

Boyane Tshehla

Non-State Justice in the Post Apartheid South Africa – A Scan of Khayelitsha

Introduction

The transition from apartheid to democracy necessitated an overhaul of both the state and civil society. As the net of citizenship drew wider a paradigm shift was needed in governance. While this was true for practically all spheres, it was all the more acute with regard to social ordering, especially the provision of safety and security as well as dispute resolution. The immediate targets of transformation in this sphere were the state police and the judiciary. Both were subjected to far-reaching changes. While all these changes were occurring, the provision of safety and security for the townships, which has always been predominantly non-state, continued to exist and evolve. But just as the state ordering, it has developed dimensions that make it different from its pre-1994 form and *modus operandi*.

The structures of ordering that exist today are in many respects, and substantially, different from the ones that existed before 1994 and so is the state justice machinery that co-exists with them. There are a variety of organisations that provide safety, security and dispute resolution in the townships. These range from the well-known street committees mainly affiliated to the South African National Civic Organisations (SANCO) to private security structures as well as structures that straddle state and non-state ordering. There has been a concerted effort on the part of the post-1994 government to combine state and non-state ordering resources and structures of which community police forums, as will be discussed later, are the most visible. These structures which straddle the state and the non-state divide co-exist with many other structures in the community. The ideological basis as well as the concomitant rhetoric of these different structures range, on the one hand, from traditional African dispute resolution mechanisms spiced with an urban flavour, to the popular justice mode, typical of townships and often tainted by sporadic acts of violence. On the other hand, one also sees the Western notion of community policing, private justice, private security and dispute resolution.

One of the townships where this variety in social ordering manifests itself is Khayelitsha, which forms the focus of this discussion.¹ Khayelitsha is a black residential area ('township') on the outskirts of Cape Town, about 20km from the city. The literal translation of the name is 'new home'. This township was formed in the early 1980s in line with a government decision to try and bring the mushrooming shanty settlements under control. It is therefore one of the youngest, but also one of the biggest, townships in South Africa. It is a home to over

half a million people, the majority of whom are unemployed. The unemployment rate was estimated at 80% in 1990.

(<http://library.thinkquest.org/28028/History.html>.)

The structures discussed here, as they operate in Khayelitsha, are Khayelitsha Community Police Forum (KCPF), traditional leaders under the Congress of Traditional Leaders of South Africa (Contralesa), street committees under SANCO, and the Peninsula Anti-crime Agency (Peaca). While these structures in no way represent the total number of structures that perform non-state ordering in Khayelitsha,² let alone in the whole country, they serve as a window through which we can peep and catch a glimpse of the variety, diversity and plurality of ordering that characterise South Africa today. Moreover, the experiences of Khayelitsha are not atypical of those of other South African townships, at least as far as plurality and diversity in ordering are concerned.

The Khayelitsha Community Police Forum (KCPF)

The relationship between the South African Police (SAP) and the country's citizens was one of the key issues that demanded urgent attention, right at the dawning of the post-apartheid form of governance. Before 1994, the relationship between the police force and South African citizens, especially blacks, was an unhealthy one to say the least. This was occasioned by a variety of factors primarily related to the apartheid policing policy. Among others, the police force at the time had been trained and equipped in ways that would be inconsistent with the new order that required equal treatment of all citizens. For instance, as Brogden & Shearing (1993:178) remind us, the police officers then were trained with the aim of protecting white South Africans and controlling their black counterparts. These authors labelled the SAP a 'competent oppressor but not a competent protector of black communities' (ibid.). To that end the negotiating team, which was charged with negotiations that led to the dismantling of apartheid and the introduction of the current form of governance, developed a road map for the new form of policing that would resonate with the constitutional ethos of the country. One priority was to create structures through which the police and the civil society would be able to interact. This approach was anchored in the concept of community policing which served as the ideological basis on which police reform was undertaken.³ It was in line with this thinking that community police forums (CPFs) were introduced. Their introduction was enabled by the provisions of section 221 of the Interim Constitution Act 200 of 1993 and subsequently entrenched by chapter 7 of the South African Police Service Act 68 of 1995 (hereinafter referred to as "the Act"). These forums have turned out to be so important that they have even been described as '... the most visible, if not the only, expression of South Africa's community policing policy' (Pelser 1999:10).

The overall aim of community police forums, in short, is to improve the relationship and interaction between the South African Police Services (so named

after 1994) and the public. Among other things, the SAPS would be made accountable to the community. The forums are civilian in constitution with the provision that the station commissioner and any number of members designated by him/her, as determined by the CPF, be members (section 20(3) and section 23(1)(b) of the Act).

Designed at that particular time of South African political history, CPFs have been given a mandate as stipulated in section 18, read with section 22, of the Act. A glance at these provisions, as in the list below, reveals that the lawmakers were keen on fostering a close relationship between the SAPS and the public. However, a caveat is in order. These functions as stipulated by the Act do not necessarily reflect what CPFs do in practice, as Pelsler (1999) has shown, and this study of such a forum in Khayelitsha will further demonstrate. This incongruity between the statutory functions of CPFs and their practice should, principally, be attributed to lack of clarity on the scope, jurisdiction and modus operandi of CPFs.

Statutory functions of CPFs:

- to establish and maintain a partnership between the community and the SAPS;
- to promote communication between the SAPS and the community;
- to promote co-operation between the SAPS and the community;
- to improve the rendering of services to the community at local level;
- to improve transparency in the SAPS and accountability of the SAPS to the community;
- to promote joint problem identification and problem-solving by the SAPS and the community.

Such a forum was formed in Khayelitsha in 1995. This forum has 13 subforums throughout the township, with an executive committee of 12 members elected at a general meeting. All its members serve on a voluntary basis as required by section 23(2) of the Act. Community structures (e.g. SANCO) and the SAPS are represented on the KCPF. Over and above the prescribed responsibilities of CPFs as outlined in the Act, KCPF also acts as a dispute resolution structure and in that capacity deals with disputes among individuals – an attribute that earned it a space in this article. Not only has it put itself forward as a dispute resolution structure, it also claims legitimacy over all other community structures as far as representing the township is concerned. This claim to legitimacy is based on two attributes. Firstly, KCPF is a structure initiated and supported by the government. Secondly, its members have been elected democratically by members of the community of Khayelitsha. Based on that legitimacy it is seen by some of its members as superior to all other structures. Some of its members even see it, in the words of an executive committee member of KCPF, as ‘the

only legitimate structure and everything and every project in the community ought to be done through this structure'.⁴

KCPF serves as 'a one stop forum' where all problems are attended to and all issues affecting the community are addressed. Some of the cases that KCPF deals with are brought directly by individuals while others are referred to it by other structures such as street committees.

A typical day at the offices of KCPF takes the form of an executive committee member, the secretary most of the time, opening the office at about 10:00 am. There are normally people queuing to report their problems. Amidst the ordinary members of the community, one also finds members of the KCPF subforums who come to report their problems and experiences as well as seek guidance from the 'head-office'.⁵ Virtually any sort of problem may be brought to this office. At one time advice is given to one enquirer, at another someone receives counselling and in yet another an executive committee member serves as a mediator or an arbitrator or even a judge over a dispute.

