



MASTER'S IN PUBLIC LAW MINOR DISSERTATION

TOPIC:

Mapping the security arrangements for Khayelitsha's schools: what are the normative and functional outcomes of a nodal policing approach to poling school-based violence in Khayelitsha?

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CHAPTER ONE: INTRODUCTION

Introduction to the study

Under the Constitution of the Republic of South Africa the state is tasked with the duty of protecting, promoting and fulfilling the right to basic education.¹ The protection and promotion of this right by the state includes ensuring that learners, educators and other school staff are free to go about the business of teaching and learning in a safe environment. However, it is clear that this is not the day-to-day reality in many South African schools. According to the results of the 2012 National School Violence Study (NSVS) undertaken by the Centre for Justice and Crime Prevention (CJCP) “22.2% of high school learners were found to have been threatened with violence or had been the victim of an assault, robbery and/or sexual assault at school in the past year. [...] this figure extrapolates to 1,020,597 learners who had encountered violence at school in the past year.”² This staggering figure constitutes an urgent call to researchers to attempt to establish where the gaps in the provision of security at schools lie. In light of the contextual realities of school violence, the aim of this paper is to provide an analytical map of the security arrangements at schools in a particular area, namely Khayelitsha. The question is not *whether* these arrangements are failing (as will be made clear by the evidence provided in chapter four) but rather *why* and *how* they are failing.

The task of identifying these gaps in an accurate and sufficiently nuanced way would be impossibly large if the scope of the study were all schools in South Africa. Furthermore, in order to be able to make precise recommendations and implement effective interventions, it is necessary to have a thorough understanding of the particular issues faced by particular schools, rather than schools in general. As such, I have chosen to narrow the scope of the study to one area where violence in schools has been shown to be particularly prevalent. The area in question is a large township located on the outskirts of the City of Cape Town called Khayelitsha. This area has been chosen not only to narrow the scope of the study, but also because policing in Khayelitsha has recently been the topic of an extensive Commission of Inquiry. The Commission was appointed by the premier of the Western Cape in August 2012 to investigate allegations into inefficiencies in policing and a breakdown in relations between

¹ Constitution of the Republic of South Africa (1996), Section 7(2)

² Burton, P. and Leoschut, L. (2013) ‘School Violence in South Africa: Results of the 2012 National School Violence Study’ *Centre for Justice and Crime Prevention*, at xi

the South African Police Service (SAPS) and the Khayelitsha community. The Commission concluded in August 2014 when a full report of its findings and recommendations was handed over to the Premier. It is evident from the very existence of this Commission that many who work and live in Khayelitsha are unsatisfied with the service that the SAPS is providing; a notable area of dissatisfaction is the SAPS's handling of youth gangs, given the detrimental effects their existence has on the community in general and schools in particular. As such, the aim of this study is to explore the evidence presented to the Commission, both by Khayelitsha residents and experts in the field, since this evidence presents the most up to date and contextually relevant data available on the subject. The purpose of this exploration is to gain a clearer understanding of how various actors attempt to achieve security in this area. With this understanding, we will then be better placed to identify the shortfalls and inefficiencies in the provision of this services.

Recognising that “family and community factors intersect with the levels of violence occurring at schools”³ entails the acknowledgement of the fact that school violence is not solely a police matter. Therefore, we must look not only at what the state police are doing (or not doing) about the issue of school violence, but also at various other state and non-state actors which together constitute a policing network. Data made available by the Commission will be mined in order to come to an understanding of the reality of school violence ‘on the ground’. I will then attempt to formulate a conceptual map of the roles, responsibilities and activities of any agent or agency involved in the provision of safety and security of Khayelitsha schools. This map will be constructed by viewing schools as specific ‘spaces’ occupied, utilised, owned and regulated by various actors. When this conceptual map is considered in the light of the theoretical framework (provided in Chapter Two) it may then be possible to cash out the implications of a networked (or nodal) policing approach to dealing with school violence. Only then will it be possible to determine strategies for meaningful intervention.

In the following sections of this chapter I will provide a more detailed outline of the situation in Khayelitsha as well as the normative and legal background for school safety. These sections aim to provide a firm justification for why this study is being undertaken.

³ Burton and Leoschut, (2013) ‘School Violence in South Africa’, at xiii

Unsafe schools in Khayelitsha

In Khayelitsha, many of the youth gangs are not affiliated with or created by adult gangs and the illicit drug trade as they are in other parts of Cape Town, but form of their own accord and are made up of many young people, including school learners. According to evidence heard at the Khayelitsha commission members of these youth gangs –

‘carry weapons, often knives and other sharp instruments, and the gangs engage in vicious battles with one another, often on Friday afternoons. [Furthermore,] it is clear that each week children are injured, and die, in these battles. Children as young as ten years old join the gangs and find it hard to withdraw.’⁴

In an attempt to deal with this escalating violence school staff confiscates many dangerous objects, but absent a plan to deal with the root cause of the existence of these gangs, they simply bring new objects to school the following day. Where the services of the public police have been enlisted, they have not been particularly effective. A number of witnesses testified to the fact that when the police are called to the scene of a gang fight, gang members will simply pause in their fighting and disperse when the police arrive and recommence after they have left.⁵ Witnesses also testified that the ongoing violence is disruptive to teaching and learning in that a number of learners have had to move schools (and even provinces in one case⁶) or simply stay away from school in an attempt to remain safe.

A close analysis of the evidence given above reveals that there are a number of factors that contribute to the existence of unsafe schools and therefore a variety of ways in which the term ‘unsafe school’ might be defined. Three possible definitions of an ‘unsafe school’ are the following:

1. The school itself is unsafe
2. The people who occupy the school’s premises are unsafe
3. Teaching and learning are not safe

According to the first definition, an unsafe school is one which lacks adequate measures to prevent the theft and damage of school equipment and facilities. By itself, this definition only pertains to the safety of the physical property of the school. On the second definition a school is unsafe if the physical and psychological safety of learners, teachers and other school staff that is threatened. Both of these definitions can include threats to safety by internal and

⁴ ‘Towards a Safer Khayelitsha’ (2014) *Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha*, at 383

⁵ ‘Towards a Safer Khayelitsha’ (2014) *Report of the Commission of Inquiry*, at 384

⁶ *Ibid.* at 383

external actors and circumstances or a combination of the two. Each of these types of actors and circumstances may call for a different type of response. The third definition is more abstract, and entails the kind of school where teaching and learning cannot take place effectively. The safety of teaching and learning can be undermined by the absence of good administrative practices or underqualified teachers, and is therefore not necessarily the result of the kind of unsafety entailed by the first and second definitions. It is important to note that the existence of the first two kinds of unsafety contribute significantly to the existence of the third. For example, if a school is physically unsafe and experiences the loss equipment such as classroom furniture and computers as a result, essential tools for teaching and learning will be absent. If the physical safety of learners and staff is threatened disruption to teaching and learning time is inevitable and the psychological trauma experienced by some as a result of the threat (actual or potential) to their safety may make these activities, even if they are not disrupted, ineffective at best. For the purposes of this paper then, the definition of ‘unsafe schools’ that I will be working with are schools in which the existence of the types of threats entailed by the first and second definitions, give rise to the existence of the third. With this definitional framework in mind, I will now move on to consider the normative background and legal structures that are relevant to unsafe schools in order to argue for the conclusion that the formulation of effective strategies for dealing with the issue is extremely urgent.

Normative and legal context

According to Section 12(1)(c) of the Constitution of the Republic of South Africa (hereafter ‘the Constitution’) ‘Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence.’ As an indisputable ontological truth, learners at schools in Khayelitsha are a part of this ‘everyone’, as such, the existence of the kinds of violence described above in these schools directly violates these learners’ right to be free from all forms of violence. The ‘all forms’ provision includes physical and psychological violence, and therefore even if it were the case that only a few learners were victims of direct physical violence, it is nevertheless the case that many (if not all) will suffer psychologically from existing in these environments every day. In fact, in her testimony to the Khayelitsha Commission Professor Debra Kaminer claimed that children in Khayelitsha –

‘are being incubated in violence [...] which means that they are having to go through their [...] developmental process within a very violence-saturated environment, and that has very particular psychological impacts [...]’⁷

Violence of course exists also outside of schools in these areas, but the fact that children are required to spend a substantial amount of their time at school (6+ hours a day) means that it is particularly pertinent that these spaces are free from violence.

Section 29(1) of the Constitution states that everyone has the right to ‘a basic education’. Unlike some other socio-economic rights listed in the bill of rights (e.g. housing in section 26 and health care, food, water and social security in section 27), the right to education is not qualified by the stipulation that the state need only take reasonable measures ‘within available resources’ to progressively realise the right. As such, the right to basic education is immediately realisable and the state has a direct obligation to ‘respect, protect, promote and fulfil’⁸ that right. At first glance, this right may not seem to be relevant in a discussion about safety and security, however it should be clear from what has been said above that it is *precisely* issues of safety and security that lead to this most fundamental right not being fulfilled. Schools plagued by violence are not spaces in which effective teaching and learning can take place. It is not sufficient to provide for the potential for this right to be fulfilled, that is, merely to ensure that every child has *access* to education. It is also necessary to ensure that this right can be enjoyed by eradicating any factors that prohibit or limit this enjoyment.

The final constitutional provision that is relevant here is that ‘A child’s best interests are of paramount importance in every matter concerning the child.’⁹ Given that most school-going individuals are under the age of eighteen (and therefore ‘children’), this principle is especially applicable in this context. Furthermore, the best interests principle provides additional weight to the obligations of the state and other bodies or individuals tasked with providing for the wellbeing of children. This is so because even if it were not the case that the right to basic education was immediately realisable, the various stakeholders mentioned above would at least have the obligation to ensure that children (as individuals or as a group) are not incapable of engaging in activities or existing in spaces that promote their best interests. That is, even if they did not have the positive duty to promote the right to basic education, they would still have the negative duty to ensure that any potential or existing

⁷ Ibid. at 134

⁸ Constitution of the Republic of South Africa (1996), Section 7(2)

⁹ Constitution of the Republic of South Africa (1996), Section 28(2)

enjoyment of the right is not interfered with. As it is, both the positive and the negative duty do exist according to the Constitution, rendering the existence of conditions as described above not merely upsetting but constitutionally inexcusable – children who have no choice but to attend schools that are close to their homes in Khayelitsha and on the Cape Flats are having their fundamental rights violated on a daily basis.

Apart from this rights-based motivation for taking the issue of unsafe schools seriously, there are also various regulations in place for school safety. According to the Regulations relating to Minimum Uniform Norms and Standards for Public School Infrastructure, all school facilities ‘must be surrounded by appropriate fencing’¹⁰ and that ‘school buildings must have at least one form of safety and security measure’¹¹, which is taken to include measures such as burglar proofing and private security services like guarding, alarm systems and rapid response.¹² Furthermore, according to the South African Schools act, schools at which the ‘safety of learners or staff is threatened’¹³ are to be classified as ‘underperforming’. A school classified as underperforming, once informed of this status, is required to provide the head of the education department with ‘a plan for correcting the situation’¹⁴. The head of department is then required to ‘take all reasonable steps to assist a school [...] in addressing the underperformance.’¹⁵ In a statement made in 2006 the then minister of Education, Naledi Pandor, seemed to imply that the violence in schools could be minimised, or even eradicated, if only schools would take responsibility and implement the appropriate measures. Pandor claimed that ‘Listening to the outpourings of anger and frustration on talk radio [...] it has become clear to me that most principles and parents do not know that a range of powers are available for schools to instil discipline and appropriate behaviour in schools.’¹⁶ In terms of the Regulations for Safety Measures at Public Schools, it appears to be the schools themselves that are responsible for ensuring the safety of their learners. The powers assigned to schools include banning the possession of dangerous objects, weapons, alcohol and illegal drugs on school premises, and conducting searches in order to root out such objects and substances. Furthermore, schools are empowered to safeguard the perimeter of the school in order to control access to the premises.

¹⁰ South African Schools Act, No. 84 of 1996: Regulations relating to Minimum Uniform Norms and Standards for Public School Infrastructure, Section 17(1)

¹¹ South African Schools Act, No. 84 of 1996, Section 17(2)

¹² Ibid. Section 17(2)(a)-(c)

¹³ South African Schools Act, No. 84 of 1996, Section 58B(2)(c)

¹⁴ Ibid. Section 58B(3)(b)

¹⁵ Ibid. Section 58B(4)

¹⁶ Pandor, N. Statement from Cape Town on 23 October 2006

These regulations, taken together with the constitutional rights afforded to learners, provide the background for the issues at hand. It is clear that learners' rights are being violated, it is also clear that the regulations in place to protect them from violence are woefully inadequate. These regulations lay the responsibility for school safety squarely at the feet of the schools themselves, however, many of the schools most affected by violence are no-fee schools and as such have incredibly tight budgets – in reality then, these schools are not empowered to secure the perimeter of the premises with high fences, or to employ private security companies to provide guards and control access to school premises. Not only are these schools no-fee, but they also exist in low-income communities and therefore cannot rely on donations from parents or other members of the governing body. There is a disconnect here between the rights of learners to freedom from violence, basic education and to have their best interests taken as paramount, which are immediately realisable, and the circumstances under which these rights can be fully enjoyed. The requirement for the realisation of the appropriate circumstances (i.e. safe, violence-free schools) is qualified by the 'take reasonable steps' proviso which enables those in power to avoid responsibility by claiming that they are 'doing all they can', when in reality they are doing very little. The assurances of the rights promised by the Constitution will ring hollow for many South African learners if appropriate and effective strategies for action are not formulated, the vague requirements to ensure safety with blunt reactionary tools outlined by the regulations described above are inadequate.

