

POPULAR JUSTICE IN SOUTH AFRICA TODAY

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by

RAYMOND SUTTNER

School of Law, University of the Witwatersrand

This paper deals, in a tentative manner, with a relatively new phenomenon. Although there have been instances of people's justice in the past (e.g. the mountain court established during the Pondoland rising of the early sixties) the present ~~structure~~ have not been in existence for very long, and certainly their character and extent of the phenomenon has not been adequately appreciated until recently.

One year ago the type of structures of popular power that are found in many South African townships today had not been created. Even 6 months ago it would not have been possible to present the type of material that is found in this paper.

On the one hand, the creation of popular organs for people to control their own lives may be relatively new. Certainly the scale and scope of this has increased rapidly in recent months. On the other hand, this is a phenomenon that many of us have not always correctly recognised. The term people's power has been developed as a concept by theoreticians. The phenomenon, however, came first and we have had, in consequence, ^{of the development of new forms} to revamp our understanding.

The term people's power is now starting to be used in two senses - to refer to both the situation where the People Govern and also the process whereby the masses set up elementary organs to control various aspects of their lives. Until recently we have not clearly understood the relationship between the vision of a new society, as found, for example in the Freedom Charter, and the possibility of starting to create that society now.

In the past rather flimsy ideas for starting to implement the Charter were offered. People's power itself was generally conceived as something for the future. Now in May 1986, we have a much more dynamic conception. It is something that we are learning from the creativity of the masses. Over

the last year or more, mass activity throughout the country has demonstrated that, even now, the people can start to take control over resources and institutions that affect their lives. An article in the UJF journal, Iskane puts it this way:

It is true that the fullest consolidation of people's power is still in the future. It is true that control over central state power is the key to many things. Without this the democratic say and participation that millions of South Africans have over their lives, will always be limited. Nevertheless, the building of people's power is something that is already beginning to happen in the course of our struggle. It is not for us to sit back and merely dream of the day that the people shall govern. It is our task to start to realise that goal now. We must start the process of liberating South Africa. We must begin to place power in the hands of the people, in all spheres - the economy, education, culture, crime control, health, in fact, wherever it is possible. [7]

Similar views are expressed in a pamphlet issued by the Eastern Cape UJF on the anniversary of the Sharpeville and Langa massacres:

No longer are we prepared to wait for others to make changes in our country - we are taking destiny in our own hands. Democracy will not come at the day or our national liberation - it should be built already in the process of destroying the old order....

Our hope for a just society does not lie with the illegal regime - it lies in the vision of a new South Africa - the Freedom Charter... The historic task of building that society has now begun. [3]

In many parts of the country people's organisations are undertaking activities that were until recently under state control or organisations allied to the state. Whatever tasks communities now undertake are usually based, where they can effectively, on deep-rooted organisations at a street and other local levels. These activities include the running of creches, buying cooperatives, first aid, gardening projects, crime control, various forms of cultural expression and attending to a variety of social problems. [3]

IN social transformations in other countries, such as Uruguay, forms have sometimes

been the basis for the establishment of a new state. Some of these rudimentary organs may be the basis for the development of fuller forms. Some may be transient. But even the transient forms contribute towards the creation of the new state through weakening the existing state and facilitating the transfer of power to the majority.

In the concrete conditions of people's power in South Africa today, all such organs, including organs of people's justice, whether enduring or not, bear a relationship to a future state in that they either occupy space vacated by the repressive or civil apparatuses of the existing state or their existence challenges the state's existence/occupation.

Context of the rise of popular power today

Rudimentary organs of popular power have arisen in a situation of widespread 'ungovernability' - where there has been an incapacity of the state civil organs and in many cases, repressive organs to operate in many areas of the country. According to Isizwe:

In the townships all over the country the community council system has collapsed. Elsewhere communities marked out for forced removal to bantustans have successfully resisted. This has created a power vacuum in many cases. In many communities the old oppressive administrative structures have been destroyed. Owing to mass resistance, many townships have become no-go areas for police and army. The police fear to move around freely. When they do move into townships often cannot enforce law and order.... [47]

It is, however, a mistake to equate ungovernability with people's power, . . . Ken Owen [48]

The ANC's campaign to make parts of South Africa ungovernable has, in the Eastern Cape come closer to fruition. The townships of the Eastern Cape Development Board are now essentially without effective government

Police and army units patrol the streets, but the law which reveals is that of the people. People are tried by kangaroo courts, without any of the safeguards that civilisation has developed in its search for justice, and execution on street corners. The security forces go around afterwards to pick up the corpses [57]

