

# *Performers of Sovereignty*

## On the Privatization of Security in Urban South Africa

**Thomas Blom Hansen**

*Department of Anthropology, Yale University*

*Abstract* ■ The police force was the most hated and visible representation of South Africa's apartheid state. The massive crime wave after 1994 and the new anxieties in a democratic South Africa have made security the primary concern in everyday life in the country. This article explores the paradoxes of policing, state violence and community involvement in security in a township in Durban. An important theme is the change of the symbolic locus of sovereignty from being a distant and impersonal state to becoming the local community in the township. The central proposition is that policing under democratic conditions is more complex and more imperative than before – both as performative and visible law-maintaining violence, as well as spectral and effective law-making violence.

*Keywords* ■ policing ■ private security ■ race ■ South Africa ■ sovereignty

The fall of apartheid's repressive police state was followed by a dramatic increase in crime. The situation in the late 1990s was marked by mounting panic as a spectre of fear of sudden death or victimization at the hands of anonymous criminals had entered everyday life. The front garden, the driveway, the traffic lights, any dark street at night and even one's own house were now zones of insecurity. This spectre was completely racialized, and the fear had a colour – black.

Living with an Indian family in the township of Chatsworth south of Durban, I felt unnerved by nocturnal sounds and the many stories of crime and death circulating in the neighbourhood. The house was right at the edge of the township overlooking the Umlaas River. On the other side was the huge African township of Umlazi and, when the wind was southerly, the sounds of music, laughter and loud brawls from Umlazi could be clearly heard. The African world was also quickly becoming a part of the erstwhile purely Indian township – and Indian-ness should here be understood in the local sense as a racial category. Informal African settlements spread across the slopes towards the river, along the edges of the townships, and sprang up on empty land and grassy patches. I was embarrassed about lying awake at night at times, by the banality of my own visceral implication in the dominant mental mapping which revolved the fear of a category rather than actual human beings (Engle Merry, 1988: 124).

My gut feelings were shared widely in the predominantly blue-collar neighbourhood where I lived. Unlike the white and Indian elite areas, Indian townships never had much by way of burglar bars and high walls. Now walls were built, barbed wire on top, tall gates installed, and ever more houses acquired ferocious-looking dogs. The family I stayed with also kept a dog named Charu – a name that referred to the Hindi meaning of ‘courageous’ or stubborn, but also phonetically referred to the widespread nickname for working-class Indians as *charous* – a derogatory Afrikaans term (lit. burnt man) that became part of the township slang, signalling affection and cultural intimacy. One of the neighbours told me:

For years I always slept like a stone but the last few years many of us don’t sleep easily any more. So many things happen. Most of our relatives have had their car hijacked, their house broken into or something like that in the last four years or so.

The world of my informants was a world inundated by accidents and stories of sudden death and misfortune. Crime, real and spectral, has historically been understood in very different ways within the racially defined social worlds of South Africa. In the black townships high levels of violence and physical insecurity had been the norm since the early 1980s when the permanent youth rebellion in the townships that brought down apartheid created an enormously dangerous and violent environment.<sup>1</sup> After 1994, township youths and *tsotsis* (gangsters) entered the main urban environment, and the crime statistics,<sup>2</sup> in what a liberal academic friend called a ‘perpetual catharsis, a carnival that will not stop’.

There was something strangely ironic in crime becoming the primary symptom of a new democratic era. A settler society, white society in South Africa was always bedevilled by fears of the natives, a fear underlain by the colonial view of Africans as a form of nature, as people who were in the thrall of elemental drives. Only the combination of the word of the Bible and a firm punishing hand of the state, it was believed, could control the otherwise natural desire to consume and devour the white world of order and plenty. This belief was stated clearly by the Minister of Law and Order in 1977.

Evil and permissive force are almost unstoppably at work in the process of destroying authority in nearly every sphere [but] timeous and responsible action has, fortunately, always controlled this degeneration of life. (*The Argus*, 6 August 1977)<sup>3</sup>

The democratic elections in 1994 eroded the long-standing illusion of state power having a clear centre. In spite of its inefficiency and endemic corruption, the apartheid state had managed to portray itself as powerful, dangerous and omnipotent – both to the oppressed majority and to the privileged groups it protected. This state was a police state in two senses of the term.