Rationale for the study

In his paper *Living with Non-state policing in South Africa: The Issues and Dilemmas* Bruce Baker observes that different types of non-state policing often occur in society according to racial and economic divides.¹⁷ Although Baker argues that the existence of non-state policing is inevitable, this claim has no implicit normative value, thus examination of whether or not the existence of non-state policing is a 'good thing' is necessary. I will begin by outlining some potential problems that arise when the monopoly on policing is not held by one body, namely the state. Baker is concerned that the prevalence of non-state policing may exacerbate inequality in South Africa. Non-state policing, in particular the private security industry, is primarily accountable to the *client*. This undermines the notion of policing as an inherently public good and means that the provision of policing services will necessarily be

¹⁷ Baker, B. (2002) 'Living with Non-state policing in South Africa: The Issues and Dilemmas', *The Journal of Modern African Studies*, Vol. 40, No. 1, at 30

unevenly provided. Only those who can afford the protection of a private security company will be provided with its protection. Those who cannot must rely solely on the state police, however, SAPS itself does not offer consistent and uniform service. In communities where there is widespread dissatisfaction with SAPS as well as widespread poverty (such as Khayelitsha) the residents are required to turn to other, less legitimate and potentially lawless, forms of policing for the provision of protection. Bayley and Shearing reiterate this point when they claim that the ‘restructuring of policing through markets’¹⁸ (i.e. the emergence of a private security industry) raises concerns about the equality of access to security services. Since private security is a service that is available only to those who can afford to pay for it, it seems that the rich and the poor will inevitably be afforded different levels and kinds of protection. As Bayley and Shearing put it:

‘the poor are protected by the public police operating with a deterrent, law enforcement mentality and the rich are protected by private police using a more consumer-responsive, regulatory mentality.’¹⁹

In South Africa this dualistic nature of service provision is very often the case, this is especially troubling given the fact that the South African public police do not provide the basic services that many expect from them. From the descriptions of unsafe schools given early in this chapter, it is clear that many of the factors that contribute to their existence are related to issues of poverty and inequality. Schools in affluent neighbourhoods are seldom, if ever, beset by the same types of violence as schools in Khayelitsha. Does this indicate that if the policing services (both public police and private security) were of the same quality in both affluent and poor areas that these schools would become safe as a result? I don’t think that this would automatically be the case. Schools have been described as microcosms of the communities in which they are situated; as such the social issues that affect the community as a whole bleed over into schools. Traditional policing services, which are inherently reactionary, are not designed to address these broader social issues and could therefore never provide a full solution to the problem. Therefore in the context of school safety (as with community safety), it may not necessarily be the case that the inclusion of the non-state is the result of a dissatisfaction with the state police, but rather the recognition that the various factors that contribute to the existence of unsafe schools are beyond the ambit of the state police. As such, it is also necessary to include bodies (both state and non-state) whose roles

¹⁸ Bayley, D.H. and Shearing, C.D. (2001) *The New Structure of Policing: Description, Conceptualization, and Research Agenda*. Washington DC: National Institute of Justice at 30

¹⁹ Bayley and Shearing (2001) *The New Structure of Policing*, at 30

do not explicitly include the provision of safety and security, crime prevention or the maintenance of order, but are nevertheless indirectly responsible for these things under the ‘policing umbrella’.

This necessity is highlighted by the testimony of Professor Catherine Ward to the Khayelitsha Commission. Ward explained that South African gangs ‘have been created in a particular crucible of economic disenfranchisement’²⁰ and that membership in a gang offers economically disadvantaged and socially excluded youths a sense of belonging as well as protection from the pervasive violence of the communities within which they exist. As such, Ward suggested that a focus on the suppression of gang activity rather than on eradicating the circumstances which foster the existence of gangs in the first place, will not be effective in the long run. Therefore, Ward argued that programmes aimed at preventing people from becoming affiliated with gangs in the first place, as well as programmes designed to help people to disengage from gang involvement²¹ must be employed in conjunction with suppression tactics. The suppression technique is often favoured by traditional law enforcement agencies, such as the state police, is necessary to a degree. According to Ward –

‘Key to [the] successful implementation [of the above mentioned programmes], however, is efficient co-operation between the agencies involved, implementing a co-ordinated community-wide plan that has grassroots involvement [...] in obtaining genuine community participation.’

Ward therefore concludes that ‘there is a role for policing in relation to youth gangs, such as high visibility policing and hot spot policing, it is a limited role, and it is important that SAPS “are surrounded by an array of social services”’²².

Given all that has been detailed in this chapter, it should be evident that a mapping of the activities, strategies, mentalities and responsibilities of those responsible for providing security to Khayelitsha’s schools is an urgent task. This study aims to provide such a map with the aim of coming to a better understanding of the implications of nodal policing for those who are left worst-off by the gaps left unfilled.

²⁰ ‘Towards a Safer Khayelitsha’ (2014) *Report of the Commission of Inquiry*, at 340

²¹ *Ibid.*

²² *Ibid.* at 341

CHAPTER TWO: LITERATURE REVIEW

‘We are living in the midst of a potentially far-reaching transformation in the means by which order and security are maintained in liberal democratic societies, one that is giving rise to the fragmentation and diversification of policing provision, and ushering in a plethora of agencies and agents, each with particular kinds of responsibility for the delivery of policing and security services and technologies. What we might call a shift from police to policing has seen the sovereign state—hitherto considered focal to both provision and accountability in this field—reconfigured as but one node of a broader, more diverse “network of power.”’

- Ian Loader (2000)

PART ONE – NODAL POLICING

Introduction

This opening quote demonstrates the complex nature of the topic at hand – the identification, analysis and understanding of the various actors involved in policing Khayelitsha’s schools – it is therefore essential to have both a broad and detailed understanding of the theoretical framework within which the various issues can be placed. Therefore, the theoretical conceptualisations and definitions used to make sense of the empirical realities of policing, security, governance, spaces, schools, and violence (and related concepts) will be thoroughly unpacked in the following section. This is a vast and multifaceted field of study of interest to criminologists, sociologists, psychologists, and policymakers, to name just a few, as such considerable effort has been made to include only those concepts which are strictly relevant to this paper. Given Adam Crawford’s observation that ‘[w]ithin some of this literature it is sometimes difficult to disentangle, on the one hand, conceptual thinking about regulation and its normative and diagnostic possibilities from, on the other hand, empirical descriptions of change’²³ special attention will be paid to distinguishing the descriptive from the normative in order to provide a clear and precise analytical framework.

²³ Crawford, A. (2006) ‘Networked Governance and the post-regulatory State? Steering, rowing and anchoring the provision of policing and security’, 10 *Theoretical Criminology* 4, at 450

Explaining the global shift from Police to policing

Policing, understood broadly as ‘the activity of making societies safe’²⁴, has been undergoing a global transformation for some time now. This transformation is widely accepted to be the result of the activity of policing no longer being undertaken solely by sovereign nation states.²⁵ Although the state remains a significant role player in the provision, regulation and authorisation of security, it is no longer the exclusive or perhaps even the primary actor in this domain. Rather, the state police is but one of a multiplicity of actors in a vast and complex ‘network’ of security. The academic work surrounding the concept of policing has also therefore undergone a transformation; ‘criminologists and other critical scholars of a socio-legal orientation [no longer] conceptually equate the business of policing with the institution of the public police.’²⁶ Scholars such as Rita Abrahamsen and Michael Williams therefore argue that ‘hierarchical conceptions of government no longer capture the structure of security provision, which is increasingly dispersed geographically, functionally, normatively and institutionally.’²⁷ Thus, scholars no longer seek to understand policing only as it relates to governments (i.e. states, state police). Instead policing is understood as the *governance* of security by a multiplicity of actors, both state and non-state. Indeed, according to Elke Krahmman:

‘the fragmented but overlapping networks which structure the collaboration among the growing range of state and non-state security actors are more adequately described by the concept of governance’²⁸

It is important to note that this move away from an exclusive focus on the public police does not entail that the conceptualisation of policing should now be cashed out solely in terms of ‘privatisation’. In fact, such an explication would be an oversimplification²⁹ of the empirical reality. The neat public/private distinction, often equated with the state/non-state distinction, does not fully account for the complex security arrangements that exist between a number of diverse auspices and providers. Further complexities are added to these arrangements when we consider that these auspices and providers have different ways of thinking about policing (i.e. mentalities) and employ different practices when carrying out the

²⁴ Bayley and Shearing (2001) *The New Structure of Policing*, at 1

²⁵ Ibid.

²⁶ Kempa, M., Stenning, P. and Wood, J. (2004) ‘Policing Communal Spaces: A Reconfiguration of the ‘Mass Private Property’ Hypothesis’. 44 *The British Journal of Criminology* 4, at 563

²⁷ Abrahamsen, R. and Williams, M. C. (2011) *Security Beyond the State: Private Security in International Politics*, Cambridge University Press, at 82

²⁸ Krahmman, E. (2005) ‘From State to Non-State Actors: The Emergence of Security Governance’, at 11

²⁹ Bayley and Shearing (2001) *The New Structure of Policing* at 5

tasks of policing.³⁰ As such, Bayley and Shearing conclude that ‘it is more accurate to characterize what is happening as multilateralization in the governance of security rather than the privatization of policing.’³¹ Scholars argue that this multilateralization can be made sense of through a ‘nodal governance’ perspective. Johnston and Shearing claim that the concept of ‘nodal governance’ is not simply the best way to descriptively characterise the current state of security governance³², but is also useful as a normative framework and set of principles³³ to guide and regulate the governance of security. Multilateralization therefore ‘appears simultaneously as a change in the way of looking at things and a changed order of things.’³⁴ One would be hard-pressed to dispute, on empirical grounds, the pluralisation of security governance as outlined above. However, it should not be taken for granted that the descriptive reality entails the normative outcome put forward by scholars like Johnston and Shearing. Indeed, Abrahamsen and Williams note that:

‘this is not simply an empirical or institutional question of who does what and where. The pervasiveness of [the pluralisation of] security goes beyond institutional battles over the correct division of labour between the public and the private, and raises broad political questions that are of crucial relevance both to the process of [security sector reform] and to development more generally.’³⁵

The aim of this paper is to provide a map of ‘who does what’ within the security arrangements for Khayelitsha’s schools. Attendant to that aim is the evaluation of the normative outcomes and functional realities of these arrangements. These analyses and evaluations are to be conducted within the bounds of a particular geographic area and will therefore yield results appropriate to the particular context. However, before we can undertake the task of understanding the particularities Khayelitsha’s school security arrangements, the broader theoretical framework within which the specifics of this study are to be situated must first be outlined. As explained above, in order to formulate a robust analytical framework it is necessary to have a clear and precise understanding of the relevant theories and concepts. Therefore, the following sections will be devoted to the task of unpacking theories and concepts related to nodal governance such as security, governance, space, and anchored pluralism.

³⁰ Ibid. at vii

³¹ Bayley and Shearing (2001) *The New Structure of Policing*, at 5

³² Johnston, L. and Shearing, C. (2003) *Governing security: Explorations in policing and justice*, at 18

³³ Johnston and Shearing (2003) *Governing security*, at 149

³⁴ Crawford (2006) ‘Networked Governance and the post-regulatory State?’, at 450

³⁵ Abrahamsen, R. and Williams, M. C. (2006) ‘Security Sector Reform: Brining the Private In’, 6 *Conflict, Security and Development* 1 at 18

Space and Communal spaces

A leading explanation for the shifts described above relates the developments in security governance to changes in property relations³⁶, as such the concept of space in general and ‘communal spaces’ in particular, will be the focus of the following section. According to Wood and Shearing:

‘In deploying the notion of the ‘governance of security’ we refer to actions designed to shape events so as to create ‘spaces’ in which people can live, work and play. We are using ‘space’ as a metaphor that we interpret broadly. Spaces may be conventional territorial spaces but they can also be cyberspaces and social spaces such as communities.’³⁷

As such, any full examination of the concept of security governance must be accompanied by a thorough unpacking of the concept of space. Broadly speaking the amount of regulatory authority an individual wields in a particular space is relative to the power and the legitimacy the individual has in that space. Power, understood as a function of knowledge, is determined by the expertise of the user in a particular space, while legitimacy is determined by how valid a user’s occupancy of that space is perceived to be. Regulatory authority within spaces has traditionally been delineated in terms of the public/private distinction. Public spaces are ‘accessible to all citizens simply by virtue of their citizenship’³⁸ whereas private spaces ‘are places in which citizens can, by virtue of their ownership/control of property, put limits on the use of these spaces’³⁹. However, this neat distinction does not capture the full picture; there are many spaces in which the line between public and private is significantly blurred. An example of this kind of space is ‘mass private property’ which is property that is privately owned but ‘has developed features which make it appear very much like a public space’⁴⁰ (e.g. large shopping complexes, housing estates etc.). Shearing and Wood suggest the term ‘communal spaces’ for spaces which ‘exist within the new emerging and supra-state systems of governance, but [...] are different from, and fall outside the public/private distinction.’⁴¹ According to Kempa *et al.* this term encompasses a range of different kinds of spaces which

³⁶ Kempa *et al.* (2004) ‘Policing Communal Spaces’ at 562

³⁷ Wood and Shearing (2007) *Imagining Security*, at 7

³⁸ Shearing and Wood (2003) ‘Nodal Governance’, at 409

³⁹ *Ibid.* at 409

⁴⁰ *Ibid.* at 410

⁴¹ *Ibid.* at 410-411

exist along a continuum of forms of property.⁴² Along this continuum there exist spaces which are ‘to a greater or lesser degree, open to the public and under state and/or non-state control.’⁴³

Kempa *et al.* (borrowing from Jones and Newburn) go on to outline several factors that should be taken into account when determining where on the continuum a particular space may fall⁴⁴:

- Who has (routine) access to the space?
- Who owns the space?
- What kinds of controls prevent/allow people access to the space?
- Who has been given or has otherwise assumed the capacity and authority to define the orders that are enforced in these spaces?

Related to this concept of spaces is the definition of policing (and related concepts), as outlined by Hermer *et al.*, according to which policing is

‘any activity which is expressly designed and intended to establish and maintain (or enforce) a defined order within a community. [...] A defined order is a set of explicit or implicit norms designed to regulate behaviours (conduct), relationships of expression, and to provide for the establishment of institutions and procedures. [...] Orders are typically defined with a view to achieving particular objectives [such as] the achievement of security and safety for members of the community being policed. [...] Community [...] is understood as a collectivity, whether it be defined in terms of a specific geographic area, by a sense of shared identity on the basis, for instance, of gender, nationhood, race, ethnicity or sexual orientation, or by a shared sense of goals organized through economic, political or cultural activity.’⁴⁵

With this understanding of the relation of security governance to spaces, I will now turn to unpacking the concept of security governance itself in greater detail.

