

**Violence in a Changing Political Context:
Northern Ireland and South Africa¹**

Colin Knox and Rachel Monaghan – University of Ulster

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Contact details:

Colin Knox and Rachel Monaghan
School of Policy Studies
University of Ulster
Newtownabbey
Northern Ireland
BT 37 OQB
Telephone: 028 90366378/90366667
Email: cg.knox@ulster.ac.uk
Fax: 028 90366847

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Introduction

Northern Ireland and South Africa are moving from conflict to post-conflict societies. Both countries have new political dispensations and seek to eschew the legacy of bitter and bloody violence. The history of the political struggles has, however, embedded a culture tolerant of violence characterised by descriptions such as ‘an acceptable level of violence’ or ‘an imperfect peace’. Somehow the threshold of violence is different/higher in these countries because of their transitional status.

This chapter will therefore explore how the meaning of violence is inextricably linked to the political context in Northern Ireland and South Africa. Specifically it will examine the continuing role of violence meted out by paramilitary/vigilante groups to alleged wrongdoers within the communities in which they operate, the stranglehold these groups exert and how, if at all, this is changing. The role played by the police and the criminal justice systems will also be discussed within the new era of established political systems that have replaced ‘white rule’ and ‘direct rule’ in South Africa and Northern Ireland respectively.

Northern Ireland

Northern Ireland has entered a new political era. The Belfast Agreement of April 1998 heralded the end of a political, constitutional and security crisis lasting almost 30 years. Its signatories reaffirmed their ‘total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues’ and their ‘opposition to any threat of force by others for any political purpose’ (Belfast Agreement: 1998: 1 section 4). The Agreement between political parties however did not, of itself, change the course of violent activity on the ground. In 1999/00, for

example, the number of deaths due to the security situation fell from 44 in the previous year to a low of seven. This increased to 18 deaths in 2000/01, all of which were civilians. There has also been a substantial rise in the recorded number of security-related shooting incidents from 131 in 1999/00 to 331 in 2000/01. The number of casualties as a result of paramilitary-style attacks rose from 178 to 323 in the same year (RUC Chief Constable's Report 2000-2001). All this in an era of cease-fires, peace and political agreement.

Whilst not oblivious to the ongoing and in some areas increasing violence, the Government rationalises this as 'an imperfect peace', or what former Secretary of State Mo Mowlam described as 'an acceptable level of violence'. Quite how 'acceptable' is defined is unclear, but the notion that a society riven with violent conflict can be more tolerant of murder, shootings and bombings is the implication of this description which can become self-fulfilling and encourage acquiescence in the *status quo*. Instead, the Government argues that their role is to create the political context in which violence becomes a thing of the past and the aims of paramilitary groups have been superseded by political progress. The British Government has attempted to do this in several ways.

- First, by securing the political institutions which are the democratic core of the Belfast Agreement - devolved government through the Northern Ireland Assembly and the Executive.
- Second, the implementation of the Patten Report on police reforms including the introduction of legislation to amend the Police (Northern Ireland) Act 2000 and reflect more fully Patten's recommendations.

- Third, the implementation of the Criminal Justice Review so that the criminal justice system has the confidence of all parts of the community and delivers justice efficiently and effectively through a fair and impartial system which encourages community involvement, where appropriate.
- Fourth, a progressive rolling programme reducing levels of troops and military installations, as the security situation improves.
- And finally, further progress in implementing the Agreement's provisions on human rights and equality.

In practice, the Government's ability to deliver democratic stability has made faltering progress. The on-off nature of devolution (through suspensions of the institutions) demonstrates the fragility of the peace process and how contingent it is on the resolution of issues such as policing, decommissioning and demilitarisation. Some Unionists, for example, are challenging historic moves by the IRA in putting a quantity of weaponry verifiable beyond use, as insufficient. The establishment of a new Police Service of Northern Ireland (replacing the RUC from November 2001) accountable to a Policing Board has not secured the agreement of Sinn Féin. Stable governance is far from secure. Dr. John Reid (Northern Ireland Secretary of State) declared:

We are on a journey from violence to democracy. For those who are making that change from violence to politics, including Republicans, we have shown patience. We don't underestimate how far they have come. We understand the historical and ideological enormity of that challenge. But ultimately we all face a stark choice. The ballot box, or bomb and the bullet. There is no

mix'n'match in a democracy (Secretary of State's Speech to Labour Party Conference: 3 October 2001).

The research in this chapter would however contend that there is in fact a 'mix'n'match' in the democracy that is Northern Ireland but the Government simply chooses to ignore it in the interests of what they perceive as the broader collective good of securing a long term political settlement. In other words the meaning of, and tolerance towards, violence is inextricably linked to the political context of Northern Ireland. The most obvious manifestation of the parallel tracks of violence and democracy are paramilitary-style attacks or so-called 'punishment' beatings and shootings which in 2000/01 are at an all time high since figures for such attacks were recorded. We examine these in some detail.