People's power is in fact a step beyond 'ungovernability'. It means a system of popular control, not no government. This is very succinctly expressed in the keynote address prepared for the recent National Education Crisis Conference:

There is an important distinction between ungovernability and people's power. In a situation of ungovernability the government doesn't have control. But not do the people. While they have broken the shackles of direct government rule the people haven't yet managed to control and direct the situation. There is a power vacuum. In a situation of people's power the people are starting to exercise control. [67]

Character of rudimentary organs of people's power [77]

Elementary as these forms of popular power may be they maintain themselves in varying degrees of maturity. While many may be fundamentally progressive in intention or even in practice, the greater the community involvement and degree of political discipline exercised, the more advanced these systems tend to be. (Put briefly and schematically, the more advanced the system, the less scope for violence against the community, the more emphasis on social cohesion, political unity etc. This emphasis can only be translated into reality where there is a fairly high level of organisation)

Systems of popular power arise from the people without any legal sanction. Their existence is in fact often in opposition to the legal authority or law of the existing order.

Organs of people's power tend in varying degrees to be independent of, indeed opposed to the existing state structures, official conceptions of the nature of the social order, dominant ideas and culture. IN the specific area concerned, the creation of a popular counter-order may presuppose or lead to the eviction of the authority.

Very often these organs have arisen at the instance of community organisations or youth organisations. Sometimes they have arisen independent of such organisational structures.

Spontaneous organs may sometimes become manifestations of people's power. What qualifies them as such is not the motivation of those involved. Very often the main actors see themselves as operating in the interests of national liberation and as establishing popular organs

The key question is not the self-perception of such individuals, but whether such organs, no matter how created, become responsible to and involve the participation of the community concerned. In many cases courts or other disciplinary organs have been established by youths or others outside of organisational or community discipline or authority. In many cases such organs may have become organs of popular power, but unless they fall under such community or organisational direction, they cannot be characterised as such.

The characteristic feature of organs of people's power is their democratic nature. Whether rudimentary or not, they arise from the people, essentially from the bottom. They seek to ensure the participation of ordinary people and the accountability of those exercising authority.

PEOPLE'S JUSTICE

people's justice is a facet of people's power. As with advanced forms of people's justice and people's power, the viability of a rudimentary system is dependent on democratic control, accountability and participation. In current conditions such objectives appear to be most adequately achieved where strong local organisation at a street, zone, area or block level is established.

As with people's power in general, systems of people's justice are found in varying degrees of maturity, depending on the extent of community involvement and control. Where the youth are dominant the extent of coercion may tend to be higher. Even where the civic organisations and other organisations are involved, where youth organisations are more developed than structures involving parents, the degree of community control often seems less and the ability to control coercion less effective.

It is necessary to stress, however, that all systems that go under the name 'people's justice' or are called that by the authorities are not that. A kangaroo court, that is, a structure unconnected to and unaccountable to the community, run by individuals, even if done in the name of 'the struggle', is not an organ of people's power. In fact such structures may tend to be obstacles in the way of its achievement

The systems of people's justice have developed in a new context of 'ungovernability', but within an overall crisis of legitimacy of the existing apartheid order, that has been developing for sometime. There has been a general breakdown of confidence not only in the political organs of the state but also of the criminal justice system.

The police

Before the present crisis, there was considerable evidence of community hostility to the police and reluctance to report offences to the p. In addition, the police were often inaccessible to those who might have wanted to report such offences. (11)

The present period has seen a massive escalation in hostility towards the police force, with a virtual breakdown in their crime control functions in many townships. In addition, police, along with other state functionaries have been killed or come under other forms of attack. In other situations (e.g. the Northern Transvaal and Alexandra township) campaigns have sought to isolate the police socially. (12)

A report on Fort Beaufort remarks: 'Members of the community have experienced an ongoing campaign of frequently unrestrained police action against them: harassment, intimidation, large-scale beatings, arrests and detentions'. This has created an atmosphere of extensive hostility towards the police. (13)

In Atteridgeville, current attitudes to the police are described as follows:

In the past people used to go to the police but what we have seen from August 1985 is that people have lost confidence in the police, that they don't take their disputes to them any more....