Conceptualising Security Governance

In order to gain a comprehensive understanding of the concept of security governance, it is first necessary to stipulate the meaning of each of its component terms. Broadly

⁴² Kempa *et al.* (2004) ‘Policing Communal Spaces’ at 570

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ Hermer *et al.* as quoted by Kempa *et al.* (2004) ‘Policing Communal Spaces’ at 564, note 3

construed, governance can be understood as ‘social coordination’⁴⁶. Majid Yar identifies three distinctive modes of coordination; ‘state-based *hierarchy*, market-based *anarchy* and network-based *heterarchy*.’⁴⁷ Yar explains that each of these forms of coordination exemplifies a characteristic rationality. The rationality of anarchy is market-based, such that efficiency and optimum economic outcomes are the ends towards which such coordination aims. The rationality of hierarchy is defined by its pursuit of substantive objectives, such as ‘predetermined political and policy aims.’⁴⁸ Finally, heterarchy is essentially reflexive in nature, ‘organised around communicatively managed consent between multiple agents.’⁴⁹ Yar explains that both anarchy and hierarchy tend to failure; the former insofar as action taken in the market does not yield economically optimal outcomes, and the former insofar as state actions and mechanisms do not result in the achievement of substantive policy goals.⁵⁰ According to Yar, the trend towards heterarchic coordination is regularly put forward as a ‘corrective’ for the failures of anarchic and hierarchic coordination.⁵¹ As such, it is this networked mode of coordination that has been described in the literature as Governance (cf. governance). In this sense, Governance, according to Elke Krahmman, ‘denotes the structures and processes which enable a set of public and private actors to coordinate their interdependent needs and interests’⁵². Krahmman further suggests that the concept of governance can be effectively understood by differentiating it from government. The latter she defines as ‘the political control of a centralized state’ while the former is ‘the coordination of social relations in the absence of a unifying authority’⁵³. The distinction between government and governance is made even more salient by taking into account the following dimensions along which they can be differentiated: ‘(1) geographical scope, (2) functional scope, (3) distribution of resources, (4) interests, (5) norms, (6) decision-making and (7) policy implementation.’⁵⁴ With government these dimensions are largely centralised while with governance they become fragmented.⁵⁵ Wood and Shearing speak about the concept of governance in more general terms, stating that the activities related to managing

⁴⁶ Yar (2011) ‘From the ‘Governance of Security’ to ‘Governance Failure’’, at 9

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Krahmman, E. (2003) ‘Conceptualising Security Governance’, 38 *Cooperation and Conflict: Journal of the Nordic International Studies Association* 1, at 11

⁵³ Krahmman (2003) ‘Conceptualising Security Governance’, at 11

⁵⁴ Ibid. at 12

⁵⁵ Ibid. at 13

and guiding the flow of events in the world is the task of governance.⁵⁶ Broadly construed then the aim of governance is to create order through the coordination of various actors in a given sphere, such that each actor can pursue their ends and interests. Order is created by the implementation of effective strategies by these actors. Wood and Shearing flesh this concept out in more detail as follows:

‘Governing requires the use of strategies as well as actions intended to put these strategies into effect. This typically takes place in and through institutions that can be thought of as ways of relating people and things to give effect to strategies. [...] Governing institutions are made up of component parts. [...] These various parts, when put together as institutions, enact practices.’⁵⁷

In this context, security can be understood as a particular kind of order which can be produced by the implementation of strategies by institutions. Broadly defined, the term security connotes a state of being free from danger. Although the precise definition of the term security is not uncontested, it is generally accepted by criminologists that it suggests both subjective and objective conditions of being.⁵⁸ The subjective condition is met when the agent or agency in question feels safe, such that they are free from the fear or apprehension of danger. This kind of security is therefore concerned with the subjective perceptions or mental state of an agent or agency. On the other hand, security in the objective sense concerns an actual or physical state. An agent or agency is secure in this sense when one of the following three conditions obtains; the agent or agency is free from any threat of danger, or is protected from potential threats, or avoids/is not exposed to danger.⁵⁹

Wood and Shearing describe security as ‘something we imagine, and what we imagine shapes our mentalities and practices of governance.’⁶⁰ Security is imagined in the sense that one is secure or insecure according to what one perceives as threatening or dangerous, rendering even objective security subjective at this level. Issues are ‘securitised’⁶¹ by various actors based on the presentation and acceptance of these issues as matters of security. Which issues become securitised by actors is in turn based on ‘different forms of knowledge that generate assessments of threat and risk.’⁶² Which strategies are implemented by which institutions depends on which issues are securitised. How the security issue is framed and

⁵⁶ Wood and Shearing (2007) *Imagining Security*, at 6

⁵⁷ *Ibid.* at 7

⁵⁸ *Ibid.* at 4

⁵⁹ Zedner (2003) as cited by Wood and Shearing (2007) *Imagining Security*, at 4

⁶⁰ Wood and Shearing (2007) *Imagining Security*, at 6

⁶¹ *Ibid.*

⁶² *Ibid.*

situated determines which ‘parts’ (later ‘nodes’) come together to form institutions and which practices they will employ. To govern *through* security is therefore to ‘frame governance problems as particular kinds of problems that require specific forms of knowledge, capacities and resources that must be called forth into action.’⁶³ State governments have long been considered the institutions with the requisite knowledge, capacities and resources to produce security for individual citizens (and states themselves) and have attempted to do so through bodies such as the public police (e.g. SAPS). However, as extensively detailed above, it is now recognised that such bodies are not exclusively responsible for the provision and implementation of security related services and strategies. Rather, the function of security provision is fulfilled by a number of different bodies resulting in the ‘splitting of governance into a wide variety of governmental nodes.’⁶⁴ Those institutions whose primary end is to produce security therefore all form part of the security governance network. The nodal governance model is able to account for the empirical complexities of networked security arrangements as well as acting as a normative framework for guiding the governance of security. Thus, the following section will be dedicated to a through exposition of the concept of Nodal Governance.

Conceptualising Nodal Governance

According to Burris *et. al.*; ‘[n]odal governance is an elaboration of contemporary network theory that explains how a variety of actors operating within social systems interact along networks to govern the systems they inhabit.’⁶⁵ A node is defined by Wood and Shearing as a particular site of knowledge, capacities and resources that functions as an auspice or provider of governance.⁶⁶ As such, nodes can be components of greater institutions or can themselves be whole institutions and can exist autonomously or as part of a networked set of nodes. That nodes can be equated with institutions does not imply that they should be understood only as formal organisations, at the exclusion of informal groupings, which according to Wood and Shearing can also be understood as nodes of governance.⁶⁷ All that is necessary for an agent or agency to be considered a node of governance is for it to utilise its knowledge, capacities and resources such that it aims at the creation of order through the implementation of strategies. Burris *et. al.* point out that as sites of governance nodes have

⁶³ Ibid.

⁶⁴ Shearing, C. and Wood, J. (2003) ‘Nodal Governance, Democracy, and the New ‘Denizens’, 30 *Journal of Law and Society* 3, pp. 400-419

⁶⁵ Burris, S., Dahros, P. and Shearing, C. (2004) ‘Nodal Governance’, at 5

⁶⁶ Wood and Shearing (2007) *Imagining Security*, at 27

⁶⁷ Ibid.

four defining features. These are mentalities, technologies, resources and institutions. That is, nodes have particular ways of thinking about governance, they have methods for influencing and ordering events, they have access to resources which enable this influencing and ordering, and they are structured such that they are able to make use of their resources, mentalities and technologies over time.⁶⁸

A major attraction of the nodal conception of governance is its flexibility, which enables it to account for complex and continuously shifting security arrangements. Within this paradigm ‘no set of nodes is given conceptual priority. Rather, the exact nature of governance and the contribution of the various nodes to it are regarded as empirically open questions. It is assumed that the specific way in which governmental nodes relate to one another will vary across time and space.’⁶⁹ Given what was described above as the shift from ‘Police to policing’, such that state governments are no longer exclusively responsible for the authorisation and provision of security services, the functions and practices of security governance should be understood as consisting of a matrix or network of nodes of governance. According to Ian Loader:

‘this network continues to encompass the direct provision and supervision of policing *by* institutions of national and local government. But it now also extends [...] to private policing forms secured *through* government; to transnational police arrangements taking place *above* government; to markets in policing and security services unfolding *beyond* government; and to policing activities engaged in by citizens *below* government.’⁷⁰

Loader’s characterisation of the broad categories of nodes of governance is shared by Shearing and Wood:

‘Within nodal governance we may now speak of first (state), second (corporate or business), and third (non-governmental organizations) sectors. It might be useful to think of a fourth, informal sector, made up of people who operate outside of the first three sectors.’⁷¹

The Specificity of Nodal Policing

As discussed above, policing should be understood not simply as what the (state) police do, but rather as the activity of making societies safe, or in other words the activity aimed at

⁶⁸ Burris, Dahros and Shearing (2004) ‘Nodal Governance’, at 12

⁶⁹ Shearing and Wood (2003) ‘Nodal Governance’ at 404

⁷⁰ Loader, I. (2000) ‘Plural Policing and Democratic Governance’, 9 *Social and Legal Studies* 3, at 324

⁷¹ Shearing and Wood (2003) ‘Nodal Governance’, at 405

achieving security.⁷² On this conception, the term ‘policing’ denotes the governance of security, with the state police existing as only one of the many nodes in the security governance matrix. Note that I am intentionally retaining the use of the term *policing* despite its ‘close historical ties to state policing organisations’⁷³ in order to keep hold of the specificity⁷⁴ of this particular aspect of governance (i.e. to keep it distinct from other forms of governance and governance more generally.)

Challenges to the nodal governance framework

The nodal conception of governance seems, *prima facie*, up to the task of capturing the empirical complexity of pluralised security networks. This approach provides the conceptual tools necessary to analyse and make sense of these networks. However, as promising as this approach may seem it is not above critique. Loader and Walker have raised some concerns relating to its potential to act as a normative basis for security governance. While they accept the pluralised nature of security governance and state governments’ loss of monopoly in this area, they argue that it is unclear ‘with respect to the possibilities of regulation, how the idea of security as a ‘collective good’ can be sustained in the absence of politically constituted institutions that are able to exercise what one might call meta-authority over the range of nodes comprising the network.’⁷⁵ In short, Loader and Walker reject the idea that the state should have no special place in nodal security arrangements, both conceptually and in practice. They argue that by marginalising the role of the state in their explanatory schemes proponents of the nodal governance model have been too quick to eliminate the state’s conceptual priority in their theoretical framework and in turn move too easily from descriptive to normative registers.⁷⁶ They point out that despite the plurality of actors involved in the governance of security, the state remains the ultimate authority on who may resort to coercion and ‘still retains an in-the-final-instance authority to decide on, supervise or license [...] the other spheres of regulation and provision.’⁷⁷ Furthermore, according to Loader and Walker, if security is understood as a public good in the economic sense, such that it is a good that is ‘most *efficiently* provided in a compulsory collective manner’⁷⁸, then the state must retain conceptual and actual supremacy. It is their contention that the delivery

⁷² Kempa *et al.* (2004) ‘Policing Communal Spaces’ at 564, note 3

⁷³ Wood and Shearing (2007) *Imagining Security*, at 4

⁷⁴ Loader (2000) ‘Plural Policing and Democratic Governance’, at 330

⁷⁵ Loader, I. and Walker, N. (2004) ‘State of Denial? Rethinking the Governance of Security’, 6 *Punishment and Society* 2, at 224

⁷⁶ Loader and Walker (2004) ‘State of Denial?’, at 224

⁷⁷ *Ibid.*

⁷⁸ Loader, I. and Walker, N. (2001) ‘Policing as a Public Good: Reconstituting the Connections between Policing and the State’, 5 *Theoretical Criminology* 9 at 18

goods, such as security, which necessitate joint action and ‘whose benefits are non-excludable’⁷⁹ require state action to be efficiently and equitably delivered.⁸⁰ Moreover, Loader and Walker argue that given the highly subjective nature of the meaning of security, an anchoring institution (such as the state) is necessary in order to maintain civic bonds and solidarity across the whole of society. They claim that the outcome of the ‘Shearing school’ of thinking may be to ‘produce a world of levelled-up tribalism’⁸¹.

According to Yar for Loader and Walker ‘the *problem* of network policing and security lies in the fundamental iniquities of outcome when viewed from the standpoint of a political commitment to equality, democracy and justice.’⁸² Loader and Walker do acknowledge the pluralised nature of security provision; as Yar notes, while there is descriptive *accordance* and explanatory *confluence* in this debate, there is considerable *dissonance* when it comes to normative and prescriptive issues.⁸³ Their alternative to nodal governance therefore is the notion of ‘anchored pluralism’.⁸⁴ On this conception, the state has a distinctive role as the ‘anchor of collective security provision’⁸⁵. On this account, all actors within a network are bound to remain within the regulatory parameters set by the state.⁸⁶ Crawford expands on this idea by drawing in a ‘steering and rowing’ analogy, such that the state undertakes all *steering* functions in the form of regulation; ‘steering by setting the course, monitoring the direction and correcting deviations from the set course.’⁸⁷ The actual *rowing* is left to the plurality of non-state actors.⁸⁸ Within the anchored pluralism framework the analogy now entails that the state provides fixed anchoring points, around which other actors continue to row. Shearing acknowledges the existence of such anchoring institutions, but once again does not grant the state any kind of priority, claiming that:

‘What we find in practice is not a single anchor that directs the steering of governance but multiple anchors each contesting to realise competing governing agendas.’⁸⁹

⁷⁹ Loader and Walker (2001) ‘Policing as a Public Good’, at 27

⁸⁰ Ibid.

⁸¹ Loader and Walker (2004) ‘State of Denial?’, at 227

⁸² Yar, M. (2011) ‘From the ‘Governance of Security’ to ‘Governance Failure’: Refining the Criminological Agenda’, *Internet Journal of Criminology*, at 8

⁸³ Yar (2011) ‘From the ‘Governance of Security’ to ‘Governance Failure’’, at 6

⁸⁴ Loader, I. and N. Walker (2006) ‘Necessary Virtues: The Legitimate Place of the State in the Production of Security’, in J. Wood and B. Dupont (eds) *Democracy, Society and the Governance of Security*, pp. 165-195

⁸⁵ Crawford (2006) ‘Networked Governance and the post-regulatory State?’, at 459

⁸⁶ Yar (2011) ‘From the ‘Governance of Security’ to ‘Governance Failure’’, at 12

⁸⁷ Crawford (2006) ‘Networked Governance and the post-regulatory State?’, at 453

⁸⁸ Ibid.

⁸⁹ Shearing, C. (2006) ‘Policing our Future’, in Henry, A. and Smith, D. J. (eds.) *Transformations in Policing*

According to Yar, neither the anchored pluralism nor the nodal governance frameworks are satisfactory. This he claims is due to the fact that both assume that networked governance is ‘functionally efficacious in engendering a new mode of poling or securing’⁹⁰. Yar does not simply argue that that networked governance is not functionally efficacious, but makes the far stronger claim that governance failure in such networks is a ‘*logical necessity*’⁹¹. The reason Yar identifies for this inevitable failure that is most relevant to this study is the fact that different actors within a network necessarily ‘bring with them their own modes of action and embedded rationalities’⁹² (cf. ‘mentalities’). He explains that:

‘the logic of state action will dictate that success comprises an incremental eradication of the sources of insecurity (such as crime, predation, antisocial behaviour and so on); but for market actors in the business of generating profit from the provision of security goods and services, the ongoing presence of sources of insecurity is necessary, for without these the demand for goods and services cannot be maintained, let alone increased’.⁹³

Since a heterarchic networked mode of governance does not replace or augment the rationalities of anarchic and hierarchic modes, it cannot serve to correct for the inevitable failures these rationalities entail. Rather it brings these rationalities into direct conflict with one another.⁹⁴ Yar therefore concludes that it should not be ‘taken for granted that networked (or nodal) governance will be functionally efficacious’ and that ‘more careful attention needs to be directed towards proposals for ‘meta governance’ or the ‘governance of governance’⁹⁵. This discussion concludes my consideration of the theoretical debate currently surrounding the governance of security. With this theoretical context in mind, I will now move on to consider some concrete examples of the implications of the pluralisation of security governance. Importantly, I will be taking on the first of Yar’s conclusions in the remainder of this study; in mapping the nodal policing arrangements at Khayelitsha’s schools and attempting to make sense of the implications of a networked provision, questions relating to the functional efficacy of such networks must also be dealt with.