KCPF makes some distinction between criminal and civil cases in its dispute resolution or problem solving practice. This distinction is very important as it determines how the dispute gets handled. Criminal cases are cases where a crime has been committed. The definition of crime, however, is not strictly the common law definition thereof. In practice the label 'criminal' is attached to cases that are seen, at the discretion of the particular member(s) of KCPF involved, to warrant police investigation, in which case KCPF helps the complainant report it to the SAPS. The rest are considered civil matters and KCPF attends to them. In respect of the latter the respondent (i.e. the person against whom the complainant has been lodged) will be asked to come to the KCPF office where the problem would be attended to. The procedure followed in the settling of disputes differs from case to case and tends to depend on the particular member of KCPF attending to the problem. The procedure is discretionary and at times instead of calling the respondent to the KCPF office a member concerned might accompany the complainant to the respondent's place to discuss the problem. Generally the handling of a dispute takes the form of KCPF member(s) bringing the disputants together, listening to both (or all involved) and pronouncing a solution. The following extract from my interview with the deputy secretary of KCPF sheds some light on the procedure followed:

Question: '..... how do you go about this problem solving?'

Answer: 'Say may be a daughter and mother have a dispute, the daughter is normally the one who would approach the CPF. Then we ask the mother to come forward and then involve other relatives in the process. They then come to an understanding. Or it could be a widow whose in-laws have a conflict with her regarding death benefits. We then tell the widow that she has a right to all the benefits, as it is her husband who died and they all understand'.

Question: 'I want you to take me through the procedure that you follow as the CPF. Let me put it this way: I have a problem and I walk into your office to report it, what happens next?'

Answer: 'We first listen to your problem in the absence of the other party. We interview you. If it needs referral to the courts, we do so. If it needs us to consult your family we do. That means we do conflict resolution. Otherwise we give you a letter to be delivered to the respondent. That is if you are not afraid to take it. If you are afraid we devise other means to deliver it. The letter calls upon the respondent to come to CPF'.

Question: 'When we both come to your office on the basis of your letter (i.e. as complainant and respondent), what happens?'

Answer: 'We let them explain their stories – both in the presence of each other and the CPF member'.

A number of KCPF attributes are clear from the above interview extract. Firstly, the KCPF settles disputes among individual community members, while this is clearly not within their functions in terms of the Act. Secondly, KCPF members exercise wide discretionary powers in the handling of such disputes. This refers to, among others, the decision whether to attend to the dispute or refer it to other structures. Thirdly, members of KCPF adjudicate over legal disputes. They pronounce on the legal rights and obligations of individuals as in the example the interviewee gives about a widow and her in-laws. Further in this interview, it appeared that KCPF attends to all cases. In other words, a person would never be turned away from KCPF on the basis that a dispute falls outside its scope and powers. As this particular respondent told me: 'There has not yet been a case we could not resolve'

An explanation is in order here. This does not mean that the KCPF deals with all the cases itself. It refers criminal cases to the SAPS and some cases are also referred to street committees. To an enquiry as to what cases the KCPF does refer to street committees, the interviewee responded as follows: 'Problems between neighbours. For example one neighbour throwing a bucket of dirty water into the other's yard. Such a problem is solved by street committees. If we refer a person to a street committee we tell the complainant to come back to us with a feedback'.

Whether a case is referred to other structures or not, however, the KCPF still regards that case as its own. In respect of criminal cases, the complainant is helped to open a docket with the SAPS. The KCPF also keeps a record of that case and monitors progress. As is clear from the interviewee's words, if such a case has been referred to street committees, KCPF still expects feedback on the outcome of that case. Moreover, according to the secretary of KCPF, there are instances when she went to street committees to sort problems out. This, she says, was occasioned by one of the parties to a dispute having come to voice dissatisfaction in the street committee's handling of a problem. It is therefore safe to say that KCPF handles all sorts of cases, albeit through referral to or partnership with other structures. It may be said that that fact does not make KCPF any different from other structures as they all would refer elsewhere if

they do not handle a particular problem. I argue that what makes KCPF different is that it refers and then monitors progress. At times it gets involved in helping the structure the problem has been referred to solve the problem and, importantly, feedback as to the outcome is required by the KCPF.

As could be expected in a sphere characterised by such plurality, a blurring of functions occasionally occurs. This happens, for instance, in areas where one finds both street committees and subforums of the KCPF operating, as there is no clear demarcation of jurisdiction. They both attend to cases affecting the family and to minor neighbourhood disputes. Both refer serious cases to either the police or the KCPF head-office. There are no directives concerning to whom referrals are to be made. It seems that to a considerable extent, referrals are left to the leader's discretion. What appears to be a new trend is that referral of some cases by street committees does not go to higher structures within SANCO hierarchy, but to KCPF. In the past referrals from SANCO area branch would go to SANCO local. Some, as it will be shown later, see the KCPF as having now assumed this role.

My interviews with members of the KCPF and SAPS reflect that the KCPF invariably refers criminal cases to the police and thereafter monitors progress of the resultant investigation. They also handle cases involving 'imigalelo'⁶ and family members. Sometimes family matters are referred back to street committees. Even here discretion plays a very important role. For example, when a young lady who had run away from home approached the KCPF, as she was afraid her father would punish her for having run away from home to a boyfriend, the secretary of KCPF took her home. I accompanied them to the house, where the secretary successfully pleaded with the father not to give her a hiding. When the secretary herself was robbed of her belongings, she took it upon herself to mobilise other people and looked around for the culprits until they found two of them in the possession of some of the stolen property. When these suspects were granted bail she took it upon herself again, with the assistance of the KCPF chairman, to confront both the police and the senior prosecutor. The result was that the investigating officer was changed and a warrant of arrest was issued for the suspects to be rearrested. Throughout she kept the investigating officer under tremendous pressure to ensure arrest.

A slightly different approach, however, appeared a few days later while I was interviewing another member of KCPF in their office and generally observing how she dealt with the cases/complaints reported. A man walked in and reported that he had a quarrel with his girlfriend and needed help to solve the problem as she was threatening to harm and destroy his property. The KCPF member listened to him and then told him to report the case to his street committee and if that did not help, he was to obtain an interdict against her. I later discussed this particular dispute, and how it was handled, with the secretary of KCPF. She was not present when the complaint was lodged. She thought an appropriate thing would have been for her to approach the girlfriend and

convince her not to carry her threats out, failing which she would help the complainant obtain an interdict immediately.

Further to the discretion allowed, therefore, the character of the particular KCPF member seems to be very significant. It would appear that the ability of the secretary to confront respondents, SANCO street committees and the police accounts for the perceived success and efficiency of the secretary as a person, not so much the institution itself. A less confrontational/courageous person may find it difficult to perform the task.