First, it was a police state in a more conventional sense of being pre-occupied with security and with political crimes. It saw itself as engaged in

a perpetual war against communism and subversive elements turning otherwise happy and church-going natives into dangerous 'terrorists'. The South African Police Force was organized as an army, the titles were those of generals, colonels and so on, and its operations to 'clean up' townships or quell protests had an entirely military character. The heart of the police force was the Special Branch hunting 'terrorists'. The maintenance of order in the townships took place in armoured vehicles (Caspirs) and largely followed the formula *skop, skiet en donder* (kick, shoot and hammer). Increasingly, African policemen and auxiliary forces were deployed to quell unrest and run a regime of everyday harassment and terror in townships.<sup>4</sup> Crime fighting and investigative police work were only given priority in the white neighbourhoods.

Second, the apartheid state was a police state in the early modern sense of the term as part of the project of what Pasquale Pasquino (1991) calls the 'science of government', which aimed at maintaining order, and the 'science of happiness' promoting the prosperity and health of the population. In the eyes of the apartheid planners, order and prosperity could only be achieved if the populations of the country were managed separately. The proper citizens of the state, the whites, and the coloured and Indian populations who had been granted limited rights, were to be kept separate from the natives, who were governed as subjects of their chiefs in their respective bantustans. The object of policing was, first and foremost, to control the movement and reproduction of labour. The bodies of African workers were reduced to matters external to the political community, a form of 'bare life' that never could become included as citizens and yet were vital to the reproduction of the most intimate details of the white households and enterprises (Agamben, 1998). The African townships were never policed in any detail from within, always at a distance and mainly from without.<sup>5</sup> This was colonial policing in the extreme, but also policing that, in its dealing with natives-as-aliens, was reduced to its most fundamental and ancient function – that of embodying the sovereignty of the ruler and the proper political community.

Within the communities of white citizens, or Indian and coloured quasi-citizens, the role of the police was, however, to collect information, enforce morality, and to protect women and children. The broad support among whites for the quasi-totalitarian methods that were employed – the spying, the surveillance, the use of informers, heavy-handed policing of the townships, 'elimination of terrorists' – all in the service of protection from the natives, corresponded with Pasquino's definition of the 18th-century state-of-the-art concept of police:

If you want to be protected, assisted, taken charge of – if in other words you want happiness and well-being – we must know and you must pay: *census et censura*. (1991: 113)

This machinery required a particular economy of visibility and invisibility in order to reproduce the sovereign power of the state. Walter Benjamin

insists that violence is intrinsic to any invocation of the law. The law-making violence, which Benjamin calls 'a mythical violence that founds the law' (he regards military violence and military conquest to be its paradigmatically modern form), manifests itself also in relatively routine forms of law preservation such as the use of the death penalty:

For if violence is the origin of the law it may be readily supposed that where the highest violence, that over life and death, occurs in the legal system, the origins of law jut manifestly and fearsomely into existence. . . . Its purpose [the death penalty] is not to punish the infringement of law but to establish new law. For in the exercise of violence over life and death more than any other act, law reaffirms itself. (Benjamin, 1978: 286)

Law-preserving violence, on the other hand, has as its rationale the reproduction of a visible order and legitimacy. In order to uphold the illusion of the law being omnipresent and effective, law enforcement must appear as predictable, procedural, regulated and, above all, visible to the public. It must bear in public what Jean Bodin (1992), in his classical treatise on state power, called 'the marks of sovereignty' that were unique to the ruler but in the modern nation-state must become signs of the state (letterheads, uniforms, stamps, licences, etc.). The dingy interrogation room, the torture chamber and the random arrest have to be supplemented by the courtroom, the hygienic and monitored detention cell, orderly arrests and so on. The police have to be visible and uniformed, and must appear to work with restraint and accountability. They must be seen to be part of everyday life and yet stand out, be ordinary and yet represent something more – the inscrutable potential for unleashing overwhelming force.