South Africa

South Africa similarly has emerged from a bitter ethno-national conflict in which violence and crime characterised the transition to a peaceful political settlement. The collapse of apartheid in 1989, lifting the 30-year ban on the African National Congress (ANC) and the subsequent release of Nelson Mandela, created a climate for political negotiation and change in South Africa. This paved the way for an interim constitution, the first multi-racial democratic elections in 1994 and led to the Government of National Unity. The ANC's success in the June 1999 elections gave the party an overwhelming mandate to accelerate Thabo Mbeki's programme of 'transformation' aimed at tackling the significant socio-economic problems facing South Africa: unemployment, AIDS, crime and education. The legacy of political resistance, often violent, deployed to make the townships ungovernable during

apartheid has created a culture tolerant of citizens taking the law into their own hands. Although the number of political killings dropped sharply from about 2,500 in 1994 to fewer than 240 in 1999 (South African Institute for Race Relations, 2000), Mbeki in his inauguration speech regretted that some South Africans were 'forced to beg, rob and murder to ensure that they and their own do not perish from hunger'. This is reflected in a rising tide of other kinds of violent crimes. Rape, car-jacking, serious assault, housebreaking and common robbery, have been increasing since 1996, and the trend has been sharply upwards since 1998. About a third of all reported violent crimes in 1999 were violent, and the number increased by over 9% on 1998. The savagery of the crime wave is captured in reports that one in every two South African women will be raped during their lifetime, the average South African is eight times more likely to be murdered than the average American, and one policeman is killed each day - 1,400 have died since the ANC came to power. Accordingly, the public response is that 'brutality should be met with brutality. The rich surround themselves with razor wire and private security guards, and the poor resort to vigilantism' (The Economist, 1999: 23).

Given the rising levels of crime, politicians, judges and township residents alike have begun calling for the reintroduction of the death penalty and corporal punishment. Indeed, the Pan Africanist Congress president Bishop Stanley Mogoba called for criminals to have their limbs chopped off: 'It is our view that we must start taking the war to criminals and if it means we have to use the method of dismembering them, we will do it' (Quoted in Lekota, 1999: 3). More recently, senior provincial government ministers in KwaZulu-Natal have called for the castration of rapists and the return of the death penalty for serious crimes such as murder.

What these accounts illustrate is that there is a disjuncture between political settlements in Northern Ireland and South Africa and the transition to peaceful democracies at grassroots level. This is perhaps unsurprising given that ‘political struggles’ in both countries have involved the use of violence to achieve constitutional change. When political objectives have been met, there is a blurring of the boundaries between political acts of violence and criminality. In both countries a sharp decline in political violence has given way to a surge in non-political organised crime, utilising similar violent methods. We now consider two particular forms of violence prevalent within the changing political contexts of Northern Ireland and South Africa – paramilitary style attacks and vigilante activity, respectively.

Intra-Community Violence

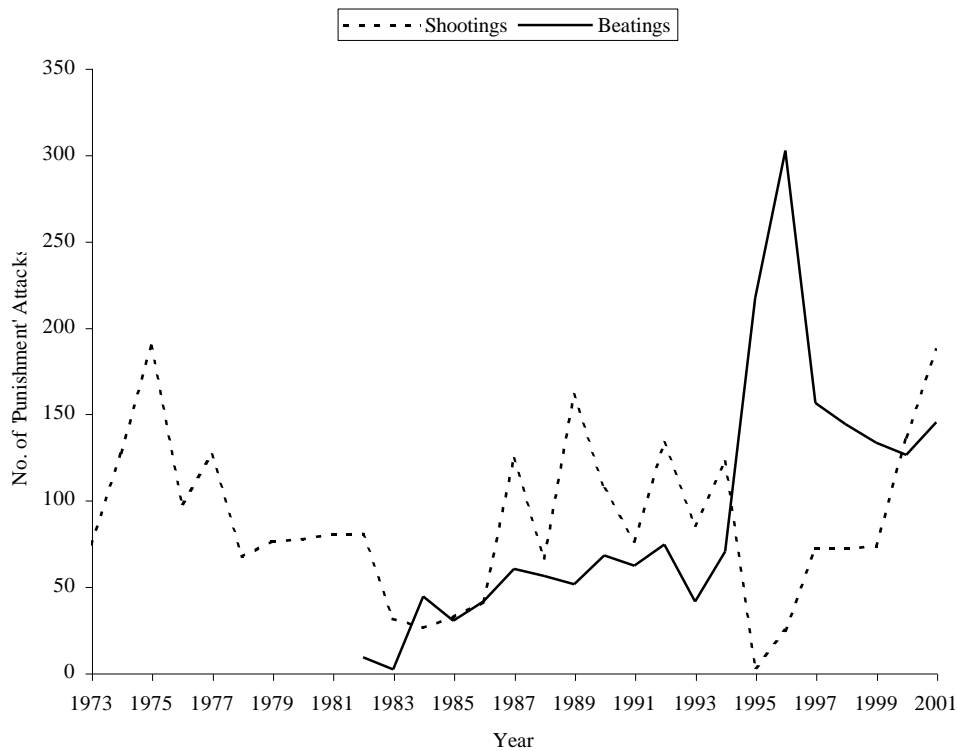
Paramilitary-style attacks

The informal or alternative criminal justice system has evolved in its current form since the beginnings of ‘the Troubles’ (1968) in Northern Ireland². This system involves a graduated series of ‘punishments’ carried out by paramilitaries to include threats or warnings, public humiliation, curfew, exile, beating or shooting and, in exceptional circumstances, ‘execution’ (Thompson and Mulholland, 1995). In theory, the more serious the ‘crime’ the more severe the penalty imposed – a crude tariff system is in place (Silke, 1998). In practice, ‘being connected’ through kinship or friendship to the paramilitary hierarchy can be used in mitigation or to evade ‘punishment’. Kennedy (1995: 69) describes the system as a range of punitive

