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**South Africa's Response
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“Families are nature’s masterpiece”~Anonymous~

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“Friendship is a single soul dwelling in two bodies”~Aristotle~

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ABSTRACT

During the mid-1990s to 2001, South Africa was the victim of numerous terrorist acts carried out by the People Against Gangsterism and Drugs (PAGAD). This paper discusses the problems and the procedures and methods used to combat domestic terrorism in constitutional democracies as well as the problems encountered by democratic South Africa in responding to PAGAD bearing in mind the legal-constitutional and the political constraints that this democracy faces. Using PAGAD as a case-study and discussing and analyzing the South African counter-terrorism strategies that were used against PAGAD, many interesting features are observed which clearly show that, while South Africa exemplified the problems that older constitutional democracies face when responding to terrorism, the country also deviated from what is usually expected from a constitutional democracy responding to terrorism.

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LIST OF ACRONYMS

ANC	African National Congress
ATB	Anti-Terrorism Bill
AZAPO	Azanian Peoples Organization
BOSS	Bureau of State Security
CBB	Civil Cooperation Bureau
CCR	Centre for Conflict Resolution
CIA	Central Intelligence Agency
CIS	Crime Intelligence Service
COSATU	Congress of South African Trade Unions
CSI	Crime Intelligence Service
DCC	Directorate of Covert Collection
DP	Democratic Party
DSO	Directorate of Special Operations (otherwise referred to as “The Scorpions”)
FBI	Federal Bureau of Investigation
ICD	Independent Complaints Directorate
ISS	Institute of Security Studies
ISU	Internal Stability Units
IUC	Islamic Unity Convention
JOC	Joint Operational Centre
KZP	KwaZulu Police
MJC	Muslim Judicial Council
MK	Umkhonto we Sizwe
MSA	Muslim Students’ Association
MYM	Muslim Youth Movement
NCPS	National Crime Prevention Strategy
NIA	National Intelligence Agency
NICOC	National Intelligence Coordinating Committee
NIS	National Intelligence Service

NNP	New National Party
NOCOC	National Operational Co-ordinating Committee
PAC	Pan African Congress
PAGAD	People Against Gangsterism and Drugs
PICOC	Provincial Intelligence Coordinating Committee
POCDATARA	Protection of Constitutional Democracy against Terrorism and Related Activities
POCOC	Provincial Operational Coordinating Committee
SA	South Africa
SACP	South African Communist Party
SADF	South African Defence Force
SANDF	South African National Defence Force
SAP	South African Police
SAPS	South African Police Service
SARS	South African Revenue Service
SASS	South African Secret Service
SIU	Special Investigation Unit
SRCC	Salt River Coordinating Council
TREWITS	Teenrewolusionere Inligting Taakspan
UCT	University of Cape Town
US	United States
WOT	War on Terro

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CHAPTER 1

INTRODUCTION

Formulating and executing strategies to respond to terrorism are challenges for democratic states. Not only should the strategies be efficient, but also not at the cost of human rights, the rule of law and the Constitution.

After South Africa's first democratic elections in 1994, the country saw the emergence of the People Against Gangsterism and Drugs (PAGAD) and the *Boeremag* (Boer Force). Both groups engaged in domestic terrorism.

To respond to PAGAD, the government employed various strategies that can be categorized into intelligence-led policing operations and political strategies. These strategies will be discussed and analyzed in this research paper.

1.1 Research Problem

Using PAGAD as a case-study, the question being addressed in this research paper is: "How did the South African government respond to PAGAD and was this response at the cost of Constitution and the rule of law?" As an empirical question, it seeks to establish relevant facts about South Africa's response to PAGAD as a vigilante organization that used terrorism to achieve its objectives.

1.2 Methodology

This research paper utilizes a qualitative research approach of the theory-confirming Case Study Method in which the case is analyzed within the framework of established generalizations.

The main advantage of the Case Study method is that it allows an intensive examination of the case. It provides deep information and makes an important contribution to the establishment of general propositions and, thus, to theory-building. However, the Case Study method also has

shortcomings. Generalizations cannot be made, selection bias¹ exists and inaccurate information is sometimes obtained.

In this research paper, both primary and secondary sources of information are used. The primary sources of information include analysis of literature of national legislations on terrorism and counter-terrorism and interviews² with individuals knowledgeable about PAGAD and the government's response to PAGAD.³

While interviews yield detailed and rich information, there are problems that can be expected. Not only are interviews time-consuming, they may also not provide the correct information. The interviewee may distort his or her information by misunderstanding the questions through recall error and selective perceptions and because he or she wishes to please the interviewer.⁴ Additionally, the interviewer may find it difficult in remaining objective and passive or administering the questions correctly. These problems easily bias the respondent's answers. Hence, questions that required feats of memory were avoided. The respondent's answers were compared and checked with other sources of information to avoid inconsistencies and it was ensured that the respondent fully understood the context of the questions being asked.

Secondary sources of information included newspaper articles, books and journals about PAGAD and the government's response to PAGAD.

¹ The case is chosen based on familiarity and preconceptions and interpretations have already been made.

² All the interviewees asked to remain anonymous because of the sensitivity of the information they provided. Some feared for their lives as they were previously threatened for having provided information about PAGAD. One was closely involved with the intelligence service and another one was the lawyer of a jailed PAGAD member. Both were very insistent on the confidentiality of the information they provided and on remaining anonymous. The government officials who were interviewed also requested anonymity.

³ To make the interviews more effective and interactive, questionnaires were designed and communicated to the respondents prior to the interviews. The focus of the interviews was related to the origin and the activities of PAGAD, its organizational structure and the government's response to the organization. Telephone calls and correspondence by e-mail were also made to several individuals (such as cabinet ministers and African National Congress officials) and experts from institutions such as the Institute of Security Studies (ISS) and the South African Police Service (SAPS) who had information that could enhance the quality of the research paper.

⁴ Workbook E, "Conducting In-Depth Interviews", <http://www.nsf.org>, Accessed 27th July, 2009.

Once the data was collected, it was subjected to interpretation and a critical analysis involving cross-referencing the findings and comparatively assessing the information through theoretical underpinnings, accuracy, bias and assumptions, methodology, validity, consistency, evidence and purpose.⁵ This exercise was undertaken to ensure that relevant, reliable and credibility information was collected. Reliability is synonymous with consistency while credibility is associated with validity.

1.3 Definitional Concepts

To enable an effective understanding of key themes within this research paper, this sub-section provides the definition of important concepts such as political terrorism,⁶ counter-terrorism, democracy and constitutional democracy.⁷

1.3.1 Political Terrorism

Terrorism is described as a means to an end, a violent method that is shocking, that causes fear and panic and that is used by a variety of actors to change the attitudes and behaviours of targeted audiences.⁸ Political terrorism, a type of terrorism, is described as a method that entails the use of coercive intimidation by revolutionary movements, regimes or individuals for political motives.⁹ It is inherently indiscriminate in its effects because no one can be sure that they will not be the next victim of terrorism.¹⁰

⁵ F. W. Struwig, and G. B. Stead, *Planning, Designing and Reporting Research* (South Africa: Maskew Miller Longman, 2001), 149

⁶ This research paper deals specifically with domestic terrorism occurring within constitutional democracies. Domestic terrorism refers to terrorism acts that are restricted to the borders of one country, confined to national territories and not targets abroad.

⁷ Arriving at widely accepted definitions of terrorism and democracy is difficult. Hence, Martha Crenshaw's definition of terrorism will be used and with regards to constitutional democracy, a generic definition of what characterizes Western democratic states will be given.

⁸ M. Crenshaw. "Thoughts on Relating Terrorism to Historical Contexts" in *Terrorism in Context*. Edited by M. Crenshaw, (The United States of America: The Pennsylvania State University Press, 1995), 3-27.

⁹ P. Wilkinson, "Concepts of Terror and Terrorism" in *Political Terrorism* (London: MacMillan Education Ltd, 1974), 11. There is a wide debate about the definition of political terrorism. Wilkinson provides a basic definition for political terrorism.

Political terrorism is also unpredictable, arbitrary and it makes use of ruthless and extreme methods (these can range from genocide to political murder)¹¹ which shock, intimidate and create fear that works to the advantage of the terrorist.¹²

1.3.1.1 Types of Political Terrorism

Revolutionary terrorism, sub-revolutionary terrorism, repressive terrorism and organizational terrorism are all types of political terrorism.¹³

1.3.1.1.1 Revolutionary Terrorism

Revolutionary terrorism occurs when movements or factions use terror with the objective of bringing about a political revolution and a change of political system.¹⁴

1.3.1.1.2 Sub-Revolutionary Terrorism

Sub-revolutionary terrorism¹⁵ is carried out for political goals such as coercion of the government to change certain policies or laws or to remove or punish certain officials.¹⁶ It is unpredictable.¹⁷

¹⁰ Combatants, non-combatants, the injured, women and children are all expendable.

¹¹ Ibid.

¹² P. Wilkinson, "Force, Violence, Order and the Liberal State" in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 54-56.

¹³ These typologies are well outlined by Paul Wilkinson. However, they are not exhaustive. Wilkinson rules out criminal terrorism, war terrorism and psychological terrorism as typologies of political terrorism because they do not belong to analyses of political terrorism. Hence, they will not be covered in this chapter.

¹⁴ P. Wilkinson, "Concepts of Terror and Terrorism" in *Political Terrorism* (London: MacMillan Education Ltd, 1974), 36.

¹⁵ Or "agitational" terrorism.

¹⁶ Ibid, 38.

¹⁷ Ibid, 38-39.

1.3.1.1.3 Repressive Terrorism

Repressive terrorism refers to the systematic use of terror for the purpose of suppressing and restraining certain groups, individuals (insurgents or suspected insurgents included) or behaviours deemed unacceptable and undesirable by the oppressor.¹⁸

1.3.1.1.4 Organizational Terrorism

Organizational terrorism refers to the use of terrorist acts to maintain discipline within an organization. Such terrorist organizations have specific rules and structures, proficient means of communication, discipline and a particular recruitment process. Those who do not follow the rules within the organization are forcefully removed by fellow members.¹⁹

1.3.2 Counter-Terrorism

Counter-terrorism refers to the various policies, tactics and strategies of a government designed to limit or prevent the use of terrorism by groups and individuals and to protect the public from terrorism.²⁰ Government action spans across numerous policy areas and are carried out by almost all government agencies and not only those authorized with law-enforcement, intelligence and defence functions.²¹

¹⁸ P. Wilkinson, "Concepts of Terror and Terrorism" in *Political Terrorism* (London: MacMillan Education Ltd, 1974), 40. The oppressor usually takes the form of the state, state leaders or factions. Movements also can make use of repressive terrorism to coerce and control their own members.

¹⁹ W. G. Cunningham, *Terrorism: Concepts, Causes and Conflict Resolution*, (Virginia: Defence Threat Reduction Agency, 2003).

²⁰ M. Taylor, "Effective Counter-Terrorism: A Critical Assessment of European Union Responses" in *Quaker Council for European Affairs*, <http://www.quaker.org>, Accessed 6th April, 2008.

²¹ Ibid.

1.3.3 Democracy

The definition of “democracy” differs from one context to another. For many societies, democracy entails individual freedom, rights and collective liberty to resist oppression by the governing elites.²² However, by analyzing the origins of the word “democracy”, the term denotes a type of regime where political power resides with the people. *Demos* refers to “the common people” and *kratia* refers to “power” or “rule”. “Government by consent” (or giving power to the common people) is good in itself. However, the issue is usually how such powers are or should be exercised.²³

In a democratic regime, the people exercise their political power either directly or indirectly through participation, such as through free elections; competition, such as that between political parties; and liberty, such as freedom of speech or of assembly.²⁴ Groups compete for power openly and legally, without using violence.

1.3.4 Constitutional Democracy

In constitutional democracies, the Constitution is the supreme law of the land which is to be defended at all costs.²⁵ The Constitution places limitations on the exercise of state powers and offers procedural guarantees to the people.²⁶

Constitutional democracies also emphasize fundamental rights and liberties that protect the individual against the powers of the majority.²⁷ These liberties are also protected by a strong

²² P. O’ Neil, “What is Democracy?” in *Essentials of Comparison*, (New York: W.W. Norton and Company, 2007), 134.

²³ S. Ringen, “Robert A. Dahl: Defender of Democracy”, *Soc*, 45 (2008): 283–287.

²⁴ *Ibid.*

²⁵ M. Rosenfeld, “The Rule of Law and the Legitimacy of Constitutional Democracy,” *Southern Californian Law Review*, 74 (2001): 1309-1310.

²⁶ R. A. Licht and B. de Villiers, “Introduction” in *South Africa’s Crisis of Constitutional Democracy*, (Cape Town: Juta & Co, Ltd, 1994), 4.

judiciary that protects the principles of the Constitution. Through judicial review, the judiciary also has the power to overrule the legislature when the law has been violated and to determine whether actions are “constitutional”.²⁸

1.4 Structure of the Research Paper

This research paper is divided into five chapters. Chapter 2 will identify and discuss the problems that constitutional democracies face when responding to terrorism.

Chapter 3 will examine the evolution of the strategies used to respond to terrorism in South Africa by first examining how the Apartheid government responded to terrorism.

Chapter 4 will discuss PAGAD’s origins, its aims and ideology, its leadership and links with other organization as well as its strategies to achieve its aims from its inception in 1996 to its decline in 2001.

Chapter 5 will discuss the various responses and the strategies employed by the South African government to respond to PAGAD.

The last chapter will reiterate the purpose of the research paper and will make an overall conclusion based on the findings in the previous chapters. The chapter will also illustrate whether South Africa’s response to PAGAD was in line with the Constitution and the rule of law or whether the response echoed the common problems that constitutional democracies face when responding to terrorism.

²⁷ Ibid.

²⁸ Ibid.

CHAPTER 2

COUNTER-TERRORISM: THE THEMES

The basic objective of strategies used to respond to terrorism in constitutional democracies is to defend the community's democratic way of life while ensuring that the liberties and principles enshrined in the Constitution are not undermined. This chapter will identify and discuss the most serious problems of responding to terrorism in constitutional democratic contexts.

2.1 Counter-Terrorist Strategies in Constitutional Democracies

If not curtailed, terrorism causes countless deaths, it leads to individuals' public liberties being inhibited, human rights violations and disruptions of institutions in constitutional democracies. It also prevents elected representatives from carrying out their duties and prohibits the civil society from progressing.²⁹ To respond to terrorism, democracies employ numerous policies and strategies that uphold constitutional principles and the rule of law.³⁰

There is no consensus on the best method or policy in terms of responding to terrorism. However, two models, the "criminal justice model" and the "military model", are prominent, each with their costs and benefits.³¹ The criminal justice model views terrorism as a crime and the onus of response is placed within the bounds of the state's criminal legal system. The military model views terrorism as an act of warfare.³² The onus of response is placed on the

²⁹ P. Chalk, "The Response to terrorism as a threat to Constitutional democracies," *Australian Journal of Politics and History*, 44, 3 (1998): 373.

³⁰ Ibid. As terrorism poses a threat to democracies, they should respond to terrorism in a firm manner and through effective counter-terrorist measures that will ensure that the terrorists do not persist beyond their initial emergence. Not to do so would be to undermine the very basis that establishes the criminality of terrorism in the first place and would pose an even greater threat to the political and civil traditions that are central to the democratic way of life.

³¹ R. D. Crelinstein, "The Discourse and Practice of Counter-Terrorism in Constitutional democracies," *Australian Journal of Politics and History*, 44, 1 (1998): 399.

³² P. Chalk, "The Response to terrorism as a threat to Constitutional democracies," *Australian Journal of Politics and History*, 44, 3 (1998): 376-377.

military which makes use of retaliatory strikes, campaigns of retribution and troop deployment. Thus, the maximal use of force to overpower the enemy is emphasized.³³

In the criminal justice model, the notion that no one within the polity be above the law is upheld and, by using police force to respond to terrorism, the act is criminalized (this allows terrorists to be treated fairly and to be able to defend themselves in the court of law) and the use of force is limited.

One of the main reasons why democratic governments use these models is because a fixed definition of “terrorism” does not exist. While some governments perceive terrorism as a criminal act, others perceive it as an act of warfare. Accordingly, this uncertainty results in democracies employing inappropriate policies and strategies to respond to terrorism.

2.1.1 The Criminal Justice Model

In constitutional democracies, if the criminal justice model is chosen to respond to terrorism, it is because, first, terrorism is viewed as a criminal act and not war.³⁴ This is why the police have been given the responsibility of containing and responding to terrorism. They have also been given this responsibility because tasks such as the penetration of cells, the tailing of suspects and the forensic analysis and searches of suspected terrorist lodgings fall under standard police activity.³⁵

Second, the choice is based on the fact that the criminal justice model aims to protect civilians and uphold constitutional principles. The model also provides institutions and measures (such as courts and international agreements) that ensure that terrorists will be prosecuted and punished.³⁶

³³ Ibid.

³⁴ D. P. Lackey, *The Good Soldier versus the Good Cop: Counterterrorism as Police Work*. <http://www.baruch.cuny.edu>, Accessed 18th March, 2008. War refers to organized political violence that leads to at least 1,000 deaths per annum. It can either be an intrastate war (the wars occur within a country) or an interstate war (two or more countries are involved).

³⁵ Ibid.

³⁶ F. Reinares, “Democratic Regimes, Internal Security Policy and the Threat of Terrorism,” *Australian Journal of Politics and History*, 44, 6 (1998): 360-361.

A third reason for choosing the criminal justice model is because experience has revealed that reliance on the military model to respond to terror is ineffective and has the potential to lead to human rights violations. Yet, the criminal justice model also cannot ensure that terrorism will not occur in the future³⁷ and it can also lead to the violation of constitutional principles.³⁸ When using the model, overreactions may occur as well as deformations such as the misinterpretation of rules and rights³⁹ and the establishment of “special” procedures and institutions (such as special courts) to respond to terrorism.⁴⁰ By establishing special courts, terrorism is not perceived as a criminal act and terrorists are differentiated from other criminals. Hence, the special treatment of suspected terrorists is allowed. For instance, within special courts, internment without trial has been advocated, the rights of the defence have been limited and cross-examination has been excluded.⁴¹ These aspects have denied the terrorists their rights.⁴²

Moreover, to effectively respond to terrorism, its root causes need to be addressed. The criminal justice model does not do this. It is a short-term solution.⁴³

³⁷ P. Wilkinson, “Countering ‘Spasm’ Terrorism” in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 148. Terrorism is not confined to borders and is increasingly making use of modern technology and methods that the police cannot comprehend and efficiently monitor. Even if special anti-terrorism units are established, these units usually have inadequate financial resources or manpower to respond to terrorism and such units are constantly running into conflicts with power, the interest of state and the city police departments.