⁹⁰ Yar (2011) ‘From the ‘Governance of Security’ to ‘Governance Failure’’, at 2

⁹¹ Ibid. at 12

⁹² Ibid. at 10

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid. at 14

Implications of the pluralisation of security governance

Before I consider literature on the implications of the pluralisation of security governance, it is first necessary to outline a normative conception of what policing *ought* to be. Insofar as this conception serves as a measuring stick, it provides a useful backdrop against which to consider the normative value of nodal security governance.

Policing, construed as a ‘public good’, is the activity of providing, authorising and regulating practices and technologies aimed at producing security for the *whole* of a given society. This is so according to Loader and Walker’s argument that ‘public safety is inexorably connected with the quality of our association with others [...], it depends upon the texture of social relations and the density of social bonds [...and...] it remains tied up with the nature and legitimacy of public power and authority’⁹⁶, therefore they conclude that security is ‘*irreducibly social*’⁹⁷. In other words, the value of security is not reducible to the aggregation of the security of every individual in a given society, rather its value is only achieved by its being enjoyed collectively.⁹⁸ As such, the provision of security only has a positive normative value if it is equitably distributed across society, not only in terms of access but also in terms of quality. I will now examine some of the literature that raises concerns for the potential of nodal security governance to live up to these ideals.

Equality of access and quality of service

A major component of the pluralisation of security governance is the ‘commodification’⁹⁹ of security services, or what Bayley and Shearing call the ‘restructuring of policing through markets’¹⁰⁰. This commodification is most readily observable in the form of commercial security companies.¹⁰¹ These companies charge a fee and aim to earn a profit by providing a diverse array of security services and technologies. Consequently, the provision of (this kind of) security is ‘determined by the ability and willingness of consumers to pay’¹⁰², thereby ‘skew[ing] the distribution of security’¹⁰³. This skewing has potentially dire consequences when we take into account that ‘the evidence suggests that the growing

⁹⁶ Loader and Walker (2001) ‘Policing as a Public Good’, at 25

⁹⁷ Ibid.

⁹⁸ Ibid. at 26

⁹⁹ Loader, I. (1999) ‘Consumer Culture and the Commodification of Policing and Security’, 33 *Sociology* 33 at 374

¹⁰⁰ Bayley, D.H. and Shearing, C.D. (2001) *The New Structure of Policing: Description, Conceptualization, and Research Agenda*. Washington DC: National Institute of Justice, at 30

¹⁰¹ Bayley and Shearing (2001) *The New Structure of Policing*, at 13

¹⁰² Loader (1999) ‘Consumer Culture’, at 374

¹⁰³ Bayley and Shearing (2001) *The New Structure of Policing*, at 31

'wealth' disparity between the rich and the poor is associated with a growing 'governance' disparity.'¹⁰⁴ Given that the services offered by commercial security companies are available only to those who have the requisite funds to pay for them, it seems that the rich and the poor will inevitably be afforded different levels and kinds of protection. When left entirely to the mercy of a public police that cannot offer the same quality of service as commercial security companies, the skewed distribution of security may result in people being 'encouraged not only to take the law into their own hands for their private protection but also to defy law associated with unresponsive government.'¹⁰⁵ People taking the law into their own hands does not necessarily result in illicit practices such as vigilantism and mob justice; those who are inadequately served by the public police and who cannot afford the services of commercial security companies may engage in legally sanctioned practices such as community policing, which has been described by some as 'private policing for the poor.'¹⁰⁶ However, in South Africa at least, community policing initiatives are 'commonly seen to have failed and were largely abandoned in favour of a return to more hard-core and conventional crime-fighting methods'¹⁰⁷ or have merely 'become a mechanism to achieve better bandit catching, [rather] than a way of involving the police in wider strategies to enhance community involvement in crime prevention.'¹⁰⁸ As a result:

'the poor are protected by the public police operating with a deterrent, law enforcement mentality and the rich are protected by private police using a more consumer-responsive, regulatory mentality.'¹⁰⁹

Therefore, concerns related to the skewed distribution of security are not merely related to access but also to quality.

As evidenced by the above quote Bayley and Shearing characterise the mentality of private security as being 'primarily concerned with governing the future: its objective is to prevent crime.'¹¹⁰ According to Leman-Langlois and Shearing this is the result of the global shift in security governance mentalities away from 'responding to risks once they have occurred'¹¹¹ toward a more future-oriented stance (i.e. prevention of future crimes rather than

¹⁰⁴ Shearing and Wood (2003) 'Nodal Governance', at 412

¹⁰⁵ Bayley and Shearing (2001) *The New Structure of Policing*, at 31

¹⁰⁶ Ibid.

¹⁰⁷ Abrahamsen and Williams (2011) *Security Beyond the State*, at 185

¹⁰⁸ Shaw, M. and Shearing, C. (1998) 'Reshaping Security: An Examination of the Governance of Security in South Africa', 7 *African Security Review* 3, at 8-9

¹⁰⁹ Bayley and Shearing (2001) *The New Structure of Policing*, at 30

¹¹⁰ Bayley and Shearing (2001) *The New Structure of Policing*, at 18

¹¹¹ Leman-Langlois, S. and Shearing, C. (2009) 'Human Rights Implications of New Developments in Policing', Working Paper, *The International Council on Human Rights Policy*, at 17

reaction to past crimes). Therefore, those who can afford to pay, or have 'buying power'¹¹², are 'subject to strategies and technologies of governance that are subtle, embedded, risk-oriented, and non-coercive'¹¹³. While a lack of buying power, on the other hand, leaves many 'structurally excluded from opportunities to direct or 'steer' service delivery.'¹¹⁴ Although the public police also seek to prevent crime, this is primarily achieved through a 'deterrence based on punishment'¹¹⁵ strategy. Although 'risk-based technologies have become increasingly prominent in the security field as a whole'¹¹⁶, commercial security companies claim principal expertise in this area.

One way in which private security companies and other (resource rich) non-state actors enact this future-oriented mentality is through the exclusion of certain individuals from the spaces they have been authorised to police. In her paper *Unbundled Security Services and Urban Fragmentation in Post-apartheid Johannesburg* Bénit-Gbaffou explains how some wealthy neighbourhoods in Johannesburg have been 'closed off'¹¹⁷ by residents. This is achieved by restricting access into the neighbourhood by erecting barriers. These barriers usually take the form of fences around the neighbourhood and gates or booms across roads through which only the residents of the neighbourhood or other authorised visitors may pass. Those who have no apparent purpose for entering the neighbourhood are denied access. This practice is justified by residents as a means to reduce crime and therefore to promote safety and security. Bénit-Gbaffou points to the fact that the issue of road closures was brought before the the South African Human Rights Commission and was subsequently found to be a contradiction of basic human rights.¹¹⁸ The Commission argued that these practices infringed on the right to move freely as well the right to equal treatment and freedom from discrimination. From Bénit-Gbaffou's paper we see a case in which certain groups of individuals' interpretation and subsequent implementation of their right to security as well as their desire to be free from fear, seems to entail the limiting of others' rights. This practice of access control and exclusion is not limited to residential areas, but extends to shopping malls, gated estates etc. Wood and Shearing describe such spaces as 'bubbles of governance'¹¹⁹ within which those who have buying power exert control. These practices are not exclusively

¹¹² Shearing and Wood (2003) 'Nodal Governance', at 413

¹¹³ Ibid. at 414

¹¹⁴ Ibid. at 413

¹¹⁵ Bayley and Shearing (2001) *The New Structure of Policing*, at 18

¹¹⁶ Abrahamsen and Williams (2011) *Security Beyond the State*, at 79

¹¹⁷ Bénit-Gbaffou, C. (2008) 'Unbundled Security Services and Urban Fragmentation in Post-apartheid Johannesburg', *Geoforum*, 39, at 1935

¹¹⁸ Bénit-Gbaffou (2008) 'Unbundled Security Services', at 1937

¹¹⁹ Shearing and Wood (2003) 'Nodal Governance', at 413

enacted by commercial security companies, but also by other non-state actors such as neighbourhood watches. A common feature of the practices and technologies implemented to secure these bubbles is that they require significant resources to implement. As such, those who lack buying power are once again left worse-off. Wood and Shearing describe the resultant situation for such individuals as follows:

‘Having been excluded from such 'bubbles of governance', these individuals are left to live and work in spaces surrounding the bubbles, spaces within which increasingly cash-strapped public police tend to devote their resources. Even more, those unable to purchase basic goods and services, like food and shelter, tend live in spaces surrounding these bubbles, including 'conduit spaces' like parks and roadways, or 'communities of fate' like squatter camp settlements or shanty towns. Such communities are a ubiquitous feature of developing countries like South Africa [...], and their members are routinely subject to brutal forms of violence by a range of governmental agents.’¹²⁰

Given the great wealth disparity in South Africa this dualistic nature of service provision is very often case, this is especially troubling given the fact that the South African public police do not provide the basic services that many expect from them. Furthermore, the distribution of wealth in this country frequently falls along the lines of arbitrary divisions such as space and race. Therefore, in this context, the pluralisation of security governance sometimes serves to exacerbate already existing inequalities. This is a worrying consequence in and of itself, however it may give rise to an even greater problem; by Bayley and Shearing’s estimation ‘[i]f the distribution of policing coincides with structural divisions of race and class, the legitimacy of government itself may be jeopardised.’¹²¹ Accordingly, I will now move on to detail the implications of pluralised security governance as it relates to legitimacy.

Legitimacy

Political philosophers and scientists have been working on the concept of political legitimacy for centuries. Although there is much disagreement about the precise function and source of legitimacy, I will work with a broad and largely uncontroversial definition of legitimacy as the popular acceptance of a government’s¹²² authority. As such, the actions of a

¹²⁰ Ibid.

¹²¹ Bayley and Shearing (2001) *The New Structure of Policing*, at 31

¹²² Note that the word ‘government’ here is not meant to be synonymous with ‘the state’ given that the current context of discussion is the pluralisation (decentralisation) of governance functions

governing authority are legitimate if these actions are perceived to be appropriate uses of that authority's power by those over whom this power is exerted.¹²³ On this definition the source of legitimacy is the *consent* (either explicit or implicit) of the governed. Furthermore, this definition recognises 'its socially constructed nature, that is, its dependence on an audience or society whose norms and values recognise certain persons, institutions or statements as authoritative.'¹²⁴ With this definition in mind, let us now turn back to policing.

The power over which policing bodies have authority, at the most basic level, is the use of force (or the threat of force) to coerce. Indeed, Loader and Walker claim that '[t]he capacity to concentrate and circumscribe non-negotiable coercion serves as [...] the bedrock of effective policing'¹²⁵. According to Max Weber's oft cited definition; 'A state is a human community that (successfully) claims *monopoly of the legitimate use of physical force* within a given territory.'¹²⁶ Loader and Walker point out that this definition entails two different accounts of the state's relation to force. The first is that 'only the state has the right to deliver legitimate violence', the second is that the state is 'the sole regulator of such violence'¹²⁷. Working with the definition of legitimacy outlined above, in modern democratic states the consent for this use of force is generated through institutional procedures (e.g. elections). However, the state is no longer exclusively or even primarily responsible for the security of its citizens. Therefore, if the first version of Weber's definition is correct, the pluralisation of security governance and the resultant use of physical force by non-state policing entities, would be illegitimate. If the second, the use of physical force only by those non-state actors authorised and regulated by the state would be legitimate. However, Abrahamsen and Williams claim that this characterisation is 'too narrow a vision of the state's monopoly on violence' and point out that 'the transformations involved [in the pluralisation of security] are more complex than can be captured in these alternatives and hence require correspondingly multi-layered concepts.'¹²⁸

In their paper *Securing the City: Private Security Companies and Non-State Authority in Global Governance* Abrahamsen and Williams explain that the commodification of security entails the view of security as a 'service to be provided in the market'¹²⁹ by both

¹²³ Abrahamsen, R. and Williams, M. C. (2007) 'Securing the City: Private Security Companies and Non-State Authority in Global Governance', *International Relations* 21, at 241

¹²⁴ Abrahamsen and Williams (2007) 'Securing the City', at 241

¹²⁵ Loader and Walker (2001) 'Policing as a Public Good', at 27

¹²⁶ Weber, 1948, at 78 (emphasis in original)

¹²⁷ Loader and Walker (2001) 'Policing as a Public Good', at 27

¹²⁸ Abrahamsen and Williams (2011) *Security Beyond the State*, at 9

¹²⁹ Abrahamsen and Williams (2007) 'Securing the City', at 243

state and non-state (or public and private) actors. Given that private providers possess as much or even more expertise, knowledge, and technical and managerial ability as public providers, they have a legitimate claim to the authority they wield in this sphere of governance.¹³⁰ Furthermore, non-state security actors can gain legitimacy from ‘their connections with public authority’¹³¹. In terms of the definition of legitimacy given above, legitimacy is conferred to non-state security actors by the direct consent of consumers or indirectly by connections with the state, which range from regulation and recognition to collaboration. As such, Abrahamsen and Williams reject the dichotomising result of Weber’s definition which leaves non-state security as either a ‘straightforward erosion of the state or as delegation by a state whose monopoly and power remain essentially unaltered.’¹³² They cite the Cape Town Central City Improvement District (CCID) initiative as an illustrative example of the complex relations that exist between state and non-state security providers.

The CCID was established in late 2000 once most property owners and ratepayers in the area had agreed to an additional levy on their council bill. This additional levy is used to supplement council-provided services such as cleaning and security, with approximately fifty percent assigned just to security.¹³³ Abrahamsen and Williams explain how the commercial security company contracted by the CCID initiative has reduced the need for the presence of public police in the area. Officers for the company engage in extensive patrolling and surveillance activities, their visibility in the area surpassing that of the public police. The company also operates the control room that oversees and directs CCTV cameras in the area and engages in weekly sector policing meetings. With all of these tasks being undertaken by a commercial security company, one might assume that the police are absent from the security arrangements in the area, however according to Abrahamsen and Williams, this assumption would be incorrect. They report that the private security officers and the public police continuously work in ‘close collaboration’ with one another; police officers accompany private security officers on their vehicle patrols, the CCID patrols are linked to the public police by radio, and information regarding potential problems is shared at sector policing fora.¹³⁴ This arrangement not only allows for ‘the presence of a much larger security force than the state alone could have afforded’¹³⁵ thereby contributing to the safety on security of the central Cape Town area, but also frees up public policing resources to be utilised in the

¹³⁰ Ibid.