Law-making violence needs none of these features. It is sovereign violence at its purest, instituting an order through its very lack of restraint, instilling fear and fascination by being unpredictable and largely hidden. These two forms of violence live off each other. Even the most repressive order seeks to conceal its savage and sovereign violence. Such regimes want to project themselves as mere maintainers of the law, as if the very invocation of legality, however perverted, can make them appear legitimate and respectable. Hence the need to portray state violence as 'police actions', which connotes everyday and inconspicuous forms of law-preserving violence. The entire Holocaust was from the outset framed as a police operation – not a huge and excessive act of violence aimed at giving birth to a new purified German nation, but an evolving police action, methodically removing 'undesirable elements' from society (Agamben, 2000: 106).

Similarly, the apartheid state and its ruling party consistently tried to present its own actions as legal, transparent and visible in law and regulations. A social order based on racial categories necessarily needed to privilege the visual in order to establish the 'phenotypical certainty' that, in turn, determined in which spaces specific bodies could work, sleep, procreate and enjoy themselves. This was all hammered out in urban

planning, fences, barriers, watch-towers, and in a very conspicuous presence of policemen and uniformed security forces in urban life.

The late apartheid state became extreme and militarized in the 1980s, but there are, nonetheless, broader lessons to be learnt from how the South African police worked, and how notions of sovereignty, visibility and the protection of citizens and community have been reworked after 1994. Let me return to Benjamin, who, in the institution of the police, saw the two forms of violence combined into a 'spectral mixture'. Benjamin suggests that the work of police in fact marks the very suspension of the law:

The 'law' of the police really marks the point at which the state . . . can no longer guarantee through the legal system the empirical ends that it desires at any price to attain. Therefore the police intervene 'for security reasons' in countless cases where no clear legal situation exists . . . the power (of the police institution) is formless, like its nowhere tangible, all-pervasive, ghostly presence in the life of civilized states. (1978: 287)

Benjamin even suggests that this 'ghostly presence' is less devastating in authoritarian regimes than in democracies, where violence is at its most opaque and impenetrable (1978: 287). Benjamin captures and foresees (in 1921) some of the complexities of modern policing: a democratic police must be seen to protect, and represent, both the 'people' – represented as series of communities – and the state. The force must appear transparent and accountable. It must appear to protect good citizens, identify culprits and deviants, prevent crimes, to be alert and on the beat, to collaborate with schools and social workers in identifying and monitoring youthful troublemakers and dysfunctional families. This is a far more intricate, massive and time-consuming operation than authoritarian modes of policing that rely heavily on networks of informers and on the violent extraction of confessions from suspects.<sup>6</sup>

Democratic policing requires, in other words, a high degree of visibility and a new form of participation – a voluntary participation whereby citizens actually inform on themselves in order to be included in the community – a voluntary submission in exchange for protection, *census et censura*. In spite of all these expectations of democratic policing, actual policing does inevitably unfold in a grey zone 'where no clear legal situation exists'. Police officers are always testing, and often violating, the boundaries of what is legal, appropriate and politically acceptable. Police forces always seek to prove their efficiency to the public through highly visible crackdowns on 'suspects', by 'cleaning up' notorious neighbourhoods, by ubiquitous patrolling and 'zero-tolerance' policies. In this effort, police routinely break the law and kill innocent people, often in covert and less visible ways. Mike Davis's chilling account of how the Los Angeles Police Department engaged in an unrelenting war – random arrests, shootings and mass detentions – against the city's young black and Latino men in order to present itself as an effective force to the white middle class and the elite in the city is a particularly disturbing example (1990: 265–320). The

suspension of the law by the police, in the name of enforcing the law and protecting the public, happens all the time across the world: from the systematic extermination of criminal suspects in Bombay through so-called 'encounter killings' in the 1990s (Hansen, 2001: 216–26), to the elimination of 'ghostly criminal types' in Jakarta in the 1980s (Siegel, 1998), to the cleaning-up activities (*limpieza*) by paramilitaries in Colombia (Taussig, 2003).