³⁸ Ibid.

³⁹ P. Chalk, “The Response to terrorism as a threat to Constitutional democracies,” *Australian Journal of Politics and History*, 44, 3 (1998): 377.

⁴⁰ R. D. Crelinstein. and A. P. Schmid, “Western Responses to Terrorism: A Twenty-Five Year Balance Sheet”, in *Responses To Terrorism* (London: Franck Cass, 1993), 334.

⁴¹ F. Reinares, “Democratic Regimes, Internal Security Policy and the Threat of Terrorism,” *Australian Journal of Politics and History*, 44, 6 (1998): 362-364.

⁴² For instance, Israel is the only democratic country which openly allows presumed terrorists to be subjected to torture and other form of physical pressure to obtain information. Such techniques have been justified by the authorities on the basis of the unusual degree of violence they face. Nevertheless, these practices violate human and civil rights and are condemned by the 1987 International Treaty that made torture illegal.

⁴³ R. D. Crelinstein. and A. P. Schmid, “Western Responses to Terrorism: A Twenty-Five Year Balance Sheet”, in *Responses To Terrorism* (London: Franck Cass, 1993), 333.

2.1.2 The Military Model

In the “military model”, the military, which is disciplined and has specialized skills and resources, is used to respond to terrorism. First, military intervention allows constitutional democracies to protect their strategic institutions (potential terrorist targets). Second, it prevents terrorist plots and allows terrorists’ facilities to be attacked with speed and flexibility.⁴⁴ Third, the military model also makes it possible to strike out at international terrorists and those who are sponsoring and training them.⁴⁵

Yet, despite these strengths, like the criminal justice model, the military model also has its weaknesses. For instance, the utilization of military force is rarely successful at stopping terrorism over time and it leads to the violation of constitutional principles.⁴⁶

First, by using the military model to respond to terrorism, governments demonstrate that they do not perceive terrorism as a tactic, a method of warfare and a means to an end. By not realizing this, the threat becomes over-personalized. The target becomes an ideology, a group or a person and military analogies such as the “War on Terror” (WOT) emerge, thus giving a sense that victory is at hand.⁴⁷ While these are attractive tools to publicize the threat and gain support to use the military to respond to terrorism, they are short-term solutions.⁴⁸

Second, using military force to respond to terror also has the potential to increase international alienation and it results in more terrorist acts taking place as opposed to deterring and hindering

⁴⁴ C. Lum, L. Kennedy and A. J. Sherley, *Effectiveness of Counter-Terrorism Strategies*, <http://www.campbellcollaboration.org>, Accessed 3rd April, 2008.

⁴⁵ R. D. Crelinstein. and A. P. Schmid, “Western Responses to Terrorism: A Twenty-Five Year Balance Sheet”, in *Responses To Terrorism* (London: Franck Cass, 1993), 333.

⁴⁶ C. Lum, L. Kennedy and A. J. Sherley, *Effectiveness of Counter-Terrorism Strategies*, <http://www.campbellcollaboration.org>, Accessed 3rd April, 2008.

⁴⁷ USIP, *The Diplomacy of Counterterrorism: Lessons Learned, Ignored, and Disputed*, <http://www.usip.org>, Accessed 2nd April, 2008.

⁴⁸ D. P. Lackey, *The Good Soldier versus the Good Cop: Counterterrorism as Police Work*, <http://www.baruch.cuny.edu>, Accessed 18th March, 2008.

them. Military force tends to drive existing groups further underground and has the capacity to lock the government into an unproductive encounter with terrorists that may escalate.⁴⁹

Third, this model allows the military to enter domestic politics. This may increase resentment in the already-volatile community and civilians may become dependent on the presence of the military for their protection. Also, human rights violations can take place because, unlike the police, military officials do not place emphasis on prosecution and punishment.⁵⁰ They utilize methods that are unacceptable in constitutional democracies (they make use of intrusive surveillance techniques, secrecy, covert operations and similar).⁵¹

Fourth, when using the military model to respond to terrorism, the modern trend has been to use the criminal justice model as well.⁵² This is another mistake since using both leads to the blurring of military and police services. As police forces become more militarized, the military assumes more policing functions.⁵³ This is contrary to democratic values and is incompatible with the military needs of flexibility and surprise.⁵⁴

In view of the above, like the criminal model, the military model can be chosen to respond to terrorism in constitutional democracies.⁵⁵ Both models have their strengths and their flaws. Hence, they are not a zero-sum game. They tend to abuse civil rights and the rule of law and are short-term solutions to the problem of terrorism. Even if the two models acting singly are

⁴⁹ G. L. Neuman, "Comment, Counter-Terrorist Operations and the Rule of Law," *The European Journal of International Law*, 15, 5 (2004): 1019-1029.

⁵⁰ P. Wilkinson, *Terrorism Versus Democracy: The Liberal State Response*, (London: Frank Cass Publishers, 2001). This dependence on the military may make the military unable or unwilling to withdraw from the state at a later stage.

⁵¹ R. D. Crelinstein, "The Discourse and Practice of Counter-Terrorism in Constitutional democracies," *Australian Journal of Politics and History*, 44, 1 (1998): 410-411.

⁵² G. L. Neuman, "Comment, Counter-Terrorist Operations and the Rule of Law," *The European Journal of International Law*, 15, 5 (2004): 1020.

⁵³ Ibid.

⁵⁴ M. L. Cook, *Ethical Issues in Counterterrorism Warfare*, <http://www.ethics.sandiego.edu>, Accessed 10th April, 2008.

⁵⁵ USIP, *The Diplomacy of Counterterrorism: Lessons Learned, Ignored, and Disputed*, <http://www.usip.org>, Accessed 2nd April, 2008.

insufficient to effectively respond to terror, problems like leadership role also arise when the two models are combined. Nevertheless, for domestic terrorism, the best option would be the criminal justice model.

2.2 The Problem of “Overreaction”

When confronting the threat of terrorism, “overreactions” pose a risk to all states. “Overreaction” refers to the situation when one reacts with unnecessary or inappropriate force, emotional display, or violence. Overreactions are more problematic for constitutional democracies because they abuse constitutional principles, threaten essential rights and liberties and governments make extreme and unjustified departures from conventional judicial and law enforcement procedures.⁵⁶ Consequently, the state is drawn into an area in which the terrorist operates. The criminal justice system becomes politicized and the rules and rights are misinterpreted or disregarded.⁵⁷ Additionally, if not reversed or checked, overreactions cause more damage than the terrorists and can play into the hands of the terrorists by giving credence to the claim that democracies are shams. This allows the terrorists to pose as the defenders of the citizens instead of the democratic state.

Overreactions are a direct consequence of the fear experienced during and after a terrorist attack. When people are afraid, they become hysterical, paranoid and vengeful. These emotions then become an ill-informed fear which then leads to overreaction.⁵⁸ Then, the desire to obtain quick results is preceded by the notion that “anything goes” because the negative emotions produced

⁵⁶ J. Mayer, *The Dark Side: The Inside Story of how the War on Terror turned into a War on American Ideals*, (USA, Doubleday, 2008).

⁵⁷ P. Chalk, “The Response to terrorism as a threat to Constitutional democracies,” *Australian Journal of Politics and History*, 44, 3 (1998): 377.

⁵⁸ S. Horton, *Six Questions for Jane Mayer, Author of the Dark Side*, <http://www.politico.com>, Accessed 16th January, 2009.

during a terrorist attack undermine the capacity of individuals and institutions to make impartial judgments about risk and fairness.⁵⁹

Overreaction also occurs as a result of the tensions that exist among the institutions devising the strategies to respond to terrorism. These institutions compete with each other, hence the result is a confused response influenced by the institutions' self-interests as well as fear. Consequently, it is the "overreactions", not the terrorist act, that cause historically-significant changes such as the overriding of civil liberties and inadvertently giving publicity to encourage the use of undemocratic methods in response to terrorism.⁶⁰

This is illustrated by the Uruguayan government's fight against the Tupamaros (or the MLN)⁶¹ and the US government's reaction to the terrorist attacks that occurred on September 11th, 2001 (9/11). During these events, constitutional rights and liberties were disregarded, severe damage was caused by the government's overreactions rather than the terrorists and the overreactions played into the hands of the terrorists.

In the 1960s and early 1970s, the MLN engaged in urban terrorist activities against the Uruguayan government which overreacted to the situation. It allowed the military to intervene and enter domestic politics, a state of emergency was declared and all constitutional safeguards were repealed to counter the movement.⁶² Individuals were wrongfully imprisoned and tortured and demonstrations were brutally repressed.⁶³ Undoubtedly, these acts violated the Constitution, they caused more devastation than the actions of the MLN and provoked the MLN to become more violent. Thus, the overreactions had worked against the government.

⁵⁹ G. R. Stone, *War and Liberty: An American Dilemma: 1790 to the Present*, (USA, W.W. Norton and Co Inc., 2007).

⁶⁰ J. Mueller, *Reactions and Overreactions to Terrorism*, <http://psweb.sbs.ohio-state.edu>, Accessed 20th June, 2008.

⁶¹ Movimiento de Liberacion Nacional.

⁶² F. Lopez-Alves, "Political Crises, Strategic Choices and Terrorism: The Rise and Fall of Uruguayan Tupamaros", *Terrorism and Political Violence*, 1, 2 (April 1989): 225.

⁶³ Ibid.

With regards to 9/11, the overreactions that ensued undermined the US Constitution and the rule of law.⁶⁴ As a result of the overreactions, two on-going preventive wars (the WOT) in Afghanistan and Iraq have occurred and the strategies devised have been counter-productive, they have made more individuals join terrorist organizations and they have violated the rule of proportionality⁶⁵ and international law.⁶⁶ Furthermore, the military model⁶⁷ has been allowed to override the criminal justice model and the use of torture and rendition at the international level has been rationalized.⁶⁸ Additionally, a new detention and interrogation system that is outside the legal rules has been established,⁶⁹ government agencies have been exempted from the regulations outlined in the Convention against Torture Act and government officials have been sanctioned to physically and psychologically torment the detainees.⁷⁰

The overreactions to 9/11 have also led to many deaths, economic losses and population alienation, xenophobia, racial, religious or ethnic intolerance and division.⁷¹

Undoubtedly, measures to respond to terrorism are important. However, if overreactions occur, they will prove to be more detrimental than terrorism itself. For democracies, overreactions result in constitutional liberties and rights being abused and misinterpreted, they prevent the state

⁶⁴ F. Snyder, *Overreaction then (Korematsu) and Now (the Detainee Cases)*, <http://scholar.google.com>, Accessed 16th January, 2009.

⁶⁵ The rule of proportionality maintains that there is to be a balance between the damage done in the responding attack and the value of the target. Hence, practical and ethical issues need to be taken into consideration.

⁶⁶ The CIA and military have leading roles in the WOT.

⁶⁷ This is due to Bush's militaristic approach to respond to terrorism which corroborates Mayer's notion that terrorism leads to individuals becoming terrorized into doing irrational and incorrect acts.

⁶⁸ J. Feffer and J. Gershman, *Just Counter-Terrorism*, <http://www.globalpolicy.org>, Accessed 5th April, 2007.

⁶⁹ During the WOT, the Bush Administration has used any possible means so that the detainees do not receive a fair trial. For the most part, those who have been detained have never been involved in terrorist activities and do not pose a threat to the US.

⁷⁰ S. Horton, *Six Questions for Jane Mayer, Author of the Dark Side*, <http://www.politico.com>, Accessed 16th January, 2009.

⁷¹ J. Feffer and J. Gershman, *Just Counter-Terrorism*, <http://www.globalpolicy.org>, Accessed 5th April, 2007.

from responding to terrorism in a proportional manner and, they can cause more damage to states than the terrorists themselves if not reversed or checked.

2.3 Vulnerabilities of Constitutional Democracies

2.3.1 Constitutional Democracies and their Vulnerability to Terrorist attacks

Constitutional democracies are prone to terrorist attacks because of their permissive environment which involves economic, social and political freedoms.⁷² Terrorists exploit such freedoms and use their democratic rights to spread their ideologies through associations and organizations that they are able to establish.⁷³ The freedom of movement, for instance, allows the terrorist to cross borders, to escape police surveillance and to move weapons and individuals from one place to another.⁷⁴ This is not possible in states where liberties are limited. For example, when Spain was an authoritarian regime, the ETA⁷⁵ operated to a lesser extent than when Spain became a democracy.⁷⁶ Democratic Spain's permissive environment facilitated the ETA in engaging in terrorism.

Terrorists also take full advantage of the technological advancements and the freedom of media found in constitutional democracies.⁷⁷ While terrorists are able to portray their cause as "just" and the state as "oppressive" through the media, technological advancements allow terrorists to

⁷² P. Wilkinson, "Vulnerabilities of Liberal Societies" in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 103. All states and all political systems are vulnerable to terrorist attacks. However, research shows that terrorist incidents in totalitarian states are minimal in comparison to terrorist incidents in democratic states.

⁷³ Ibid.

⁷⁴ Ibid, 104.

⁷⁵ Euskadi Ta Askatasuna.

⁷⁶ M. Crenshaw. "Political Violence in a Democratic State: Basque Terrorism in Spain" in *Terrorism in Context*. Edited by M. Crenshaw, (The United States of America: The Pennsylvania State University Press, 1995), 410-469.

⁷⁷ P. Wilkinson, "Vulnerabilities of Liberal Societies" in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 104.

disrupt the stability of constitutional democracies and to sabotage their essential services such as power plants and computer and communications systems.⁷⁸

Terrorists also take advantage of minority groups or constituencies that are aggrieved and unhappy with the *status quo* in democracies.⁷⁹ By making promises and delivering to them what political leaders cannot, terrorists are able to recruit their supporters and members from such groups. Unlike democratic leaders and officials, terrorists do not have the complications of responsibility and their authority and power are not defined and limited by legal-constitutional terms.

Additionally, terrorists take advantage of the fact that constitutional democracies are bound to respect fundamental civil liberties and to govern within judicial and constitutional restraints. They cannot respond ruthlessly against the terrorists and, whatever course of action is undertaken, the Constitution and the rule of law must be upheld.⁸⁰ Moreover, even if a consensus has been reached about the course of action that needs to be taken, strategies devised to respond to terrorism in democracies usually have to pass through judicial review. They are either then paralyzed by inaction or “under-reaction”. Both work to the advantage of the terrorists.⁸¹

The permissive environment of constitutional democracies is also taken advantage of by hostile foreign states and foreign-based terrorist groups.⁸² Such groups and states usually disagree with the principles of constitutional democracies hence, they provide indirect and covert support to terrorists that are operating within such states. When this happens, constitutional democracies are helpless unless they are prepared to accept the consequences of confronting the foreign states

⁷⁸ Ibid, 104.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ P. Wilkinson, “Vulnerabilities of Liberal Societies” in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 108.

⁸² Ibid, 105. The recent terrorist attacks in Bombay, India are a good example of this.

and foreign-based terrorist groups. It is for this reason that there are now more international agreements on the issue of terrorism and many states have entered into agreements for extradition of terrorists.⁸³

On the whole, constitutional democracies are vulnerable to terrorist attacks due to the liberties and principles that they hold. Terrorists thrive in such permissive environments as opposed to regions where freedoms and liberties are severely limited. To respond to terrorism without using unconstitutional methods, such democracies execute various preventive measures to respond to terrorism.

2.3.2 “Prevention better than Cure”

As preventive measures to terrorism, constitutional democracies make use of “hard-line” and “soft-line” approaches. In this section, both approaches and the mechanisms that can suppress and prevent terrorism from occurring in constitutional democracies will be discussed.

2.3.2.1 Hard-line Approaches

“Hard-line” approaches entail the deployment of the military, economic sanctions towards terrorist states and the utilization of legal-repressive means. These include severe prison sentences such as the death sentence for terrorists.⁸⁴ However, it is important to point out that the “hard-line” approach is usually used to counter transnational terrorism. For instance, military strikes and economic sanctions have been employed by democratic states against “rogue states” due to the belief that these rogue states harbor terrorists and terrorist organizations.

⁸³ An interesting case to be followed is the extradition request made by India to Pakistan in connection with the terrorist attacks in Mumbai in November 2008.

⁸⁴ P. Wilkinson, “Vulnerabilities of Liberal Societies” in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 108.

The main aim of the “hard-line” approach is to reduce the prevalence of terrorist attacks by targeting the terrorists, their resources and their supporters directly. This aim is carried out even if it involves attacking and imposing sanctions on another state.⁸⁵

2.3.2.2 Soft-line Approaches

“Soft-line” approaches to prevent and contain terrorism in constitutional democracies include protecting potential terrorist targets, using diplomacy, educational support and advanced technology as helpful tools in reducing terrorist attacks and addressing the grievances of minority groups by governments.⁸⁶ Addressing the grievances of minority groups is not easy because these grievances are different in nature and have different root causes.⁸⁷ In addition, by giving in to the demands of a particular minority group, dissent between opposing minority groups and between the groups and the government may occur. However, through regular democratic elections and reforms, addressing and diluting grievances can be achieved. This will reduce the possibility of conflict, violence and outbreaks of terrorist acts and it will hinder terrorists from gathering support.⁸⁸

The deployment of internal defence forces and the constant gathering of intelligence on terrorists and terrorist organizations is another “soft-line” approach.⁸⁹ Intelligence enables terrorists to be detected and monitored as well as their sources of financial support. Once this information is obtained, democracies can freeze terrorist assets, infiltrate terrorist groups and prevent terrorist attacks. However, intelligence gathering in constitutional democracies also has weaknesses. The intelligence and law enforcement agencies compete with each other, making nation-wide intelligence difficult to obtain. Additionally, there are occasions when techniques of surveillance

⁸⁵ Ibid.

⁸⁶ This is where terrorists recruit most of their supporters and members.

⁸⁷ P. Wilkinson, “Internal defence against Terrorism” in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 120. The grievances usually centre on political and cultural discrimination.