It being clear that discretion of individual members is that decisive, the question becomes: how informed and guided is that discretion? As I will argue in my concluding reflections, and not restricting my critique to KCPF, this seems to leave justice too much to chance.

While KCPF undertakes community dispute resolution, this is not a tendency of other community police forums in the Province. This is what makes KCPF unique, if only in comparison with its counterparts researched in Western Cape townships. In nearby Gugulethu, just as one example, the community police forum restricts itself to being a liaison between the SAPS and the community. They have neighbourhood watches that fall directly under the Gugulethu Community Policing Forum (GCPF). GCPF does not involve itself in settlement or resolution of disputes among community members at all. This is a role left completely to SANCO street committees. According to the current secretary of the GCPF, if a person comes to report a dispute to GCPF, they refer him/her to his/her street committee immediately. The same procedure applies in other Cape Town areas such as Nyanga and Mfuleni. It therefore appears that KCPF is more of an exception in its role as a dispute resolution structure.

The KCPF also runs neighbourhood watches as a crime prevention strategy. They have a good working relationship with the SAPS (Khayelitsha).⁷ The only organisation, to my knowledge, that openly disputes the legitimacy and efficiency of the KCPF is Peaca. They charge that 'the community police forum just occupies offices at the police station and receives money while they do nothing for the community'. (Co-ordinator of Peaca).

Street Committees

Street committees form a significant part of township society. These forms of civic organisation started in the late 1970s in Port Elizabeth and Johannesburg townships. They then spread throughout the country and served as forums that dealt with township problems such as housing, electricity, water and other related services. The term 'street committee' has at least two meanings. The one refers to any group of people, normally staying in the vicinity of one another. The other refers to structures – as I use it here – that are part of a broader civic movement that arose first in Port Elizabeth and Johannesburg townships. An example of the former is the one described by Burman and

Schärf (1990:706) whose origin is not very clear.⁸ An example of the latter, as described by Lanegran (1996:117), started in the late 1970s and then formed part of the United Democratic Front (UDF) in 1983 when it was founded. These are the ones that were used as a terrain for resistance against the state ordering in the 1980s. As Seekings noted, the UDF invested a lot of '... effort and resources into building organisation and co-ordination in the civic sector' (Seekings 2000:278). There can be no doubt that the civics took a political stance against the apartheid government. Classifying the civics as operating under the auspices of the UDF, however, in no way suggests that the relationship they had with the UDF was a smooth one as there were people within these civics who wished to operate independently (Ibid.:279). During this time the civics were used to articulate alternative ordering mechanisms. This manifested itself in their handling of cases, both civil and criminal. Many of these civics became part of SANCO when it was founded in September 1992.

While there are many other civic formations that may use the name 'street committee', I will limit my discussion to SANCO street committees here. Firstly, because they are the dominant street committees in Khayelitsha and, secondly, because they are the ones that play a significant – at times paradoxical – role in the ordering of this particular township. For instance, all structures of non-state ordering discussed here have a relationship with SANCO street committees and, at the same time, each one of them is entangled in some turf battle with them. This is not surprising. While SANCO as an umbrella body succeeded in affording the various civics a national identity, it never really fully organised them under its leadership. Or as Seekings (1996:148) puts it: 'First SANCO's standing as representing the "community" was newly questioned. In many of the larger towns SANCO did not even unite all ANC-aligned civics, let alone non-ANC groups ... SANCO had no rivals at the national level, but at the local level it was often just one civic grouping among several'. After the formation of SANCO in 1992 many civic organisations joined it, but others remained outside its fold. Many others were further estranged when SANCO put its weight behind the ANC during elections.

These particular street committees referred to here exist as structures at '...the lowest level of the civic organisation' (Mangokwana 2001:156, footnote 30). They are part of a four-tiered structure. A number of street committees (about 4-6) come together and form a SANCO branch. Above branch-level are 'local' structures (embracing the whole township), 'regional' (provincial) and finally the national body itself. The committees restrict their jurisdiction to 'bread and butter issues' which involve disputes among neighbours and family. What remains unclear is the procedure that they follow, despite probing in my interviews. What could be detected was that to many people procedure seemed insignificant, that the leaders use discretion as to procedure, the resolution of a dispute depends on the willingness of the disputant, not only to attend, but also to accept the outcome, and that there are no clear channels to be followed in the

event of non-resolution of a dispute. This feature also characterises all other community justice structures that have been researched. Further there seemed to be a clear understanding that criminal matters are a terrain of the SAPS and CPFs. The obvious novelty is that they have, at least at policy level,⁹ relinquished criminal matters to the state. This is clearly attributable to the transfer of political power and the approach of the present government, which is accepted, at least by SANCO, as legitimate augmented by its (the present government's) willingness to cooperate with the community. The main manifestation of this cooperation appears to be the CPFs. There is an impressive cooperation between SANCO, and its street committees and the SAPS, as all interviewees indicated it. The secretary of KCPF put it as follows: 'You see SANCO has a *very strong relationship with the CPF and the police* and SANCO is a non-political organisation which represents the community and it is part of the CPF' (Italics added for my emphasis).

Street committees, in Khayelitsha, seem to be becoming more passive with the passage of time as far as dispute resolution is concerned. This is evident, for example, in many organisations assuming the role of non-state dispute resolution with the encouragement of (or tolerance by) SANCO. A pertinent example here is the recent introduction of the CPP's 'Peace Committees'¹⁰ in Khayelitsha which have been welcomed by these street committees. SANCO seems to accept, albeit implicitly, its inability to handle cases, at least in Khayelitsha where some members of SANCO refer cases to Peaca, others to KCPF, as well as to the newly established Peace Committees. The Khayelitsha set-up appears to be more of an exception than the general trend of CPFs, even in the Western Cape townships.¹¹ What is clear, however, among all street committees is that the working relationship with the SAPS and other government structures has minimised the scale of operation of the street committees and the latter confine themselves to being first aid structures with very limited jurisdiction.

What remains puzzling is SANCO's focus on civil cases, while they have in the main relinquished their 'jurisdiction' (for want of a better word) over criminal cases. It is clear that SANCO street committees set themselves to solve civil cases and deal with disputes among individual members of the community. Is it perhaps because SANCO is unwilling to relinquish that part of their responsibility? It is plausible to think that SANCO would be willing to relinquish power to deal with civil cases just as they did with criminal cases. The willingness of SANCO to relinquish power in dispute resolution has been demonstrated in at least two instances in the Western Cape. Firstly, and again using an experience from another township, when the now defunct Community Court of Gugulethu was established, SANCO passed its responsibility of handling cases to the new structure. It was only when the community court stopped functioning that SANCO street committees resumed dispute resolution again. It is evident that SANCO recognised the Community Court and was

part of the structure as well as the consultation process that led to its establishment. In that regard the Community Court had the same role, more or less, that is held by the CPFs in it being a community structure that involved the people and was accountable to them while at the same time cooperating with the state. What could have made the cooperation between the street committees and the Community Court easy to forge is the fact that, as Wilfried Schärf¹² argues, almost all members of the Community Court were members of SANCO street committees or other functionaries. His observation lines up with my interviews and observations.