² Informal justice systems have historical antecedents in Ireland associated with revolutionary agrarian societies in the eighteenth and nineteenth centuries who were concerned with protecting tenants, labourers and small holders who worked on the land from arbitrary acts by landholders. See for example Monaghan, 2002 and Alter, 1982.

measures against individuals ‘who violate some community norm, as defined by the paramilitary grouping’. Typically this includes petty criminals allegedly involved in burglary, car theft and joy riding, vandalism, muggings and more serious accusations against drug dealers and paedophiles. ‘Punishment’ is inflicted through baseball bats spiked with nails, hammers or power tools used on bones. Assaults are aimed directly at bones to cause multiple fractures, shots are directed at the elbows or hands and knees/ankles to exact maximum damage. This crude emulation of the formal criminal justice system ignores due process and shows contempt for the human rights of those who stand accused. Hence there are cases of mistaken identity, attacks on children as young as 13 years old, and personal grudges over money, personal relationships, and control of drug territory, masquerading as paramilitaries protecting their communities.

Figure 1: Paramilitary-style Attacks



Source: Police Service of Northern Ireland

According to police statistics between 1973 and the end of 2001 there have been 2,563 paramilitary 'punishment' shootings (an average of 88 per year) of which 45% have been perpetrated by loyalists and 55% by republicans. From 1982 to the end of 2001 there have been 1,822 beatings (an average of 91 per year), 47% of which have been carried out by loyalists and 53% by republicans. Statistics on paramilitary-style attacks were not collated before 1973 in the case of shootings and 1982 for beatings, and police admit that official figures are thought to under-estimate the true extent of the problem by as much as 30-50% because victims are reluctant to report incidents for fear of paramilitary reprisal.

The figures show there was a significant increase in beatings and concomitant decrease in shootings following the cease-fires of August and October 1994³. This reflected moves by paramilitaries not to implicate their political representatives in claims that their cease-fires had broken down, particularly on the republican side with their public avowals of non-violent alternatives. Since 1996 beatings have decreased but still remain higher than pre-cessate fire levels, and shootings are escalating year-on-year. In short, the situation is getting worse. There is no information available of charges brought against perpetrators. Offenders are charged with crimes such as common assault, grievous bodily harm and actual bodily harm, hence it is impossible to ascertain successful police prosecutions. The Chief Constable of the Police Service of Northern Ireland has confirmed that the Provisional Irish Republican Army (IRA), Ulster Defence Association (UDA) and Ulster Volunteer Force (UVF) all of which

³ The IRA ended its cease-fire on 9 February 1996 with the Canary Wharf bombing and restored it on 19 July 1997.

have declared cease-fires are behind many of these attacks⁴. He highlighted the distinction that they make between ‘a cessation of military operations and some distorted view that this sort of barbarity doesn’t come within these terms’ (MacKay citing Chief Constable, 1999: 351). In October 2001 the Government concluded, in the wake of violence in the North Belfast area that the UDA, Ulster Freedom Fighters (UFF) and LVF were no longer maintaining their cease-fires and specified these organisations⁵. The central role played by paramilitaries in these attacks is cynically demonstrated by their complete cessation (on the republican side) during the Clinton visits to Northern Ireland in 1994 and 1998 and the Mitchell review on the implementation of the Belfast Agreement in November 1999.

Vigilante attacks

Likewise in South Africa, alternative forms of justice can be found in the black townships. During the apartheid years township inhabitants developed informal criminal justice mechanisms for dealing with crime in their community. These mechanisms were developed, in part, from traditional rural practices such as the *lekgotla*⁶, which emphasised the restoration of harmony and the re-integration of

⁴ The UVF is a loyalist paramilitary group that was formed in 1966. They have been responsible for a large number of assassinations, mostly innocent Catholics, in Northern Ireland. The UVF became part of the Combined Loyalist Military Command in 1991. In 1996 a number of disaffected ‘maverick’ members broke away to form the Loyalist Volunteer Force (LVF). The UDA was, and remains, the largest loyalist paramilitary group in Northern Ireland. It was formed in 1971 from a number of loyalist vigilante groups, many of which were called ‘defence associations’ - one such group was the Shankill Defence Association. Members of the UDA have, since 1973, used the cover name of the Ulster Freedom Fighters (UFF) to claim the responsibility for the killing of Catholics. The Ulster Democratic Party which earned a place at the multi-party talks following the Forum elections in May 1996 represented the UDA until November 2001 but has since dissolved as a political party over disagreements about the UDA’s lack of support for the Belfast Agreement.