The attitude of the police towards the people who have come to report cases is described as 'arrogant' and 'not sympathetic to the problems of the people'. (14)

In addition, the police are 'losing the confidence of the people generally in the townships. The way they conduct themselves, people see the police-men as enforcers of apartheid. And therefore they are not prepared to have any more dealings with them. And also because there have been calls for police-men to resign and now they see that there is a contradiction for them to make this call and at the same time go and report cases to them. (15)

In Port Elizabeth, it is claimed that people do not report cases to the police. They 'don't want to be seen to be collaborating or informing the police before the area committees have been informed. Some problems can be sorted out without going to the police, which is generally seen as desirable'. Mkhuzeli Jack, president of the Port Elizabeth Youth Congress says:

Presently there are areas (in Port Elizabeth) where the people have already taken a decision that the police will not be seen there and the police will not get into these areas...but there are areas like in New Brighton, Kwazakhele where the people have not yet taken such a decision that the police should not come in....

On the general attitude of Africans in Port Elizabeth to the police, Jack says:

They believe the police have killed so many people in the past and they have no confidence in the law of the country. They have seen the police taking their leaders, charging them and some of the charges being dropped and they have no confidence in the law. (16)

Reacting to community pressures, it appears that many black police are resigning.

Some publicly burn their uniforms. In many cases, those who remain in the force have to live in 'white' outside their home township. In the Northern Transvaal, a recent campaign against police and others working within the apartheid system, made it impossible for them to patronise any shops in the townships. (17)

The People Take Control

In consequence of the eviction of the SADF and SAP from many areas, their incapacity to cope with questions of crime, or even to enter some townships, people's alternative systems have been set up. Weza Made of Uitenhage says:

Ja. I can say it is the community that is the main source of power because the state has really lost the control over the people. He has no power over the people in terms of controlling them. That is why the people have formed these area committees so that they can prevent the crime rate and try to control them. [17]

Titus Mofolo says that in consequence of the loss of confidence in the police, since August 1985

people are actually coming to the political activists to try to resolve their problems and their differences (in Atteridgeville). It was felt that there should be structures which will actually work with those kinds of problems and try to resolve them. And over and above, an advice office was opened by the local civic organisation, which is ASKO (the Atteridgeville-Saulsville Residents Organisation), to look in to the problems of the community and to try to resolve the disputes and differences which people are bringing to the activists. [18]

This type of function seems to be fulfilled by other civic advice offices, such as that of the Soweto Civic Association. [19]

The authority of the popular organs seem to be accepted by the people. Accuser and accused appear to share values or accept the authority of these values and the organisations implementing them. This is illustrated by the following exchange with Titus Mofolo:

Q: But now sometimes one can see that some violence may break out. Do you do anything about that?

A: I think in Atteridgeville we are a little bit fortunate in that our organisations are accepted by the whole community. If you come and appeal to people to stop whatever they were going to do, they always listen. What is interesting is that you might find there are two conflicting parties. They will try to show you that they are both comrades and also that they are both right

Q: In terms of accepted comradesly values?

A: Yes. You don't actually find a situation where people will deny what the comrades are saying. [20]

This authority appears to be acknowledged in varying degrees by the police. It is reported from numerous areas that police sometimes tell complainants to 'go to the comrades'.

In Port Elizabeth, when people have gone to the police, they have been told 'go and report to (Mkhuzeli) Jack and (Henry) Kazare, go to the UDF offices, go to PHECO (Port Elizabeth Black Civic Organisation) and then

obviously the people got frustrated and they wanted their complaints looked at.' Mphahlela Lesau, a leader of the Saulsville-Atteridgeville Youth Organisation (SAVO) reports:

In fact what is happening now is somebody goes to report to the police station, the police are telling them go to the comrades. They say there are comrades who are fixing things there.

Q: Do they say that in a hostile way or do they say that because they recognise that?

A: They recognise that it is happening. It is not hostile but a recognition of the fact. In fact there are the officers and also black officers who do not like these ordinary policemen to do this. But when the captain is somewhere around they will not say 'go to the comrades'. It means they are no longer capable of doing their job. When the captain is around they just take the case and pretend to be fixing it and what he is out they say 'better to pass on this issue.' [21]

Thus Motolo says:

We don't know if they are doing it cynically or if they realize that we are able to handle those cases. One policeman who is notorious in Pretoria and in Atteridgeville in particular, who has been going around shooting people, and he is generally arrogant, had a problem with his family where apparently his father was beating up his mother and things like that. Now this man went several times to his father, threatening to shoot him, but that didn't help. Until one day he tipped off his younger brother to come to the area committee to report this case, because he said to his younger brother that this case can only be handled effectively by the comrades. So he came there and reported the case and innocently he even told the comrades that 'I have been sent by my brother who is a cop.' The comrades then went and spoke to his father and the problem stopped. (23)