The second occasion took place in Khayelitsha when the Peace Committees were established in 2000. Here SANCO gave them the go-ahead to deal with cases among the people, thereby assuming the role that had been played by the SANCO street committees up to that stage. A SANCO member had the following to say in rebuking the Peace Committee members for holding a gathering on the day on which the death of Chris Hani, the assassinated leader of the South African Communist Party, was commemorated: '... we allowed you to operate here but you are now getting out of control by holding mini-rallies while we are commemorating the death of comrade Chris Hani'.

This fact is further evident in that members of street committees cooperate with the Peace Committees such as in attending the Peace Committee gatherings and participating in their dispute resolution processes.¹³ What one sees is that SANCO performs dispute resolution out of necessity. Were there accessible structures that handle cases among the township dwellers, SANCO would not engage in this service. Were it the aim of SANCO to engage in dispute resolution, I submit, they would not easily let go of that responsibility as they seem ready to do as shown in the above examples.

Chiefs and Headmen

The chiefs and headmen referred to here are members of the Congress of Traditional Leaders of South Africa (Contralesa). While it cannot be said that all chiefs and headmen in the Western Cape belong to Contralesa, it can be said that chiefs and headmen with membership of this organisation are the ones that are presently muscling their way into the dispute resolution politics of the urban townships of this province. Before looking into the position of these chiefs and headmen in the ordering structures, I will shortly deal with the nature and political context of Contralesa.

Contralesa was formed in September 1987 by a group of chiefs who held progressive views. One of the founders of Contralesa was one Klaas Mahlangu of Kwandebile¹⁴ who had gone to Johannesburg as a result of his expulsion from that homeland's Legislative Assembly for opposing the proposed 'independence' of the homeland. He collaborated with the United Democratic Front (UDF) and the South African Youth Congress (SAYCO). The African National

Congress (ANC), then banned and operating from exile, supported this organisation (Van Kessel & Oomen 1999:162).

The context of the formation of *Contralesa* (e.g. its allies) indicates that right from the beginning it positioned itself against the apartheid system and aligned itself with the liberation movement. It is, therefore, not surprising that *Contralesa* entered into an alliance with the ANC in the past and it is of the opinion that it played a critical role in the ANC's election victory. They say the only provinces not won by the ANC in the 1994 elections are the ones in which *Contralesa* is not active, namely the Western Cape and KwaZulu-Natal.¹⁵

This organisation played a significant role in the politics of South Africa. It participated in the negotiations that led to the new order and the country's constitution as adopted in 1996. Recently *Contralesa* and the government have been at loggerheads around the functioning and powers of traditional leaders within the new democratic framework. That dispute is not resolved yet.

By the very nature of its main constituency, namely traditional leaders, *Contralesa* is an organisation that is at home in the rural areas where chiefs and headmen still lead their tribes and clans. By the nature of urban townships, it would be difficult to have chiefs reigning there. One of the reasons is obviously that members of different ethnic groups share residential areas. It would then be difficult to identify a chief to rule over a particular residential area. It can also be said that the socio-economic conditions of the urban areas are not conducive for structures of chieftainship. Even the dispute between the government and traditional leaders is in the main a rural matter. This point was further illustrated in that only provinces that took over former 'homelands' were to establish Houses of Traditional Leaders in the new democratic dispensation. Homelands were run through participation of, or accurately the use of, traditional leaders who acted as an extension of this system. The Western Cape, Northern Cape and Gauteng were excluded as they do not fall under that category.

Contralesa has, however, started establishing itself in the urban areas, including the Western Cape where it has branches in Strand, Khayelitsha, Langa, Crossroads, Nyanga (KTC), Gugulethu and Phillipi. They aim to afford Africans a home from home, which means they wish to implement rural ordering mechanisms in the urban areas. Their membership fee is R10.00 per year and anyone over 18 years may join the organisation. They find urban ordering structures alienating for Africans with a rural background. As the provincial chairman of *Contralesa* put it: 'the urban structures such as SANCO are too urban for the people'. The first branch of *Contralesa* in the Western Cape was formed in 1996. According to this interviewee they have, however, been trying to give the chiefs a voice in the Western Cape from as early as the 1960s and 1970s, and when youth structures started abusing power in the mid 1980s (e.g. necklacing of people), it became clear that the chiefs were the only solution. But the chiefs and headmen could not unite and act, as the political conditions were not favourable. On the one hand the government controlled

chiefs and headmen and would only use them for their own ends. On the other hand the popular structures such as the ANC, ANCYL, PAC, etc. saw them as anti-democratic and a hindrance to liberation. Moreover they are constantly at loggerheads with civic organisations. The struggle between Contralesa and civic organisations is a national problem but its intensity is manifest in the Eastern Cape. It has to be remembered that the majority of the township residents of the Western Cape come from, and many still have residences in, the Eastern Cape. The interaction (or tug-of-war) in the Eastern Cape is therefore bound to affect the relationship between civic structures and Contralesa in the Western Cape, for better or for worse.

The relative calmness of the situation in the Western Cape as of now is mainly because the power in ordering within the townships is in the hands of civic organisations, government created structures and political parties and Contralesa is concentrated mainly in the informal settlements. The concentration of Contralesa in the informal settlements is understandable for three main reasons. Firstly the leaders of Contralesa, at least in Khayelitsha, are former shacklords or informal settlement leaders. Their traditional power base was therefore in these areas. Secondly, informal settlements are the less stable of the townships in that people there do not have established civic organisation so entrenched as to command authority. Thirdly, it is in the informal settlements where the majority of people with rural roots and new comers to the urban areas are found. These are people who grew up in the rural areas and came to the Western Cape recently. Finding the structures of ordering in the urban areas unfamiliar to them, they are likely to find the rhetoric of Contralesa leaders appealing.

One of the aims of Contralesa is to maintain order in the community. That is done, firstly, through patrolling at night and catching offenders and then punishing them. Secondly, by attending to problems between individuals. This, according to the interviewee, was done at Crossroads, another township in the Western Cape, where crime subsided dramatically when headmen, of whom he was one of the leaders, organised street patrols at night and dealt with 'skollies'¹⁶. One of the regulations imposed by the headmen was that people had to be indoors after 9:00pm and anyone found outside that time of the night had to have a good reason, such as coming from work. The patrollers were known as 'witdoeke'. The reason why they do not deal with crime at present, he said, is because they are afraid of the 'skollies' who now have lots of guns while the patrollers do not. Moreover, they are not recognised by many of the urban residents and structures and in order to succeed Contralesa would first have to organise the chiefs, headmen and other residents to support their efforts to curb crime.