⁵ The result of specification includes measures such as early releases prisoners associated with the UDA, UFF and LVF can now have their licences suspended and be returned to jail if they are believed to continue to support their organisation. Any UDA, UFF or LVF person found guilty of a scheduled offence that took place before the Belfast Agreement cannot qualify for early release provisions. The Real IRA, Continuity IRA, Red Hand Defenders and Orange Volunteers are already specified.

⁶ The *lekgotla* is a court comprised of elders of the community who convene a meeting to listen to disputes and problems within the community and pass judgement. The *lekgotla* emphasise a

offenders into the community. Sentences handed down to those found guilty included fines, corporal punishment and community service. Neighbourhood patrols and street committees were also established in an attempt to deal with 'normal' crime, for instance robbery, theft and rape. With the emergence of the politicised youth or 'comrades', people's courts were established within the townships and residents were encouraged to take their problems to the 'comrades'. These courts were seen as part of the political struggle against apartheid as they represented an alternative to the state structure and dealt with both 'normal' and 'political' crime. Gradually these courts, which numbered some 400 by 1987, began to acquire the reputation of 'kangaroo courts' (Brogden and Shearing, 1993; Minnaar, 1995). Such courts are characterised by their predetermined assumption of guilt of the accused, instant redress and often engaged in human rights abuses. The people's courts of the 'comrades' in some cases meted out beatings and whippings with a sjambok, with sentences of up to 300 lashes and on occasions a death sentence was passed. By the mid-1980s, those individuals accused of 'political' crimes such as collaboration, informing or being a 'sell-out' (working as a councillor or a police officer) were 'necklaced' for their alleged crimes. The necklace method involves the placing of a petrol-filled tyre around the accused's neck that is then set alight. Estimates suggest that between 1985 and 1990 some 350 to 400 people were killed by this method of execution with a further 500 necklaced between 1990 and 1994 (Minnaar, 1995).

The advent of a negotiated settlement to the political conflict and the holding of multi-racial elections have not resulted in the disappearance of retributive informal justice in the 'new' South Africa. The 'comrades' are no longer involved in such justice, rather

conservative moral code including respect for elders, the importance of kin and patriarchal authority. The plural of *lekgotla* is *makgotla*.

new groups have emerged, these include the Peninsula Anti-Crime Agency (PEACA)⁷ in the Western Cape, *Mapogo a Mathamaga*⁸ (hereafter referred to as *Mapogo*) in the Northern Province and the willingness of taxi associations in some townships to become involved in crime solving for a fee. All of these groups stand accused of using corporal punishment and violence in responding to crime. Indeed *Mapogo's* leader, John Magolego asserts that public flogging, 'is the African way of stopping crime. The criminal must lie on the ground, and we must work on his buttocks and put him right' (Cited in Soggot and Ngobeni, 1999). Alleged suspects are usually beaten until they confess or provide information as to the whereabouts of stolen goods. *Mapogo* has also been accused of throwing suspects into crocodile-infested waters, while taxi-drivers in Guguletu are implicated in dragging alleged criminals behind vehicles.

Furthermore, in some cases spontaneous mobs form to mete out justice to alleged criminals. In some instances, those present convene kangaroo courts but this is not always the case. The justice meted out is often of an extremely brutal nature and deaths are common. Examples in the townships include the stoning to death of a motorist after he had run over and killed a two-year-old child in Carletonville (South African Press Association, 1999); the necklacing of four immigrants accused of gangsterism in Ivory Park (Midrand) (Reuters, 1999) and the beating to death of a suspected thief in Philippi East just outside Cape Town (Le May, 2001). In some cases members of a suspected criminal's family or the family home are targeted. Their houses are either destroyed or burnt and often the families subsequently leave the area as a result of intimidation. In February 1997, the mother of an alleged criminal was

⁷ PEACA is based in Khayelitsha, a township near Cape Town. It was formed in August 1998 by ex-combatants of the liberation struggle and local residents who had come together to fight crime. Its members number some 1,500.

stoned to death for the deeds of her son by a crowd of 4,000 in the township of Mamelodi, near Pretoria (Amupadhi, 1997).

Community condonation

Northern Ireland

Paramilitaries claim to be responding to popular pressure from within their communities for instant retributive justice. This is borne out by Cavanaugh (1997) in an ethnographic study undertaken within both communities in Belfast where she posits the community, not as a passive entity but integral to the analysis of political violence in Northern Ireland. She suggests civil society in Northern Ireland is characterised by a strong sense of community, ethnic separation, and tradition of loyalism and republican in both its cultural and political forms. ‘With basic security needs left unfulfilled and fear of identity loss prevalent in both republican and loyalist communities, strong intra-communal infrastructures have evolved which protect and promote community cohesion’ (Cavanaugh, 1997: 46). This strong community cohesion, she argues, demands social order and control constructed through ‘alternative legalities to that of the state’. As Northern Ireland becomes more polarised and segregated housing increases as a result of people feel more secure ‘living amongst their own’, so too do the demands for social order.