⁸⁸ Ibid. Terrorists are able to use the grievances of minority groups to their advantage. This is where they can gather most of their support and recruits.

⁸⁹ Ibid, 128.

and intelligence do not respect constitutional principles and are unable to prevent terrorism from developing beyond the incipient stage.⁹⁰ This is because, in constitutional democracies, subversion is not perceived as a threat even though the trend has been that a campaign of defamation and subversive propaganda against democratic values, institutions and leadership precedes the development of a terrorist campaign.⁹¹ However, through competent police agencies and strategies, terrorism can be prevented from developing beyond the incipient stage.⁹² For instance, they can disrupt the internal cohesion of the terrorist organization, thus preventing it from expanding. If this occurs, then the state has been successful in containing and preventing terrorism. However, if the organization grows and the perception exists that the state and internal forces are ineffective at containing violence, then there is a possibility of vigilante groups using terrorism arising to solve their perceived problems.

On the whole, the main goal of preventive measures is to weaken the terrorists and to be “one step ahead” of them so that they are unable to strike. Even though preventive measures in democracies can be challenging, there are many mechanisms in place that can contain and prevent terrorism from occurring. If the group or individuals using terrorism do not expand, then the problem of terrorism in constitutional democracies is at least contained. However, it is important to note that the decrease in groups or individuals using terrorism may not necessarily be due to the strategies used by the government but to their own internal weaknesses.

2.4 Concluding Remarks

There are several issues that constitutional democracies face when responding to terrorism. First, the “criminal justice model” and the “military model” are prominent. Used jointly or singly, each model has their strengths and weaknesses.

⁹⁰ F. Reinares, “Democratic Regimes, Internal Security Policy and the Threat of Terrorism,” *Australian Journal of Politics and History*, 44, 6 (1998): 365-367.

⁹¹ Ibid, 158. This particular trend that internal defence forces do not pick and act upon illustrates the fact that constitutional democracies, at times, incorrectly assess the situation that they are dealing with.

⁹² P. Wilkinson, “Internal defence against Terrorism” in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 139.

Additionally, terrorism inherently invites an overreaction by states. In democracies, overreactions are more problematic because they lead to constitutional liberties being abused and rules and rights being misinterpreted; they prevent constitutional democracies from responding to terrorism in a proportional manner; and, if not reversed or checked, they can cause more damage to states than the terrorists.

Moreover, constitutional democracies provide a permissive environment for terrorism to occur and are constrained in their response to terrorism. Yet, preventing or responding to terrorism is possible in constitutional democracies as there are various measures within the intelligence and law enforcement agencies which can be effectively utilized. The impact of these measures can be assessed by observing the terrorist organizations' expansion. At times, however, the government's actions may have little to do with the decline of terrorist organizations because terrorist organizations can destroy themselves.

Finally, if the government does not respond appropriately to certain situations or they do not keep their promises, vigilante groups that end up using terrorism may emerge.

CHAPTER 3

A HISTORY OF SOUTH AFRICA'S RESPONSE TO TERRORISM

Terrorism is not new to South Africa. It developed during the Apartheid era and was a tool used both by the state and the opponents of Apartheid. This chapter will examine the evolution of the strategies used to respond to terrorism in South Africa and the impact of the present security legislature in terms of responding to terrorism.

3.1 Responding to Terrorism during Apartheid

3.1.1 Apartheid South Africa

Apartheid was institutionalized by the Nationalist Party (NP) in 1948.⁹³ It was a repressive, racial-capitalist state that had inherited the Westminster model of parliamentary representative democracy. Within this democracy, a bill of rights was absent, the judiciary could not exercise powers of judicial review and the legislature was dominated by the executive which, in turn, was dominated by bureaucratic administration.⁹⁴ Moreover, Apartheid was only applicable to the minority white population and it emphasized on “parliamentary sovereignty” and legislative supremacy.⁹⁵ Racial discrimination was legalized,⁹⁶ thus, the majority of the population (black) had their rights revoked while the minority (whites) held power in the government.⁹⁷

⁹³ TRC Report, *The state inside South Africa between 1960 and 1990*, <http://www.doj.gov.za>, Accessed 28th May, 2008.

⁹⁴ Ibid.

⁹⁵ G. Mare, “The State of the State: Contestation and Race in Re-assertion in a Neoliberal terrain” in *State of a Nation: South Africa 2003-2004*, (Cape Town: HSRC Press, 2003), 25-52.

⁹⁶ P. Vale, “Pivot, Puppet or Periphery: The Cold War and South Africa”, *International Center for Advanced Studies*, 9 (September 2003): 2.

⁹⁷ P. Gastrow, *Organised Crime in South Africa: An Assessment of its nature and origin*, <http://www.issafrica.org>, Accessed 11th January, 2009.

3.1.2 Responding to Terrorism during Apartheid

As a result of the repressive laws of the Apartheid regime, from the 1960s to 1990s, protests, riots and terrorism occurred. To respond to this unrest, the government adopted a number of security policies and executed certain anti-terrorism measures. These policies and measures became draconian when the perceived threat of a communist-inspired, black dominated overthrow of the white minority government increased.⁹⁸ For instance, terrorism was broadly defined (common criminal behaviour was included as terrorist activity) so that the government could easily control and suppress democratic black opposition to white minority domination.⁹⁹ Moreover, the detention laws made detention a permanent feature instead of an emergency law. “Preventive detention” was authorized without trial for up to 12 months, visitation was limited and, unlike the previous detention laws, the public was not entitled to information about the detainees. Their identities were withheld and were killed for official “legal reasons”.¹⁰⁰

Even when the laws pertaining to terrorism were revised, they incorporated remnants of the numerous existing anti-terrorism laws and authorized the Minister of Law and Order to declare any organization unlawful if he was satisfied that it engaged in activities that endangered the security of the state or the maintenance of law and order, or promoted the spread of communism. The main aim of the security legislation and the laws pertaining to terrorism during Apartheid was to silence the growing opposition and protest. “Terrorism”¹⁰¹ was equated with the political identity of the opposition, thus the laws criminalized and outlawed opposition to the *status quo*

⁹⁸ Ibid, 2-3.

⁹⁹ A. Anderson, *Preventative Detention in Pre-and Post Apartheid South Africa: From a Dark Past to a Brighter Future*, <http://www.isrcl.org>, Accessed 11th January, 2009.

¹⁰⁰ M. Schonteich, “Back to the Future? New South African Anti-Terror Law”, *Terrorism and Political Violence*, 14, 2 (Summer 2002): 3.

¹⁰¹ The resistance waged by the African National Congress (the ANC) and other organizations opposing the Apartheid regime were regarded as terrorist activities and any person who assisted or participated were regarded as terrorists.

and ensured that they were forbidden to engage in political activity and were denied the democratic rights that the whites enjoyed.¹⁰²

As groups violently opposed the Apartheid regime, “counter-terrorist” and “counter-revolutionary” policies and legislature became increasingly draconian to the point that civil liberties and human rights abuses occurred. Both overt and covert operations were used to kill “terrorists”. While overt operations were known to the public and performed in accordance with the “criminal justice model”, covert operations, performed by “hit squads”, were supported by secret budgets and resources, without public accountability.¹⁰³ State officials were allowed to repress, dispossess and humiliate citizens on a massive scale legally and illegally and security laws were also passed to grant indemnity to those conducting the covert operations.¹⁰⁴

The overt operations involved security establishments such as the South African Police (SAP), the South African Defence Force (SADF), the National Intelligence Service (NIS) and homeland police forces.¹⁰⁵ Each agency had a specific task and structure in terms of responding to terrorism and enforcing the repressive laws.¹⁰⁶ They excelled in infiltration and other features of the criminal justice approach. However, when the Apartheid state became unstable and opposition and social movements increased, conventional policing was not enough.¹⁰⁷ The government then undertook several reforms. This sparked more anti-Apartheid protests as well

¹⁰² P. Vale “Pivot, Puppet or Periphery: The Cold War and South Africa”, *International Center for Advanced Studies*, 9 (September 2003): 2.

¹⁰³ SA History, *Covert Operations*, <http://www.sahistory.org.za>, Accessed 28th May, 2008.

¹⁰⁴ A. Sachs, *Apartheid as an International Crime*, <http://www.sahistory.org.za>, Accessed 21st April, 2008.

¹⁰⁵ Ibid. Before 1963, when the SAP and the SADF did respond to resistance and terrorism, the rule of law was adhered to, individuals had a fair trial in the courts and torture was not used.

¹⁰⁶ For instance, while the SAP encompassed the Internal Stability Units (ISU) and the Crime Intelligence Service (CIS) and while it played a military role and had the help of its overt units to counter terror, the NIS and the Military Intelligence (MI), through constant surveillance, the use of informers and wiretappings, were in charge of collecting intelligence on various communities that harboured “terrorists”. The “hard” intelligence that was collected encompassed the intentions, plans, activities and problems of activists and their organizations. “Soft” intelligence entailed the attitudes, grievances and perspectives which make up a community’s overall stance toward the state and its officials.

¹⁰⁷ C. Charney, “Vigilantes, Clientelism and the South African State,” *Transformation*, 16 (1991): 3-4.

as the use of terrorism by vigilante organizations¹⁰⁸ against anti-Apartheid activists which was supported by the government and the police.¹⁰⁹

By the mid-1980s, the use of terrorism by vigilante organizations took on the form of “symbolic terror”.¹¹⁰ In the light of this situation and to make the Apartheid state “ungovernable”, the opposition gathered more support and developed an effective revolutionary strategy that made use of terrorism.¹¹¹ Under the notion of “Total Strategy”,¹¹² the security establishments and agencies were reorganized so that they could effectively respond to the terrorism used by the opposition.

“Total Strategy” reinforced the notion that South Africa was involved in a civil war. It also blurred the boundaries between the military and civil society, legitimized military involvement and covert operations against the “enemies” in South Africa¹¹³ and allowed state agents to deal with terrorists in any way they deemed fit. This gave the seal of approval on the various “hit squads” that emerged during Apartheid.¹¹⁴

¹⁰⁸ C. G. Martin, *Understanding Terrorism: Challenges, Perspectives and Issues*, (Thousand Oaks: Sage Publications, 2003), 97.

¹⁰⁹ N. Haysom, “Vigilantism: A Contemporary form of Repression”, *Centre for the Study of Violence and Reconciliation*, 4 (1989). According to Haysom, Vigilantism against anti-Apartheid activists was sparked by an “embryonic middle class with an interest in stability and a natural inclination to conservatism”.

¹¹⁰ Ibid. The methods used were brutal and extreme.

¹¹¹ S. Ellis, “The Historical Significance of South Africa’s Third Force”, *Journal of Southern African Studies*, 24, 2 (June 1998): 272. The opposition understood that they could not defeat the Apartheid armed forces. Hence, by using political action, intimidation, terrorism and propaganda, the opposition generally aimed to win support for their cause in resisting the Apartheid government and regime.

¹¹² “Total Strategy” maintained that South Africa was the target of an international campaign directed by the Soviets who wanted to take control of South Africa completely (known as “Total Onslaught”).

¹¹³ As South Africa was supposedly the target of a Marxist-driven Total Onslaught, only a Total Strategy- a coordination of the state’s activities in the military, economic, psychological, political, diplomatic, cultural and ideological fields- was seen as the solution to combat it. Total Strategy essentially called for the amalgamation of effective security measures and reformist policies.

¹¹⁴ S. Ellis, “The Historical Significance of South Africa’s Third Force”, *Journal of Southern African Studies*, 24, 2 (June 1998): 263.

Broken up into smaller units with independent chains of command, the hit squads consisted of experts in communication, surveillance, wiretapping, weapons, explosives and chemicals¹¹⁵ and were used as a means of last resort to eliminate political opponents and to cripple their structures.¹¹⁶ For instance, the covert “counter-insurgency” hit squad Section C1, which was incorporated into the SAP,¹¹⁷ had agreements with other covert units such as the Civil Cooperation Bureau (CCB) and the Directorate of Covert Collection (DCC) to eliminate terrorists.¹¹⁸ The DCC covered most of the covert operations. The CCB, a covert unit of the SADF, was created to circumvent sanctions and to eliminate anti-Apartheid activists and their facilities worldwide.¹¹⁹

Another section, C2, exchanged information with security branches such as the Military and the National Intelligence branch. Incorporated into C2 was the counter-revolutionary target information unit *Teenrewolusionere Inligting Taakspan* (TREWITS).¹²⁰ Once the target was revealed by TREWITS, C1 then carried out the orders by means of bombing, torturing or murdering the targets.

Overall, the above outlines tactics used by the Apartheid government as well vigilante groups to respond to terror. In addition to the “criminal justice model”, the Apartheid government also used illegal coercive and harsh methods. While these methods undoubtedly undermined the rule of law and violated human rights, like the overt tactics, they were rather successful in eliminating terrorists.

¹¹⁵ SA History, *Covert Operations*, <http://www.sahistory.org.za>, Accessed 28th May, 2008.

¹¹⁶ A. Sachs, *Apartheid as an International Crime*, <http://www.sahistory.org.za>, Accessed 21st April, 2008.

¹¹⁷ The SAP was not the only security establishment that had covert units to deal with terrorism.

¹¹⁸ E. De Kock and J. Gordin, “Chapter 5” in *A Long Night’s Damage: Working for the Apartheid State*. (South Africa: Contra Press, 1998), 95.

¹¹⁹ TRC Report, *The state inside South Africa between 1960 and 1990*, <http://www.doj.gov.za>, Accessed 28th May, 2008. The CCB, similar to Section C1, was also involved in activities involving arson, abduction, torture and assassinations.

¹²⁰ Ibid.

3.2 Responding to Terrorism in Democratic South Africa

3.2.1 Democratic South Africa

As a constitutional democracy, South Africa emphasizes the protection individuals' liberties and rights. The Constitution of South Africa is the supreme law of the land which the government is obliged to defend. No other law or government action can supersede the provisions outlined in the Constitution.¹²¹ It has established an inclusive democratic order in the state and is the source of its legitimacy, it has created institutions to give citizens direct or indirect call on the state for protection and it has committed democratic South Africa to non-sexism, non-racism and non-discrimination.¹²²

Moreover, unlike during Apartheid when criminal procedure was subject to the sovereignty of parliament and the executive, the Constitution has limited the legislative power of parliament and has given the judiciary a fundamental role in testing and validating laws and in preventing abuse of the criminal justice system by the state.¹²³ As this is the case, the rights of all individuals are protected. Furthermore, this ensures that the discretionary power that was pivotal in creating the possibility for abuse in the past is also monitored.¹²⁴

3.2.2 Responding to Terrorism in Democratic South Africa

As the Constitution of South Africa aims to protect the liberties and rights of individuals, in terms of security and responding to terrorism democratically, the new government went to great lengths during the transition to revise and reformulate the security legislation so that it was consistent with the Constitution.¹²⁵ For instance, the present notion of security emphasizes that

¹²¹ A. Anderson, *Preventative Detention in Pre-and Preventative Detention in Pre-and Post Apartheid South Africa: From a Dark Past to a Brighter Future*, <http://www.isrcl.org>, Accessed 11th January, 2009.

¹²² G. Mare, "The State of the State: Contestation and Race in Re-assertion in a Neoliberal terrain" in *State of a Nation: South Africa 2003-2004*, (Cape Town: HSRC Press, 2003), 25-52.

¹²³ A. Anderson, *Preventative Detention in Pre-and Preventative Detention in Pre-and Post Apartheid South Africa: From a Dark Past to a Brighter Future*, <http://www.isrcl.org>, Accessed 11th January, 2009.

¹²⁴ Ibid.

¹²⁵ Ibid.

all individuals are able to live in freedom, peace and safety in South Africa. In addition, it incorporates political, economic, social and environmental issues at the domestic and international level, it contains laws that aim to protect the country's internal security against terrorism and related criminal activities, it allows the state to restrict gatherings and demonstrations and it enhances the state's power to collect information on terrorist organizations and crime syndicates.¹²⁶

Legislation also allows the state to target terrorism's foot soldiers and its sources of funding and to protect certain modes and places of transport from potential terrorist attacks by regulating the use of firearms, explosives and ammunitions.¹²⁷ In addition, suspected terrorists are allowed to have equal rights, a fair trial and to be presumed innocent pending conviction.¹²⁸

To respond to terrorism, the present security legislature also requires South Africa to cooperate with and support the international community in eradicating terrorism¹²⁹ and it required the formulation and implementation of a new official policy on terrorism. This policy, approved in 1998, placed emphasis on the rule of law, the freedom and defence of South African citizens and prevented any form of repression.¹³⁰

As South Africa views terrorist acts as criminal acts which should be dealt within the framework of the criminal justice system, new security establishments were created and existing ones were restructured, thus ensuring that the Constitution would be respected and human rights abuses would not occur when responding to terrorism.¹³¹

¹²⁶ South African Law Commission, *Review of Security Legislation (Terrorism: Section 54 of the Internal Security Act, 1982 (Act No. 74 of 1982))*, <http://www.doj.gov.za>, Accessed 23rd October, 2008.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ The country participated in a variety of international organizations and forums such as the Non-Aligned Movement (NAM) and the United Nations to achieve this goal.

¹³⁰ M. Schonteich, "Back to the Future? New South African Anti-Terror Law", *Terrorism and Political Violence*, 14, 2 (Summer 2002): 9.

¹³¹ Ibid, 4.

The new and restructured security establishments include the South African Secret Service (SASS), the South African Police Service (SAPS), the South African National Defence Force (SANDF) and the National Intelligence Agency (NIA). While the SAPS is responsible for information exchange on crime including terrorism, the development of police training courses aimed at responding to the challenges of terrorism and police cooperation with other countries, the NIA is responsible for domestic intelligence and counter-intelligence.¹³²

The SANDF defends the country against external and internal threats¹³³ and has a limited role in democratic South Africa.¹³⁴ It is also responsible for counter-intelligence measures and it supplies foreign military intelligence relating to national strategic intelligence to the National Intelligence Coordinating Committee (NICOC).¹³⁵ NICOC is responsible for the coordination of intelligence supplied by the intelligence divisions of the SANDF, the SAPS, the NIA and the SASS.¹³⁶ The tactics used and the information gathered are useful for preventing terrorist attacks.

Overall, while legislation has been enacted and revised to uphold constitutional principles and to break away from the Apartheid notion of security, the reality is that the security legislation and security establishments in democratic South Africa have their share of flaws which may not be able to uphold the country's constitutional principles. This is problematic as constitutional democracies like South Africa are already constrained in their actions when responding to terrorism. Additionally, most of the measures devised to respond to terrorism in such

¹³² Ibid.