Courts

The people are no less sceptical of the South African *offis* than of the police. This has been manifested on a variety of planes. In the 1960s Nelson Mandela challenged the right of a South African apartheid court to try him. (27) A variety of other modes have been adopted to delegitimise political trials. (28) In 1985 ANC guerrillas accused in a treason trial challenged the right of the court to bring charges, demanding prisoner of war status. (29)

At a less publicised level distrust of the courts in the communities has become very widespread. Judges themselves recognise this. In (37) Fort Beaufort it is said:

They believe the local magistrate to be in alliance with the police against them. In trials, evidence given by police and community councillors is accepted unquestioningly.... (38)

In Atteridgeville, it is said:

Our local magistrate's court in the eyes of the community, I think when you hear what people say about that court, in fact when you are referring to the kangaroo court, you could be referring to that court.

Q: Is that their attitude?

A: Ja their attitude, and I think also the attitude of the magistrate in that court. The way they speak to the people - they actually act like policemen. So the people make no distinction between them and the police.

Q: And the law? The ordinary South African law?

A: People are generally saying they are fighting that law and that is their attitude. (39)

These sentiments appear to extend to superior as well as inferior courts in other parts of the country. (40)

Self-consciously trying to create a different type of justice

In response to the breakdown in trust and authority of the established courts, people's courts and other apparatuses of control have been established in townships in many parts of the Transvaal, Eastern Cape, KwaZulu and border regions. (41) In Fort Beaufort, Watson writes:

These (people's courts) are directed at preventing an escalation of crime in the townships and are used to settle disputes. They are limited in their scope. The institutions of state have lost their respect and the people are increasingly resolved to overthrow them. In their eyes state power is no longer legitimate. (42)

But the court system and the other systems of control established, self-consciously seek a justice different from that in existence.

Weza Mada says:

They are not trying to imitate the white courts or trying to beat people.... They are there to create peace among the people. If there is something going to happen they call the people involved together and try to end it. (43)

An anonymous pamphlet issued in Atteridgeville makes it quite clear that the court system conceived is quite different from that of the existing system. In the first place, popular participation is stressed:

A people's court must give THE PEOPLE a chance to be heard, and to receive just treatment. Unlike the present legal system, it should not be biased in favour of the powerful and must not be simply a means whereby the interests of the powerful are ensured at the expense of the oppressed and the exploited. Or, to put it another way at the expense of the powerless.

The powerful in the present legal system are obviously the bosses and their government. We must be careful not to simply turn the rules and allow, for example, the township youth to operate in exactly the same way as the bosses and the government do in the present system.

The pamphlet warns of the danger of the people's courts actually 'simulating or emulating' the prevailing legal system:

Although the form of a people's court differs dramatically from the established courts, their content may still be the same and a lot of thought needs to go into ensuring that in its proceedings and in the principles that guide it, the people's court is not simply a bourgeois court taking place in a back room in a ghetto. (34)

Titus Motolo balked at the use of the word 'court' unless qualified in a manner that clearly distinguished it from ordinary courts:

What we are seeing here is that people are actually challenging not only the SAP. They are also challenging the bourgeois courts. But they have no confidence in the magistrate who, according to them, are actually entrenched or actually judging them according to apartheid law. Now what people are doing in a small way is to develop their own law so that at the local level they are actually starting to govern themselves. And even if they are not perhaps skilled legally, they are able to solve disputes.... (35)

Instruments of People's Justice

The structures or instruments used to implement popular justice are variable, ranging from self-acknowledged court systems to advice offices performing mediation and dispute settlement. In many instances, as we have seen, there is a reluctance to use the word 'court' partly because of an identification of the term with the apartheid courts, partly also, for security reasons. In some cases where organs are not described as courts, they tend to perform functions very similar to that of

acknowledged people's courts.

Even the difference in function between more self-consciously 'judicial' organs and complaints offices of civics, such as that of the Soweto Civic Association, is very often one of degree. In both cases they take over functions normally performed by the courts or other organs of the South African system of law. Their scope is however wider than the ordinary courts and their objectives, as will be indicated, are different.

The process of dispute settlement is performed not only in these structures but at a number of different levels - down to the street and even house level - whichever most effectively achieves the specific objective - building or restoring unity, solving differences etc. (37)

In most townships, systems have been developed for investigating offences, restraining or apprehending offenders. These volunteers are variously known as Masoldiers, windwits, marshalls, etc

How is the popular character of the new system of justice maintained?