That social order is exercised through paramilitaries and communities argue that the need for their involvement exists for three principal reasons. First, particularly in republican areas, there is an absence of an adequate policing service. The RUC (now the Police Service of Northern Ireland: PSNI) has no legitimacy amongst republicans,

⁸ *Mapogo a Mathamaga* was established in August 1996 and has some 50,000 members who pay a monthly subscription to the organisation in return for protection against crime.

and their communities would not normally involve the police in dealing with crimes in their areas. Republicans claim that the PSNI are prepared to tolerate at best, or encourage at worst, crime in their communities as a way of undermining republicanism. Police are therefore willing to trade dropping charges for petty crime in return for low-level intelligence gathering. In loyalist areas where the RUC, given its composition, was once seen as 'their' police force, things have changed. Political developments have eroded Protestants' monopoly grasp on the state and its organs, creating a real sense of alienation. Police tactics, for example, in upholding the rights of Catholic parents to walk to school through loyalist areas in North Belfast (the Holy Cross dispute⁹) have reinforced antagonism towards the police. Loyalists want to keep the PSNI out of communities where drug dealing, racketeering and illegal drinking dens are commonplace. Second, there is a rising level of 'anti-social behaviour' and petty crime, particularly in working-class areas. From police statistics the levels of recorded crime, of which common assault and criminal damage account for about one third, have been increasing (Police Authority, 2001: 53). In the absence, therefore, of a legitimate police force and/or because people are discouraged from seeking PSNI intervention, communities turn to the paramilitaries to secure a prompt, visible and, in their view, effective response to crime in their areas. Third, the formal criminal justice system within these communities is perceived as slow, ineffectual and soft on crime. In a society where violent conflict has been the norm for over 30 years, it isn't surprising that the time taken to process offenders, the necessary safeguards in

⁹ A picket was set up in June 2001 to protest against Catholic children, who attended the Holy Cross Primary School, walking through a Protestant estate in the Ardoyne area of Belfast. Ugly scenes of sectarian chants and taunts by Protestants aimed at the school children and their parents were broadcast around the world. North Belfast was once a unionist stronghold with a low-income Catholic minority. The demography has changed with the flight of middle-class unionists from the area. Protestants now see themselves as a besieged minority and react with anger to what they perceive as increasing territorialism by Catholics.

the legal system, and the standard of proof required for conviction is seen as no match for summary justice meted out by paramilitaries.

Working-class communities in Northern Ireland that have been brutalised during the conflict have become desensitised to violent crime. Victims of crime reporting to paramilitaries almost certainly know the consequences of their actions for the alleged perpetrator. In a country which has witnessed over 3,600 deaths and numerous serious injuries, the emphasis is more on revenge than justice (McKittrick, Kelters, Feeney and Thornton, 1999). The nature of the conflict and roles played by the key protagonists is important in understanding the response to community crime. When the legitimacy of the State and effectiveness and impartiality of its organs (security forces and legal system) are integral to the conflict, this forecloses recourse to the normal channels by which communities seek to tackle crime (Ní Aoláin, 2000; Rolston, 2000). Hence communities develop their own responses to crime through informal justice mechanisms which will be significantly influenced by the violent environment within which they live. As one communitarian suggested ‘if you have a gripe with someone, the way to resolve it is to hit them a dig on the gob, if it was bigger than that, pull the paramilitaries in’ (interview with loyalist community worker, 2000). All of this suggests that the meaning of violence in Northern Ireland and the community response to it, is closely bound to the political milieu within which it takes place. Given this argument, it is obvious that attempts to tackle the informal criminal justice system have been politically laden. Similar community support/endorsement for informal ‘justice’ is also evident in South Africa.

South Africa

Vigilantes and vigilante groups such as *Mapogo* and PEACA argue their activities, aimed at combating crime and maintaining ‘law and order’, are a direct response to community demands for action to be taken against criminals. Both groups point to continued community support and membership of their organisations as evidence of this. Indeed, people queue on a daily basis outside PEACA’s offices in Khayelitsha, and *Mapogo*’s supporters/members display the organisation’s symbol in their homes, shops, businesses and cars as a warning to criminals not to target them. In addition to its crime-solving activities, *Mapogo* has moved into the area of crime prevention by offering services usually provided by private security firms such as the protection of property and patrolling; takers have included schools and churches.

Like Northern Ireland, a number of principal reasons are cited by communities for the continued existence of the informal criminal justice system in the ‘new’ South Africa. Firstly, although the South African Police Service (SAPS) is now regarded as the legitimate police service of the government, it is widely seen as being ineffective. According to recent research conducted by the Institute for Security Studies (cited in Meyer, 2001), ‘crime pays in South Africa’ as the majority of criminals never get caught and, of those who are arrested, a mere 8% spend any time in jail. Of the 2.58 million cases that were reported to and/or recorded by the police in the year 2000, only 610,000 went to court and, of these only 210,000 ended in a conviction. Secondly, the formal criminal justice system is viewed as ineffectual, slow and soft on criminals. As one township resident explained: ‘The law takes it very easy [on criminals] and the person gets out of jail easily’ (community focus group participant, Khayelitsha, November 1999). Although mandatory minimum sentences for certain