¹³³ Ibid.

¹³⁴ In democratic South Africa, the SANDF can be deployed in cooperation with the SAPS, and it may be employed for socio-economic and other secondary purposes, but its primary and essential mission is the conventional function of defence against external military aggression. For democratic South Africa, the new approach to security does not imply an expansive role for the armed forces and the Defence Force is no longer the dominant security institution and remains an important security instrument of last resort.

¹³⁵ South African Government Information, *Draft White Paper on National Defence for the Republic of South Africa: Defence in a Democracy*, <http://www.gov.za>, Accessed 25th October, 2008. NICOC was established under the National Strategic Intelligence Act.

¹³⁶ Ibid.

democracies struggle to pass the test of judicial review. Therefore, if the security legislation and security establishments in democratic South Africa are inadequate, then constitutional principles will be violated.

Moreover, despite revising the security legislation, it still has remnants of the Apartheid legislation.

When SAPS was restructured, it inherited abusive and biased policing.¹³⁷ This has caused several problems that range from ineffective crime-fighting and corruption to ineffective coordination and the utilization of assault and torture.¹³⁸

Furthermore, while the NIA helps in combating criminal activities, it has a wide mandate which illustrates that the agency is not constrained in its actions. It has used intrusive surveillance methods that are illegal (thus, the NIA engages in domestic spying, something that is rare in constitutional democracies) and it “bends the rules” when deemed “necessary”.¹³⁹ Undoubtedly, this is unconstitutional.

While positive changes have been made within the security legislation in South Africa, there are still many problems that may hinder the response to terrorism in a constitutional and democratic manner. Not only is the NIA involved in unconstitutional acts, the police are prone to methods and tactics that abuse human rights and the revised security legislation has remnants of the Apartheid legislation. This is problematic and illustrates the fact that policy-makers in South Africa find it difficult to move away from Apartheid policies. This notion is further illustrated when South Africa’s Anti-Terrorism Bill (ATB) was drafted in 2001.

¹³⁷ J. Rauch, “Police Transformation and the South African TRC”, *Race and Citizenship in Transition Series*, (2004): 13-14.

¹³⁸ K. Gottschalk, “Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000,” *Institute of Security Studies Papers*, 99, (February 2005): 8.

¹³⁹ The Mail and Guardian, 26th September 2008. Intelligence agencies during Apartheid were not constrained in their activities and methods however, in democracies, intelligence is to be constrained so that individuals’ rights and liberties are not abused.

3.2.3 Anti-Terrorism Bill: The Flaws

As result of international pressure and PAGAD activities, a tougher anti-terrorism legislation was called for in 2001. This led to the drafting of the ATB which went through a process of rigorous public and parliamentary scrutiny as a result of South Africa's past. The ATB had to adhere to the Constitution and promote civil and human rights. However, it failed to achieve this. The ATB broadly defined terrorism as a calculated act used to intimidate and coerce the general public or government, disrupt any public service and create unrest in any state.¹⁴⁰ Hence, common criminals and law-breakers could be defined as terrorists as well as trade unionists and those who destroy public property such as public telephones.¹⁴¹

The ATB had remnants of the Apartheid security legislation. For instance, a person suspected of withholding information from a law enforcement officer could be detained without bail for 14 days unless a judge issued his or her release.¹⁴² Even though the ATB included several safeguards for the detainees, detaining individuals for withholding information from a law enforcement officer is drastic. For instance, journalists and lawyers would have been detained for "withholding information" yet, based on confidentiality regulations, they are prohibited from sharing certain information.¹⁴³

The reintroduction of detaining individuals without charges also carried a risk of a repetition of past behaviours. While some may maintain that detainees in democratic South Africa will be treated differently from how they would have been treated during Apartheid, the numerous complaints issued to the Independent Complaints Directorate (ICD) relating to police treatment of suspects and the causes of their deaths while in police custody reveal otherwise. The causes

¹⁴⁰ Ibid.

¹⁴¹ M. Schonteich, "Back to the Future? New South African Anti-Terror Law", *Terrorism and Political Violence*, 14, 2 (Summer 2002): 9.

¹⁴² Ibid.

¹⁴³ Ibid, 11.

of deaths were suicides, severe injuries, injuries that were inflicted prior to custody (by police) and police negligence.¹⁴⁴

Another flaw within the ATB was that police officers and those of higher ranks were authorized to use their “special powers” in their area of authority to search vehicles and individuals.¹⁴⁵ While this may seem reasonable, abuse of authority would have occurred, undermining people’s rights.

It is clear that the proposed ATB was rather flawed conceptually and theoretically and was unrealistic in its aims. First, the ATB was designed to deal with a specific situation, that being terrorism by PAGAD. Therefore, it was narrow in its scope and did not take into consideration how terrorism could evolve and how it could be prevented the future.

Second, the quality of the investigation of crime in South Africa is inadequate to tackle the issues outlined in the ATB. There is a lack of resources that hinders the investigation process, thus making thorough investigation impossible. While countless crimes are reported to the police on a daily basis, only a few are investigated and go to courts, resulting in few convictions.¹⁴⁶

Third, even though initiatives were taken to improve the operational capacity of the detective and prosecution services, these proved fruitless in the long run.¹⁴⁷ For instance, the witness protection program that was launched was ineffective¹⁴⁸ and the successful Directorate of Special Operations (“The Scorpions”)¹⁴⁹ was disbanded in 2008 for political reasons.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid, 12.

¹⁴⁶ M. Schonteich, “Back to the Future? New South African Anti-Terror Law”, *Terrorism and Political Violence*, 14, 2 (Summer 2002): 12.

¹⁴⁷ Ibid.

¹⁴⁸ Witnesses were harassed by protection officers, they were given insufficient support by the program and were scared to provide information.

¹⁴⁹ Launched in September 1999 to combat organized and economic crimes, corruption within the criminal justice system and crimes against the state such as terrorism.

On the whole, the ATB had numerous flaws and did not adhere to the Constitution. These flaws, coupled with the fact that South Africa was not fully equipped to deal with terrorism as effectively and efficiently as it should, led to the rejection of the ATB and its replacement by the Protection of Constitutional Democracy against Terrorism and Related Activities (POCDATARA).

3.2.4 POCDATARA

The Protection of Constitutional Democracy against Terrorism and Related Activities (POCDATARA) law came into being after a lengthy and controversial drafting process which can be traced back to 1995 after the democratic transition in the country. As discussed earlier, the security laws at the time were flawed and needed to be reviewed, especially after the internal violence during the late 1990s. Even the ATB, which was supposed to assist democratic South Africa to respond to terrorism, had numerous flaws and did not adhere to the Constitution. As a result, the ATB was rejected by Parliament. The POCDATARA was then drafted and passed by Parliament in 2004 and implemented in 2005 following presidential signature.¹⁵⁰

While POCDATARA also has some inconsistencies,¹⁵¹ it presently provides the overall legal framework for counter-terrorism in South Africa. The Ministry of Safety and Security has the main responsibility for its implementation.¹⁵²

Unlike the ATB, the POCDATARA adheres to the rules and regulations stipulated in the Constitution. By using appropriate lawful and proportionate measures, the POCDATARA seeks to prevent acts of terror and to bring terrorists to justice. It also aims to protect the whole

¹⁵⁰ UN Press Release, *UN Special Rapporteur on Human Rights and Counter Terrorism Issues Preliminary findings on Visit to South Africa*, <http://www.un.org>, Accessed 26th October, 2008.

¹⁵¹ While many maintain that the legislation is necessary to meet the country's legal obligations in terms of the ratified terrorism conventions, others claim that the Act poses an immediate threat to some of the fundamental freedoms guaranteed in the 1996 Constitution and that, due to the fact that all the violent activity associated with terrorism is a crime and South Africa's present security legislation is able to respond to terrorism and related criminal activity, the Act is unnecessary.

¹⁵² UN Press Release, *UN Special Rapporteur on Human Rights and Counter Terrorism Issues Preliminary findings on Visit to South Africa*, <http://www.un.org>, Accessed 26th October, 2008.

population from acts of terror in South Africa. However, it seeks to avoid making concessions that could encourage extortion by terrorists. It also prohibits South Africa being used as a haven for terrorism. The POCDATARA requires South Africa to cooperate with and support the international community in preventing and combating terrorism. In the event of terrorism in a foreign country involving South African citizens, South Africa is required to cooperate with the host government to resolve the matter.¹⁵³

3.3 Concluding Remarks

Responding to terrorism in democratic South Africa is important but, in doing so, the protection and promotion of human rights is a priority. In order to combat terrorism effectively and protect its internal security, South Africa has taken many initiatives such as signing international treaties and revising its security legislation. Yet, there are still several problems to be addressed within the revised security legislation if terrorism in South Africa is to be countered “democratically” and constitutionally. Not only does the SAPS and the NIA pose problems in South Africa, but the revised legislation has remnants of the Apartheid legislation. Also, professional security services are absent in South Africa, especially in the SAPS, which makes crime-fighting ineffective in South Africa and those who complain about ineffective crime-fighting being targeted by the police using anti-terrorism legislation.

¹⁵³ M. Schonteich, “Back to the Future? New South African Anti-Terror Law”, *Terrorism and Political Violence*, 14, 2 (Summer 2002): 12.

CHAPTER 4
PEOPLE AGAINST GANGSTERISM AND DRUGS (PAGAD)

South Africa witnessed a wave of terrorism concentrated mainly in Cape Town from 1996 to 2001. No one claimed responsibility for these acts but the authorities blamed members from PAGAD. PAGAD emerged in 1996 out of some of the most violent, drug and crime-infested Coloured communities in Cape Town.¹⁵⁴ However the organization had declined by 2001.¹⁵⁵ This chapter critically examines the evolution of PAGAD from 1996 to 2001 and analyzes the causes of its deviation from its vigilante objectives to using terrorism to achieve its goals.¹⁵⁶ The factors that motivated the government to classify PAGAD as a vigilante organization that was using various methods including terrorism to achieve its goals and reasons for PAGAD's decline will also be discussed.

4.1 PAGAD's Origins

South Africa's first multi-racial democratic elections were held in 1994. That year, the new ANC democratic government made several promises which included improved housing, employment opportunities and a decrease in crime. However, these promises were not kept.¹⁵⁷ After 1994, improved housing and employment opportunities were minimal and the crime rate continued to increase, especially in Western Cape where police figures revealed rises in

¹⁵⁴ There is uncertainty concerning the year that PAGAD emerged in the Western Cape. During the television program "Future Imperfect" in 1996, September 13th, Farouk Jaffar, PAGAD's chief coordinator at the time, maintained that that PAGAD emerged in 1995. However, in an interview conducted with a PAGAD member on the 16th October 2008, it was said that PAGAD emerged in 1996. In this paper, PAGAD is said to have emerged in the early part of 1996.

¹⁵⁵ When referring to the term "decline", the word is not meant to signify that PAGAD has ceased to exist or that organization is inactive. PAGAD is still active in Cape Town and its members hold meetings on a regular basis. They are involved in drug rehabilitation and counselling programmes which were previously established by PAGAD and they constantly hold public speeches about their cause and aims. However, the manner in which PAGAD is operating at present differs significantly from how PAGAD operated from 1996 to 2000.

¹⁵⁶ The Mercury, 5th October 2001.

¹⁵⁷ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 4.

gangsterism,¹⁵⁸ drugs and crime. This was a clear indication of ineffective state action to suppress the crime wave.

In the Western Cape, as gangsterism intensified through various tactics involving bribery and extortion, so did crime. For instance, between October 1994 and March 1995, the police recorded 253 gang-related murders in an area outside Cape Town, known as the Cape Flats.¹⁵⁹

Additionally, since democratic South Africa was perceived as a large market for drugs (this was due to the country's transport and communications infrastructure, its vulnerability and its corrupt officials), drug smuggling escalated and more drug laboratories¹⁶⁰ were set up resulting in hard drugs like cocaine and Mandrax¹⁶¹ to be available in huge quantities on the South African market at affordable prices.¹⁶² Consequently, drug consumption doubled amongst the population.¹⁶³

¹⁵⁸ There are about 80,000 active gang members belonging to at least 137 gangs in Cape Town. Gangsterism has always existed in the Western Cape especially as a result of marginalization. However, in the Cape Flats, gangsterism has thrived mainly because they are able to "buy support" from corrupt and incompetent policemen and because, after 1994, the police and magistrate were in turmoil as a result of the transformation. Basically, little effort has been made by the government to build police stations and extend police patrols, most of the police officers were former Bantustan "greenflies" and police who only had a primary schooling and were authoritarian to the public, ill trained and incompetent.

¹⁵⁹ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 4. The Cape Flats is comprised of Mitchells Plain, Manenberg, Phillippi, Bishop Lavis, Bellville South and Elsies River. These districts are home to the province's Coloured community. Coloureds constitute more than half of the Western Cape's population and are predominantly Muslim.

¹⁶⁰ Only 10 percent of drugs entering South Africa are seized and, as a result of corrupt policemen and a lack of public cooperation, laboratories are now increasingly being established on farms, thus making them more difficult to find and destroy.

¹⁶¹ The Cape Argus, 13th May 2007. Most crimes committed under the influence of Mandrax usually involve spontaneous and frenzied mutilation of the victim's body.

¹⁶² K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 5.

¹⁶³ Drug consumption in South Africa is segmented according to population group. In Cape Town, Mandrax is more popular with Coloured drug-users than with drug-users from any other population group. Cannabis is popular among drug-users from all population groups.

With more drugs on the market, crime, gangsterism and gang wars increased in communities in the Cape Flats where such occurrences were already rife.¹⁶⁴ Residents in this community insisted that the government, the criminal justice system and law enforcement were not doing much to stop these criminal activities.¹⁶⁵ Accordingly, in the Western Cape, community members mobilized and took “matters into their own hands”.¹⁶⁶ In 1996, five individuals met to discuss the problem of gangsterism and drugs in their community.¹⁶⁷ As one PAGAD member comments, “they [the individuals] knew that there was a drug problem...the five of them said ‘we need to do something about it’...that was the origins of PAGAD, in 1996”.¹⁶⁸

Up to this date, it is uncertain who these five individuals were. However, sources claim that PAGAD’s former leader, Abdus Salaam Ebrahim was one of them. Ebrahim was already part of *Qibla* and the Islamic Unity Convention (IUC)¹⁶⁹ at that time and sources maintain that he and the other four individuals brought their concerns to the IUC before deciding to mobilize support for their cause by going to Mosques around Cape Town and talking about the seriousness of gangsterism and drugs in the Western Cape.¹⁷⁰ Undoubtedly, more meetings followed with greater numbers of the community becoming involved. Subsequently, a network of scattered civic movements and neighbourhood watches in the Coloured residential areas grew and then merged into an organization called People Against Gangsterism and Drugs.¹⁷¹ This is the conventional account of how PAGAD emerged.

¹⁶⁴ S. Jeppie, “Introduction” in *Drugs, Gangs, People’s Power: Exploring the PAGAD Phenomenon* (Claremont: Masjid, 1996), 14.

¹⁶⁵ B. Harris, “‘As for Violent Crime that’s our Daily Bread’: Vigilante Violence during South Africa’s period of Transition”, *Violence and Transition Series*, 1 (2001): 34.

¹⁶⁶ R. Monaghan, “‘One Merchant, One Bullet’: The Rise and fall of PAGAD”, *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 2.

¹⁶⁷ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

¹⁶⁸ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

¹⁶⁹ The IUC was formed early in 1994 to serve as an umbrella organization for more than 250 Muslim organizations. It also aimed to represent the Muslim population in South Africa.

¹⁷⁰ Taken from an interview on the 28th October, 2008 by Katiana Ramsamy.

¹⁷¹ R. Monaghan, “‘One Merchant, One Bullet’: The Rise and fall of PAGAD”, *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 4

Initially, PAGAD was a loose organization with an informal structure and style of leadership that consisted of no more than a dozen activists from small local groups. PAGAD's founding members were diverse in terms of their race, backgrounds and religious affiliations.¹⁷² While some came from Cape Town's Muslim community, others came from other religious backgrounds.¹⁷³ Nevertheless, despite their differences, the founding members understood that gangsterism and drugs were problems that affected the whole of South Africa and not just the Western Cape. For them, "the drug problem was an extension of the *dop* system".¹⁷⁴ It was maintained that, like alcohol during Apartheid, drugs are extremely destructive and are used as a form of "payment" and to "undermine the masses" in South Africa.¹⁷⁵

PAGAD members also understood that drug-dealing, crime and gangsterism could not be countered by small isolated local organizations, individuals and families in the Coloured communities.¹⁷⁶ Such attempts had proven to be ineffective to the point that community members had become indifferent and were co-existing with the same people who were destroying their communities.¹⁷⁷ Hence, there was a need for all those who were against gangsterism and drugs to merge together and create a critical mass of popular support for action against the gangsters and drug lords and to isolate the criminals. This is what happened when PAGAD first emerged. The organization brought together local groups, families and individuals who did not want their communities destroyed by drugs, gangs and crime.

¹⁷² S. Pillay, "Problematising the making of Good and Evil: Gangs and PAGAD," *Critical Arts*, 16,2 (2002): 53-56.

¹⁷³ *Ibid.*, 4.

¹⁷⁴ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy. During the Apartheid era, the *dop* or "tot system" was popular. It refers to the situation when white-owned vineyards paid their black and mixed race employees in part with low-grade wine as an alternative to money. Presently, the *dop* system has left a legacy of alcohol dependence and abuse in South Africa and is closely linked to the country's prevalence of Foetal Alcohol Syndrome (FAS).

¹⁷⁵ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

¹⁷⁶ B. Dixon and L. Johns, "Gangs, PAGAD and the State: Vigilantism and Revenge Violence in the Western Cape," *Violence and Transition Series*, 2 (May 2001): 24.

¹⁷⁷ *Ibid.*

PAGAD served as an anti-crime and an anti-drug front. It co-operated with local communities, other anti-crime groups and the police. Thus, it was an organic, grass-root community response to the problem of crime, drug-abuse and gangsterism in the Cape Flats. Drugs and gangsterism were perceived as “core problems” that needed to be dealt with. For many, PAGAD was a noble initiative that aimed to protect the affected community from criminal activities and drugs.