The way in which offenders are treated reflects the recognition of crime as a social problem arising in the main from the conditions of national oppression and class exploitation under which the majority of South Africans live, conditions conducive to criminality. The community's response is primarily judicial. The emphasis is placed on reconciliation, ensuring that the complainant and offender can live amicably together in the future. To secure this, compensation by return of stolen goods, for example, is stressed instead of punishment. The basic approach seeks to educate people about political priorities, to build unity and integrate them into community struggles and organisations. According

to a report in SASPU National of December 1985, in Quesadonini:

'The street committees help prevent crime and settle disputes in the community. But the street committees do not have a mandate to punish people. All issues must go to the area level.

In disputes, the community leadership discourages the use of violence. Instead people must be educated. It's pointless to imprison or assault someone for stealing, when poverty is the cause. So we explain the causes of poverty and how best it can be got rid of, said an organiser.

The approach of the Atteridgeville community organisations is that 'crime can't be divorced from the wider political issues. It has been proved that massive police operations are unable to solve crime. This is very clear in Soweto where from time to time there are police operations in the townships, but nothing is being solved. Every weekend many people are killed. But where effective people's organs have taken root we see that crime has gone down. These people's organs are rudimentary features of people's power. Now when people take over, it is clear to us that crime will be solved, because for us crime cannot be dissociated from apartheid. Apartheid and crime are one and the same thing. (287)

Mphahleli Lesau of the Atteridgeville youth, says:

In our area we are afraid of using force and threatening people. Once people live in fear it will really be a problem to us...IN our area we stress that we, the comrades, we must never use force. We are always trying to talk to the people. (397)

IN Uitenhage Weza Made explains the approach adopted where the amateur-the people's police have used violence against the people:

I went to the amateur and told them: 'Look we must not do that. Now you do the same to the people as the police do over the people. The people will strike you off from the membership of the organisations of the people.

We are fighting for the liberation of our people. We must not ill-treat them. We must not cause them to opt for its better the government than us. Our aim is to mobilise the people. Organise and mobilise against the oppressive forces. If we do something which is misconduct over them they will run away from us. It will be very dangerous. We cannot go as an organisation without the support from the people and I told them the very important thing: we must get people to support us 100 per cent. We don't need 99%. We want 100 per cent. We must show the world the government stand alone.

When asked: but if someone is violent towards the amateur, would they just try and control him or her and not beat such a person up?:

A: Yes and warn them. Because we need to tell them: 'Look the police who has treated you like this. They would ill-treat you- beat you. They won't give you a chance to say everything, do everything you say. You got a chance with us to talk. You are aware you won't be beaten up and nothing will be done to you and we told them if you still have something, you are arrested by the police, whether you hand back these things you steal or not. But just hand back the things you steal from the owner.

What we need is unity among us. (403)

In Port Elizabeth, marshalls under the discipline of the Port Elizabeth Youth Congress / *(PEYCO)* maintain order in the community. Force is not permissible:

Q: Now how do they apply discipline? Are they allowed to use force at all?

A: No. They are not using any force

Q: Do you instruct them not to use force?

A: Yes, because there is no need for us to do that. We are trying to show that we are protecting the community. It is important that comrades when they talk about freedom, it must be seen by the people. They must show some difference between them and the oppressive *(fists)* of the government, like the police. They must show that they are accountable to our organisations. For instance, if the marshalls *(hit)* a person, the people knows he belongs to PEYCO. The people come to us. We will take harsh disciplinary measures against that *(fist)*

The type of disciplinary measures that the organisation employs, is clearly depend for their effectiveness on the degree of political support enjoyed by the organisation:

Q: What sort of disciplinary measures?

A: In Port Elizabeth, if there is one thing they fear it is to be suspended from two meetings or ~~off~~. Nobody wants to be suspended. We will say to you, you cannot come to the meetings for three weeks. If you don't attend any meetings, be it PLOY meetings or meetings of any other organizations in the township. Obviously he cannot, while suspended, put on the "shirt of the organization" and then you will be isolated in a way. (44)

It is, however, true that despite such injunctions and the official policy of many organizations, enforcement of disciplinary codes in many townships still tend to entail violence. This has been the case in Alexandra, for example, though it is not approved by the Alexandra Youth Congress. In such situations the extent to which modes of discipline can be adequately maintained depends on the level of development of the organization concerned. In some cases, detentions may have removed the most disciplined leadership. In other cases, the weakness of civic organization reduces the extent of adult involvement in the disciplinary process and affects the capacity to control 'overzealous' elements.