The interviewee explained the organisation's *modus operandi* in settling disputes among the people as based on negotiation. The procedure followed is that once a complainant reports a dispute a messenger is sent to the house of the

person against whom the complaint has been laid requesting the person to come to the chief or headman's house on a particular day on which the complainant would also be present. Both parties then describe their version of the dispute after which the chief or headman will rule on the matter. An example the interviewee gave is that of a young man who after impregnating a girl refuses to pay 'lobolo'¹⁷ or damages. The first inquiry would be whether or not he is the one responsible for the pregnancy. If that is determined the chief or headman will order him to pay. In a case where the young man concerned denies paternity, a blood test is ordered and its outcome settles the matter. The result being that either 'lobolo' or damages must be paid by him. Should the young man remain uncooperative, his parents are held responsible and have a duty to make him pay, failing which further steps are to follow. Asked what such a further step would be, he said that would be to take the case to the formal courts. Greenwell (2001:41), however, notes that this leader and 'his headmen' had been running a 'Kangaroo Court' at his (the leader's) home and that people were even imprisoned there until fines were paid. This casts some doubt on the benevolence of this leader and *Contralesa* and further clouds the issue with more uncertainty. What seems clear however is that control over land, which has been the main concern and source of income for many of the executive committee members of *Contralesa*, remains their area of focus. 'Administration of justice' also remains their area of interest. This is hardly surprising as these two sources of power are necessary for each other's sustenance. If a leader controls land s/he will decide who and on what conditions a person can settle in that particular area as well as who to expel and why. For this reason, control over land and 'administration of justice' prove to be useful allies.

Contralesa, however, experiences problems with other community structures such as *SANCO* who have objected to the existence of *Contralesa* in the townships of the Western Cape because according to *SANCO*, the chairman of *Contralesa* said, 'there is no place for chiefs in the townships'. According to the secretary of *SANCO* local in *Khayelitsha*, however, *SANCO* has not objected to the formation and functioning of *Contralesa*. She said although *SANCO* never discussed and made an official decision on the matter, the interaction between the two structures 'will have to be carefully discussed as their approaches to issues may differ. For example the status of women and youth within traditional meetings'. Traditional structures such as *Contralesa*, she said, 'sometimes treat women and youths as less important and see them as not able to make a meaningful contribution during discussions'.

Contralesa aims to engage the government in the creation of jobs for the people as well as building of necessary facilities such as schools and clinics. In the words of the chairman of *Contralesa*, those are the things they 'will demand and fight for'. To that end they would like to have new residential areas built to alleviate the accommodation crisis as there is a lot of unused land and it does not make sense why people should live on top of each other in the present town-

ships. Such places would then be under the authority of chiefs and headmen who would run them exactly as they do in the rural areas, including in settling disputes.

Contralesa's establishment in the urban areas of the Western Cape has to be seen against the backdrop of the openness of, or contest in, the field of non-state ordering in this province. It obviously derives relevance from the fact that chieftainship plays a very important role in the lives of many of township dwellers. Though there are no structures for chieftainship in the townships, many individuals have very strong rural roots. Having grown up in the rural areas and still having dual residences, many township dwellers still hold that the indigenous African dispute resolution mechanisms, epitomised by the institution of chieftainship, are the answer to the rampant social problems in the black community. The logic is that in the rural areas crime is low and social problems are not as bad as in the urban townships and that is due to the existence of chieftainship in the former and absence of them in the latter. There is obviously a considerable measure of oversimplification in this approach as social problems develop and flourish independent of chieftainship. This rhetoric appeals to many and may prove to be a strong recruiting tool for Contralesa even though the nature of ordering in urban areas differs significantly from that in rural areas.

The plurality of ordering in the townships is boosted by a lack of certainty. In the rural areas it is commonly accepted that chieftainship is an institution for dispute resolution and a person would have little other alternative but to make use of it, whether s/he personally likes it or not – it is sort of a fact of life¹⁸. Should a person undermine such an institution, many in the community would regard them as a deviant. But in the townships there is freedom as to what structure to approach without fear (at least as it would be in the rural areas) of being seen as different from others. People can go to Peaca or to SANCO street committees or even the formal courts – whatever structure the particular individual deems capable of serving his/her interests in a given time and dispute. This free market of ordering structures is both a boon and a doom for Contralesa – the former in that they can freely recruit followers and the latter in that they cannot exercise control to the extent of their rural counterparts.

Structures such as Contralesa seem to be a manifestation of nostalgia on the part of the township dwellers. Looking at the things that Contralesa aims to do, one notices that they are the very functions performed by chiefs and headmen through, inter alia, structures such as *makgotla* in the rural areas.¹⁹ It is therefore not surprising that other community structures, such as SANCO, object to their existence. To such bodies, chieftainship, *per se*, implies the superiority of the institution and, contrary to the present day democratic practices, is based on inheritance of positions. That clashes with the democratic principles espoused by many of the urban community structures. It must be said, however, that Contralesa seems ready to adapt to the order of the day. For instance, youth and

women may hold leadership positions. This adaptation of *Contralesa* seems to be a prudent and necessary step because, as Mangokwana (2001) sees it, it was the absence of women and youth in *makgotla* that impacted negatively on their efficiency. But the extent of that adaptation remains unclear. It would appear that individuals of royal descent feel left out in that they are not recognised for who they are and therefore fight for a place of their own. This should be seen within the broader picture of South African politics where traditional leaders are fighting for recognition by the national government.

One look at the objectives of *Contralesa* such as development of the community and dispute resolution reveals that they are the same as those structures which organisations such as SANCO busy themselves with. It is therefore a matter of 'who' does it as opposed to 'what' is done. This point struck me afresh when I interviewed a *Contralesa* leader who has a long history of personal power. What is the justification for forming a new structure instead of joining the existent ones such as SANCO, seeing that their concern and aims are the same, such as development of the community and service delivery? This is not to insinuate that structures such as SANCO ought to have the monopoly of ordering, but that it is difficult to justify *Contralesa's* radical stance to the extent of coming up with new residential areas subject to a different ordering style and governance altogether.

Some have argued that *Contralesa* is being used by individuals so as to achieve personal benefits (e.g. Maloka 1995:41). Having looked at *Contralesa's* formation and its leadership in the Western Cape, it becomes difficult to disagree. The current chairman of *Contralesa* has been involved in power struggles in the informal settlements of Crossroads. He has a history of moving from one organisation to the next. He was part of the apartheid administrative machinery as a leader of Crossroads. He ran a personal mini-army called 'the Big Eight' which enforced his wishes with brutality. He joined the ANC in 1990, even becoming its branch chairman, but still continued to act in cahoots with the apartheid security police. He also had a relationship with taxi organisations that are accused of committing serious atrocities in the early 1990s. In 1998, he joined the Federal Alliance. The calibre of the Western Cape leadership of *Contralesa* is summarised by Chiara Carter of the *Mail & Guardian* as follows:

Conrad Sandile, a well-known if enigmatic figure in Western Cape land and housing, who was investigated by the Goldstone Commission and now heads development and housing for *Contralesa* in the Western Cape; Jeffrey Nongwe, *Contralesa's* deputy chair, a Crossroads leader who is no stranger to changing political allegiances, having previously moved from the ANC to the Pan Africanist Congress, flirted with the UDM and all the while maintained his power base in the informal settlement of the Crossroads area; Western Cape *Contralesa* chair Jerrey Tutu, a squatter leader from Khayelitsha who at one stage was linked to Prince Gcobinga. Gcobinga served a prison sentence in connection with an attempted coup in the Transkei and was recently named by the Truth and Reconciliation Commission as a military intelligence agent (Carter 1998).