¹³¹ Ibid. at 244

¹³² Abrahamsen and Williams (2011) *Security Beyond the State*, at 9

¹³³ Abrahamsen and Williams (2007) ‘Securing the City’, at 249

¹³⁴ Ibid. at 250

¹³⁵ Ibid. at 251

poorer parts of the city, where crime rates are the highest.¹³⁶ However, it is not all good news; the private security company involved in securing the city centre is still a commercial enterprise at the end of the day, accountable primarily to those who pay for its services. In the network briefly outlined above, it is clear that the private security company plays a more significant role and has greater influence than the public police. As such, ‘those who pay are also able to play a powerful role in determining the security agenda.’¹³⁷ In the CCID this agenda places substantial focus on maintaining order by reducing instances of ‘minor nuisances’ such as beggars, vagrants, street children, and unofficial parking guards who are frequently told to ‘move along’ or are transported elsewhere by security officers.¹³⁸ Although the CCID acknowledges that homelessness and poverty are primarily social rather than security issues, less than ten percent of its budget is allocated to social services, while nearly half is dedicated to security. As such, Abrahamsen and Williams note that:

‘the altered politics of protection brought about by the CCID is experienced as an increasing restriction of access to public space, as a combination of public bylaws and private enforcement serve to prevent the poor and the homeless from utilising the city’s public spaces. [...] the social fragmentation that follows from such exclusionary security practices may ultimately pose political challenges for the state as the question of legitimate access to and activities within public spaces has the potential to raise difficult questions in a networked security environment.’¹³⁹

The CCID provides an example of a complex network of state and non-state security providers and auspices that cannot be adequately characterised by sharp divisions between the realms of public and private, state and non-state, and even national and global. Much like the gated communities in Bénit-Gbaffou’s paper outlined above, it also serves to highlight how the pluralisation of security can lead to a skewed distribution of service provision, to the disadvantage of those who lack ‘buying power’. As Abrahamsen and Williams note; ‘[t]here is little doubt that private security raises key political and normative issues. However, these debates must take place in light of a clear recognition that the boundaries of the public and private [...] have already undergone significant transformations.’¹⁴⁰ With these transformations in mind, we must now turn from the somewhat abstract considerations of shifting power relations and the reconfiguration of authority to questions of how security

¹³⁶ Ibid. at 250

¹³⁷ Ibid. at 251

¹³⁸ Ibid. at 252

¹³⁹ Ibid.

¹⁴⁰ Ibid.

networks ought to be ordered such that the provision of security in fact becomes a public good. In order to answer this question we must turn back to the concept of governance which is a 'question of how these multiple actors can work together'¹⁴¹. The 'nodal governance' framework has been identified as one of the most sophisticated¹⁴² and sufficiently multi-layered approaches to capturing the empirical complexity of these networks as well as providing a normative framework for determining how governance ought to be realised.

Nodal Policing in South Africa

Before I move on to consider further conceptual matters, I wish to place the concepts already discussed in the South African context. As such, the following section will be dedicated to giving a brief review of studies of nodal policing in South Africa and some of the normative implications that it may give rise to.

Bruce Baker employs a broad definition of policing, according to which policing includes any activity which aims at responding to or preventing crime, the maintenance or restoration of public order, as well as the use of 'instruments of coercion'¹⁴³ deemed necessary for the achievement of these goals. Baker notes that the provision of these services is not limited to or solely controlled by the state. Baker subsumes all groups that engage in these practices, other than the state police, under the umbrella of 'non-state policing'. In conducting a case study Baker found that the type of non-state policing utilised was more often than not determined by the race and economic status of the community in question. In the wealthier, predominantly white, neighbourhoods most homes were protected by private security firms while the poorer, predominantly black, townships resorted to autonomous groups and vigilantism.

Bénit-Gbaffou notes that in South Africa there are different kinds of order, which may involve different kinds of policing. This, argues Bénit-Gbaffou, may give rise to a challenge when considering access to security. If wealthy suburbs, gated communities, businesses, and townships (etc.) all call for a different type of policing, how is the state to ensure that each of these areas or groups has equal access to and provision of security services? Bénit-Gbaffou attempts to examine this challenge by engaging in a field study in suburbs and townships in post-Apartheid Johannesburg. This study involved conducting interviews with security

¹⁴¹ Abrahamsen and Williams (2011) *Security Beyond the State*, at 83

¹⁴² Ibid.

¹⁴³ Baker (2002) 'Living with Non-State Policing in South Africa', at 50

stakeholders as well as observation conducted by attending various relevant meetings.¹⁴⁴ Despite the South African state's policy 'designed to 'unify' the policing systems under common principles'¹⁴⁵, many different forms and manifestations of policing exist. According to Bénit-Gbaffou this is the result of 'different 'cultures' of policing and different conceptions of local social order embedded in different local histories and contrasting socio-economic settings.'¹⁴⁶ Throughout this article Bénit-Gbaffou is careful to point out the possibility of oversimplifying and overgeneralising the issues by strictly categorizing the various groups in question. She avoids the claim that any one group necessarily acts in a certain way and engages in certain practices. Baker's claims that different forms of non-state policing exist and that specific forms are often employed by particular racial and economic groups are confirmed by Bénit-Gbaffou. Furthermore, according to David Bruce in a summary of a larger assessment that took place over many years and used many data sources including documentary information, interviews, focus groups, informal discussions, and written information directly from SAPS:

'South Africa is a country characterised by high levels of inequality. Policing is carried out in circumstances that are widely disparate from each other. More affluent communities are not only able to supplement their reliance on police with the services of private security companies, but bring specific capacities and resources to their participation in structures such as Community Policing Forums. By contrast, poorer communities not only lack these capacities and resources but are frequently also plagued by a more intractable problem of violence, rooted within the day-to-day relationships of many community members.'¹⁴⁷

Having reviewed the broad concept of nodal policing in general and its existence and implications in the South African context, I will now move on to reviewing key concepts and definitions related to school violence.

¹⁴⁴ Bénit-Gbaffou, C. (2008) 'Community Policing and Disputed Norms for Local Social control in Post-Apartheid Johannesburg', 34 *Journal of Southern African Studies* 1, at 97

¹⁴⁵ Bénit-Gbaffou (2008) 'Community Policing and Disputed Norms', at 93

¹⁴⁶ Ibid.

¹⁴⁷ Bruce, D. (2007) 'Assessing the South African Police Service', *SA Crime Quarterly* 21, at 19

PART TWO – UNSAFE SCHOOLS

Introduction

According to the results of the 2012 National School Violence Study (NSVS) undertaken by the Centre for Justice and Crime Prevention (CJCP):

“22.2% of high school learners were found to have been threatened with violence or had been the victim of an assault, robbery and/or sexual assault at school in the past year. [...] this figure extrapolates to 1,020,597 learners who had encountered violence at school in the past year.”¹⁴⁸

School-based violence in South Africa therefore directly effects roughly one in five high school learners. The prevalence of this violence has been well documented by the media and was in fact the subject of a public hearing held by the South African Human Rights Commission in 2006. This hearing was deemed necessary by the Human Rights Commission having ‘received many complaints concerning school-based violence’¹⁴⁹. As such, this study will take it as given that school-based violence is a pervasive and troubling phenomenon in this country. However, school-based violence does not take place in a vacuum, and therefore the phenomenon must be placed in the broader context if it is to be properly understood.

Schools in the South African Context

The socio-historic context within which South African schools exist is one of racial segregation and the systematic oppression of non-whites. The legacy of Apartheid era policy has ‘continued to result in inequities in resource distribution and in levels of institutional instability.’¹⁵⁰ Characterising South African schools as ‘(dis)organisations’ Christie details this inequality and instability as follows:

‘What this [(dis)organisation] refers to is the poor functioning of a large number of previously black schools in South Africa. These schools, generally secondary schools located in the poor and disrupted communities spawned by apartheid, share a number of common features. These include: disputed and disrupted authority relations between principals, teachers and students; sporadic and broken attendance by students and often teachers; general demotivation and low morale of students and teachers;

¹⁴⁸ Burton and Leoschut (2013) ‘School Violence in South Africa’, at xi

¹⁴⁹ Ibid. at 2

¹⁵⁰ Stevens, G., Wyngaard, G. and van Niekerk, A. (2001) ‘The Safe Schools Model: An Antidote to School Violence?’, 19 *Perspectives in Education* 2, at 146

poor school results; conflict and often violence in and around schools; vandalism, criminality, gangsterism, rape and substance abuse.’¹⁵¹

The legacy of apartheid policy has had a massive impact on South African society as a whole and the kinds of institutional instabilities and inequalities outlined by Christie extend beyond schools. For example, Catherine Ward explains that South African gangs ‘have been created in a particular crucible of economic disenfranchisement’¹⁵² and that membership in a gang offers economically disadvantaged and socially excluded youths a sense of belonging as well as protection from the pervasive violence of the communities within which they exist. Absent effective preventative strategies implemented at schools it is inevitable that the violent gang related activities will spill over onto school premises, given that many of these youths are required to spend much of their time at schools. Other than this broader social context, additional factors including ‘discipline models in school and unclear management roles; unattractive school environments; educators’ misconceptions regarding the human rights of learners; [...] the presence of gangsterism and drug and alcohol abuse in the community; conditions in the home environment; and the social de-sensitisation of youth to a culture of violence’¹⁵³ as well as ‘the proliferation of firearms, the escalation of organised crime syndicate activities, urbanisation, [and] a weak criminal justice system’¹⁵⁴ have been cited as contributing to school-based violence. With this context in mind, the following sections will be dedicated to giving a detailed account of the conceptualisation of school-based violence.

Conceptualising School-Based Violence

Furlong and Morrison point out that while research into how to reduce school violence has been steadily progressing, little notice has been paid to how the use and meaning of the term ‘school violence’ has changed over time. This oversight is significant when we acknowledge that gaining a thorough understanding of a particular phenomenon is one of the first steps in the process of designing and implementing effective interventions. As such, the following section will be dedicated to defining and unpacking the concept of school violence.

The World Health Organisation defines violence as follows:

¹⁵¹ Christie (1998) at 283

¹⁵² The Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha (2014), at 340

¹⁵³ Burton and Leoschut (2013) ‘School Violence in South Africa’, at 5

¹⁵⁴ Le Roux, C. S. and Mokhele, P. R. (2011) ‘The Persistence of Violence in South Africa’s Schools: in search of solutions’, 8 Africa Education Review 2, at 318

‘the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maladjustment, or deprivation.’¹⁵⁵

This characterisation of violence is not exhaustive, but is widely accepted to be an adequate working definition. What is important to note is that this definition does not equate violence with crime – as Burton and Leoschut point out; ‘not all crime is violence and not all violence is criminal.’¹⁵⁶ This point is particularly significant in the context of school violence given that forms of bullying which are common at schools, but which do not constitute crimes, nevertheless count as violence under this definition.¹⁵⁷ Furlong and Morrison therefore conceptualise school violence as a ‘multifaceted construct that involves both criminal acts and aggression in schools, which inhibit development and learning, as well as harm the school’s climate.’¹⁵⁸ This conceptual decoupling of crime and violence is essential in the context of the pluralisation of the security governance. If violence were synonymous with crime it would also be more readily associated with a criminal justice approach which primarily seeks to prevent crime through punitive, deterrence-based means. On the other hand, when violence and crime come apart, there is more room (conceptually at least) for risk-based, preventative approaches.¹⁵⁹

This shift from a crime-based to a violence-based perspective serves not only to legitimate the experiences of the victims of non-criminal violence (e.g. bullying), but also sits more comfortably with an international human rights framework. According to the United Nations Convention on the Rights of the Child¹⁶⁰ when dealing with children in the context of their infringement of penal law; ‘whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings’¹⁶¹ should be taken. The child’s right to life, survival and maximum development¹⁶² entails the formulation of strategies for dealing with violence that seek to support rather than hinder development. Therefore,

¹⁵⁵ WHO, 1996, 3-4

¹⁵⁶ Burton and Leoschut (2013) ‘School Violence in South Africa’, at 2

¹⁵⁷ Ibid.

¹⁵⁸ Furlong, M. and Morrison, G. (2000) ‘The School in School Violence: Definitions and Facts’, 8 *Journal of Emotional and Behavioural Disorders* 2 at 71

¹⁵⁹ Stevens, G., Wyngaard, G. and van Niekerk, A. (2001) ‘The Safe Schools Model: An Antidote to School Violence?’, 19 *Perspectives in Education* 2, at 149

¹⁶⁰ Note that I am taking as given that the majority of school going youth are below the age of 18 and therefore are ‘children’

¹⁶¹ CRC (40)(3)(b)

¹⁶² CRC (6)

criminal justice based strategies such as incapacitation (in the form of deprivation of certain liberties) are to be used only as a last resort when it comes to children. This is because such strategies are recognised to have a negative impact on development and reintegration.¹⁶³ As such, even when children are the perpetrators of violence, a preventative rather than deterrent paradigm is preferable. The discussion in this section should clearly illustrate the importance of having a clear and detailed understanding of the concepts at play and a firm grasp of the implications of the different approaches they entail. Having outlined the concept of violence as it pertains to children, I will now consider violence specifically in the context of schools.

Conceptualising Schools

The primary purpose of the existence of schools is to provide education; they are spaces in which teaching and learning are to take place. The existence of violence at schools severely hampers the achievement of this purpose. Although schools are far from the only place that young people experience violence, either as perpetrators or victims, given that school-going youths spend the majority of their waking weekday hours at school and that they are ‘more likely to be violated at school than at any other place’¹⁶⁴, it is essential that this environment is a site of focused study and intervention. Furthermore, most school-going youths (especially at secondary school level) are at a crucial developmental age of identity formation such that effective interventions may have long-term positive benefits.¹⁶⁵ At this stage of development young people are also at their most vulnerable to negative influences. For example, Le Roux and Mokhele (echoing Ward above) explain:

‘Many teenagers are vulnerable to the lure of gangs, since membership confers an identity that suggests power, a sense of belonging and – ultimately – ‘safety’. Many learners crave such experiences due to their feelings of inadequacy arising from compromised family or school environments and consequently join gangs, or establish their own gangs.’¹⁶⁶

¹⁶³ CRC implementation handbook 604

¹⁶⁴ Le Roux, C. S. and Mokhele, P. R. (2011) ‘The Persistence of Violence in South Africa’s Schools: in search of solutions’, 8 *Africa Education Review* 2, at 319

¹⁶⁵ Stevens, G., Wyngaard, G. and van Niekerk, A. (2001) ‘The Safe Schools Model: An Antidote to School Violence?’, 19 *Perspectives in Education* 2, at 148

¹⁶⁶ Le Roux, C. S. and Mokhele, P. R. (2011) ‘The Persistence of Violence in South Africa’s Schools: in search of solutions’, 8 *Africa Education Review* 2, at 326

Stevens et. al. argue that school environments present ideal opportunities for ‘interventions aimed at preventing and reducing acts of violence among youths’¹⁶⁷ (e.g. gang related activity) given their already established infrastructure and resources intended to support youth development as well as the fact that they house the majority of the population at which these interventions are aimed.