Crime is political: 'Rehabilitation' by joining people's organizations

'So when we try to solve the problems', in the view of Atteridgeville civic leaders:

We solve them from a political point of view. So that our methods of solving problems and disputes differ from the way the police would actually deal with these problems. Our main aim, ultimately, is for these people to join our organizations and make them to see themselves as brothers and sisters, or comrades who could actually have more tasks to perform in our organizations if they were not fighting each other. 43

Asked to elaborate, step by step, through what would happen, say, if someone

had stolen something, he replied:

Usually the complainant will go to the leaders of his own area to report the matter and after reporting the matter, the executive of that area will come together and will call the complainant and the person who is being accused. From the start it will be explained, the aims and objectives of the organizations. In fact that our primary aim is to write people. And from there, they will listen to the case from both people. The complainant will relate what has happened and then the other person will also be given a chance to respond. An appeal will always be made to both parties to help the committee to resolve the problem as amicably as possible. 44

The Atteridgeville youth adopt a similar stance:

So each and every case the problem is the government and we say this thing has been caused by the government. So what we should do is come to our meetings. So each and every case it must conclude with a political thing. 45

The process of administering justice is seen as part of the function of political organization, a process whereby organization is brought closer to the people and involving them in control of their own lives and problems. 46

The approach would try to, after we've resolved the dispute, make him one of us. Our appeal will always be, if he has done anything wrong; we don't have to search. We don't have to intimidate. We don't have to

force him that he has done so. But he must voluntarily agree that he has done so and afterward join our organization. We are not going to hold anything against him after he has actually done so

Q: To what extent do you think you succeed with this approach?

A: We have many cases where people will actually voluntarily give us information about what has happened and the fact that we are not fighting with them, the fact that we are trying to advise them, we are explaining to join us, actually appeals to people because most people want to be part of us. In the past they used to think that the struggle or politics are meant for some selected few. But now they realize that they should be part of the whole process and when they are invited to join organizations, they happily accept the invitation. So that that approach actually, and the fact that he is going to be one of the activists, one of the comrades, actually does help.

47

Emphasis is placed on compensation not punitive action

'It is not actually a case of accusing one and passing sentence on that person, but of whoever is wrong to see that he is wrong. And it is important to be part of the community, without people confronting each other.....' 47

In some of the cases people have just confessed that they did it so what we normally said is that we are giving you a warning but what you have to do is make sure that by the end of this month you have paid this man back all his money. 47

This orientation sometimes has the effect that the community may not be satisfied with a person having served a sentence of the ordinary courts for robbery if the stolen goods have not been returned. In one case, in Port Alfred, after a person had served a sentence for stealing a gearbox he still faced investigations from local structures with a view to ensuring return of the item to the owner. 50

Non-cooperation -ostracism

Attempts at securing cooperation are not always successful. Accused sometimes refuse to assist. In such cases, in Ateridgeville, if it is alleged that someone has done something:

We always want as many witnesses as possible in a case where a person doesn't want to voluntarily give information. From there we point out to the person that it is going to be difficult for him to be part of the community if he is not cooperating with us. And the fact that it is so many people are saying that he's done such and such a thing, and he is not going to come up with information, we are going to find it very difficult in future if he has a problem and comes to us for us to help him. So our approach is that we will appeal to him until he sees the reason why he should actually cooperate with us. And also the fact that when people don't cooperate with us, the community tends to ostracise them. And the fact that people want to live with their neighbours and be happy with their friends, and if in an event where that organisation or living together can be cut off, it is going to be difficult to not actually cooperate, you see. 7/

Practical steps to curb crime: disarmament, curfews etc

According to a report in the Star of 30.12.85, since the introduction of a voluntary curfew that month, not one murder or serious crime had been reported in Krugersdorp's Kagiso and Munsieville townships. 'On the contrary,' writes Jon Gwaine, more than 100 thugs are safer but were making contact with small groups of youths enforcing a code of decent human behaviour in the townships.' The Krugersdorp activists had set about disarming the thugs of their weapons and educating them as to how to live with their fellow men and women. An executive member of the Kagiso Consumer Boycott Committee said: 'When our activists enter shops they request anybody armed with a knife to place it on the table. In many cases knives voluntarily surrendered their weapons.' The result, says Gwaine, not one murder was reported in the townships during December.

The curfew is not official but Young and old will tell you it is rigorously observed and say the almost complete eradication of serious crime is proof enough of its success. An elderly woman from Kagiso 2 township said:

'Young thugs intent on robbing people of their wages and other valuables have been taught a lesson and in the many years that I have lived here I am seeing this community behave decently for the first time.'