offences and tough bail laws have been introduced, this has not countered criticism levelled against the judiciary. Rape, for example, now carries a life sentence where the victim is raped more than once, is seriously assaulted, or is under the age of 16 years. Lesser sentences may be imposed if ‘substantial and compelling’ circumstances exist. In October 1999, Judge Foxcroft handed down a seven-year sentence to a man found guilty of raping his 14-year-old daughter. In his judgement, Foxcroft stated this was ‘not one of the worst cases of rape’ and that the man’s ‘sexual deviancy’ was limited to the accused’s own daughter (see Smith, 1999 and South African Press Association, 2001 for more details). Such sentencing rationale does not inspire confidence in those communities most affected by crime and sends a message to the community. As Bronwyn Pithey, a Rape Crisis legal adviser explains: ‘One can empathise with people who take the law into their own hands. With the Foxcroft judgment it is no surprise that people are acting like this’ (Abarber, 1999). In contrast, informal justice is quick and ‘punishes’ offenders there and then and in some cases stolen goods and monies are returned to their rightful owner/s. More often, alleged suspects are killed or end up in hospital in a critical condition. In a recent incident in a township in Cape Town, a mob began stoning a suspect in full view of the police. The police fired warning shots into the air, however, the crowd refused to disperse and threatened the police and ambulance staff (Le May, 2001).

Indeed, commentators note ‘as was the case with the conservative vigilantes of the apartheid era, it appears that those involved in vigilante action today are most unlikely to face legal consequences for their actions’ (Bruce and Komane, 1999: 41). Victims of vigilante attacks are reluctant to lay charges against their attackers. For example, a 16-year-old youth suspected of house breaking was assaulted by three men in

Vredehoek (Cape Town), although the attackers were known to the police, the youth declined to make a complaint against them (Kemp, 2001). Since its inception, at least 20 people are thought to have been killed by *Mapogo*, although none of those initially charged have been convicted (Tromp and Gophe, 2001). Although 607 members of the group have been arrested between 1996 and 2000 and charged with a range of other offences including kidnapping, assault and attempted murder, only 14 members have been convicted of an offence (for more details see Sekhonyane, 2000). In August 2000, *Mapogo's* leader Magolego and 11 other members were cleared of murder and assault charges because witnesses were too frightened to testify against them. What then has been the response to dealing with communal violence associated with paramilitaries and vigilantes 'protecting' their communities against criminality?

The politics of resolution

Northern Ireland

Several examples illustrate how seeking to tackle paramilitary-style attacks has clashed with the 'high' politics of Northern Ireland. The response of statutory organisations to these attacks has been one of minimisation and indifference to the problem, or what Conway has described as 'reactive containment' (Conway, 1997: 114). The police argue that many of the victims refuse to make a witness statement for fear of reprisals and that in the absence of forensic evidence or catching paramilitaries in the act, they have little chance of apprehending the perpetrators. However, participants in this research claimed that, whilst not openly encouraging the informal justice system, the police recognise its existence and perpetrate its use by referring some complainants to the paramilitaries. Their motives for so doing may be no more sinister than accepting that the informal system in particular circumstances such as a

burglary may be more effective at retrieving stolen goods than the formal police and legal systems. At best, therefore, the police acquiesce in the *status quo*. The Northern Ireland Office's (NIO) response, which has responsibility for law and order, is to see paramilitary-style attacks more within the framework of crime prevention and community safety which seek to address the causes of anti-social behaviour. They do not commit resources directly to the problem and their interest in it appears to peak only when it is linked to the political agenda of the day. Hence when there was a parliamentary debate on informal 'justice'¹⁰ initiated by the Conservative Party in an attempt to halt the early release of political prisoners under the terms of the Belfast Agreement, the Northern Ireland Office suddenly became interested in the research of the authors.

Moreover, criticism by the researchers of the lack of response by statutory agencies to paramilitary-style attacks met with a political rebuttal. The Northern Ireland Office, stung by accusations that the Government was adopting a 'see no evil, hear no evil' stance to ongoing beatings and shootings, responded with a statement denying its indifference and attacking the research findings (Knox, 2002). They claimed the research represented 'a series of unsubstantiated, generalised and politically tendentious assertions and successive Northern Secretaries and Security Ministers had consistently condemned the attacks and had called for those with influence to end them' (Breen, 2000). The statement was issued before the NIO asked for a copy of the research report from the authors! The research also became the subject of a Northern Ireland Assembly debate with pro- and anti-Belfast Agreement politicians adopting positions on its findings. One pro-Agreement parties argued that the report

¹⁰ House of Commons Debate 27 January 1999 *Terrorist Mutilations (Northern Ireland)*: 347-398. Hansard

‘highlighted the strong support that there is for alternatives to ‘punishment’ attacks (such as restorative justice) in the absence of a legitimate policing service’ (Gildernew, 2001: 31). Anti-Agreement parties claimed that paramilitary attacks had soared as a direct result of prisoner releases and the research ‘presented cogent evidence that the Good Friday Agreement is failing’ (Paisley, 2001: 47). Politicisation is an ongoing feature of the debate on this issue. The Sinn Féin Health Minister, Bairbre de Brún, is regularly asked for information in the Northern Ireland Assembly on how the immediate hospitalisation of those subject to beatings and shootings is displacing patients on long waiting lists in need of orthopaedic surgery and trauma counselling. This is as much to embarrass and undermine the Sinn Féin Minister as it is to highlight the plight of paramilitary victims.