The Peninsula Anti-Crime Agency (Peaca)

Peaca was formed in 1998 by ex-members (soldiers) of Umkhonto we Sizwe (MK), the Azanian People's Liberation Army (APLA)²⁰, Self-Defence Units (SDU's) and the South African National Defence Force (SANDF). Their offices are two shipping containers situated at Site C taxi rank in Khayelitsha. Peaca boasts a membership of 1500 throughout the Peninsula. Though Peaca members say that this organisation operates throughout the Peninsula, all interviewees from other related organisations – UMAC, CPFs of Mfuleni, Gugulethu and Nyanga as well as SANCO – bear no knowledge of their activities outside Khayelitsha. The members of Peaca are appointed to office by the founders²¹ of this organisation. Among the most important positions in the executive committee of Peaca are Commander, Co-ordinator, Director and Deputy Director.

According to the office bearers interviewed,²² this organisation was formed in response to the high rate of crime and the criminal justice system's inability to deal with crime. Though their initial focus was on criminal cases, they now handle all cases brought to them. The Co-ordinator of Peaca, asked as to what cases they deal with, put it as follows:

Armed robbery, murder, car theft. But petty cases are supposed to be handled by SANCO and its street committees, but street committees fail. The people come to us and say 'sisi/buti'²³ those people failed, so we handle those cases as well.

This feature of Peaca (their handling of criminal cases) distinguishes them from other community structures, which restrict themselves to non-criminal cases, thereby leaving criminal cases to the (state) criminal justice system. Peaca further distinguishes itself from other community structures in that they charge disputants for services rendered. There are two methods in which money is collected. The Co-ordinator put it as follows:

The complainant pays R70.00 for transport and we go and fetch the respondent. The respondent then has to pay the money back to the complainant because we wrote a letter and s/he did not come to us... There are these structures called 'imigalelo'. If Peaca is to collect R200.00 from a respondent, we collect R220.00. R20.00 goes to Peaca and R200.00 to the complainant. That is how we buy food and we pay for our phone. But if there is no case we have no money.

Like many community structures, to my knowledge only the Peace Committees being an exception, the members of Peaca are vested with significant discretion regarding the procedures to be followed in handling of cases. The extent of discretion is demonstrated in the words of the Co-ordinator of Peaca, who said:

When a person comes to report a case to us we take a statement and then write a letter to the respondent calling him/her to our office. When the respondent arrives we listen to both the complainant and the respondent. Because of my intelligence, acquired in military training, I can tell who is telling the truth and who is lying. Then I make a decision

concerning who is wrong and who is right. If a case is not very serious we do not go to the police station, we take chances. Before we go to the police, we try our best *to force the person to admit guilt*. We do not refer cases to other structures. (Italics added)

Peaca appears to be the most radical and controversial structure in Khayelitsha by far. For instance; KCPF (through its Chairman, Secretary and Deputy Secretary) regards Peaca as a vigilante group run by criminals with no mandate from the community of Khayelitsha and it should be closed down. The South African Police Services members interviewed hold different views about Peaca. One Inspector dismissed Peaca as using unconstitutional means to handle suspected criminals while a Senior Superintendent at the same office saw Peaca as useful, though having reservations about their *modus operandi*.

The chairman of KCPF had this to say about Peaca: 'These people are trained as soldiers. They are very active people who have been active all their lives. They now find themselves in a situation of unemployment, so they create activities to keep themselves busy. Unfortunately the high rate of crime makes it possible for them to engage in such activities. Being trained soldiers who are unable to render their services within the country's military structures, they try to create a platform for themselves so that they can get some recognition and make a living as well. Everyone needs an income to survive'.

Peaca has been accused by many of using force in dealing with suspected criminals and its members contradict one another in responding to these allegations. The Co-ordinator of Peaca admitted use of force in handling of suspects. Another interviewee at the Peaca office admitted intimidation as the means they use to get people to tell them the truth. He denied ever assaulting anyone, as they never reach that stage. In one of the offices there are pictures on the wall which show people lying down. He says they show people these pictures and tell them that that is how they would be tied up and shocked with electricity. He says that they show them the electric plug and tell them that it controls a machine in the adjacent room, which will be used to shock them. The Human Rights Committee recorded a well-known incident in Khayelitsha where a police officer was kidnapped by Peaca (2001:25). An interviewee at KCPF informed me that the family of the kidnapped police officer had to pay R150 per day so that the police officer could be fed. He spent the whole weekend at the Peaca container. He was accused of having stolen a motor vehicle, which later was proved to be his own.

Despite my nine visits to Peaca offices, I have not been able to find a case in progress at all and there is no register of cases to be handled. The explanation initially given to me was that the weekend was their busy time. My visits there, even on weekends, failed to find any case in progress. My last visit was on Saturday, 14 April 2001, banking on an assurance from a Peaca member that that day was bound to be very busy. All I found on that day were only two people in the office who are members of Peaca and no cases were expected. It is really difficult to tell if Peaca handles cases the way they say they do, but the

account of the lady who was handled by Peaca as a respondent gives a hint: it appears that in many instances Peaca members go to look for the respondent/suspect immediately after a report has been made which does not necessarily have to be at the office, and when the respondent/suspect has been found summary trial takes place on the spot. I am more inclined to agree with her assertion. This, I think, would explain why (as an example) the Co-ordinator of Peaca was not aware of a well-publicised case in which Peaca had recovered about R40 000 for members of an 'umgalelo'. He probably did not know about it because it was handled by some members outside the offices and there are no records. This case had been publicised in the township newspaper with credit given to Peaca but when I interviewed him he bore no knowledge of it. Only after I had shown him the paper, which he read with visible interest, did he say: 'I just did not want to brag'.

Peaca has been trying hard to boost its image by attempting to forge a working relationship with many other institutions and organisations. Among others they tried to join the KCPF, they approached Dr. Omar, the former Minister of Justice, for a letter of recommendation to form a private security company; they approached the Centre for Conflict Resolution (CCR) and are now negotiating with CPP. These attributes of Peaca taken collectively, especially their expressed wish to register as a security company and their charging of fees for services rendered, surely qualify them as a version of private security for the poor. What is disturbing, however, is their apparent lack of accountability even to one another, let alone to the community and the state.

Concluding reflections

From the foregoing discussion of non-state ordering structures, a number of issues present themselves as having the potential to undermine the current democratic governance of the country. It strikes one as disturbing that the democratic structures and channels of security, safety, justice and dispute resolution continue to be exclusive of the majority of the population. Indeed, this constitutional right and duty of the township resident and the state, respectively, is often a matter of chance. The availability of many dispute resolution structures, each with own form of justice, begets uncertainty and unpredictability, at least. At worst it results in arbitrary, and at times dangerous, administration of justice. In a situation where anyone can form a structure of dispute resolution subject to no regulation (be it by the state or any other body), this is hardly surprising.