Curfews and disarming people of knives and other weapons is a fairly common mode of popular policing, practised also in Thokoza, Daluca, Soweto,

Pretoria, Alexandra, parts of Port Elizabeth, Port Alfred among other places. 54

As with other activities, this practice continues within its possibilities of abuse. Maphethi Laenu, vice president of SAVO says that SAVO had at one stage mounted searches for weapons:

Now it happened that it had its own problems like when searching...there were some elements who put their hands inside (pockets) and maybe when its there they feel some money and then his hand comes out full of money. So people were complaining that they had lost their watch to the comrades. The comrades came and searched me and took my watch, they would say. So we decided to stop that. 55

Thus Mofolo comments:

Last year, after the first consumer boycott which lasted for two weeks, in August, the youth started to go from shebeen to shebeen searching for people who have got knives or other dangerous weapons to confiscate them. I might admit that the initiative at that time was spontaneous, but because it was constructive work, the organisations took them and discussed with the youth and they fell under the direction and discipline of the organisation... And now because there were complaints from some people that when youth are conducting the raids looking for dangerous weapons, there were some abuses where some of the youth will actually rob people of their money and things like that...

The solution was found in control by tight organisation:

It was felt that the area committees which had recently been established should take charge of that operation. That means, in an area, in a block of houses people who would be conducting those searches, would be under the supervision of the executive of that block of houses. So that the people who would be doing it, would be known amongst those residents and again they will be people staying there. So that the cases of abuse were virtually non-existent after that, after the establishment of the area committees. So abuses, where people would use the name of the comrades to settle disputes or perhaps discipline people unnecessarily, we don't have them since we have these local structures. Here and there, of course, you'll find that an overzealous youth has done things which are outside their accepted rules of conduct. And what will happen is that that youth will be taken to the area committee and then asked why he is doing that and the area committee members will assess whether

this person is politically conscious or is just doing things for fun. And if there they will decide whether they refer it to the advice office or maybe settle it there. 56 (The advice office is a type of court of appeal)

Struggle-related offences

But the question of offences committed in the name of the liberation struggle is a broader problem. All over the country there are complaints that youths hijack cars or demand money or engage in similar activities, supposed to fulfil their role in 'the struggle' 57 Campaigns such as the consumer boycott, stayaways and even more conventional clean-up campaigns provide opportunities for abuse. Organisations appear to be taking steps to end this. 58 According to a report in Business Day of 18.12.85 the Krugersdorp Consumer Boycott Committee had set up groups to 'root out criminal elements who intimidate and rob motorists, shebeen owners and taxi drivers in the name of the struggle.'

Hundreds of rands worth of cash and goods were seized from the alleged criminals by the boycott committee's activists after which the culprits were punished and later lectured on what the boycott meant, according to a boycott committee spokesperson in Krugersdorp (townships of Munsieville and Kagiso)

According to the Sowetan of 19.12.85 the Pretoria Consumer Boycott Committee had launched a campaign to wipe out thuggery during the boycott of white shops...The spokesperson urged youth to stop harassing and intimidating taxi-drivers and residents. He said drastic action would be taken if this warning was ignored.

The solution to such problems is again sought by political education and

bringing the youth into organised structures. Mera Mada of Uitenhage remarks

'We're trying very hard to talk to the youth and we're trying to say: 'We must educate these people (who do not follow the Consumer boycott) because some of these people have not received the message of what is going to happen, some of the people are reluctant to join our struggle. It takes time to understand even the motive of consumer boycott and everything. So they must try to explain instead of creating another disillusionment from the people and must try to encourage them, show the motive of the Consumer boycott.' 58

IN regard to campaigns such as the consumer boycotts or stayaways, the extent to which force is used, tends to depend on the strength of the organisation. Where organisations are deeply rooted, coercion seems to be very limited. According to Titus Mofolo, it is no longer necessary to monitor the consumer boycotts or stayaways in Atteridgeville, since the entire community backs them.

They do not set up road blocks or search residents for items bought in town. [59] In Port Alfred, Gqigile Nkwinti says that a stayaway is enforced by propaganda. A youth beats a zinc tin the night before, shouting 'No work tomorrow.' NO one is beaten up to enforce consumer boycotts or stayaways, for it is their own decision, made at all levels ranging from the executives of the organisations, down to the streets. Nkwinti emphasizes the need for unity and peace within the community. 'We realize if we work with violence we are not going to influence them.' 60

Even where there is no campaign such as a consumer boycott, gangsters are sometimes pose as 'comrades' in order to rob or commit other criminal acts. IN Soweto, steps have been taken by the Civic as well as the youth organisations to stamp this out. In the Star of 13.02.86, Rev Frank Chikane, Vice President of the Soweto Civic Association, issued a strong warning against a gang of youths who are taking advantage of the unrest and robbing people of their cars....He said students and political organisations in the area had made it clear this conduct was criminal.