The word ‘school’ denotes both a physical location (i.e. school premises) as well as an organisational and institutional entity.¹⁶⁸ Furlong and Morrison point out that there is a lack of clarity about the meaning of the term ‘school violence’ which creates a lack of clarity about who ‘owns’¹⁶⁹ the problem. In order remedy this, they suggest drawing a distinction between ‘school violence’ and ‘violence that happens in schools’.¹⁷⁰ The former entails schools as institutions taking responsibility (ownership) for the violence that occurs there. On this view a school is ‘a system that causes or exacerbates problems the individuals within it experience.’¹⁷¹ Furlong and Morris claim that ‘[i]f one embraces [this] definition, attention may be refocused on the role that school as a physical, educational, and social environment plays in violence among its participants.’¹⁷² On the other hand, the latter definition places the responsibility for violence on school premises outside of the school itself. On this account, violence at school ‘happens when students or intruders bring onto school campuses violence stemming from situations outside of the school experience.’¹⁷³ It is important not to dichotomise these perspectives too rigidly, but to recognise that these definitions lie at the opposite ends of a spectrum. More moderate positions, acknowledging that school violence is caused by both internal and external factors, lie somewhere in the middle. Empirical work, in the context of specific schools, needs to be done in order to determine where along the spectrum they fall. The empirical reality will inform the normative question of whether school violence *ought* to be dealt with as an internal or external problem, or a combination of the two. A useful analytical tool for determining where on the spectrum a particular school lies, is to view schools as ‘spaces’. Astor et. al. point out that ‘researchers and many popular intervention strategies target the psychological and sociological dynamics of school violence

¹⁶⁷ Stevens, G., Wyngaard, G. and van Niekerk, A. (2001) ‘The Safe Schools Model: An Antidote to School Violence?’, 19 *Perspectives in Education* 2, at 148

¹⁶⁸ Furlong, M. and Morrison, G. (2000) ‘The School in School Violence: Definitions and Facts’, 8 *Journal of Emotional and Behavioural Disorders* 2 at 73

¹⁶⁹ Furlong and Morrison (2000) ‘The School in School Violence’, at 74

¹⁷⁰ Ibid.

¹⁷¹ Ibid. at 73

¹⁷² Ibid. at 74

¹⁷³ Ibid. at 73

and ignore the apparent inseparable linkage between the social and physical context of the school.¹⁷⁴ Accordingly, the following section will examine this linkage.

Schools as Undefined Public Spaces

Astor *et. al.* explain that research into urban planning has suggested that the ‘spatial organisation of housing projects could affect crime rates.’¹⁷⁵ Specifically, it has been found that spaces perceived not to be personal responsibility of any specific actor or actors, so-called ‘undefined public spaces’, are the places where most crime and violence takes place.¹⁷⁶ Furthermore, when the ambiguity between public and private space is reduced, crime and violence also reduces in those areas. This research indicates that ‘violence is more likely to occur in locations where ownership and definition of responsibility for the space is ambiguous.’¹⁷⁷ Astor *et. al.* therefore set out to determine whether the same might be true of school-based violence. If it is the case that certain spaces in and around school premises such as hallways, toilets, playgrounds and the areas just inside or outside the entrances to buildings and premises are perceived by learners, educators and other staff as undefined spaces, this may go a long way to understanding and effectively intervening in school-based violence. The results of their research did indeed indicate that areas perceived by teachers as ‘beyond their professional roles’ where ‘procedures, rules, consequences, and interventions [...] seemed arbitrary and unclear’¹⁷⁸ to learners were also the most dangerous areas in the school. Their research also indicated that ‘some of the most unsafe schools in the U.S. have extremely high teacher nonattendance’¹⁷⁹ leaving many areas unmonitored and therefore perceived to be unowned. It is my contention the schools in Khayelitsha in their entirety may be perceived as unowned spaces. This position is supported by the lack of willingness for any one actor to claim ultimate responsibility for what goes on in these spaces, as will be shown in the evidence presented in chapter four. As already explained, within a nodal governance framework no one actor is to be given conceptual priority, so this is in fact a good empirical starting point. If the perception of schools can be transformed from that of undefined public spaces to communal spaces such that they are ‘owned’ by a plurality of actors rather than not owned by any one actor, this may go a long way in reducing school-based violence. As such,

¹⁷⁴ Astor, R. A., Meyer, H. A. and Behre, W. J. (1999) ‘Unowned Places and Times: Maps and Interviews about Violence in High Schools’, 36 *American Educational Research Journal* 1, at 5

¹⁷⁵ Astor, Meyer and Behre (1999) ‘Unowned places and Times’, at 9

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.* at 10

¹⁷⁸ *Ibid.* at 34

¹⁷⁹ *Ibid.* at 35

I will also conduct a spatial analysis of schools in Khayelitsha, along the lines of Kempa. *et al.*'s framework for identifying where on the property continuum particular spaces lie. This methodology for the analysis will be outlined in greater detail in the following chapter.

CHAPTER THREE: METHODOLOGY AND ANALYTICAL STRATEGY

‘If the state no longer occupies a monopoly position (assuming it ever did), and governance is decentralized, enabled, authorized and managed from multiple peripheral positions, new attention must be given to the relationships between the producers of security, since these relationships are likely to have deep impacts on the structure of social control. Relationships are complex objects and have many facets.’¹⁸⁰

Introduction

In order to answer the question ‘Who owns school violence in Khayelitsha’ it is necessary to understand the security arrangements for schools in the area. The data shows that the provision of security for these schools is not undertaken by only one central authority, but rather by a network of formal and informal institutions, reflecting the pluralised nature of security detailed in the review of literature. I have opted not to give conceptual priority to any one actor in such arrangements as I believe that this approach will be useful in avoiding the construction of an overly theory-laden account as well as helping to ensure that the analysis is not skewed by pre-existing assumptions about the nature of school security in this area. A nodal conception of security governance provides the necessary analytical tools and theoretical framework for undertaking this task. The concept of space has also been employed as a device to deepen the analysis.

I have elected to conduct a broad rather than a detailed analysis. A detailed approach may have entailed an in depth empirical study of the security arrangements at particular schools. Such an approach is not without merit, but is not an appropriate *starting point* in the attempt to understand the implications of the pluralisation of security governance for schools in Khayelitsha. An in depth study would have delivered a more detailed empirical picture, but would have come at the cost of a more comprehensive perspective. Sociologist Kai Erikson explains the importance of such a perspective with the following metaphor:

‘Imagine that you are walking down a sidewalk at rush hour in New York. You pass thousands of people in the space of a few moments [...]. It is difficult to sense any pattern or order in that scene, for what the eye sees down there at ground level is an

¹⁸⁰ Leman-Langlois and Shearing 2009) ‘Human Rights Implications of New Developments in Policing’, at 19

immense scatter of persons who are moving to their own rhythms and living out their own lives. [...] Suppose, however, that you climb to the fourteenth floor of a building nearby and look down on that same sidewalk. [...]. From that point of vantage, the eye sees a mass of humanity in motion, a swarm of particles that weave in and out as if moving along invisible tracks. Thousands of people may pass down that thin strip of pavement in a matter of minutes without so much as a single collision, flowing in currents that no one seems aware of. [...] it may occur to you that you are witnessing a remarkable act of coordination. The movement on the sidewalk seems patterned, governed by rules, choreographed; and the wonder of it is that no one down there can tell you how the trick is done.’¹⁸¹

In the context of this study, the fourteenth floor perspective is valuable because it informs a more accurate view of the goings-on at street level. As the metaphor so clearly highlights, the individual, street level details are too seemingly uncoordinated and random to make sense of without the aid of this more distant perspective. As such, the ultimate aim of this study is to provide the requisite background to serve as a starting point for more in depth studies into nodal security arrangements to be conducted at individual schools in Khayelitsha.

Data collection and Analysis

I have chosen to limit the scope of data collection for this study only to evidence gathered by the Khayelitsha Commission of Inquiry. The Commission has generated vast amounts of data in the form of expert reports, hearing transcripts, affidavits and numerous other documents. I consider this to be the most up to date and contextually relevant data for the construction of an overview on the topic at hand. Not only does this collection include first-hand accounts of the day to day realities for those who live and work in Khayelitsha, but the testimony and reports given by various experts in the field constitutes a unique assemblage of theoretical insights specific to the area. This data is has been made available in the public sphere by being posted to the Commission’s website. As such, access to the evidence I have drawn from was unproblematic. Furthermore the process of data collection required no cost and was less time consuming to gather than other qualitative methods such as conducting interviews, surveys or focus groups. Before I describe the precise methods used for collecting and analysing data in this study, I will first outline the methodological

¹⁸¹ Erikson, K. T. (2008) ‘On Sociological Writing’, 78 *Sociological Inquiry* 3, at 404-405

framework of document analysis and defend the appropriateness of my choice of this type of methodology.

Document analysis

Glen Bowen defines document analysis as a ‘systematic procedure for reviewing or evaluating documents [...]. Like other analytical methods in qualitative research, document analysis requires that data be examined and interpreted in order to elicit meaning, gain understanding, and develop empirical knowledge.’¹⁸² An important feature of documents is that they are created without the intervention or influence of the researcher. In qualitative research, transcripts such as the ones I have used are usually the product of interviews and focus groups conducted for the purposes of particular research. Researchers conduct these interviews and record them as they take place so that they will not lose any important data while they listen to the respondents. These recordings are later transcribed and are essential for the accurate identification and construction of themes and patterns. What is different about the transcripts that I have used is that I had nothing to do with the formulation or administering of the questions. The questions were prepared by the legal representatives of the various stakeholders involved in the Commission, and were asked with a particular purpose in mind. The rationale behind each question or line of questioning may not be immediately (or at all) discernable to me. Therefore, treating these transcripts as *documents* that were created and constructed in a certain way, within a particular context and for a specific purpose is more appropriate than treating them as ‘raw’ interview data.

This method has a number of advantages. Firstly, since I was not involved in the creation of these documents they are ‘unobtrusive’ and ‘non-reactive’¹⁸³, that is they are not affected by my presence as a researcher or the research process itself. The need for reflexive awareness of my role as a researcher in the construction of the content of these documents is therefore absent. However, these documents were not constructed in a vacuum; their content was most certainly constructed and influenced by many other factors. How, why and by whom particular questions were asked and the effects of those variables on the answers given are essential factors to consider when attempting to understand the context and when evaluating the reliability of the information given.

¹⁸² Bowen, Glenn ‘Document Analysis as a Qualitative Research Method’ (2009) 9 *Qualitative Research Journal* 2, at 27

¹⁸³ Bowen (2009) ‘Document Analysis’, at 31

A particular disadvantage of this method is a corollary to one of its strengths, that is, I was not involved in their creation. Instead of being able to ask a direct question about the security networks at Khayelitsha schools I have had to sift through much discussion that is irrelevant to the question at hand. Extra analytical work is necessary in order to sift out appropriate material. However, as explained above, the decision not to collect my own data is motivated by the need to gain a ‘fourteenth floor’ view of the empirical reality, absent any expectations of what that reality ought to look like. This method does not exempt me from self-reflection; throughout the process of collection and analysis I endeavoured to remain very aware of my own views and theoretical assumptions, and to choose testimonies that are truly representative rather than those that support a particular hypothesis. What is certain about these documents is that my influence as a researcher cannot change their content, these documents will remain forever unchanged and are therefore subject to repeat analysis by other researchers. This puts my study in the strong position of being highly reviewable – in acknowledging that this study will be easily open to review and critique, I have been encouraged to attempt to anticipate potential objections and criticisms and include them in the study. Thereby, hopefully, rendering it a robust and well considered piece of work.

Data Collection

The Commission was appointed by the premier of the Western Cape in August 2012 to investigate allegations into inefficiencies in policing and a breakdown in relations between the South African Police Service (SAPS) and the Khayelitsha community. The Commission was also tasked with the investigation of the reasons for and causes of such inefficiencies and breakdown in relations, where they were found to exist. The Commission concluded in August 2014 when a full report of its findings and recommendations was handed over to the Premier. Having attended various sessions during the public hearings phase of the Commission and reading through the transcripts of these hearings as they were made available, my first official port of call for data collection for this study was this final report. It would have been virtually impossible to read through the 8 059 pages of hearing transcripts in search of relevant testimony. As such, I turned to the report which contains an extensive, systematic and structured overview of the testimony given at the hearings. I began the process of collection by running a simple search for the words “school” and “youth gang” through the report. Where this search resulted in the discussion of testimony relating to school violence I could then easily follow the reference provided to the original transcript or affidavit. This minimised the need for laborious and unnecessary reading and also ensured

that I would not miss any pertinent data. Having compiled a document containing all of the relevant data I could then identify general themes and problems and, most importantly, begin to construct a list of the various groups involved in the task of securing schools. In possession of this list I could then begin process of conducting a nodal analysis.

Nodal analysis

The nodal conception of governance can be used as a model for explaining ‘how a variety of actors operating within social systems interact along networks to govern the systems they inhabit.’¹⁸⁴ It has been pointed out by numerous scholars that the nodal governance model leaves open questions concerning how nodes relate to one another and how nodal networks are constituted.¹⁸⁵ On this conception of governance there is no ‘one size fits all’ answer to such questions. Rather, these are empirical matters, to be determined by mapping the linkages and relationships between nodes in concrete settings. Leman-Langlois and Shearing claim that research dedicated to investigating the links, both formal and informal, between actors within networks ‘has barely scratched the surface and networks of security governance are still not well understood.’¹⁸⁶ As such, identifying Khayelitsha schools as a ‘concrete setting’ for the mapping of nodes and linkages serves the dual function of making sense of a particular network, as well as contributing to the broader project of understanding security governance networks.

Conducting a nodal analysis of security arrangements entails the identification each actor whose primary end is to produce security in a particular setting. These institutions are characterised as nodes and are particular sites of knowledge, capacities and resources that function as an auspices or providers of security.¹⁸⁷ As mentioned in the literature review, nodes have four essential features; mentalities, resources, technologies, and institutions. In order to understand the nature of each node it is useful to analyse them in terms of these four characteristics. Essentially, this analysis will provide an answer to the question; ‘What type of node is X?’ In order to answer this question we must know the answers to four sub-questions related to each of the features just mentioned:

1) How does X think about security governance?

e.g. Does X think that security is more appropriately governed through punitive or preventative strategies?

¹⁸⁴ Burris, Dahros, and Shearing (2004) ‘Nodal Governance’, at 5

¹⁸⁵ Shearing and Wood (2003) ‘Nodal Governance’, at 404

¹⁸⁶ Leman-Langlois and Shearing (2009) ‘Human Rights Implications of New Developments in Policing’, at 19

¹⁸⁷ Wood and Shearing (2007) *Imagining Security*, at 27

- 2) What methods does X employ to influence and order events?
e.g. Does X employ coercive techniques such as the use of force and intimidation, or does X opt for more passive approaches such as patrols and surveillance?
- 3) What kind of resources does X have access to?
e.g. Which type of capital (economic, cultural, political, social, or symbolic)¹⁸⁸ does X have?
- 4) What type of institutional form does X take?
e.g. How is X structured such that it is able to make use of their resources, mentalities and technologies over time?