Each of the above structures, except KCPF, has been initiated outside the state. They can be seen from that angle as judicial surrogates. KCPF also falls under this category to the extent that it sees itself as and performs dispute resolution among individual community members. All these structures, therefore, operate because the state fails. This is not to imply that were the state not failing, these structures would not exist. On the contrary, experiences from both the developed and developing countries show that non-state forms of

justice coexist with state justice world-wide.²⁴ What is different appears to be the *modus operandi* of the particular forms of non-state ordering that operate in the different countries.

This short description of the state of ordering in just one township shows, on the one hand, the conspicuous absence, or at least, insufficient presence of the state in ordering mechanisms within the townships. On the other it shows that the sphere of ordering has become both a competitive terrain and increasingly uncertain. It is further evident that all the above structures started operating, or operating in their current form, after 1994. Ironically this is the time when the state justice system was opened up and was supposed to cater for all South Africans. This post-1994 proliferation of non-state ordering structures puts in question the nature of democracy in this country and the extent to which it is inclusive. The non-state ordering structures can no longer be accounted for on the basis of the illegitimacy of the state system as it was during the apartheid era. This is a government that has been put into office by the majority of citizens of the country.

What is obvious, and common cause among many involved in this sphere, is that some form of state regulation is necessary. The nature and extent of such regulation, however, remains a moot point. Unfortunately the residents of Khayelitsha, as those of many other townships, have to make do with the forms of justice discussed here. My contention is that enough is not being done to improve the situation. The present government, I think, takes advantage of the weak civil society in the townships as well as the majority's loyalty to and gratitude for the non-racial governance. Moreover, the township residents are not informed and demanding as customers of state services such as policing. Shearing put his finger on this point when he noted that '... if the market mentality is to be empowering to blacks some way must be found to create them as powerful customers who can use the market to reshape the inequalities that will continue to pervade South Africa after it becomes a democracy' (1994:8). Put crudely, South Africa has bought into what Shearing (*ibid.*) calls 'the market mentality', but the township residents are not equipped to be demanding customers. For that reason the South African government can afford to ignore their plight, as they are doing now, with impunity. It is only if seen in this light that it is somehow possible to understand how South Africa can afford to live with the form of ordering that I have outlined above. The net effect is that the poor have to find ways of providing for their safety, security and justice needs over and above the daily battles for sheer survival in a society with such levels of social injustices as South Africa.

All the structures I described above are some forms of justice designed solely for the poor. This does not bode well for the future of this country. I submit that what we need in South Africa is not a form of justice aimed solely at the poor's needs, though it should certainly cater therefor, whether initiated by the state, non-government organisations or township residents themselves. Nor

do we need to live with the *status quo* as described in this article. What is needed is an opening up of the state justice system to accommodate all South Africans both in terms of substantive and procedural law. It is after all their right - and the state's duty. Sadly all the forms of non-state ordering discussed here are aimed at the poor black township residents. And they all appear to be some form of second class justice. If so then the township resident is a second class citizen in South Africa, at least as far as justice is concerned. And what does that say for the country's democracy?

Notes

I am indebted to Elrena van der Spuy and Wilfried Schärf for affording me an opportunity of testing my research results and analysis at the drafting stages of this article. I must further thank Elrena for looking at the earlier draft of the paper and commenting extensively. The funding from the National Research Foundation (NRF) which made this research possible is appreciated. The ideas, views and recommendations made, however, are my responsibility. I also thank the reviewers and the editors of this journal for their contribution.

1. This discussion is based on an exploratory study of non-state justice structures that was conducted in a select number of black urban residential areas, commonly known as townships, in the Western Cape Province between March 2000 and June 2001. Financial assistance for this research was provided by the National Research Foundation (NRF). For the purposes of that study ordinary citizens, members of the judiciary, members of community policing forums, members of SANCO, members of Peaca, members of U Managing Conflict (UMAC), members of the Quaker Peace Centre, project coordinator of CPP, members of Peace Committees, an inspector of the South African Police Service (SAPS), a senior superintendent of the SAPS and the provincial chairman of Contralesa were interviewed. The research was guided by a number of themes, namely: to examine the functioning of a select number of non-state forms of ordering; their relationship with state organs; their relationship with one another; the participants' vision regarding these structures as well as their role in social ordering at large. While that study dealt with a number of townships in the Western Cape Province, the discussion here only focuses on one township, viz. Khayelitsha. The research adopted a qualitative approach and focused semi-structured and open-ended interviews were used. Given the ambitious nature of this research, as seen in the themes, the total number of interviews can in no way be representative of the whole field nor of the views of all involved in or affected by non-state ordering. This research, even with the restricted sample, serves as a mapping and exploratory exercise. Data was gathered through tape-recording, hand-written notes and observation of proceedings of the different structures as discussed herein. The data allows for a scan of some of the important ordering structures that exist in Khayelitsha today and their pertinent attributes.
2. There are other structures that perform non-state ordering in Khayelitsha. Conspicuously absent from this discussion are the Peace Committees. These structures

- may be of critical importance as they stand to influence the course on non-state justice in South Africa. I have dealt with these structures elsewhere (Tshehla 2001:41-47) and Declan Roche (2002) deals with them in detail.
3. See Van der Spuy (1995) for reflections on the concept of community policing and how it was introduced in South Africa.
 4. Interview with the secretary, Ms Nomahlobi Dlula, on 30 November 2000.
 5. This is a name the Human Rights Commission (2001) gave this office.
 6. This refers to a saving scheme in terms of which a group of people save money together to be distributed at the end of a specified time period (normally during the festive season).
 7. This is based on my interviews with SAPS and KCPF members as well as my observations on my research visits to Site B and Harare Police Stations in Khayelitsha.
 8. 'Our interviewees reported different sources for the street committees, not all of them incompatible, that probably reflect different histories of Cape Town's African townships and their populations. First, street committees were said to have arisen spontaneously from a need to have a leader and rules to control the officials it created. A second explanation was that they were modelled on the courts of rural village communities. A third was that street committees originated from burial societies which gradually began to undertake more community duties. Probably compatible with the last explanation was a claim which initially appeared to be contradictory: that street committees developed from the political vigilance committees, which sprang up in the first townships in the early twentieth century.' (Burman & Schärf 1990:706).
 9. This is not to suggest that SANCO easily released handling of criminal cases – the process has been problematic and gradual with some SANCO branches still holding on to dealing with criminal cases. Some parts of Khayelitsha show evidence of this 'hold' even in 2000. But in general SANCO accepts that criminal cases are for the SAPS and the CPFs. I think the release of criminal cases to the SAPS is owing to the introduction of the CPFs, in the main. The CPFs provide a vehicle through which SANCO could monitor the police and their activities thereby providing a space for SANCO to still have some control over the handling of criminal cases. There was a way in which the police could be held accountable and SANCO was part of the structure holding that mandate, to wit: the CPFs. The CPFs were therefore a bridge between the community structures, such as SANCO, and the state. I think that the fact that there is no structure equivalent to the CPFs in respect of civil cases, further contributes to street committees' hold onto civil cases.
 10. These structures and their modus operandi in Khayelitsha are discussed elsewhere (Tshehla 2001). For a more general discussion of Peace Committees see Roche (2002).
 11. This was brought to my attention by a mediator and trainer at UMAC who has been involved in dealings with the KCPF. According to a member of the executive committee of the CPF in Nyanga, their approach is similar to the one in Gugulethu. Through observation and an interview with the chairman of the CPF in Mfuleni, it

appears that their trend is similar to Nyanga and Gugulethu. That is: they do not avail themselves for problems between individuals, but leave that to street committees.

