Indeed private security and other forms of crime prevention initiatives 'have been present in the earliest known forms of prehistoric civilizations.'³²⁰ The strategy adopted by most governments to encourage citizens to take responsibility for their security is recognition of the plurality of policing actors in security governance. Indeed, the different theoretical approaches to policing notably the nodal model and the state-anchored pluralism model are in agreement about the existence of the plurality of policing actors. One can argue that these two models are more similar than different with both models concerned with providing equitable policing provision albeit using different approaches which need not be contradictory.

Notwithstanding the empirical fact that security provision can be adequately provided by non-state actors, this dissertation has shown that the SAPS have attempted to monopolise policing; whether in collaboration with private security in the CID areas or in implementation of community policing. Steinberg has rightly pointed out that SAPS want to be at the centre of policing in order to build legitimacy in the eyes of South African citizens. This is because SAPS lacks the Hobbesian monopoly of force, as evidenced by their conduct in South Africa's townships, where security is 'bought, sold and bartered, and also exchanged for solidarity and friendship.'³²¹ Steinberg furthermore states that the police in a democratic society will retreat when they lack the mandate of their society.

This dissertation has shown that formulating original forward thinking policy documents such as the NCPS is useful to the extent that implementation of these policies takes place. It is important for policy to be grounded in reality in order for it to go beyond mere rhetoric and get implemented. The Khayelitsha Commission highlights the importance of a paradigm shift

³¹⁹ Kempa et al op cit (n30).

³²⁰ Collins, Pamela, Ricks, Truett and Clifford, Van Meter *Principles of security and crime prevention* (2000) 3

³²¹ Steinberg, Jonny *Thin Blue: The Unwritten Rules of Policing in South Africa* (2008) 23.

in the manner security governance is viewed in South Africa. The Khayelitsha Commission has pointed out the importance the police has in the public's perception of security provision; the community wanted an increase in the visibility of the SAPS in their area. However, the Khayelitsha Commission highlighted that there was an acknowledgement by all stakeholders that the SAPS was under resourced and lacked capacity to effect equal security provision; therefore, partnership policing between SAPS and the community was advocated. This position suggests that an alternative policing approach which gives the SAPS a role as well as acknowledges other policing actors is need; minimal policing is a plausible alternative, particularly 'where police legitimacy is in question and there are very limited state resources.'³²² Marks and Wood (2010) have made a compelling argument that a shift towards a minimalist approach is needed in a developing country such as South Africa.³²³

6.1 MINIMAL POLICING: a plausible compromise

Minimal policing is a credible alternative to the ineffective state centric approach to policing. This is because it does not entirely reject the role of the state in policing but promotes a clearly defined role for the state police that are consistent with the reality of what the state's capabilities, while at the same time recognising the role and position of non-state policing actors. Minimalist policing is defined as, 'police intervention [that] should be confined to cases where there is clear evidence of law-breaking, and [that] should take the form of the invocation of legal powers and criminal process.'³²⁴ The position is not state centric but an extension of the nodal approach; with the police having a minimal clearly defined role and non-state policing actor's initiatives being 'supported and recognized.'³²⁵ The minimalist position essentially maintains that state police do not have the monopoly in security governance but they ensure that 'publicly agreed upon norms for policing are adhered' in a manner that promotes public safety.³²⁶ The minimalist position is consistent with the nodal approach to policing because the state's role is not a normative given but dependent on the capacity of the state in a given context.

³²² Marks & Wood op cit (n17) 322.

³²³ Ibid.

³²⁴ Reiner op cit (n52) 145.

³²⁵ Marks & Wood op cit (n17) 326.

³²⁶ Ibid.

Marks and Wood have outlined four benefits of minimal policing. Firstly, regulating and monitoring policing actors would be easier if the role of the police is clearly defined. Secondly, minimal policing will build the needed legitimacy of the SAPS as they act in a democratic manner through the use of unique skills and resources in response to community needs. Thirdly, when the SAPS is clear in their clearly defined role that is realistic to their capabilities and resources, ‘a space will be created for them to *actively encourage* and even to learn from alternative (non-state) ways of framing problems and developing solutions.’³²⁷ The last benefit is that minimal policing is consistent to ‘what the police want’ which is engaging in ‘real police work while at the same time doing what the community wants them to do.’³²⁸ Expanding on the necessity of minimal policing, Altbeker rightly points out that SAPS cannot be expected to address the inequality in society; they are not trained, equipped or best placed to do so.³²⁹ Steinberg supports Altbeker’s position that the SAPS ‘ought to have drawn upon a tradition of police minimalism’ and restricted their activity to functions neglected by the apartheid police: ‘investigation of crime and the management of emergencies.’³³⁰ Altbeker makes a valid point which is consistent with the nodal approach to policing; the state should not ‘bite more than it can chew’ but take on responsibility it is equipped and resourced to tackle. Minimal policing is a plausible compromise between state centric policing and innovative forward looking policing approaches. The National Development Plan (NDP) 2030 is consistent with minimal policing because it advocates for an integrated approach in which state and non-state policing actors work in collaboration in the security governance in South Africa.³³¹

6.2 The National Development Plan (NDP)

In 2012, The National Planning Commission produced a National Development Plan 2030 in which an integrated whole of society approach to safety and security issues was advocated. The NDP like the NEDCOR report discussed in Chapter 3 highlighted that the high crime levels in South Africa have had an adverse effect on ‘social and economic development.’³³²

³²⁷ Marks & Wood op cit (n17) 321.

³²⁸ Kinsey, Richard, Lea, John and Young, Jock *Losing the Fight against Crime* (1986) 201.

³²⁹ Altbeker op cit (n98)

³³⁰ Antony, Altbeker *Fruit of a Poisoned Tree* (2010) 360.

³³¹ National Planning Commission, *National Development Plan: Vision for 2030* (2011) 350 National Planning Commission available at <http://www.npconline.co.za/medialib/downloads/home/NPC%20National%20Development%20Plan%20Vision%202030%20-lo-res.pdf>, accessed on 4 February 2014

³³² Ibid at 349.

However, the NDP differ with the NEDCOR report as the latter took a state centric approach and argued for the state to have primary responsibility of security governance. The NDP advocates a minimal approach to policing and argues that the SAPS is not ‘an all-purpose agency’ but a ‘highly specialised resource to be deployed strategically.’³³³ The NDP takes a nodal approach to policing by stating that effective security governance needs partnership between ‘the criminal justice system, local government, the community, private sector and role players involved in economic and social development.’³³⁴ The NDP also advocates for a long-term sustainable ‘integrated approach focused on tackling the fundamental causes of criminality.’³³⁵ This is consistent with the NCPS of 1996 which promoted partnerships in crime prevention.

The NDP suggests that the state centric approaches to policing might in future be replaced by a more holistic approach to tackling crime. Indeed, if implemented the NDP is a signal that in the government has realised that the current tough on crime approach is not effective as the SAPS lacks the resources and capability to be at the centre of security governance; minimal policing that is based on the nodal approach to policing might be more appropriate for a developing country.

³³³ Ibid at 357.

³³⁴ Ibid at 361.

³³⁵ Ibid.

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