4.1.1 *Qibla*

PAGAD was not the first anti-crime structure in the Western Cape. There were others such as the Salt River Co-ordinating Council (SRCC) against drug abuse and the “Peacemakers”.¹⁷⁸ PAGAD did not have any links with these organizations but there were claims that it did have ties with certain Muslim organizations like *Qibla*. In fact, many maintained that *Qibla* was the driving force behind PAGAD’s violence and militancy and that the organization’s formation was directly linked to *Qibla*’s inability to develop into a mass-based organization for the promotion of militant Islamic fundamentalism.

*Qibla*¹⁷⁹ was formed in Cape Town in the late 1980s and was inspired by Iranian revolution in 1979.¹⁸⁰ Under the slogan, “One Solution, Islamic Revolution,” it sought to transform South Africa into a Muslim state and it opposed whatever was against Muslim values and ideals.¹⁸¹ Hence, it was not surprising that *Qibla* rejected the new ANC-led government in South Africa because it emphasized on capitalism and “transformation” rather than the destruction of Apartheid. *Qibla* played an active role during the anti-Apartheid struggle in the country. The organization aligned itself with movements such as the Azanian Peoples Organization (AZAPO) and the PAC.¹⁸²

¹⁷⁸ Ibid, 2.

¹⁷⁹ Or the *Qibla* Mass Movement.

¹⁸⁰ The term *Qibla* originally refers to the direction of the *Kaaba* toward which Muslims turn for their daily prayers.

¹⁸¹ Sindre Bangstad, “Hydra’s Heads: PAGAD and Responses to the PAGAD Phenomenon in a Cape Muslim Community,” *Journal of Southern African Studies*, 31, 1 (March 2005): 200-201.

¹⁸² Ibid, 53.

Since its formation, *Qibla* has been involved in several activities that highlight its extremist views, its fundamentalism and its open endorsement of violence to attain its goal. Moreover, *Qibla* played a key role in the formation of the Western Cape based IUC¹⁸³ and Radio 786.¹⁸⁴ It was also perceived as the driving force behind PAGAD's military wing, the G-Force (Gun Force)¹⁸⁵ and its militancy.¹⁸⁶

Initially, *Qibla* had much support. Today, its current membership is unknown and, although the organization was founded to be a mass movement, it never attained this goal. By 1995, *Qibla* was experiencing growing dissatisfaction, especially from the younger members in its ranks who were demanding that *Qibla* returned to its militant Islamic Fundamentalist roots.¹⁸⁷

Qibla's amir,¹⁸⁸ Achmat Cassiem,¹⁸⁹ was accused of leading the organization away from this fundamentalist objective. It is for this reason that many people believe that Cassiem used PAGAD for *Qibla's* own objectives and that PAGAD's endorsement of violence was largely influenced by *Qibla*.¹⁹⁰

¹⁸³ The IUC also served as the opposition to the Muslim Judicial Council (MJC). The MJC was established as an administrative organ for *Sunni* Muslims in Cape Town in 1945.

¹⁸⁴ Radio 786, like *Qibla*, was known for its militant views and support for Islamic Fundamentalism. It was a key mobilizing tool for the IUC and *Qibla* in the province.

¹⁸⁵ The G-Force was comprised of small cell structures, well trained and armed and organized at a neighbourhood level. It undertook covert actions against drug-dealers and gangsters.

¹⁸⁶ C. J. B. le Roux, "People Against Gangsterism and drugs (PAGAD)," *Journal for Contemporary History*, 22, 1 (June 1997): 54.

¹⁸⁷ *Ibid*, 56.

¹⁸⁸ This means "commander", both a spiritual and temporal sense.

¹⁸⁹ Cassiem was a veteran in the anti-Apartheid struggle. He spent eleven years in prison and eleven years under banning orders due to his anti-Apartheid activities which included 24 counts of terrorism, membership of a banned organization, attempted murder and possession of arms and ammunition. Cassiem was influenced by the Iranian revolution in 1979. It gave him a model for *Qibla* which was further developed based on the influence that he obtained by maintaining close relationships with militants in the PAC and the AZAPO in the 1990s.

¹⁹⁰ C. J. B. le Roux, "People Against Gangsterism and drugs (PAGAD)," *Journal for Contemporary History*, 22, 1 (June 1997): 57.

4.1.2 PAGAD and Qibla

In view of the above, there seems to be many facts reinforcing the notion that PAGAD and *Qibla* were closely linked with each other. However, the main event linking the two organizations together was Rashaad Staggie's murder on the 4th of August, 1996.¹⁹¹ Staggie was a drug-dealer who was killed by several PAGAD members in full view of civilians, the media and numerous police officers.¹⁹²

Staggie's death had many implications for PAGAD and PAGAD's relationship with *Qibla*. For PAGAD, the incident marked a shift in the organization's rhetoric and marked a change in the state's perceptions of the organization.¹⁹³ From being perceived as a just a "vigilante" organization by the state, PAGAD was then perceived as a vigilante organization that was using various methods including terrorism to achieve its objectives and was threatening the state's monopoly on the use of coercive force as well as undermining the foundations of South Africa as a constitutional democracy.¹⁹⁴

Staggie's death also reinforced the notion that PAGAD's endorsement of violence was due to *Qibla*'s influence. This notion was further reinforced when Cassiem attended and participated in PAGAD meetings and when he expressed his support for PAGAD the day after Staggie's death.¹⁹⁵

In reality, PAGAD did emerge out of *Qibla*. Historically, *Qibla* was an organization that had always used various means and "front" organizations to achieve its objectives such as

¹⁹¹ Sunday Tribune, 11th August 1996.

¹⁹² Ibid.

¹⁹³ S. Bangstad, "Hydra's Heads: PAGAD and Responses to the PAGAD Phenomenon in a Cape Muslim Community," *Journal of Southern African Studies*, 31, 1 (March 2005): 199.

¹⁹⁴ B. Dixon and L. Johns, "Gangs, PAGAD and the State: Vigilantism and Revenge Violence in the Western Cape," *Violence and Transition Series*, 2 (May 2001): 4.

¹⁹⁵ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 6.

undermining the state. As a marginalized organization in the Muslim community in the Western Cape, it could not do so alone.¹⁹⁶ Hence, it used PAGAD, initially an anti-gang and anti-crime initiative. In 1995, *Qibla* members introduced this initiative to its more respectable “front” organization, the IUC, which then presented it to the community, Muslim organizations and Mosques within the Cape Town area.¹⁹⁷ It was only in 1996 that this anti-gang and anti-crime initiative became a public organization called “PAGAD”. PAGAD first drew public attention to itself when it marched to Dullah Omar’s house but, even then, the march was referred as an “IUC march” as opposed to a “PAGAD march”. It is fair to maintain that, through the IUC, *Qibla* was the driving force behind PAGAD’s establishment and it played a major role in PAGAD and greatly influenced the organization’s members especially concerning the use of violence.¹⁹⁸

Yet, despite the above arguments, there are others who maintain PAGAD and *Qibla* were not linked with each other. This notion was reinforced when Cassiem denied the links between PAGAD and *Qibla*,¹⁹⁹ when *Qibla* and the IUC publicly distanced themselves from PAGAD a few years after Staggie’s death and when Cassiem stopped attending PAGAD events.²⁰⁰ However, Cassiem did maintain that the two organizations shared a common ground of opposing gangsterism and drugs and that there was possibility that *Qibla*’s ideologies were influential on certain PAGAD members.²⁰¹ As one source suggested, “whatever Cassiem’s involvement with PAGAD are, he remains...the movement’s ideological father”.²⁰²

¹⁹⁶ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

¹⁹⁷ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

¹⁹⁸ R. Monaghan, “‘One Merchant, One Bullet’: The Rise and fall of PAGAD,” *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 5.

¹⁹⁹ It is important to note that, historically, “deniability” was a common tactic used by *Qibla*. *Qibla* would distance itself from its front organization and, with regards to PAGAD, this is what also occurred.

²⁰⁰ Sources claim that Cassiem and *Qibla* distanced itself from PAGAD as a result of the tensions that existed between Cassiem and Abdus Salaam Ebrahim, PAGAD’s recent leader and a member of *Qibla* and the IUC.

²⁰¹ F. Esack, “PAGAD: Its Location in the New South Africa” In *Drugs, Gangs, People’s Power: Exploring the PAGAD Phenomenon*, (Claremont: Masjid, 1996), 24-25.

²⁰² The Mail and Guardian, 22nd August 1996.

PAGAD also denied having links with *Qibla*. As PAGAD's spokesperson indicated, "people will work with any organization which has the same aims and objectives as us. It wasn't because of *Qibla*'s involvement that there was incitement of people. *Qibla* had no bearing on the decisions of PAGAD".²⁰³ In other words, even though some *Qibla* members were part of PAGAD, the latter already had members who endorsed violence when it first emerged. Hence, PAGAD members had a predisposition to act with violence regardless of whether it was taken over by *Qibla* or not.

PAGAD's violent tactics can also be attributed to the government's ineffectiveness in handling the situation at hand and the violence used by drug-dealers towards PAGAD members.²⁰⁴ Thus, it is assumed that PAGAD members decided to tackle "violence with violence". However, to maintain that PAGAD started out using "peaceful means" to achieve its aims and then changed and began using violence as a result of *Qibla*'s influence is incorrect. As will be discussed later, PAGAD used both peaceful and violent means to attain its goals from the time it emerged.

There is also the argument that *Qibla* members only had a minority status with PAGAD because they mainly constituted PAGAD's G-Force.²⁰⁵ Additionally, there is the assumption that the link between *Qibla* and PAGAD only became more evident when the *Qibla* "radical" faction neutralized the "moderate" faction in PAGAD and "took over" PAGAD's leadership. This notion implies that *Qibla* infiltrated PAGAD and then took control over organization. However, to reiterate, *Qibla* did not infiltrate PAGAD because *Qibla* members were also part of PAGAD from the beginning. Nevertheless, despite this and the arguments above, it was widely believed that PAGAD was fully controlled by *Qibla*, a notion propagated by the media and used to explain the reason for the supposed internal division and the expulsion of PAGAD leaders that took place in 1996.

²⁰³ Interview conducted by Ashwin Desai in 2003.

²⁰⁴ B. Dixon and L. Johns, "Gangs, PAGAD and the State: Vigilantism and Revenge Violence in the Western Cape," *Violence and Transition Series*, 2 (May 2001): 27.

²⁰⁵ R. Monaghan, "'One Merchant, One Bullet': The Rise and fall of PAGAD," *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 5.

4.2 PAGAD Divided

From the time PAGAD was established, there were obvious discordant voices within its leadership. One day PAGAD was “willing to die tonight” for the “One Solution, Islamic Revolution” while, the next day, PAGAD was “sensible, ordinary community people who are fed up with drugs” and who maintained that the notion of an Islamic state was “laughable”.²⁰⁶ These claims reflected the tension and disunity that existed within PAGAD, especially in terms of its leadership. For instance, while some PAGAD leaders and members advocated violence, others did not. While some leaders and members had a relationship and a long standing commitment to *Qibla* and the IUC, others did not. Thus, like any other organization, PAGAD had disparate groups with several and often conflicting perspectives, especially at the leadership level. Eventually, these perceived conflicting perspectives were used to explain the “split” that supposedly took place within PAGAD in 1996.

To reiterate, the perception held by the state apparatus, the media and the public was that PAGAD consisted of a “moderate” and a “radical” faction. While the “moderate” faction was led by Nadthmie Edries,²⁰⁷ Farouk Jaffer²⁰⁸ and Muhammed Ali ‘Phantom’ Parker²⁰⁹ (they formed part of PAGAD’s early leadership²¹⁰) and supposedly encompassed the majority of PAGAD members who rejected violence and sought to co-operate with the police in crime prevention functions, the “radical” faction, under the leadership of Abdus Salaam Ebrahim, supposedly advocated violence and consisted of *Qibla* members.²¹¹ By late 1996, both factions were supposedly battling with each other, especially on the issue regarding the use of violence when dealing with gangsterism and drug-dealers. While this clearly indicated that certain

²⁰⁶ F. Esack, “PAGAD: Its Location in the New South Africa” In *Drugs, Gangs, People’s Power: Exploring the PAGAD Phenomenon*, (Claremont: Masjid, 1996), 24-25.

²⁰⁷ PAGAD Western Cape’s leader.

²⁰⁸ PAGAD Western Cape’s spokesman.

²⁰⁹ PAGAD’s operational commander.

²¹⁰ These individuals were not appointed as the leaders of PAGAD.

²¹¹ A. Botha, “Fear in the City, Urban Terrorism in South Africa,” *Monograph*, 63 (July 2001).

PAGAD members did not advocate violence, this also showed a measure of hypocrisy on behalf of PAGAD's "moderate" leadership,²¹² especially since Parker had previously called for a *jihad* against gangsters and drug-dealers after Staggie's death.²¹³

Parker, Jaffer and Edries also maintained that, while PAGAD's vision for fighting crime and drugs was judicious and intended to re-establish community values, *Qibla* within PAGAD had an anti-state agenda instead.²¹⁴ It is statements such as these that supposedly resulted in Parker, Jaffer and Edries being in power struggle with the militant and political extremist *Qibla* members within PAGAD. Also, Parker had made unauthorized trips around the world and issued statements to the media without consulting fellow PAGAD members.²¹⁵ This led to tensions and resentment as it was felt that the triumvirate had started to promote themselves as being more important than PAGAD and its aims.²¹⁶ Hence, PAGAD expelled the triumvirate. This supposedly "neutralized" the "moderate" faction of the PAGAD leadership corps and enhanced the control of the "radical" faction. It was also said to have been a major factor that led to the supposed broader split within the organization in 1996.²¹⁷

It is important to note that the "split" within PAGAD in 1996 was viewed differently by the state, the media and PAGAD. PAGAD members denied the existence of a "moderate faction" and "radical faction" within PAGAD and maintained that they were labels created by the state and the media to explain PAGAD's "decline" and militarization.²¹⁸ The expulsion of the triumvirate

²¹² A. Desai, "The Cape of Good Dope? A post-Apartheid story of Gangs and Vigilantes," (Durban: Centre for Civil Society and the School of Development Studies, 2004), 4.

²¹³ The Mercury, 6th August 1996. *Jihad* means "effort" in Arabic and can also mean the struggle against one's passion, the greatest effort one is capable of, the effort to attain a specific goal and the personal efforts of the believer to serve the Islamic faith and to defend it. However, presently, *jihad* has been used to denote religious war.

²¹⁴ B. Dixon and L. Johns, "Gangs, PAGAD and the State: Vigilantism and Revenge Violence in the Western Cape," *Violence and Transition Series*, 2 (May 2001): 26.

²¹⁵ Ibid, 27.

²¹⁶ Ibid.

²¹⁷ Ibid.

²¹⁸ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

was due to their misdeeds and their lack of leadership skills and was not a matter of “the radical faction versus the moderate faction” as such factions did not exist.²¹⁹ Hence, a “split” in 1996 did not occur.

For the state and the media, the “split” was a defining factor in PAGAD’s decline since cohesion and unity is vital for any organization to survive. In other words, the “split” was used to illustrate that PAGAD was defeated by its own internal disunity and brought PAGAD into conflict with the state. Between 1996 and 2000, PAGAD engaged in terrorism which included acts such as assassinations and bombings. As it portrayed itself as a grass-roots movement with distinct Islamist objectives, PAGAD’s acts were said to have been the consequences of the radical faction overpowering the moderate faction within PAGAD after the split.²²⁰

4.3 PAGAD’s Strategies

4.3.1 PAGAD’s first year of Operation (1995-1996)

During the first year of PAGAD’s operation, the organization’s strategy was to voice its opposition against drug-dealers and gangsters across the Cape Flats. Accordingly, PAGAD staged 112 protest marches even though its structure and leadership was rudimentary and informal.²²¹ PAGAD did not have any political agenda beyond the elimination of gangsterism and drugs. Hence, it was viewed as a vigilante group that had noble aims. Even the ruling government decided to work with PAGAD and entered into consultation with it in 1997. In that year, meetings were held between the PAGAD’s leaders and the Ministers of Justice, Safety and Security and Correctional Services, the Western Cape Attorney-General and Premier, magistrates and the police (this was done to discuss the possibility of cooperation between PAGAD and the SAPS).²²² However, these meetings were organized only after PAGAD had sent several

²¹⁹ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

²²⁰ M. La Rocque, “In the Spotlight: People Against Gangsterism and Drugs (PAGAD),” <http://www.cdi.org>, Accessed 5th April, 2007.

²²¹ Ibid, 8.

²²² S. Bangstad, “Hydra’s Heads: PAGAD and Responses to the PAGAD Phenomenon in a Cape Muslim

memorandums to the Minister of Justice stating PAGAD's dissatisfaction with the government and the manner in which it was handling the problem of drugs and gangsterism.²²³

After these meetings, PAGAD eventually received quiet support from the government because of its ability to "crack down" on drug-dealers better than police. However, this cooperation was short-lived and the meetings that followed were not fruitful.²²⁴ PAGAD members insisted on wearing masks and carrying guns during their marches and, on the government side, there was apprehension in terms of cooperating with PAGAD, especially when Staggie was murdered.²²⁵ Staggie's death symbolized the violence that posed a threat to South Africa's democracy and, while the world and South Africa were concerned with this issue, PAGAD was concerned with other defining events such as its internal division,²²⁶ the breakdown in negotiations with Dullah Omar, the negative media coverage that the organization was receiving, the government's failure to respond to PAGAD's repeated requests for action to be taken against drugs and gangsterism and the shooting of a PAGAD marcher (Faizel Ryklief) by gangsters.²²⁷

4.3.2 PAGAD begins to Mature (1996-1997)

After the expulsion of the triumvirate, it seemed as though the organization took on a more militant image and stance. However, this was not related to the expulsion of the triumvirate or to the "radical" faction taking over the leadership. It had to do with the ineffectiveness of PAGAD's non-violent tactics against the gangsters²²⁸ and drug-dealers who were using violence

Community," *Journal of Southern African Studies*, 31, 1 (March 2005): 198.

²²³ PAGAD Memorandum issued to the Minister of Justice on the 18th January, 1997.

²²⁴ M. La Rocque, "In the Spotlight: People Against Gangsterism and Drugs (PAGAD)," <http://www.cdi.org>, Accessed 5th April, 2007.

²²⁵ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 5.