All political parties publicly call for an end to paramilitary-style attacks yet, given their lack of influence with paramilitaries, it is left to parties such as Sinn Féin and the Progressive Unionist Party to directly tackle the problem. They, in turn, are fighting against a history of summary justice within the areas they represent. Both have attempted to introduce and/or support alternative mechanisms for dealing with community crime. On the republican side, a number of community restorative justice projects have been set up as a means of addressing anti-social behaviour through mediated agreement, work with families, restitution, payment of damages, referral to a programme or statutory agency and community service (Auld *et al*, 1997). On the loyalist side, the Greater Shankill Alternatives Programme has piloted a restorative justice approach which features offender/victim mediation, community service work for individuals under threat from paramilitaries, and intensive training and peer education groups focused on behavioural problems (Winston, 1997). Reactions to

these schemes have been, at best, mixed and, at worst, dismissive. This is particularly true of republican initiatives which exclude police involvement in the implementation of their programmes. The most recent Government proposals for community restorative justice schemes contained in draft legislation (Justice (Northern Ireland) Bill, 2001) emerging from the review of the criminal justice system, suggest referrals must come from a statutory criminal justice agency, rather than from within the community. The police must be informed of all such referrals and all schemes must be accredited and subject to standards (human rights, due process etc.) laid down by the Government (Northern Ireland Office, 2001: 79). This is clearly a political and criminal justice response to existing community restorative justice schemes, about which there are legitimate fears for the rights of the accused and paramilitary involvement. It ignores however the legacy of community condonation for summary justice and the reality of living in working-class areas controlled by paramilitaries.

South Africa

Like Northern Ireland, a number of key responses were discernible across the range of statutory agencies and NGOs to the problem of vigilante attacks. Firstly, there is condemnation of vigilante attacks by government ministers, politicians, NGOs and public prosecutors. For example, the current Minister for Safety and Security, Steve Tshwete stated 'we cannot and will not condone any action by vigilante groups as this can only contribute to crime. Merely resorting to vigilantism is not only unscrupulous, but an abdication of responsibility. Criminals don't stay on Mars, but in our communities' (Legget, 1999: 8). This view is echoed by police personnel in areas where vigilante groups operate and/or mob justice has occurred. In the Western Cape, which has seen seven suspected criminals killed in one month by mobs in townships

in and around Cape Town, the Provincial Police Commissioner Lennit Max, issued a lengthy public statement saying that vigilantes will 'face the full brunt of the law'. The second response identified was that of toleration. On the ground, pockets of toleration, and in some cases support, for vigilantism were found within the ranks of the South African Police Service (SAPS). Bruce (2001) argues,

Many rank and file members of the SAPS tacitly support vigilante justice, while some of them may even overtly encourage it. It is frequently the case that, when the police hear a report that an alleged criminal has been apprehended and is being assaulted by members of the public, they deliberately delay their arrival on the scene. Sometimes this is because they wish to avoid the risky task of confronting an angry mob. At other times it is because they wish to allow the mob an opportunity to 'deal with the suspect' first (Bruce, 2001: 1).

Other research has found that some officers were tolerant of vigilantism (Bruce and Komane, 1999). This toleration ranged from non-intervention in a situation where an alleged criminal was being attacked to openly expressing support for vigilante action and failing to take action against individuals involved in vigilantism. The reasons given for non-intervention included sympathy with the original victim of crime and a lack of confidence in the criminal justice system – a view not confined to community members alone. Community members involved in the research also perceived that there was police support for vigilante actions in Khayelitsha (Cape Town). Furthermore, a number of interviewees suggested that police officers were taking cases to PEACA to be dealt with, although an Inspector at the Khayelitsha Police

Station denied this. However, he did acknowledge that PEACA had provided accurate information concerning stolen vehicles in the area.

Other key responses by agencies to vigilantism can be described as both indifference and a disjointed approach to the problem. Historically in South Africa, the government has largely neglected victims of political violence and indeed, crime. The work of the Truth and Reconciliation Commission was an attempt to address the plight of victims of political violence by piecing together a comprehensive picture of the human rights abuses of the apartheid era. Discussions about what should be done for victims of crime, which in theory would include victims of vigilante attacks, continue.

Unlike the United Kingdom, systematic victim support services do not exist in South Africa. Moreover, there is very little financial support available to victims of crime in the form of benefits from the Department of Welfare. Social security benefits are open to all South African citizens who meet the eligibility criteria but are very limited in terms of financial assistance and the types of benefit offered (see Liebenberg and Tilley, 1998 for details). Victims of crime including vigilante attacks are not eligible for any special grants or awards and can only apply for those grants already offered. At present, no compensation fund exists for victims of crime. Furthermore, there is no statutory duty to provide housing in South Africa: ‘There is no provision which requires you to be housed by anybody’ (interview with a representative from Black Sash¹¹, November 1999). Thus, if a person’s house or shack is burnt down as a result of a vigilante attack, then that person has no access to state social welfare.