Answering these questions will result in a comprehensive picture of each particular node. To gain such a picture of the network as a whole, the question now becomes; ‘How do nodes relate to and interact with one another?’ Once again, the answer to this question can be arrived at by asking a series of sub-questions:

- 1) What kind of networking mechanisms are employed?
e.g. Are the linkages between nodes formal or informal?
- 2) What is the degree of connectivity between nodes?
e.g. Are network connections between nodes weak or strong?
 - To what extent do the nodes cooperate and coordinate with one another?
 - Do the nodes share information, technologies and resources?

The six questions outlined above will all be answered using the data from the Commission, thereby providing a clear and detailed overview of the nodal policing arrangements in the setting of Khayelitsha schools.

Spatial analysis

Recall that the amount of regulatory authority an individual wields in a particular space is relative to the power and the legitimacy the individual has in that space. Power, understood as a function of knowledge, is determined by the expertise of the user in a particular space, while legitimacy is determined by how valid a user’s occupancy of that space is perceived to be. According to Kempa *et al.* the term ‘communal spaces’ encompasses a range of different

¹⁸⁸ Dupont, B. (2004) ‘Security in the age of networks’, 1 *Policing and Society: An International Journal of Research and Policy* 1, at 85

kinds of spaces which exist along a continuum of forms of property.¹⁸⁹ Along this continuum there exist spaces which are ‘to a greater or lesser degree, open to the public and under state and/or non-state control.’¹⁹⁰

Kempa *et al.* (borrowing from Jones and Newburn) go on to outline several factors that should be taken into account when determining where on the continuum a particular space may fall¹⁹¹:

- Who has (routine) access to the space?
- Who owns the space?
- What kinds of controls prevent/allow people access to the space?
- Who has been given or has otherwise assumed the capacity and authority to define the orders that are enforced in these spaces?

In order to conduct an analysis of ‘schools as spaces’ these factors will be considered in the light of the evidence provided in the following chapter. This is closely linked with the nodal analysis and there may be significant overlapping

Conclusion

Crawford’s observation that ‘there is a need to map out empirically and reflect normatively about the nature of relations between, and the interests served by, plural forms of public and private policing’¹⁹² is essentially a summary of the following two chapters. The data analysis chapter, using the methodology described above, will answer the need for the empirical mapping of nodal security networks, while the discussion chapter will evaluate the normative implications of the existence of such networks.

¹⁸⁹ Kempa *et al.* (2004) ‘Policing Communal Spaces’ at 570

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*

¹⁹² Crawford (2006) ‘Networked Governance and the post-regulatory State?’, at 467

CHAPTER FOUR: SUMMARY AND ANALYSIS OF DATA

Introduction

There are thirty-three public primary schools, nineteen public secondary schools and a few independent schools in Khayelitsha.¹⁹³ According to the tenth day of school enrolment figures for the 2014 school year obtained by the Commission from the Western Cape Department of Education (WCDE) 56 362 people attended one of these schools last year.¹⁹⁴ It would be fallacious to think that every one of these people is a child (i.e. under the age of eighteen) but certainly the majority are. Thus, for the sake of argument, it will be assumed that ‘learner’ is synonymous with ‘child’ and therefore that the special rights and protections afforded to children are applicable to all learners. Equally, it is important to note that it is not only learners at unsafe schools who are affected but also educators and other members of staff. According to the evidence heard by the Commission many schools in Khayelitsha can be defined as ‘unsafe’. Recall that we are working with a definition of ‘unsafe schools’ as those where teaching and learning cannot take place effectively because the safety of the schools’ premises and facilities and/or the safety of the people who occupy the schools’ premises is compromised. For example, if a school is physically unsafe and experiences the loss equipment such as classroom furniture or learning materials as a result, essential tools for teaching and learning will be absent. If the safety of learners and staff is threatened, disruption to teaching and learning time is inevitable and the psychological trauma experienced by some as a result of the threat (actual or potential) to their safety may make these activities, even if they are not disrupted, ineffective at best.

According to the evidence presented to the Commission by Khayelitsha residents and experts in the field, a major factor contributing to the schools in the area being unsafe is an emergent youth gang culture. The four primary youth gangs in Khayelitsha were identified by witnesses as going by the names of Vatos, Vuras, Russians and Italians. These ‘huge’ gangs are made up of youths as young as ten years old and operate territorially. These gangs engage in battles with one another, often using knives and other sharp instruments as weapons. Many children are injured or even killed as a result of these battles. Witnesses told the Commission that gang fighting takes place both in and around school premises and school principals testified that many weapons are confiscated from learners daily. This violence has a negative impact on the school environment and severely hinders the teaching and learning that is

¹⁹³ ‘Towards a Safer Khayelitsha’ (2014) *Report of the Khayelitsha Commission of Inquiry*, at 40

¹⁹⁴ ‘Towards a Safer Khayelitsha’ (2014) *Report of the Khayelitsha Commission of Inquiry*, at 36

meant to take place at schools. School going youth in Khayelitsha are especially vulnerable to being victims of gang related violence both directly and indirectly; learners are directly impacted as members of gangs taking part in gang fights or being targeted by rival gangs, while those not directly involved are nevertheless ultimately effected by living in a day-to-day climate of violence, fear and intimidation.

Testimony on youth gangs and school violence

The Commission heard testimony and received statements relating to the problem of youth gangs and school violence from a variety of witnesses; individual community members, community activists, and community elders and leaders (e.g. school principals) and people who work in Khayelitsha all testified to the nature of these gangs, the consequences of gang related activity, and steps that had been taken in an attempt to deal with the problem. In doing so these witnesses (presumably unknowingly) also identified the various nodes and nodal structures involved in securing schools in the area. I have selected testimony in which witnesses speak of their own experience of youth gangs, furthermore, these accounts were chosen because they contain similar elements, thereby demonstrating that the evidence provided by individuals is not merely indicative of isolated events but rather that this is a pervasive and ongoing issue. All relevant testimony has been examined and no conflicting evidence has been identified. Although no new or relevant data is forthcoming, it would be a mistake to assume that absolute ‘saturation’ has been reached; the set of data I am drawing from is finite and as such cannot be deemed to provide a complete picture. However, in the context of this study, this limitation is not overly troubling, given that what I am attempting to do is to provide a ‘fourteenth floor’ overview. In that sense, this data is perfectly suited to the task at hand. As such, the following sections will be dedicated to providing a brief summary of the relevant testimony and written statements.

Testimony of individual community members

Ms Nokuzola Ncaphancapha¹⁹⁵, a Khayelitsha resident, testified about her family’s experience with youth gangs. According to Ms Ncaphancapha in June 2012 her son who was seventeen years old at the time did not wish to continue attending school because he felt unsafe. The reason for his feeling unsafe was youth gang related activity at his school.¹⁹⁶ Her son transferred to another school, but the same kinds of difficulties were also present at this

¹⁹⁵ Record Bundle 1(1), File 1.a, Item 55; Transcript at 1015 – 1058 (31 January 2014)

¹⁹⁶ Transcript at 1017 (31 January 2014)

new school. Ms Ncaphancapha explained that she raised these issues with the principal of the school, the WCDE, and the station commander at the police station in the area. Nothing came of Ms Ncaphancapha's meeting with the station commander as he was transferred to a different station shortly thereafter. Ms Ncaphancapha had similar luck with the WCDE where she was told that 'they cannot do anything outside the school premises. Their responsibility is the safety inside so on the way to and from school is only in the police's hands. If the police don't intervene then "sad luck".'¹⁹⁷ Ms Ncaphancapha along with a group of other women also met with the chairperson of the Community Police Forum in her area who suggested that if they obtained a letter the South African National Civic Organisation (SANCO) they could then approach the Taxi Association for assistance.¹⁹⁸ Ultimately, Ms Ncaphancapha and the other women were told by the Taxi Association that they could not operate in their area because they had been told by a school principal who had received complaints from parents that taxi drivers were beating their children to stay away.¹⁹⁹

Testimony of community activists and members of complainant organisations

Ms Phumeza Mlungwana²⁰⁰ who is the General Secretary of the Social Justice coalition, one of the original complainant organisations which lead to the formation of the Commission, also testified about her experience with youth gangs. She explained how two of her brothers became involved with the gangs, one of whom eventually stopped attending school out of fear of being attacked. Furthermore, she explained that when and where gang fights will take place is well known by those in the community, even describing bystanders as 'spectators'²⁰¹. Ms Mlungwana claimed that she had seen many youths stabbed or killed in these fights but that the police seemed to be able to do little to intervene effectively, stating that:

'the kids will fight but if a police van is coming they will quickly [...] throw away or hide the weapons [...] so police would come obviously speeding in their car and then the group will disperse but immediately when the police leave again the fight is going to start.'²⁰²

¹⁹⁷ Ibid. at 1018

¹⁹⁸ Ibid. at 1023 – 1024

¹⁹⁹ Ibid. at 1054

²⁰⁰ Record Bundle 1(5), File E, Item 30; Transcript at 228 – 262 (24 January 2014) and 902 – 927 (31 January 2014)

²⁰¹ Transcript at 252 (24 January 2014)

²⁰² Ibid. at 253

A member of another of the complainant organisations, Equal Education, also spoke of the problem of youth gangs in her testimony to the Commission. Ms Yoliswa Dwane²⁰³ who is a founding member of Equal Education and the organisation's head of Policy, Communication and Research department explained the structure of the gangs, their names and that they are territorial in nature, such that membership is determined by where in Khayelitsha one lives.²⁰⁴ According to Ms Dwane's statement, these gangs are highly dangerous, their members carrying weapons such as knives, pangas and guns and engaging in all manner of violent criminal activities including robbery, assault, kidnapping, rape, and murder. She explained that the ages of gang members ranges from ten years old to twenty-one years old (and sometimes above) and that the 'level of sophistication and violence depends on the gang'.²⁰⁵ Ms Dwane testified that she knew of some school principals who have resorted to calling in taxi associations to deal with the gangs. She claimed that they 'beat up those kids with sjamboks, rubber sjamboks but we don't believe that it is ... the correct approach.'²⁰⁶ Ms Dwane confirmed Ms Mlungwana's claim that when the police are called to intervene in gang fights, members simply disperse and wait for the police to leave at which point the fighting would resume.²⁰⁷ Ms Dwane also pointed out that the youth gangs in Khayelitsha are different in nature to those operating in other parts of the Cape Flats which are connected to organised crime and the illicit drug trade.²⁰⁸ In her opinion, the youth gangs in Khayelitsha are about identity:

'These fights actually are about claiming their space and their identity within these communities and also trying to show off that they are actually more powerful than the other groups.'²⁰⁹

Mr Sifiso Zitwana²¹⁰ a young community activist has been a victim both directly and indirectly of youth gang related violence. He himself was robbed by a gang on the way to school and explained that:

'No one walked to school alone because there would be a 100% chance that the gangs would take you down. If we walked in groups sometimes they would not rob us, only

²⁰³ Record Bundle 1(5), File E, Item 38; Transcript 756 – 794 (30 January 2014)

²⁰⁴ Record Bundle 1(5), File E, Item 38 at para 41

²⁰⁵ Ibid. at paras 40 – 42

²⁰⁶ Transcript at 764 (30 January 2014)

²⁰⁷ Ibid. at 765

²⁰⁸ Ibid. at 770.

²⁰⁹ Ibid. at 770.

²¹⁰ Record Bundle 2(5), File 2, Item 72; Transcript at 2022 – 2080 (7 February 2014)

harass us. If they came to rob us and we were in a group, we could run in different directions and the gangsters would not be able to catch all of us.²¹¹

Mr Zitwana's younger brothers, of whom he was the primary caretaker, initially told him that they were afraid of the youth gangs at their school but later became involved in the gangs themselves. Mr Zitwana claimed that the 'lost control of them'²¹² as a result. He was contacted by the principal of his brothers' school who informed him that they had become bad students at which point he went to see a social worker. The social worker attempted to convince one of his brothers to leave the gang; he was reluctant to do so on the grounds that he would be unsafe if he did leave the gang and entirely lacking in the protection that he was afforded as a member. Mr Zitwana's brother ultimately claimed that 'the gang does not allow members to leave'²¹³. Mr Zitwana described his brothers' reasons for joining and remaining with the gang as follows:

'if you don't join they're going to assault you whether you have joined or not because the gang in Site B will not know whether you are a gang member or not. As long as you live in Green Point they say that you are a Vato. So what they decided is that they must join the gang, the Vato gang, so that [...] if the Vuras come they can have the protection of the Vatos. So they joined because if you live in one area, you belong to this group, if you belong to that area, you belong to that group.'²¹⁴

When the situation became particularly bad a crime forum prevention meeting was called by SANCO, of which Mr Zitwana is a member. At this meeting it was proposed that members arm themselves to 'fight the gangs and drive them out because they [are] only children.'²¹⁵ Mr Zitwana and other members of the Social justice coalition refused to employ this strategy and opted instead to 'help the police do their job'²¹⁶, however when he approached the SAPS for assistance in this matter he was told that there was nothing that they could do, that this was an issue for parents to deal with and sent him away wishing him 'good luck'.²¹⁷ Mr Zitwana's eventual solution to the seemingly inexorable problem was to send his brothers to the Eastern Cape.²¹⁸

²¹¹ Ibid. at para 12

²¹² Ibid. at para 22

²¹³ Ibid. at para 23

²¹⁴ Transcript at 2036 (7 February 2014)

²¹⁵ Record Bundle 2(5), Item 72 at para 26

²¹⁶ Ibid.

²¹⁷ Ibid. At para 27

²¹⁸ Ibid. at para 28

Testimony of community elders and leaders

Mr Madoda Mahlutshana²¹⁹ is the principal of the Chris Hani Senior Secondary School and testified that one of the most troubling crime issues at his school is gangsterism.²²⁰ According to Mr Mahlutshana's statement, the SAPS has a reasonably good working relationship with the school. He claimed that he consistently met with the local sector commander, who also sits on the school's safety committee, furthermore SAPS conducts random drug inspections three times every week and responds when the school's burglar alarm goes off. He claimed that SAPS is aware of the youth gang problem and officers are often at the school on Friday afternoons when problems are known to flare up.²²¹ However, Mr Mahlutshana claimed that 'we need them morning and afternoon, especially on Fridays and they are not always able to attend because, they say, they have too few resources'²²².