²²⁶ Ibid.

²²⁷ B. Dixon and L. Johns, "Gangs, PAGAD and the State: Vigilantism and Revenge Violence in the Western Cape," *Violence and Transition Series*, 2 (May 2001): 26.

²²⁸ Ibid, 27.

against PAGAD members. PAGAD then changed its strategy. Some members began carrying weapons and wearing balaclavas²²⁹ and some drifted into the G-Force.²³⁰

Pressure from the state, the police and the media also affected PAGAD's outlook during that time. Since PAGAD was constantly demonized and criticized by the media, the police and the government, it was realized that help from the state or the police was unlikely. At this point in time PAGAD decided that matters had to be taken into their own hands.

There are many reasons why PAGAD's relationship with the police, the media, and the state deteriorated. For the police, the relationship deteriorated when PAGAD began using violence to achieve its goals, when it publicly accused police officials of corruption and when PAGAD-incited violence began taking the form of urban terrorism.²³¹ Then, the acting National Commissioner, Zolissa Lavisa, claimed "as far as the SAPS is concerned, PAGAD has degenerated into just another gang, and is now firmly part of the crime problem and not the solution".²³² The police labelled PAGAD as "terrorists" thus allowing the police to impact on the organization's mass mobilization against gangsters and drug-dealers and forcing PAGAD to fight "defensive battles" in courts and to go through formal procedures in order to be able to march.²³³ In other words, the police ensured that PAGAD's crucial "weapons" of surprise and spontaneity were removed. It was clear that PAGAD had underestimated the state's power to criminalize them.²³⁴

²²⁹ Since fighting against gangsterism and drugs posed a danger for PAGAD members, as a precaution, they began wearing balaclavas and carrying weapons during their public rallies and outings. This eventually became a widespread practice amongst the PAGAD members that soon, balaclava-clad individuals carrying weapons became the organization's trademark.

²³⁰ A. Desai, "The Cape of Good Dope? A post-Apartheid story of Gangs and Vigilantes," (Durban: Centre for Civil Society and the School of Development Studies, 2004), 14.

²³¹ M. La Rocque, "In the Spotlight: People Against Gangsterism and Drugs (PAGAD)," <http://www.cdi.org>, Accessed 5th April, 2007.

²³² Ibid.

²³³ A. Desai, "The Cape of Good Dope? A post-Apartheid story of Gangs and Vigilantes," (Durban: Centre for Civil Society and the School of Development Studies, 2004), 15.

²³⁴ Ibid.

Regarding the media, it also consciously and unconsciously colluded with PAGAD's strategy by giving extensive coverage to some of the organization's actions.²³⁵ However, it generally portrayed PAGAD in a negative light and in a "more extreme picture than the reality prevailing on the ground".²³⁶ The media rarely publicized the positive acts of PAGAD to counter drugs.²³⁷

With regards to the government, not only was it unwilling to cooperate with PAGAD, there was also an obvious mutual distrust and suspicion that existed between the two. This became quite evident when the police were arresting PAGAD members and raiding their homes²³⁸ at the same time while PAGAD members were protesting against drug trafficking outside the Airport and while they were marching to the Centre for Conflict Resolution (CCR).²³⁹

4.3.3 PAGAD's Terror Years (1997-2000)

The period 1997 to 2000 are usually referred to as PAGAD's terror years because PAGAD carried out acts that were coercive, shocking and intimidating and which caused fear and panic amongst the population.²⁴⁰ PAGAD was able to use terrorism for several reasons. However, the main reason was that democratic South Africa provided PAGAD with a permissive environment to use terrorism. Between October 1997 and January 1998, PAGAD killed 24 drug-dealers, was involved in 195 attacks against alleged drug-dealers and their property and was linked to 188 out of the 667 violent attacks recorded in Cape Town during that time.²⁴¹

²³⁵ G. Baderoon, "South Africa: PAGAD, Islam and the challenge of the local," *Ecquid Novi*, 26,1 (2005): 89.

²³⁶ Ibid.

²³⁷ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 5.

²³⁸ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

²³⁹ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

²⁴⁰ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 5.

²⁴¹ During these attacks, balaclava-clad PAGAD members would demonstrate outside the shop or house of an alleged drug-dealer and would issue the dealer an ultimatum. If the individual did not comply, the alleged drug-dealers were shot or even bombed, thus demonstrating that PAGAD's choice of weapons was not confined to illegal firearms.

From 1998 onwards, though the number of PAGAD marches had dropped significantly, its use of terrorism intensified. Drug-dealers and gangsters were still targeted as well as academics, Muslims, non-Muslims and clerics critical of the tactics employed by PAGAD and the G-Force.²⁴² For instance, after criticizing PAGAD, Dr Ebrahim Moosa, an academic at the University of Cape Town, was denounced as a *munafiq*²⁴³ and targeted by PAGAD.²⁴⁴ Even the provincial ANC chairperson, Ebrahim Rasool, and Sheikh Achmat Sedick, the Secretary-General of the Muslim Judicial Council (MJC) were targeted because they opposed PAGAD's viewpoints.²⁴⁵

PAGAD was also accused of assassinating prominent individuals such as Piet Theron (the magistrate who had been hearing cases involving PAGAD members) and witnesses due to give evidence in the court cases against PAGAD members.²⁴⁶

Also, PAGAD murdered its own members (“organizational terrorism”)²⁴⁷ and targeted the police, the court and the media. While PAGAD maintained that the police were conspiring with the drug-dealers and gangs, it also accused the courts of releasing them on easy bail terms.

Concerning the media, PAGAD threatened the staff of several news agencies with death threats and boycotts. PAGAD had threatened to kill the Muslim photojournalist Benny Gool who was a

²⁴² A. Botha, “PAGAD: A Case Study of Radical Islam in South Africa” in *Terrorism Monitor*, <http://www.jamestown.org>, Accessed March 28th, 2007.

²⁴³ According to former G-Force members, religious Muslim terms were used as secret codes between PAGAD members to plan attacks and issue instructions to G-Force members. For example, a planned attack was referred to as a *thikr*, a term used for a religious gathering, an *azaan* (call to prayer) meant a pipe bomb attack and a *munafiq* was the term employed to brand a member a traitor thereby condemning them to punishment by death.

²⁴⁴ K. Gottschalk, “Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000,” *Institute of Security Studies Papers*, 99, (February 2005): 7.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Interview conducted by Katiana Ramsamy on the 19th of August, 2008. “Organizational terrorism” was used by PAGAD to ensure that order and discipline was maintained within the organization

witness to Staggie's murder.²⁴⁸ Gool even refused to testify against five senior PAGAD members²⁴⁹ accused of the murder.

From 1999 to 2000, there was a decline in the bombing and shooting incidents carried out by PAGAD. However, their activities became more indiscriminate and unpredictable, a common trend amongst declining organizations that use terrorism. Once such organizations lose power, their behaviour worsens and becomes more erratic. This in turn, allows for more terrorism to occur.²⁵⁰ Hence, this is the reason why public places and places of entertainment in Cape Town were being targeted instead of drug-dealers and gangsters.²⁵¹ More specifically, personnel and facilities of the state's security and intelligence services, gay bars as well as business linked to the US were targets.²⁵²

PAGAD denied its involvement and condemned the incidents outlined above.²⁵³ Nevertheless, by the end of 2000, 26 PAGAD members and 117 gunmen had been arrested, prosecuted and charged with a range of offences including sedition, murder, attempted murder, possession of illegal firearms, malicious damage to property and public violence.²⁵⁴ For the state, PAGAD had

²⁴⁸ The police officers who witnessed Staggie's murder were not called to testify in court against those who were accused.

²⁴⁹ These individuals were Abdus Salaam Ebrahim, Salie Abader, Abduzarak Ebrahim, Moegsien Mohammed and Moegamat Edires.

²⁵⁰ E. Stepanova, "Terrorism in Asymmetrical Conflict: Ideological and Structural Aspects," *SIPRI Research Report*, 23, (2008): 14. This occurs because, first, the organization is not afraid to lose/alienate its supporters because it has already started to decline. Second, as the organization grows weaker, they retaliate more violently to give the impression that they are still in control. By behaving more erratically and indiscriminately, the acts are more visible and seem to generate a greater impact and fear amongst the population. Third, concerning asymmetrical warfare, one can assume that this is another method for the weaker terrorist organization to strike out at the conventionally superior state and government.

²⁵¹ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 8.

²⁵² A. Botha, "PAGAD: A Case Study of Radical Islam in South Africa" in *Terrorism Monitor*, <http://www.jamestown.org>, Accessed March 28th, 2007.

²⁵³ The Sunday Tribune, 30th January 2000.

²⁵⁴ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 8.

committed “clear acts of treason” through their acts of terrorism and illegal possession of weapons and those who were arrested had to answer to the charges against them.²⁵⁵

Those who were arrested were prominent figures in PAGAD (they included those in the leadership ranks and those who were not leaders but were instrumental in terms of PAGAD’s organization and survival such as G-Force leaders and members). The evidence that was used against them was given to the investigating agencies by fellow PAGAD members. This was a deliberate action on the part of the state which allowed it to exploit and further reinforce PAGAD’s internal disunity, thus crippling the organization more.

Overall, PAGAD was a vigilante organization that used terrorism among other methods to achieve its broadened aims (this included the destruction of capitalism and democracy). There are many reasons why PAGAD used terrorism. For instance, the freedoms allowed in democratic South Africa made it easy for PAGAD to engage in terrorism. However, PAGAD also acted as a community pressure group while at the same time forming and activating its covert military wing.²⁵⁶ Nevertheless, by 2001, PAGAD’s covert activities came to a standstill with the arrest and prosecution of its prominent leaders²⁵⁷ and crucial members such as G-Force leaders.²⁵⁸ The state’s decision to arrest these individuals was a factor in the organization’s decline. Without any form of leadership and without anyone to direct PAGAD’s violent activities, the organization could not properly function or survive.

²⁵⁵ A. Desai, “The Cape of Good Dope? A post-Apartheid story of Gangs and Vigilantes,” (Durban: Centre for Civil Society and the School of Development Studies, 2004), 16.

²⁵⁶ A. Botha, “PAGAD: A Case Study of Radical Islam in South Africa” in *Terrorism Monitor*, <http://www.jamestown.org>, Accessed March 28th, 2007.

²⁵⁷ These included Abdus Salaam Ebrahim, (PAGAD’s leader), Abduzarak Ebrahim (former leader of PAGAD), Dawood Osman, Mogamat Isaacs and Ebrahim Jeneker.

²⁵⁸ K. Gottschalk, “Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000,” *Institute of Security Studies Papers*, 99, (February 2005): 8.

4.4 PAGAD's Support

Like PAGAD's internal disunity, PAGAD's loss of support was also a cause of PAGAD's self-destruction. Initially, by embarking on an intensive awareness campaign and drawing attention to its aims, PAGAD was able to attract between 2000 and 5000 supporters to its protest marches and rallies.²⁵⁹ As its support grew, PAGAD's meetings, protests and rallies attracted 10,000 to 40,000 people that came from both the middle- and working-class.²⁶⁰

PAGAD's support initially came in two forms, passive and active. While active support entailed direct involvement in PAGAD's activities, passive support was "in-principle support" without physical action. PAGAD was able to generate much support because, first, it was able to sensitize the international arena on the increasing crime situation in South Africa and the government's inability to deal with the situation.²⁶¹ Second, many Muslims saw it as a new progressive organization²⁶² and third, its aims were peaceful, benevolent and many shared its goals. Marches were organized and "ultimatums" were given to the government demanding state-action against drug-dealers and gangsters. When the government did not act, PAGAD members marched to the homes of alleged drug-dealers and gangsters and gave them a 24-hour warning or ultimatum to end their drug dealings and gang-related crimes.²⁶³

²⁵⁹ R. Monaghan, "'One Merchant, One Bullet': The Rise and fall of PAGAD," *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 4- 5. The organization lobbied local churches, Mosques, civic groups, youth clubs and community radio stations for support. It also held candlelight vigils, distributed pamphlets and went door-to-door with its message.

²⁶⁰ R. Monaghan, "'One Merchant, One Bullet': The Rise and fall of PAGAD," *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 4-5.

²⁶¹ A. Botha, "Fear in the City, Urban Terrorism in South Africa," *Monograph*, 63 (July 2001).

²⁶² R. Monaghan, "'One Merchant, One Bullet': The Rise and fall of PAGAD," *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 6. Muslims joined PAGAD for many reasons other than its Islamic characteristics. For instance, while certain Muslim women joined PAGAD because they wanted to be empowered to make meaningful contributions in their dysfunctional societies, certain Muslim men joined because of the notion of masculinity, to protect their communities and because many Muslim working-class males were marginalized from official religious structures within the community after Apartheid. PAGAD gave these men an identity and significant roles to play.

²⁶³ *Ibid.*

Once PAGAD became more violent, attendance at its events declined sharply.²⁶⁴ Some supporters did not endorse the organization's use of violence to carry out its "new goals". For instance, a former PAGAD supporter maintained that "they [PAGAD] stood for good things. But you cannot kill persons...PAGAD's actions are contrary to Islam and reflects badly on the *oemma* [community]".²⁶⁵ Negative media reports also contributed to PAGAD's loss of support.²⁶⁶

While PAGAD lost most of its support as a result of its violent methods,²⁶⁷ the organization also lost support due to factors outside of its control. These included the threat of revenge attacks by gangsters and state repression. For instance, when the government invoked the Prohibition of Disguises Act of 1969, PAGAD members became "easy targets" for the police, the drug-dealers and the gangsters. Hence, PAGAD members and supporters became afraid and refrained from supporting the organization. Moreover, when the government restricted PAGAD's marches and banned the open carrying of firearms, PAGAD lost support and could not operate as it used to.

²⁶⁴ R. Monaghan, "'One Merchant, One Bullet': The Rise and fall of PAGAD," *Low Intensity Conflict and Law Enforcement*, 12, 1 (Spring 2004): 4-5.

²⁶⁵ S. Bangstad, "Hydra's Heads: PAGAD and Responses to the PAGAD Phenomenon in a Cape Muslim Community," *Journal of Southern African Studies*, 31, 1 (March 2005): 203. There are many who believe that PAGAD was as an instance of Islamic Fundamentalism or Islamism. To read more about this, refer to Abdulkadar Tayob's article "Islamism and PAGAD: Finding the Connection." However, PAGAD was not an "Islamic fundamentalist organization". This was a label given by the state to demonize PAGAD and portray it in a negative light. While it is fair to maintain that some of its supporters had fundamentalist and radical Islamic ideals, these ideals were not shared with all of PAGAD's supporters. One is mistaken by assuming that, because the organization was comprised of mostly Muslims and that it had a blatant Islamic rhetoric or that terrorist acts were committed by PAGAD members that shared a religion, the organization was an Islamic Fundamentalist organization. These terrorist acts were committed by a few Islamic fundamentalists. Moreover, concerning the notion of having supporters that are predominantly Muslim, one needs to bear in mind the origins of PAGAD- the Coloured Communities in the Western Cape (Islam is the dominant religion).

²⁶⁶ The Mail and Guardian, 10th April 2001.

²⁶⁷ B. Dixon and L. Johns, "Gangs, PAGAD and the State: Vigilantism and Revenge Violence in the Western Cape," *Violence and Transition Series*, 2 (May 2001): 38. Only certain PAGAD members engaged in terrorism. As a source commented, due to the organization informal structure and leadership, PAGAD was no more than an organization that wanted to remove gangsterism and drugs from the communities. Most of its acts (such as the rallies and marches) were done in an informal manner hence "militancy"-violent attacks on drug-dealers and gangsters-was largely spontaneous and unplanned. This illustrated that violent attacks performed in the name of PAGAD were done by certain individuals who held different ideals to the majority of PAGAD supporters.

4.5 Concluding Remarks

PAGAD emerged as a result of the failure of the democratic government to suppress gangsterism, crime and drugs, especially in Western Cape. It started as just a “vigilante” organization with very good intentions and, as a result, had strong support. However, when PAGAD started to get frustrated with the inaction of the authorities against drug-dealers and criminals and, with the freedom in democratic South Africa, it took the law in its own hands and began using terrorism. Thus, PAGAD was perceived as a vigilante organization that was using various methods including terrorism to achieve its objectives. Its relationship with the government and the police deteriorated and its mass support dwindled as it engaged in terrorism supposedly conducted by its radical wing. This caused internal disunity which led to its own demise.

Other factors which led to PAGAD’s decline included the government’s use of the “criminal justice system” to clamp down on its prominent leaders and crucial members, the betrayal and mistrust that existed between PAGAD members, the costly caring of the families of the arrested members and the lack of funding.²⁶⁸ However these factors were minimal in comparison to the fact that PAGAD was the cause of its own demise.

Additional factors that have been overlooked in terms of PAGAD’s decline include the infighting amongst the gangs and the loss of support because PAGAD had attacked the MJC. Due to the fact that the MJC is a very influential Muslim organization in the Western Cape, attacking the MJC was a mistake and once the MJC condemned PAGAD, others did the same.²⁶⁹

Nevertheless, despite these issues and despite the fact that PAGAD was misguided, PAGAD was active for 5 years in South Africa, greatly challenging the state. The state began to perceive PAGAD as a terrorist group which challenged and threatened the country’s security and its

²⁶⁸ Taken from an interview of a PAGAD member conducted on the 16th October, 2008 by Katiana Ramsamy.

²⁶⁹ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

constitutional liberties and freedoms.²⁷⁰ Hence, the South African government responded to PAGAD in a very determined way.

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²⁷⁰ PAGAD's acts were terrorist acts because, to achieve its political goals (conveyed in the organization's numerous anti-state statements) PAGAD used coercive, shocking and intimidating tactics and the acts committed by the organization were indiscriminate, arbitrary, amoral and unpredictable. More specifically, as well as being perceived as an "urban terror" organization, PAGAD can be categorized as a vigilante organization that used terrorism and an organizational terrorist group because it had specific structures, good means of communication, a motivating ideology, a strong leader and adequate support. Moreover, PAGAD was an organization of discipline, especially to its own members.

CHAPTER 5

SOUTH AFRICA'S RESPONSE TO PAGAD

To respond to terrorism by PAGAD, the South African government employed several strategies categorized as political strategies and intelligence-led policing operations. In this chapter, these strategies and the responses to PAGAD will be analyzed. It is important to note that any response to PAGAD had to be within the confines of the Constitution. Accordingly, the “criminal justice model” would be the best approach. It is further assumed that it was the government’s response that played a key role in the decline of PAGAD.