¹¹ Black Sash is a national NGO which monitors infringements of political and socio-economic rights, monitors how the rights of women are affected, engages in paralegal work which strengthens people’s

Some non-governmental organisations (NGOs) are beginning to offer services to victims of crime, those subjected to vigilante attacks are incorporated into the general client portfolio. On speaking to a number of NGOs it was difficult to ascertain if any victims of vigilante attacks had ever availed of the services on offer or if they had, what sort of numbers were involved. NGOs rely, in part, on donations from domestic and international donors in order to carry out their work. Many have found that since the establishment of a democratically elected government, international governments and funders have donated money directly to government coffers. Subsequently, NGOs have felt a financial squeeze and this has affected their ability to run programmes, offer services and address issues. Thus, organisations offering support services to victims of crime add to the disjointed nature of such service provision. Given the precarious nature of NGO funding the long-term needs of victims of crime including those who have been attacked by vigilantes, are not being addressed.

Conclusions

Both the legacy of political violence and the changing constitutional and security context significantly condition the meaning of violence in Northern Ireland and South Africa. In the case of Northern Ireland, as the State and its organs were (are) pivotal stakeholders in the cause and resolution of the conflict, they crucially have an important role to play in defining the parameters of what is ‘an acceptable level of violence’ within the context of ‘an imperfect peace’. The boundaries are determined by the wider political agenda of the British Government and its search for a lasting settlement to the Northern Ireland conflict. This has resulted in their resignation, or at

capacity to understand and claim their rights and campaigns for justice in legislation and state administration.

the very least quiet indifference, to paramilitary-style attacks that would simply be unacceptable in other parts of the United Kingdom. This happens in the interests of a wider collective good – long term peace. When violent acts become part of the political equation, the Government through its response has defined that such beatings and shootings do not constitute a breach of the principles of democracy and non-violence, core tenets of the Belfast Agreement. It is noteworthy that the most recent proposals on the full implementation of the Agreement involving the British and Irish Governments (the Weston Park discussions) make no mention of the worsening problem of paramilitary shootings or ways of tackling this problem. It must therefore be concluded that these shootings and beatings come within the purview of ‘an acceptable level of violence’ and, whilst distasteful for the Government, little can be done to address the problem other than condemnation. More worrying are the reasons why communities condone these attacks and subscribe to the paramilitary ‘policing’. The lack of confidence in the police and formal criminal justice systems has not been adequately addressed from their perspective. Sinn Féin has not endorsed the new Police Service of Northern Ireland and refuses to take their seats on the new oversight Policing Board. Similarly, the response by the criminal justice review process to community-led restorative justice projects has been so heavy-handed that few could comply with the formal requirements contained therein. All of this adds up to the pessimistic prospect of a continuing role for paramilitaries in meting out their own form of summary justice.

In South Africa when discussing community support and/or utilisation of violence directed at criminal elements within their own community, it is important to remember that recourse to violent action outside the formal institutions of the state is

a well-established principle. Indeed a 'culture of violence' can be said to exist in which society endorses and accepts violence as an acceptable and legitimate means to resolve not only problems but also to achieve goals (Hamber and Lewis, 1997). The Reverend Frank Chikane wrote in 1987 that 'the most tragic reflection of [the] war situation in which South Africa finds itself is that it faces the years to come with children who have been socialised to find violence completely acceptable and human life cheap' (Quoted in Mehlwana, 1996: 31). In the period before the un-banning of the ANC and the lifting of the state of emergency (February 1990) much of the conflict and violence was driven by township residents' opposition to apartheid and their attempts to make the townships ungovernable. This included rent, services and consumer boycotts, worker stayaways, protest marches and mass mobilisation. The Government responded by imposing a state of emergency and clamped down on overt political activity, thus leading to confrontation between township residents and the security forces. The period leading up to democracy (1990-1994) was characterised by both inter and intra-community violence facilitated by the deregulation of the repressive state security forces and the legitimisation of violence by all political groupings prior to the 1990s (Hamber, 1998). In the democratic South Africa violence is endemic and can be found in almost all parts of social life including attacks against illegal aliens and xenophobia, campus violence, domestic violence, minibus taxi 'wars' and violent crime (Minnaar *et al*, 1998). Thus the sjambokking of 'skollies' (local hoodlums) by organised groups such as *Mapogo* or the coming together of concerned community members like taxi-drivers or ex-combatants has become common place in the townships in the 'new' South Africa despite the State's attempts to reform and legitimise the criminal justice system.

This chapter has attempted to demonstrate that the meaning of violence is closely bound to its social context. Where that context has overt political and security manifestations, ways of understanding and dealing with violence are conditioned by, in this case, the failure of the formal police and justice systems to effectively tackle the problem. Hence, direct involvement by paramilitaries and vigilantes in addressing community crime is a legacy of failed political systems. The corollary, however, that a political settlement somehow changes the ways in which communities respond to crime cannot be assumed. Political settlements do not, of themselves, immediately impact on communal violence. New political dispensations must, over time, demonstrate that reformed policing and criminal justice systems have secured sufficient community confidence in their impartiality and efficacy so that these communities can give their allegiance to the very institutions of the state which they previously distrusted. In the short to medium term ‘tried and tested’ instant retributive ‘justice’ meted out by paramilitaries and vigilantes will continue with community support and the glib descriptions ‘imperfect peace’ and ‘acceptable levels of violence’ will apply.

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