According to Mr Mahlutshana's testimony gang fighting happens both on and off school premises and learners bring weapons to school, concealing them in their school uniforms. Mr Mahlutshana explained that some of the learners claim that they carry weapons only for protection, not because they wish to fight.²²³ Mr Mahlutshana stated that the school's current strategy for dealing with this problem has been to meet with parents and the local Community Police Forum, to confiscate weapons as and when they are found in the possession of learners and to discipline such learners.²²⁴ Mr Mahlutshana said that the school has 'a mini-museum [...] where we store all these knives'²²⁵. Although Mr Mahlutshana testified that his was one of the schools in Khayelitsha where the gang situation is relatively under control and well managed²²⁶, he nevertheless claimed that gangsterism 'really affects the learning and teaching. So we would really want to have a clear strategy from the SAPS, also the community, on how the schools are being supported to move forward and eliminate this because it just destabilises the schools.'²²⁷

²¹⁹ Record Bundle 1(1), File 1.a, Item 7; Transcript at 493 (28 January 2014)

²²⁰ Transcript at 493 (28 January 2014)

²²¹ Record Bundle 1(1), File 1.a, Item 7 at para 4

²²² Ibid. at para 5.4

²²³ Transcript at 494 (28 January 2014)

²²⁴ Ibid. at 495

²²⁵ Ibid. at 496

²²⁶ Ibid. at 506.

²²⁷ Ibid. at 508 – 509

Testimony of those who work in Khayelitsha

Ms Sonja Basson²²⁸, who is the former head of the Homestead Project for Street Children spoke about how the problem of youth gangs has escalated in recent years. She explained that:

‘It started with small groups of rival youths which were not addressed and now there are two huge gangs, known commonly as the “Vatos” and the “Italians”. When we have seen these gangs becoming violent we always call the police and it has been a minimum of 20 times already since November 2011,²²⁹ but most times they do not respond to our calls’²³⁰

Ms Basson confirmed the testimony of earlier witnesses²³¹, claiming that gang members carry a variety of weapons and that ‘[b]oys cannot freely detract from gangs without serious repercussions, including physical harm.’^{232, 233} Ms Basson also spoke of the involvement of taxi associations in the attempt to control the youth gangs; in April 2012 one of the boys living at the Homestead was murdered during a gang fight, the next day members of the taxi association arrived bearing sjamboks looking to take the law into their own hands. Ms Basson describes the scene as follows:

‘I was not at the Centre at the time, but was called there by staff members. I had to physically run and hold onto the taxi to get them to stop because they wanted to attack any male youth who could possibly be a gangster and they were threatening boys under my care as well. The taxi driver and the three men with him were so worked up they looked crazy.’²³⁴

Nodal Analysis

Recall that conducting a nodal analysis of security arrangements entails the identification each actor whose primary end is to produce security in a particular setting. From the data above the following five nodes can be identified:

1. The South African Police Service
2. The Western Cape Department of Education
3. Community Policing Forums

²²⁸ Record Bundle 1(1), File 1.a, Item 5; Transcript at 967 – 1014 (31 January 2014)

²²⁹ Ms Basson made this statement in September 2012

²³⁰ Record Bundle 1(1), File 1.a, Item 5 at para 12

²³¹ cf. Dwane and Mahlutshana

²³² Record Bundle 1(1), File 1.a Item 5 at para 14

²³³ cf. Zitwana

²³⁴ Record Bundle 1(1), File 1.a Item 5 at para 36

4. Taxi Associations

5. Parents

Recall also that in order to determine what type of node each of these nodes is the following questions must be answered:

1. How does X think about security governance?
2. What methods does X employ to influence and order events?
3. What kind of resources does X have access to?
4. What type of institutional form does X take?

In the following section each of these questions will be answered for each of these nodes.

The South African Police Service

It is clear from the evidence outlined above that the SAPS operating in Khayelitsha perceives security governance as involving both punitive and preventative activities. When called to the scene of a gang fight, the SAPS have no choice but to be a *reactionary* force; halting the progress of the fight by their arrival on the scene. However, as was seen in the evidence, this strategy has not proven particularly effective given that the fighting resumes shortly after the police have left. On the preventative side of things, the SAPS employs ‘visibility’ as a tactic for preventing gang related activity particularly on Friday afternoons. However, this strategy was also deemed inadequate by witnesses, in the absence of more regular and consistent application. A reason cited for why the SAPS does not employ this strategy more often is limited resources, in terms both staff and vehicles. The SAPS does still yield considerable symbolic and political capital, often being described as the first port of call when gang violence flares up. It is only in the absence of adequate interventions from the SAPS that witnesses resorted to other avenues. In some instances the SAPS was described as being willing to work with other actors in the network (e.g. being at schools on Friday afternoons and conducting random drug searches) but in others they seemed unwilling to engage with the issue. Two witnesses were told by SAPS members that youth gangs are a problem to be dealt with privately, that is, by parents. Witnesses described how their concerns were brushed away by SAPS members who claimed that there was nothing that they could do to intervene and simply wished them ‘good luck’. Moreover, some members of the SAPS appeared not to take the problem of youth gangs very seriously. Brigadier Mlenga claimed that ‘we cannot call these youngsters of Khayelitsha [...] gangs’²³⁵ and described

²³⁵ Transcript at 5142 (24 March 2014)

them as nothing more than a loose group of mischievous youngsters²³⁶ who should be dealt with by their parents. As the primary state institution tasked with providing security services to those who live and work in Khayelitsha, the SAPS are the gatekeepers of the formal criminal justice system. However, witnesses explained that the SAPS are reluctant to arrest children and ‘misapply provisions of the Child Justice Act so as to avoid taking any steps to deal with criminal behaviour by children.’²³⁷

The Western Cape Department of Education

The WCDE perceives its role in the provision of security services in schools as largely regulatory in nature. According to the South African Schools act, schools at which the ‘safety of learners or staff is threatened’²³⁸ are to be classified as ‘underperforming’. A school classified as underperforming, once informed of this status, is required to provide the head of the education department with ‘a plan for correcting the situation’²³⁹. The head of department is then required to ‘take all reasonable steps to assist a school [...] in addressing the underperformance.’²⁴⁰ In a statement made in 2006 the then minister of Education, Naledi Pandor, seemed to imply that the violence in schools could be minimised, or even eradicated, if only schools would take responsibility and implement the appropriate measures. Pandor claimed that ‘Listening to the outpourings of anger and frustration on talk radio [...] it has become clear to me that most principles and parents do not know that a range of powers are available for schools to instil discipline and appropriate behaviour in schools.’²⁴¹ Furthermore, a witness was told by the WCDE that they could do nothing to intervene in gang related activity that takes place beyond the school premises, referring concerned parents to the SAPS.

Community Policing Forums

Community Policing Forums were described by witnesses to play a positive but largely insignificant (or symbolic) role in the security arrangements at schools. The only significant mention of a CPF’s involvement was the suggestion made by a CPF member to a witness to approach the Taxi Association about her son’s struggles with youth gangs. It was later

²³⁶ Transcript at 5206 (24 March 2014)

²³⁷ Record Bundle 1(1), File 1.a. Item 5 at paras 11 and 26; Transcript at 991-992 (31 January 2014)

²³⁸ South African Schools Act, No. 84 of 1996, Section 58B(2)(c)

²³⁹ Ibid. Section 58B(3)(b)

²⁴⁰ Ibid. Section 58B(4)

²⁴¹ Pandor, N. Statement from Cape Town on 23 October 2006

testified by a former CPF member that such a suggestion should not have come from a CPF member, given that they are meant to ‘uphold human rights’.²⁴²

Taxi Associations

According to the evidence heard, taxi associations appear to be called in as a matter of last resort. Their methods and mentalities are entirely punitive and they were described by witnesses to frequently resort to violent methods of achieving their purposes. The taxi association was even told by a school principal that they could not operate in a particular area because he had received complaints from parents who were concerned about their children being severely beaten. They are described as having arrived a day after a murder was committed, willing to beat up any young male who may have been part of a gang in order to mete out punishment. It seems as though some Khayelitsha residents are sympathetic to this method of crime control and prevention, as evidenced by those in the SANCO suggesting that they take up arms and fight the gangs, because they were only children and should be disciplined appropriately.

Parents

According to the testimony, it was often parents or caretakers who first sought to find an effective intervention for dealing with the problem of youth gangs. In this way, parents themselves can be understood as central nodal points. Parents yield significant social capital when it comes to their own children, but are incapable and ill-equipped to deal with this pervasive *criminal* issue. Parents received little support from formal state institutions such as the SAPS and the WCDE who ultimately perceived this to be ‘not their problem’.

Conclusion of Nodal Analysis

Yar’s earlier conclusion that the functional efficacy of networked policing structures must be highlighted is crucially important in this context. It is clear from the evidence presented and the subsequent analysis that the ‘network’ involved in providing security to schools is not functioning properly. In the absence of agreement about what precisely the problem is and how and by whom it should be dealt with, the network cannot function. The nodes within the network will either conflict with one another about the appropriate responses to the problem, bringing the network to a standstill or they will continue to

²⁴² Transcript at 1349 (4 February 2014)

perceive the problem of youth gangs as belonging to some other node, likewise brining the network to a functional standstill. This standstill has wide reaching normative implication, given that the result is unsafe schools for the young people of this community. The result of this climate of violence will be more fully discussed in the concluding chapter. Furthermore, the relevance of framing schools as spaces will be discussed.

CHAPTER FIVE: DISCUSSION AND CONCLUSION

Schools have been described as microcosms of the communities in which they are situated; as such the social issues that affect the community as a whole bleed over into schools. Traditional policing services, which are inherently reactionary, are not designed to address these broader social issues and could therefore never provide a full solution to the problem. Therefore in the context of school safety (as with community safety), it may not necessarily be the case that the inclusion of the non-state is the result of a dissatisfaction with the state police, but rather the recognition that the various factors that contribute to the existence of unsafe schools are beyond the ambit of the state police. As such, it is also necessary to include bodies (both state and non-state) whose roles do not explicitly include the provision of safety and security, crime prevention or the maintenance of order, but are nevertheless indirectly responsible for these things under the ‘policing umbrella’.

This necessity is highlighted by the testimony of Professor Catherine Ward to the Khayelitsha Commission. Ward explained that South African gangs ‘have been created in a particular crucible of economic disenfranchisement’²⁴³ and that membership in a gang offers economically disadvantaged and socially excluded youths a sense of belonging as well as protection from the pervasive violence of the communities within which they exist. As such, Ward suggested that a focus on the suppression of gang activity rather than on eradicating the circumstances which foster the existence of gangs in the first place, will not be effective in the long run. Therefore, Ward argued that programmes aimed at preventing people from becoming affiliated with gangs in the first place, as well as programmes designed to help people to disengage from gang involvement²⁴⁴ must be employed in conjunction with suppression tactics. The suppression technique is often favoured by traditional law enforcement agencies, such as the state police, is necessary to a degree. According to Ward –

‘Key to [the] successful implementation [of the above mentioned programmes], however, is efficient co-operation between the agencies involved, implementing a co-ordinated community-wide plan that has grassroots involvement [...] in obtaining genuine community participation.’

Ward’s conclusion that ‘there is a role for policing in relation to youth gangs, such as high visibility policing and hot spot policing, it is a limited role, and it is important that SAPS “are

²⁴³ The Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha (2014), p. 340

²⁴⁴ The Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha (2014), p. 340

surrounded by an array of social services”²⁴⁵ seems entirely valid and therefore will form the central thesis for the recommendations in this final section of the paper.

Given that the right to basic education is immediately realisable, strategies for reducing and preventing violence in schools is a matter of great urgency. However, as explained above, the reasons for the existence of unsafe schools are not straightforward. Therefore, the recommendations I will make are take into account both the urgency of the situation as well of the need for a progressive, rather than merely suppressive approach. This kind of approach requires immediate buy in from the various actors and agencies involved; the SAPS and the Metro Police, the Western Cape Education Department, the Department of Community Safety, various non-governmental organisations involved with youth and schools, teachers, parents, and perhaps most importantly, learners themselves. Learners often lose their agency in these discussions, but they are the ones who are being most adversely affected by having to attend unsafe schools – not only are they the direct victims of physical and psychological violence, but they are often times the perpetrators of this violence too. The recognition of learners as agents capable of identifying problems that affect them and formulating solutions for these problems is essential. Programmes that foster and encourage learners from a young age to take responsibility of their own schools must be developed. Such programmes should include a focus on political education; teaching learners about their rights and responsibilities and the various regulations that empower them to hold the state and various other stakeholders to account and to equip them with tools to take effective action if their rights are violated or limited in any way. This focus on learners themselves is motivated by the recognition of the relationship between space and power. The amount of regulatory authority an individual wields in a particular space is relative to the power and the legitimacy the individual has in that space. Power, understood as a function of knowledge, is determined by the expertise of the user in a particular space, while legitimacy is determined by how valid a user’s occupancy of that space is perceived to be. Learners are both the most legitimate and knowledgeable occupants of school spaces – schools exist for learners not for teachers or parents, and learners spend a great deal of their time at their schools, thus making them the experts in this area. According to Article 12 of the UN Convention on the Rights of the Child, children have the right to be heard and ought to be afforded that right particularly pertaining to matters directly concerning children as individuals or as a group. Those who wish to

²⁴⁵ The Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha (2014), p. 341

develop effective policies for eliminating unsafe schools are obliged to consult children currently attending such schools in Khayelitsha.

With regards to the state agencies, specifically the SAPS and the Education department, the first step to be taken is for these agencies to engage on how best they can collaborate with one another, with schools and with communities parents and learners. Many of these stakeholders 'opt-out' of this issue by placing the responsibility (and blame) on each other. The SAPS and the education department both claim that it is the job of the parents to discipline their children, while parents claim that it is the responsibility of the education department and the SAPS to keep their children safe while at school. The SAPS claims that it is the responsibility of the education department to take measures to ensure safety at schools, while the education department claims that it is the responsibility of individual schools to do so. This responsibility shifting can go on and on *ad infinitum* without any action ever being taken. In the meantime learners are must continue to attend unsafe schools. This outcome is unacceptable and therefore an exercise in effective division of labour must be undertaken such that each party is has a clear guide as to what their individual responsibility is and as to what they can reasonably expect from other parties. Before this is established, very little else will be achieved.

This paper has chiefly drawn on primary sources of information from the South African legal framework to first-hand accounts and expert testimony of the reality in many South African schools.²⁴⁶ This was chosen as the most appropriate strategy for the development recommendations for the improvement of school safety and the elimination of 'unsafe schools' in Khayelitsha because it is the most up-to-date and contextually relevant. The aim of this paper was to present specific (rather than vague) recommendations. As such, detailed descriptions of the reality on the ground as well as a critique of the current policy for dealing with this reality were necessary. A secondary aim of the paper was to make a general point about the absolute necessity of understanding problems within their particular context and *then* to attempt to formulate strategies for dealing with these problems. Once a firm grasp of the reality of the problems and the various factors that contribute to its existence has been established, it is then necessary to apply analytic and tools in order to clearly and precisely define what it is that one wishes to solve and to justify why a solution is necessary in the first place. Absent this mixed and systematic approach, we will either end up attempting to solve problems that do not in fact exist (or at least don't exist in the way we may understand them

²⁴⁶ My interpretation and treatment of this information has been shaped and informed by material presented and discussions engaged in throughout the 'Police and Policing' course.

to), or attempting to apply ineffective solutions to problems that urgently need to be solved. I believe that I have achieved both of these aims in this paper.

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