5.1 The National and the Western Cape Response to PAGAD

5.1.1 The National Response to PAGAD

When PAGAD first emerged, the response of the national government was “confused”²⁷¹ showing its uncertainty and unpreparedness to deal with the situation even though it was well aware of the possibility of terrorist threats after 1994. This “confusion” led to the government seeking to negotiate with PAGAD on several occasions,²⁷² a decision that has been commonly made by many democracies in the past to isolate terrorists and satisfy their demands²⁷³ in the hope they can wither away.²⁷⁴

There are several reasons why the government was reluctant to classify PAGAD as a terrorist threat even though it was involved in violent incidents at the end of 1996.²⁷⁵ First, the

²⁷¹ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

²⁷² S. Jeppie, *The Western Cape between History and Change*, <http://www.cer-science-po.org>, Accessed 17th November, 2008.

²⁷³ P. Wilkinson, “Internal defence against Terrorism” in *Terrorism and the Liberal State* (London: MacMillan Education Ltd, 1986), 120-121.

²⁷⁴ Ibid.

²⁷⁵ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

government saw PAGAD's acts of violence as crimes rather than terrorist acts.²⁷⁶ Second, policy-makers found themselves in a dilemma because they could not reconcile the fact that terrorism could be effectively dealt with in a severe manner and within the context of a human rights environment. Classifying and responding to PAGAD as a vigilante organization that used terrorism would mean using anti-terrorism policies and methods that closely resembled those used during Apartheid.²⁷⁷ Third, the government was reluctant to label PAGAD as a terrorist threat as it emerged at a time when South Africa was going through a transformation and when the US was claiming that their national security was being threatened by "Islamic militants" and "Islamic fundamentalists".²⁷⁸ The South African government did not want to be part of the global anti-Islamist movement and to adopt the same drastic anti-terror policies and methods as the US.²⁷⁹ By reacting like the US, the South African government was aware that it could possibly worsen the situation with PAGAD.²⁸⁰

In general, when PAGAD first emerged, the government's "confusion" and its inability to categorize PAGAD as a terrorist threat led to inaction. Consequently, the government could not deal effectively with the organization. Even as a just vigilante organization, PAGAD had committed several acts of violence that the government was unable to effectively quell. One can therefore assume that the first phase of the response to PAGAD was that of "under-reaction". It is this "under-reaction" and South Africa's freedoms that allowed PAGAD to diversify its tactics at the beginning of 1997. The organization took advantage of the government's lack of response and incompetence to use terrorism to achieve its broadened goals.²⁸¹ One can also assume that,

²⁷⁶ UN Press Release, *UN Special Rapporteur on Human Rights and Counter Terrorism Issues Preliminary findings on Visit to South Africa*, <http://www.un.org>, Accessed 26th October, 2008.

²⁷⁷ K. Gottschalk, "Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000," *Institute of Security Studies Papers*, 99, (February 2005): 5.

²⁷⁸ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

²⁷⁹ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

²⁸⁰ It is possible that the ANC national government did not want to be seen as a repressive government like the Apartheid government.

²⁸¹ S. Jeppie, *The Western Cape between History and Change*, <http://www.cer-science-po.org>, Accessed 17th November, 2008.

if the government had been more aggressive towards PAGAD when it first emerged, PAGAD would not have been able to operate as well as it did.

It was only when PAGAD became very violent and was recognized as an Islamist-inspired terrorist group that the national response became more aggressive. The question, however, was how to deal with such an organization as there were different approaches that could be utilized.²⁸² Finally, the government decided to use the “criminal justice system” to respond to PAGAD.²⁸³ This was the second phase of the national response to PAGAD which was based on the use of law enforcement.²⁸⁴ However, the responses during late 1997 and 1998 were incoherent.²⁸⁵ For instance, in 1998, several political strategies and intelligence-led policing operations such as Recoil and Saladin were launched, but were largely futile and ineffective as PAGAD continued to operate and commit more terrorist acts.²⁸⁶

The government developed a more coherent political and law enforcement response to PAGAD only in 1999. That year, police had over 600 cases of terrorism which were not solved. Even though the police was able to distinguish between “gang-related” cases and “PAGAD-related” cases, there were no convictions from either category.²⁸⁷ Hence, “a lot of political manoeuvring [was] taking place [that were combined] with improved intelligence and improved law enforcement especially in 1999/2000. That was the most decisive phase in defeating PAGAD”.²⁸⁸

²⁸² Ibid.

²⁸³ To reiterate, the criminal justice model views terrorism as a crime and the onus of response is placed with the bounds of the state’s criminal legal system.

²⁸⁴ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

²⁸⁵ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008. According to Jeppie, even though the police tried all sorts of strategies and even consulted experts on the situation at hand, all their attempts were futile. This was due to flawed investigations, corrupt officials and incompetence on behalf of the law agencies.

²⁸⁶ S. Jeppie, *The Western Cape between History and Change*, <http://www.cer-science-po.org>, Accessed 17th November, 2008.

²⁸⁷ Ibid.

²⁸⁸ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

Overall, there was confusion and under-reaction when PAGAD first emerged as the government was unsure of what type of organization it was. It is quite understandable that the initial response to PAGAD was confused as this was the first time that democratic South Africa had to deal with such a situation. By 1998, however, this confusion had dissipated because PAGAD was finally classified as a terrorist threat.²⁸⁹ However, the measures which constituted the government's second response to PAGAD²⁹⁰ were incoherent and ineffective. By 1999 the government had developed a more coherent political and law enforcement response to PAGAD. This was the final response at the national level, thus suggesting that it took the government at least two years to come to grips with the situation and assert itself as the authority.

5.1.2 The Western Cape Response to PAGAD

As a Western Cape-based organization, the provincial response to PAGAD differed from the national response. When PAGAD first emerged, as opposed to responding decisively, accusations occurred especially between the ANC and the Western Cape provincial leaders (the NNP (New National Party) and the Democratic Party (DP)).²⁹¹ While the ANC was accusing the provincial leaders for not adequately tackling the issue of vigilantism and acting decisively in the province, the NNP and the DP were claiming that PAGAD was a ploy devised by the ANC to undermine the Western Cape's leadership and to destabilize the province that did not vote for the ANC.²⁹²

The notion that the ANC was using PAGAD as a ploy to destabilize the Western Cape²⁹³ was a perception held by many, especially the police,²⁹⁴ but when Staggie was murdered, the Western

²⁸⁹ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

²⁹⁰ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

²⁹¹ Parliamentary Bulletin, *PAGAD*, <http://www.anc.org.za>, Accessed 28th December, 2008.

²⁹² E. Rasool, *Debate on Urban Terror in Western Cape Legislature*, <http://www.anc.org.za>, Accessed 28th December, 2008.

²⁹³ The Western Cape leadership had maintained that the ANC was destabilizing the provinces where they did not get elected namely in KwaZulu Natal and suddenly in the Western Cape. The Western Cape leaders accused the ANC of promoting violence as well as illicit drug trafficking.

Cape government then realized that the ANC was not involved in any destabilization ploy. It was then forced to act against PAGAD with the help of the national government. This further reinforced the fact that the national government was not using PAGAD to destabilize the provincial government.

The provincial government realized that PAGAD was a serious terrorist threat to the province and, acting under this immense pressure combined with the media attention that Staggie's murder attracted, the provincial leaders had no option but to act decisively and swiftly. Similar to the national response, the Western Cape leadership also decided that PAGAD was to be handled as a law enforcement problem.

From 1997 to 2000, several provincial intelligence-led policing operations were launched, but were not combined with political strategies to undermine the organization.²⁹⁵ The provincial policing operations were supported by national operations but the national government expected the provincial government to deal with the organization in accordance with the existing legal framework.

Overall, the Western Cape's response to PAGAD was similar to the national response. Initially, the Western Cape leaders did not act decisively against PAGAD because the Western Cape provincial leaders were convinced that the ANC was using PAGAD as a ploy to destabilize the province. However, Staggie's murder triggered the development and execution of a series of intelligence-led operations against PAGAD. The provincial leaders had finally realized that PAGAD was a threat to the stability of the province and was a law enforcement problem.

5.2 Responding to PAGAD: South Africa's Strategies

The strategies used to respond to PAGAD can be categorized as political strategies and intelligence-led policing strategies. While the former refers to the political means that were used

²⁹⁴ S. Jeppie, *The Western Cape between History and Change*, <http://www.cer-science-po.org>, Accessed 17th November, 2008.

²⁹⁵ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

to undermine PAGAD, the latter refers to the use of the “criminal justice method” to respond to PAGAD. The SAPS, with the aid of other agencies, had the authority to pursue PAGAD members and arrest them. PAGAD members were then prosecuted and sentenced according to South Africa’s existing security legislation.

5.2.1 Political Strategies

The national government executed many political strategies to prevent PAGAD from acquiring legitimacy and support, the important elements that enable organizations that use terrorism to thrive and survive. Once such organizations are delegitimized and their support is reduced, they find it more difficult to mobilize resources and operate effectively. Hence, considerable efforts were deployed to deny PAGAD political, economic and religious space.²⁹⁶ The denial of political space involved organizing anti-PAGAD marches and leaflets and the encouragement on behalf of the ANC for political parties to speak out against PAGAD and vigilantism.²⁹⁷ The denial of economic space involved the national leaders approaching the Muslim Community (this is where most of PAGAD’s supporters derived from) and petitioning and urging potential donors not to support PAGAD financially.²⁹⁸

ANC leaders also approached and petitioned at least 50 *imams* within the Cape Town area to condemn PAGAD’s attitude and actions, especially its abuse of mosques, its aggressiveness towards *imams*, sheikhs and other religious leaders.²⁹⁹ For instance, former president Nelson Mandela delivered a speech at the Claremont mosque asking the community members to be weary of PAGAD. The speech was broadcasted simultaneously on a Friday in all Cape Town mosques and was delivered in the name of the MJC.³⁰⁰

²⁹⁶ K. Gottschalk, “Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000,” *Institute of Security Studies Papers*, 99, (February 2005): 9.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

²⁹⁹ Ibid.

³⁰⁰ Approaching the MJC to get their support was an important political strategy executed by the national government. The government was aware that, by reinforcing the schism that previously existed between the MJC and PAGAD, the latter would lose its legitimacy and its support

To further prevent PAGAD from acquiring legitimacy and support, it was denied media and “criminal” space. The media was urged to refrain from offering sympathy to PAGAD and from legitimizing vigilantism as a response to crime. Senior prosecutors and police officers were sensitized on the urgency of arresting and convicting PAGAD members involved in the numerous bombings and assassinations. However, this action was not without difficulties. In pursuing PAGAD members, rookie detectives had to learn on the job from their more experienced colleagues who worked under the Apartheid regime.³⁰¹ Consequently, tensions occurred between the old guard policemen and new policemen from MK backgrounds. Moreover, the state had to deal with the fact that the detectives involved in the pursuance of PAGAD members were mostly familiar with the “confession-based procedure,” a process not allowed within the confines of a democratic state as it entailed torturing and assaulting suspects (especially to obtain information).³⁰² Thus, they had to be retrained and learn the modern, forensic-science-based procedures aimed at attaining material evidence. The internal conflicts and corruption within the police were indeed great challenges which the authorities faced in their fight against PAGAD.³⁰³

Overall, the political strategies employed by the national government to undermine PAGAD mainly involved isolating PAGAD from its potential and financial supporters by destroying the organization’s legitimacy. Delegitimizing PAGAD was done in several ways. However, the determining factor was the denouncing of PAGAD’s actions by the MJC. By appealing to the MJC and reinforcing a greater schism between PAGAD and the MJC, the government was aware that PAGAD would have problems in terms of gaining support and funding. This would eventually cripple PAGAD and prevent the organization from effectively operating. This clearly indicates that the political strategists had studied the organizational structure of PAGAD as well

³⁰¹ K. Gottschalk, “Vigilantism v. The State: A Case Study of the Rise and Fall of PAGAD, 1996-2000,” *Institute of Security Studies Papers*, 99, (February 2005): 9.

³⁰² Ibid.

³⁰³ Ibid.

as its sources of finance, which provided the government with the correct strategies to cripple PAGAD.³⁰⁴

5.2.2 Intelligence-led Policing Strategies

After Staggie's death, the government decided to "get tough" with PAGAD. In order to respond to the organization, policing operations were conducted. For instance, the SAPS and the SANDF³⁰⁵ collaborated together, through the Provincial Operational Coordinating Committee (POCOC), and conducted a "high density" operation which entailed SAPS and SANDF members flooding specific areas that were associated with PAGAD members, executing patrols, roadblocks, cordons and search operations. However, once the acts of terrorism committed by PAGAD members took on larger proportions,³⁰⁶ government officials and police agencies decided normal police action was ineffective. To respond to PAGAD, the SAPS and the SANDF jointly responded through the National Operational Coordinating Committee (NOCOC)³⁰⁷ to execute special intelligence-led policing operations.³⁰⁸ In these operations "[there was] the involvement of the military in support of the police to combating PAGAD [in] setting up roadblocks, searching houses, premises, those types of things...these are what they call intelligence-led operations".³⁰⁹ They were more targeted and focused than the normal policing operations

³⁰⁴ Ibid.

³⁰⁵ The SANDF had a limited role in helping the SAPS counter PAGAD.

³⁰⁶ This refers to the fact that PAGAD's targets were no longer limited to gangsters and drug-deals but also to those that were critical of PAGAD, fellow PAGAD members, restaurants and public places, businesses and members of the security forces.

³⁰⁷ NOCOC, a mechanism set up to be utilized for joint intelligence coordination on national and provincial level, is known as the National Intelligence Coordinating Committee at the national level and as the Provincial Intelligence Coordinating Committee at the provincial level.

³⁰⁸ The covert counter-terrorist operations also included the Scorpions and the NIA.

³⁰⁹ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

The intelligence-led policing operations that were launched were Operations Recoil, Saladin, Good Hope, Crackdown and Lancer.³¹⁰ Their main goal was to identify certain PAGAD members, the locations where PAGAD's terror acts would be taking place and the locations for their meetings.³¹¹

Operation Recoil had four components: an intelligence-driven factor; a high-density crime prevention factor; investigating task groups and coordination and visible force levels.³¹² It was launched in the face of mounting displeasure of the population against gangsterism and crime as well as the loss of faith in the government due to its inability to deal effectively with PAGAD's unlawful activities. The operation's main aim was to flush out criminals, identify certain PAGAD members, their potential targets and their location for their meetings.³¹³

Though successful to a certain extent, Operation Recoil could not contain PAGAD and prevent the organization from gaining momentum. Instead, it "compelled PAGAD to be more creative in how it organized".³¹⁴ By arresting 7,437 individuals, Operation Recoil showed that all the policing operations in the Western Cape were performed under its banner and that "we [the government, the police and the army] are everywhere...instilling confidence in the minds of the public-that the government is doing something".³¹⁵ Basically, Operation Recoil was primarily launched "to create an impression" as opposed to actually responding to PAGAD and crippling it.³¹⁶ In fact, the need to "create an impression" in the minds of the people can be understood due to the fact that when the operation was launched, the government still perceived PAGAD as

³¹⁰ For a more detailed outline of the policing operations that were launched to counter PAGAD, refer to M. Schonteich and H. Boshoff, "South Africa's Operational and Legislative Responses to Terrorism," *Africa and Terrorism*, 74, (2002).

³¹¹ The Star, 7th May 1997.

³¹² M. Schonteich and H. Boshoff, "South Africa's Operational and Legislative Responses to Terrorism," *Africa and Terrorism*, 74, (2002).

³¹³ The Star, 7th May 1997.

³¹⁴ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

³¹⁵ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

³¹⁶ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

a vigilante organization and not a vigilante organization that was using terrorism.³¹⁷ Operation Recoil was rather ineffective and could not control PAGAD's diversified actions.³¹⁸ As a result, a more intelligence-driven policing operation named Operation Saladin was conceptualized within the framework of Operation Recoil and launched in January 1998.

Operation Saladin involved both operational and intelligence members from the SAPS, the SANDF and the NIA.³¹⁹ It was established to detect and monitor the perpetrators of acts of urban terrorism by both PAGAD and the gangs, to provide early warnings of attacks and to ensure that visible policing took place. Operation Saladin also ensured the effective interception of perpetrators of acts of terrorism both before and after attacks, it deployed high-density forces in the proximity of the intended targets and it acted as an additional deterrent to would-be perpetrators. Consequently, PAGAD members and the gangs were denied the opportunity of going about their illegal activity.³²⁰

Like Operation Recoil, Operation Saladin was successful to a certain degree. It acted as a deterrent to prevent acts of urban terrorism and gang-related violence and it led to the arrest of people involved in acts of terrorism.³²¹ However, like Operation Recoil, Operation Saladin was also not well-equipped to deal with the changing nature of the threats from PAGAD. By December 1998, PAGAD was targeting gangsters, drug-dealers, fellow PAGAD members, individuals critical of PAGAD as well members of both the security and intelligence forces and businesses (this showed the increasing selectivity of the perpetrators of the terrorist acts). As a result, there was a shift in emphasis by the security forces that entailed combining operations Recoil and Saladin into one operation, Operation Good Hope.³²²

³¹⁷ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

³¹⁸ By the end of 1997 and in early 1998, PAGAD had attacked several prominent gang leaders in drive-by shootings, the organization had attacked mosques, well-known businessmen and it had bombed a police station in Lansdowne. Hence, by early 1998, it was rather evident that PAGAD's targets had changed.

³¹⁹ M. Schonteich and H. Boshoff, "South Africa's Operational and Legislative Responses to Terrorism," *Africa and Terrorism*, 74, (2002).

³²⁰ Ibid.

³²¹ Ibid.

³²² Ibid.

Operation Good Hope, launched in January 1999, was characterized by an increase in security force levels that were extended to include more than 1,200 members inclusive of SAPS and SANDF members.³²³ It excluded the local police station in Cape Town and focused on stabilizing operations regarding urban terrorism, tactical intervention regarding urban terrorism and crowd management and high-risk operations regarding urban terrorism. It encompassed intelligence-driven operations in specifically focused areas and it entailed the investigation and protection of specific targets.³²⁴

Moreover, unlike the previous operation that focused on crime-prevention, Operation Good Hope focused on prohibiting urban terrorism. Hence, tactical intelligence gathering and dedicated court-directed intelligence gathering were its major components. This strategy, combined with searches and patrols, resulted in the arrests of individuals involved in urban terrorism in the Western Cape and the subsequent decline of such acts and gang-related violence in the area.³²⁵ In addition, the strategies used in Operation Good Hope also resulted in the recovery of firearms, vehicles and ammunitions.