12. Personal communication.
13. This, however, is only true for the part of Khayelitsha where Peace Committees operate.
14. Kwandebele was a homeland for the Ndebele tribe in the old South Africa. There were ten homelands of which four were granted independence and Kwandebele was one of those not granted such independence.
15. This is according to Nkosi Nonkonyana (now the national coordinator of Contralesa) as quoted by E. Naki in the *Dispatch* of 2 October 1997. Online: www.dispatch.co.za/1997/10/02/page%252012.htm.
16. The word 'skollie' means a criminal or just someone who is deviant in a way bordering on criminality.
17. 'Lobolo' is payment (in good, livestock and/or money) made by a groom to the bride's father at the conclusion of a marriage.
18. See Mangokwana (ibid.) for a detailed discussion of a rural life where each member of the community is subjected to the authority of chieftainship.
19. See Mangokwana (ibid.). Makgotla in this sense is used in its general application as '... a generic term for all sorts of non-state, traditionally-derived dispute-resolution and/or governance structures ...' (ibid.).
20. MK and APLA were the military wings of the African National Congress and the Pan Africanist Congress, respectively.
21. The founders of Peaca are the members who were responsible for its formation and called the rest to join. They appointed other office bearers and there is no provision for duration in office, which implies permanent position in office as confirmed by the Coordinator.
22. I interviewed the Deputy Director, the Co-ordinator and another member without a specific portfolio.
23. 'Sisi' and 'buti' are Xhosa names translating into English as 'sister' and 'brother' respectively.
24. For world-wide experiences see two volumes of essays by Abel (1982).

References

- Abel, R.L. 1982. *The Politics of Informal Justice*. New York. Academic Press.
- Boskati, E. 1997. *The Future of Popular Justice: A Qualitative Approach to the Problems and/or Challenges Faced by Organs of Popular Justice in the Western Cape Substructures*. Unpublished Dissertation. Cape Town. University of Cape Town.
- Brogden, M. & Shearing, C. 1993. *Policing for a New South Africa*. London. Routledge.
- Burman, S. & Schärf, W. 1990. 'Creating People's Justice: Street Committees and People's Courts in a South African City'. *Law and Society Review*. Vol.24.No.3.

- Bush, R. 1979. 'Access to Justice', *Emerging Issues and Perspectives*, Cappelletti & Garth (eds.) Milan. Giuffre.
- Carter, C. 1998. 'Key Western Cape Nats Seek New Political Home', *Weekly Mail & Guardian*, 18 December.
- Friedman, M. 1991. 'Is a Feminist Development Appropriate and/or Possible in South Africa?' Paper delivered at a Conference on Women and Gender in Southern Africa, Durban, January.
- Greenwell, A.W. 2001. *Criminal Strategies of Competing Protagonists in the 'Development' of Crossroads 1990-9; the Transition from Apartheid 'Oilspot' to Democratic Civil Society*. Unpublished Masters Dissertation. University of Cape Town.
- Human Rights Commission. 2001. 'Popular Justice' in *Quarterly Review*, January. Cape Town. Human Rights Commission.
- Lanegrn, K. 1996. 'Civic Associations in Transitional Local Government Structures in South Africa', *Critical Sociology*, Vol. 22, No.3.
- Maloka, E. 1995. "'Traditional" Leaders and the Current Transition'. *The African Communist*. Second Quarter. Pp35-43.
- Mangokwana, A.M. 2001. 'Makgotla: A Vehicle for Development in Rural Communities' in Schärf & Nina (Eds.) *The Other Law: Forms of Non-state Ordering*. Cape Town. Juta.
- Mesi, J. 2000. "'I live in Fear of Sanco," says Khayelitsha Mum'. *City Vision. Cape Peninsula Township News*. Vol. 8-5, February.
- Ndama, M. 2000. 'Twist of Fate'. *City Vision. Cape Peninsula Township News*. Vol. 11-8, April.
- Pelser, E. 1999. *Can the Community Police Fora Work? Revisiting a Key Strategy*. Unpublished Report.
- Roche, D. 2002. 'Restorative Justice and the Regulatory State in South African Townships', *British Journal of Criminology*, vol. 42, pp 514-533.
- Seekings, J. 1996. 'The Decline of South Africa's Civic Organizations: 1990 -1996', *Critical Sociology*. Vol. 22, No.3.
- _____. 2000. *The UDF - A History of the United Democratic Front in South Africa 1983 - 1991*. Claremont. David Philip Publishers.
- Shearing, C. 1994. 'Reinventing Policing: Policing as Governance'. *Imbizo*. No.1.
- Shearing, C. & Kempa, M. 2001. 'The Role of 'Private Security' in Transitional Democracy'. Paper delivered at a Conference on Crime and Policing in Transitional Societies from 30 August to 1 September 2000. Seminar Report, No.8. Konrad-Adenauer-Stiftung: Johannesburg.
- Siegel, L.J. 1998. *Criminology: Theories, Patterns and Typologies*. Belmont. Wadsworth Publishing Company.
- South African Law Commission. 1999. 'Community Dispute Resolution Structures'. *Discussion Paper 87, Project 94*.
- The Interim Constitution, Act 200 of 1993.
- The South African Police Service Act 68 of 1995.

- Tshehla, B. 2001. *Non-State Ordering in the Post-apartheid South Africa – A study of Some Structures of Non-State Ordering in the Western Cape Province*. Unpublished Masters Dissertation. University of Cape Town.
- Van der Spuy, E. 1995. 'Social Problems as Social Movements – Reflections on Weak States, Community Policing and PAGAD'. Unpublished Paper. University of Stellenbosch.
- Van der Spuy, E. 1995. *Civilian Scrutiny of Once Forbidden Territory: Reflections on Lay Visiting Schemes to Detainees in the custody of the South African Police*. Technikon RSA Study Guide (Annexure 2).
- Van Kessel, I. & Oomen, B. 1997. "One Chief One Vote": The Revival of Traditional Authorities in Post-apartheid South Africa', *African Affairs*, Vol. 96, No. 385.

Boyane Tshahla
Institute of Criminology
University of Cape Town
Cape Town 7701
South Africa
E-mail: btshehla@law.uct.ac.za