'We want to warn all Soweto residents to be on the alert against these criminals. They should report all such cases to the Civic Association offices.....'

The demand for resources required to wage the struggle against apartheid (mainly cars and money) continues to raise problems. IN Port Alfred steps have been taken to safeguard the interests of middle sectors against whom such demands are normally directed. Taxi drivers and shopkeepers have made arrangements to regulate the use of transport and demands for financial contributions. If activists require money, they now approach one representative of those with transport, indicating how many people need to be transported and where. The provision of such transport is then allocated on an equal and rotating basis amongst the various drivers.

Similarly, the shopkeepers have elected their own treasurer who makes disbursements on all of their behalf, for community struggles. No one may approach individual shopkeepers for money. They must always approach the treasurer. [61]

Crime control - builds unity and increases capacity of and confidence in community organisation

'There is considerable testimony to the effect that crime has decreased, especially violent crime. 62 There are said to be far fewer stabbings and murders and it is said to be safe to walk along streets in many townships at night, something that was impossible in the past. This is reported of Uitenhage, Cradock, Krugersdorp, Duduza, Pretoria, Port Alfred and Alexandra township, among other places. Control and politicisation of shebeen-owners in Uitenhage and Atteridgeville has reduced fighting in shebeens. Titus Mofolo says:

I must say that most of the shebeen owners have joined the struggle and are actually able to stop quarrels and disputes at that level. 63

Control of crime is seen as a key political task. Criminal activity is seen as 'delaying the struggle because we take time of important issues of the struggle to try to attend to those criminal issues.' Time spent on crime, people are urged, should instead be spent on liberating themselves. (54)

The community organisations have not always consciously sought to involve themselves in dispute settlement and crime control. In some cases it may not be fully appreciated that by so doing they are taking over functions normally performed by the state. In Atteridgeville they are not keen to undertake many of these tasks. They nevertheless recognise that their capacity to handle such issues has built confidence in and drawn people to the organisations:

The area committee is the local structure of the organisation. Their function is to try to bring many people to the organisation in their area. But at the same time, because people are no more reporting cases to the police they are coming to them in cases of disputes. That is why they end up handling those cases. If we can help it, obviously, the area committees would actually be involved in more organisational work, political work - pure political work and less disputes. But what we have found is that the solving of these disputes actually helps to strengthen organisations in that people develop confidence in the organisation and then from there, they become part of the organisation. But the area committees as the local structure of our organisations are not necessarily there waiting for cases or disputes. Most of the time they are involved in house-to-house campaigns and promoting our campaigns and promoting our organisations. (54)

Conclusion

The attempts to control crime has helped to unite all sections of the oppressed community and also shown a capacity of the people to achieve social tasks that have been beyond the ability of the South African government.

It also demonstrates an ability to move beyond rejection of apartheid or even 'ungovernability'. The establishment of alternative people's structures raises the level of struggle against apartheid.

But the extent to which it has been possible to make such gains has depended on the level of organisation and degree of participation of all sections of the community. Where youth alone, especially unorganised youth, conduct policing and dispute settlement functions, they tend to have less support from the rest of the community. In such situations also, there tend to be abuses. Here, one also tends to find 'kangaroo courts'.

The problem of controlling such tendencies is part of a broader problem identified by such organisations as the UDF and the NACC, to ensure that the struggle against apartheid enjoys participation of all sectors of the community and that its main direction is given by adults, especially workers. 65

The resolution of this problem is part of the process of consolidating the national front against apartheid involving all sections of the oppressed community. It is also the basis on which organs of people's power can be erected. The key development, in this respect, has been the establishment of local political structures, such as area committees and street committees. Originally suggested by Nelson Mandela in the 1950s as part of his M plan, the masses have revived the plan, in many areas, under the present conditions of repression. 66

The development of street, block, zone and area committees have been important shields against repression. They have also acted as spears enabling the people to organise more effectively, involving more and more people in anti-apartheid activities.

One of the most significant offsprings of the evolution of grassroots democratic structures has been the development of extensive systems of crime control and dispute settlement.

Undoubtedly there have been many situations where abuses have occurred under the guise of securing people's justice. What is nevertheless true, however, is that where a system is deeply rooted and enjoys mass participation, it wins popular support and confidence. It has also advanced the struggle for a new South Africa, where the People Govern themselves, where crime will be reduced -in short, for a democratic People's South Africa.