Even though Operation Good Hope could not prevent the increase in gang-related violence in early 2000,³²⁶ that year PAGAD-related incidents were the lowest.³²⁷ Only 15 arrests were made and some 22 incidents occurred thus suggesting that the state's response to curb urban terrorism was successful.³²⁸ Nevertheless, despite these positive figures, Operation Good Hope did have

³²³ Ibid.

³²⁴ By 1999, PAGAD-related incidents had taken a new dimension in the sense that use of petrol and pipe bombs had increased. To name a few incidents, in 1998, four youths had been murdered at the Waterfront, several pipe and petrol bombs had exploded in Mitchells Plain, two Muslim businessmen and a UCT lecturer had their homes bombed, a police station in Mowbray was damaged in a bomb attack and a street vendor was killed after a bomb exploded outside the Bellville offices of the special police task team investigating PAGAD.

³²⁵ Operation Good Hope can be perceived as a preventive approach that emphasized on an integrated method used by the security forces.

³²⁶ There were 437 incidents of gang violence in which only 160 people were arrested.

³²⁷ M. Schonteich and H. Boshoff, "South Africa's Operational and Legislative Responses to Terrorism," *Africa and Terrorism*, 74, (2002).

³²⁸ Ibid.

its problems. There were difficulties in terms of the coordination of tactical intelligence between the role players as well as those of the investigation units. Moreover, Operation Good Hope was restructured in November 1999 and had to work with the Scorpions, the elite “police” unit that took over the investigation of urban terror and organized crime in the Western Cape.³²⁹ The Scorpions were brought into the picture to coordinate the activities of the various operations which, if not managed properly, could be counter productive.

Nevertheless, despite these changes, PAGAD-related incidents still occurred which clearly indicated that the government had not yet crippled the organization. For instance, investigators were assassinated, plans for a pre-election bombing campaign by PAGAD were discovered³³⁰ and bombs were detonated in various places in Cape Town. Due to these incidents, Operation Crackdown was launched in April 2000.³³¹

Operation Crackdown was a “multi-disciplinary” strategy that was carried out in collaboration with high-density, intelligence-driven operations in the identified crime-combating zone. This strategy consisted of two main approaches: the serious and violent crime stabilization or geographical approach³³² and the organized-crime approach, both of which were supported by multi-disciplinary interventions.³³³

Within the first few months of Operation Crackdown’s launch, over 600 stolen vehicles were recovered as well as arms and ammunition. It was successful with regards to its mission concerning PAGAD and gangs as well as other crimes such as taxi and bus violence in the Western Cape. However, PAGAD’s final demise came with the launch of Operation Lancer.

³²⁹ Ibid.

³³⁰ The Sunday Times, 16th May, 1999.

³³¹ M. Schonteich and H. Boshoff, “South Africa’s Operational and Legislative Responses to Terrorism,” *Africa and Terrorism*, 74, (2002).

³³² The geographical approach of Operation Crackdown emphasized the “hot spots”. The organized-crime approach was implemented to identify and neutralize (through organized-crime project teams) syndicates having the highest impact on organized crime.

³³³ M. Schonteich and H. Boshoff, “South Africa’s Operational and Legislative Responses to Terrorism,” *Africa and Terrorism*, 74, (2002).

Operation Lancer³³⁴ was launched four days after 9/11. Initially a provincial operation, it was later launched in South Africa as a whole. The operation, based on intelligence-gathering and aimed at successful investigations and prosecutions in court, was launched as a precaution for possible terrorist attacks on US interests in the country. Operation Lancer also reduced PAGAD related incidents to a minimum in 2001.³³⁵ Only nine PAGAD-related incidents occurred in that year and this was due to the fact that most of PAGAD's important and prominent members were arrested and tried according to the current security legislation.

5.3 Concluding Remarks

When examining the strategies used to respond to PAGAD, it becomes clear that a combination of tactics were deployed. Using the criminal justice model, the strategies used were categorized as political strategies and intelligence-led policing operations. They had different levels of effectiveness and mainly focused on pre acts-of-terrorism reduction and post act-of-terrorism recovery.

In terms of responding to PAGAD, some strategies were effective. For instance, the government made use of intelligence to obtain information on PAGAD and it employed political strategies that delegitimized PAGAD and isolated it from its supporters. Moreover, by using the criminal justice model and the security legislation, crucial PAGAD members were arrested and prosecuted.

Yet, the government also made several mistakes and failed to take into consideration certain strategies when responding to PAGAD. The government did not recognize PAGAD as a terrorist threat until it was too late. The national government was confused about the situation at hand and had allowed politics to come into play thus resulting in under-reaction. This under-reaction allowed PAGAD to thrive and diversify its tactics.

³³⁴ Operation Lancer was a discreet operation that integrated intelligence and visible policing in a focused manner.

³³⁵ M. Schonteich and H. Boshoff, "South Africa's Operational and Legislative Responses to Terrorism," *Africa and Terrorism*, 74, (2002).

Likewise, the provincial government did not react decisively against PAGAD when it first emerged, thinking that the ANC was behind PAGAD.

The government's reluctance to perceive PAGAD as a terrorist threat creates the impression that the theory and literature of terrorism and responding to terrorism was not understood when the democratic government came into power. In addition, as the South African government is bound to respect fundamental civil liberties and has to govern within distinct judicial and constitutional restraints, it found itself in a dilemma in terms of acting decisively and ruthlessly against PAGAD. This, too, led to "under-reaction". If this "under-reaction" had not occurred, by devising effective strategies, the South African government would have been able to control and suppress PAGAD's activities much sooner.

Not only did the government initially under-react to PAGAD and then, to a certain degree, overreact by formulating the ATB, the intelligence-led policing operations that formed part of the government's response to PAGAD were also relatively ineffective. They would only create a sense of peace for several weeks because, soon after an operation was launched, PAGAD would continue to operate and engage in terrorism. In fact, only Operation Lancer was said to have had an impact on PAGAD because, first, its main aim was to destroy PAGAD and not to "create an impression" and "instill confidence in the minds of the people".³³⁶

The government did develop a coherent and effective response to PAGAD by 1999 and Operation Lancer formed part of this effective response. It is assumed that the government had more information, resources and experience in dealing with PAGAD by this time, especially in a democratic context.³³⁷

However, it needs to be clarified that Operation Lancer was only successful to a certain degree. When it was launched, PAGAD's important members were already incarcerated and the government had managed to deflate PAGAD's appeal and delegitimize PAGAD. As with the

³³⁶ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

³³⁷ Taken from an interview conducted by Katiana Ramsamy on the 12th November, 2008.

previous operations, Operation Lancer was not necessarily the only contributors to PAGAD's demise because PAGAD was the main cause for its own demise by 2001.

Overall, when analyzing the strategies employed by the government to respond to PAGAD, one can observe that, initially, there was a lot of uncertainty, many mistakes were made and many important issues that were overlooked. However, once the government was pressurized to act decisively against PAGAD, effective strategies were devised which contributed to PAGAD's decline. Yet, while these strategies were implemented within the context of the existing legal framework without adversely affecting the rights and freedoms of the citizens, these strategies were also *ad-hoc* and devised to deal exclusively with the "PAGAD phenomenon".

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CHAPTER 6

CONCLUDING REMARKS

Formulating and executing strategies to respond to terrorism are particular challenges for constitutional democracies. Not only should these strategies be efficient, they should also not be at the cost of human rights, the rule of law and the Constitution. This is the challenge that South Africa faced with the emergence of PAGAD, an organization that engaged in domestic terrorism from 1996 to 2001.

By using PAGAD as a case-study, this research paper analyzed the South African government's response to PAGAD. It examined the strategies used by the government and analyzed whether they conformed to the principles embodied in the Constitution and the rule of law. This paper also identified some of the key issues that constitutional democracies face when responding to terrorism, it examined South Africa's present security legislation and discussed how terrorism was dealt with during Apartheid and it discussed PAGAD's evolution from the time it emerged in 1996 to its decline in 2001.

In analyzing the response to terrorism by constitutional democracies, certain observations were made. First, the "criminal justice model" and the "military model" are the best basic approaches. Both models have their strengths, yet, they also have their flaws. Both models are short-term solutions concerning the problem of terrorism and they violate constitutional principles.

Second, terrorism inherently invites an overreaction in constitutional democracies. When overreactions occur, governments make extreme and unjustified departures from conventional judicial and law enforcement procedures. Furthermore, overreactions threaten constitutional rights and liberties, they prohibit states from responding to terrorism in a proportional manner and, if not reversed, they cause more damage than the terrorists.

Third, democracies are constrained when it comes to responding to terrorism and they provide a permissive environment for terrorism to occur. Terrorists take advantage of such an environment to propagate their ideologies, muster support, exploit loopholes in the administrative system and

move around unrestricted. However, preventing or responding to terrorism is possible in constitutional democracies. There are various measures within the intelligence and law enforcement agencies which can be effectively utilized and the impact of these measures can be assessed by observing the terrorist organizations' expansion. At times, however, the government's actions may have little to do with the decline of terrorist organizations because terrorist organizations can self-destruct.

Finally, if the government does not respond appropriately to certain situations or they do not keep their promises, vigilante groups may emerge.

This paper also looked at the evolution of the legislation used to respond to terrorism in South Africa. During Apartheid, the police and the covert security agencies excelled in infiltration and other aspects of the criminal justice approach even though human rights abuses occurred. Hence, the democratic government made several amendments to the security legislation to make it constitutional. However, the present legislation has remnants of the Apartheid legislature, the NIA engages in domestic spying and the police still use coercive methods against suspects.

Concerning PAGAD, by tracing the organization's evolution from its emergence to its decline, this research paper showed that, when PAGAD first emerged in Cape Town, the government and the general community perceived it as a "vigilante" group as a result of its noble aims of striving to combat crime, drugs and gangsterism in the communities. It was a loose organization founded initially by *Qibla* members. However, once drug-dealers and gangsters became resistant (in a violent manner) to PAGAD's non-violent tactics and once a "split" supposedly occurred within PAGAD in 1996, the organization's tactics became more violent. From 1996 until its dormancy in 2001, PAGAD used various methods including terrorism to achieve its objectives.

As a result of the violent acts it was carrying out, PAGAD was perceived as a terrorist threat until its decline in 2001. While it may seem that it was the government's counter-strategies that caused the organization's decline, it needs to be pointed out that PAGAD was, for the most part, the result of its own demise. By arresting PAGAD's important members, by creating division in the organization and by delegitimizing and isolating PAGAD from its support, the government

was effective in weakening PAGAD. However, PAGAD itself was a misguided organization that had many internal problems that contributed to its own decline. For instance, the fact that PAGAD had attacked the MJC, a very influential organization amongst the Muslims in the Western Cape, led to a decline in its support.

Additionally, the unstructured leadership of PAGAD, the obvious disunity amongst all its members concerning PAGAD's use of violence and the undertaking of acts that constituted terrorism were also aspects that led to PAGAD's loss of support and, eventually, its decline.

Undoubtedly, not only did PAGAD's emergence affirm the notion that the government's failure to deliver on its promises can lead to the use of terrorism, but it also affirmed the notion that constitutional democracies are vulnerable to terrorist attacks. In addition, constitutional democracies are constrained when responding to terrorism and they provide a permissive environment for terrorism to occur.

PAGAD undoubtedly challenged the new democratic South African government. This was the country's first experience with terrorism within a democratic context. Hence, once the ANC government had classified PAGAD as a terrorist threat, it did everything in its power to try to destroy and undermine it. PAGAD posed a threat to the internal stability and security of South Africa and it undermined the fundamental principles of law and human rights.

In this research paper, it was shown that the intelligence-led policing operations and political strategies used to counter PAGAD fell within the domain of the "criminal justice model" and mainly focused on pre acts-of-terrorism reduction and post act-of-terrorism recovery. While the political strategies that were employed to counter PAGAD were mainly executed to delegitimize the organization and to hinder it from gaining support, the intelligence-led policing operations mainly involved the pursuance, the arrest and the prosecution of PAGAD members.

While some of the counter-terrorist strategies used by the government were relatively ineffective in undermining PAGAD, some were effective. For instance, as part of the pre acts-of-terrorism reduction phase, intelligence was used to draw out important information that proved useful in court, they helped in obtaining important information such as the location of PAGAD meetings

and, with the help of “informers” (as these were fellow PAGAD members, the government used this to create internal division within PAGAD), intelligence was able to obtain information about the acts of terrorism that PAGAD was planning to carry out and who was involved.

Moreover, the political strategy to undermine PAGAD involved lessening the terrorists’ access to support, resources and information that would help them in terms of training, obtaining weapons and explosives and reaching safe houses; re-enforcing the pre-existing schism between PAGAD and the MJC in an attempt to delegitimize PAGAD; and hindered its ability to gain public and financial support.

With regards to the ineffective counter-terrorist strategies used to undermine PAGAD, the government made several mistakes that constitutional democracies usually make when countering terrorism. The South African government did not recognize PAGAD as terrorist threat until it was well into its campaign of violence. While some terrorist groups do not reveal themselves prior to an attack, in democracies, the trend has been that the development of a terrorist campaign is usually preceded by a campaign of defamation and subversive propaganda against liberal values, institutions and leadership. This particular trend that internal defence forces do not pick and act upon rapidly illustrates the fact that democracies usually incorrectly assess the situation that they are dealing with. This is what occurred with PAGAD and the government. Despite the fact that PAGAD had clear “anti-state” sentiments and the fact that Staggie’s murder was ascribed to PAGAD members, the government did not perceive PAGAD as a terrorist threat.

The government also failed to internalize the problem and agree on common strategies that could have resolved the situation quickly. This aspect, as well as not recognizing PAGAD as a terrorist threat early on, had many repercussions. It resulted in under-reaction on behalf of the national government. Both the national government and the provincial leaders did not react to PAGAD promptly and adequately, thus allowing PAGAD to diversify its goals and tactics, an aspect that proved to be more detrimental for the South African society.

One of the reasons behind this under-reaction was that government was confused about the situation and the organization at hand and that it allowed politics to come into play. In

particular, the national government did not want to follow in the foot-steps of the Western countries (especially the US) in labelling PAGAD as an Islamic militant or fundamentalist terrorist organization. It did not want to be criticized as another racist regime. At the provincial level, the political parties were accusing each other of enabling PAGAD's emergence.

Another reason for the government's under-reaction was that, when PAGAD emerged, democracy in South Africa was very fragile and the government was taking all possible measures to consolidate the new born democratic South Africa. Additionally, with regards to the law enforcement agencies, while the financial resources, the equipment and the man-power were available, the training, the required skills and the necessary experience to deal with the situation were lacking.

By the time the government finally admitted that PAGAD was a terrorist threat to the country; PAGAD had already caused much damage and problems to the province. In the light of this situation, against all expectations, the response was incoherent and ineffective. This was so because, similar to other democracies facing the same problem, the South African government found itself in a dilemma in terms of acting decisively and ruthlessly against PAGAD due to the fact that it was bound to respect fundamental civil liberties and had to govern within distinct judicial and constitutional restraints. Instead of using appropriate, well thought and well planned effective strategies to counter PAGAD, the government reacted hastily and, to a certain degree, it overreacted. As a result of this overreaction, a number of actions were planned like the devising of the ATB which, if executed, would have jeopardized the democratic principles of South Africa.

Moreover, not only did the South Africa government overreact and attempt to implement a draconian ATB, it also condoned several unlawful arrests (mostly Muslims). Such actions as well as the deliberate discrediting of PAGAD by law enforcement individuals and the fact that certain government officials such as Steve Tshwete and the acting premier of the Western Cape, Peter Marais wanted certain laws amended played into PAGAD's hands and played against the government and the law enforcement agencies. PAGAD gained some legitimacy as their members were being accused of acts that they did not commit and, in turn, the government and

the law enforcement agencies lost some legitimacy due to the fact that they were resorting to illegal methods in order to try and counter PAGAD.

On the other hand, by 1999, partly due to improved intelligence and improved law enforcement, the strategies to counter PAGAD were more effective and coherent. Of course, PAGAD as an organization was already declining at that point. Yet, it is also important to mention that democratic values were not jeopardized and no civilian casualties were registered when the government countered PAGAD. This is due to the fact that, unlike constitutional democracies that allow the military model to have the leading role when countering terror, in South Africa, the military had a limited role in countering PAGAD.

Overall, when one analyzes the government's response to PAGAD, there are several important issues that come to the fore. First, in its response to PAGAD, the government illustrated some of the problems that constitutional democracies face when responding to terrorism. For instance, the government was not able to recognize PAGAD as a terrorist threat early enough (thus, the terrorist acts were not prevented) and it under-reacted and then overreacted to the situation at hand. Additionally, the counter-terrorist strategies that were used were *ad-hoc* and devised to deal exclusively with the "PAGAD phenomenon". This reveals that, similar to other constitutional democracies, South Africa was unable to grasp the fact that terrorism can be effectively combated within a democratic context and that the essential components that allow for effective counter-terrorism strategies to be applicable in different situations was absent.

On the other hand, in certain respects, South Africa's response to PAGAD deviated from what one perceives when constitutional democracies respond to terrorism. The military had a limited role in countering PAGAD and it was illustrated that, even though preventing terrorism is challenging, there are mechanisms in place that counter them.

On the whole, while South Africa's response to PAGAD illustrates what one would expect from a constitutional democracy responding to terrorism, in certain respects, South Africa's response also deviated from the expected norm. The military had a limited role and it was illustrated that there were mechanisms in place that contained their role. This reveals that, as a new constitutional democracy, when responding to terrorism, South Africa did not completely model

its behaviour on what older democracies have done. This is important as responding to terrorism needs a flexibility of approach, especially for countries, such as South Africa, which have had a turbulent past and a legacy of violence. The risks of terrorism in such permissive environments are real. Accordingly, constitutional democracies need to deal with terrorism based on their capabilities and internal situation rather than traditional methods. Hence the some of the expectations about responding to terrorism in constitutional democracies may not be appropriate in the face of new challenges and need to be revised and adapted to the requirements of individual countries.

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