The tension between the two forms of legal violence, or between visibility and invisibility, assumed a more complex form after the end of apartheid. The enemies of the apartheid state had been seen as 'terrorists', aided by global forces of communism. This enemy was thought to be sly and strategic individuals moving stealthily and under cover. By contrast, the enemy of the post-apartheid society is conceptualized as the ordinary, under-educated and impatient young man of colour, emerging from an anomic and morally distorted township culture, armed with lethal weapons and imagined to be aligned with crime syndicates. This popular and official view of 'the criminal' as a morally inferior person, beyond redemption and reform, only amenable to punishment and incarceration, seemed to be in tune with a broader global trend, particularly in neo-liberal 'risk societies' such as the United States, Brazil (Caldeira, 2000: 105–210), Britain (Garland, 2001) but also increasingly in societies like China (Dutton, 1992: 323–46, 1998: 112–60) and India (Eckert, 2003).

### **Policing the internal frontier**

Colonial policing was organized around maintenance of public order. Policing of people of colour was tantamount to patrolling an alien and opaque world, quelling any unruly assembly of people and only communicating through selected representatives.<sup>7</sup>

Though every native in South Africa had to carry a passbook, widely decried as the *Dompas* (stupid pass), the object of policing was groups. This produced a quintessential sociological form of policing that was interested in broader tendencies within the group, and larger causes of crime and unrest. Crime and felonies among average people of colour were seen as symptoms of social problems, not primarily as issues of individual culpability. This would have presupposed recognition of the interior life, conscience and capacity for choice that was generally believed not to exist in the average uneducated person of colour. Hence the birth of what locally became known as 'confession-based' policing, which relied on forced confessions. Actual proof of individual guilt was less important than the performance of a severe punishment of a black or brown body.

Indian townships were separated from white and African areas by stretches of bush and wilderness but were never fenced in or under surveillance as were the African townships. While sharing some of the racial

prejudices of whites, the anxieties among Indians of being 'swamped' by Africans were influenced by two distinct experiences of attacks by the majority Zulu population – the riots in 1949 in the mixed Indian-African area Cato Manor, and the violent expulsion of Indians from the Inanda area (including Gandhi's famous Phoenix settlement) in 1985. In both cases, instigation from the white authorities was widely understood among Indians to have been the moving force behind the attacks.

Indians lived after 1960 as quasi-citizens in the apartheid state, with relatively good schooling, secure jobs and a measure of self-governance in return for an expectation of loyalty towards the state (Desai, 1996). Policing was carried out by a growing cadre of Indian policemen, often commanded by a senior white police officer.<sup>8</sup> The Indian townships saw few violent encounters between armoured police vehicles and protestors, few brutal house-to-house searches for militants and none of the stealthy nocturnal killings of activists that became common in the 1980s in African townships across the country.

In spite of allegations of endemic corruption in the police force and their close ties with local business people, the Indian police were rarely portrayed as traitors who were attacked and killed, as was the case in African townships. This was rooted in a general political apathy, and some open support, vis-a-vis the apartheid regime, which had enabled Indians to gain significant improvements in their material quality of life (Freund, 1995). In the Indian townships, policing dealt mainly with crime, drugs and drunkenness *within* the community, mainly targeting the poorest council housing estates. Many older residents in the township, and older policemen, recall this period as harmonious and secure. Local newspaper reporting from the 1960s and 1970s demonstrates, however, that murders, robberies and gang-related violence were indeed constant concerns during those decades. In retrospect, the criminality of those decades appeared less threatening because it mainly concerned 'bad elements from our own community', as a retired police officer put it to me.

Policing relied on an extensive network of informers, and partly on an unstated ethnic/racial solidarity that made the 'fact of brownness' (to paraphrase Fanon) of the policeman's face into a sign of relative familiarity and security in a world marked by escalating and bloody unrest across the country. Many informants would defend the policemen, however corrupt, as 'Indians, local boys . . . they never roughed us up'. The selection of Chatsworth in mid 1980s to be the first township enjoying 'own area' policing, carried out by locally recruited Indian policemen, gave substance to this sentiment.<sup>9</sup> The uniform was indeed a mark of state sovereignty, but it was always supplemented by another mark – the colour of the face. This secondary mark invoked tacit assumptions of solidarity (among one's own) as well as stereotyped fears of whites and Africans. These were, and remain, powerful and real images, based on a widespread internalization of the apartheid notion of racial solidarity as a natural and fundamental form of sociality.

The City of Durban Health Department ran multiple social work projects designed to eradicate so-called 'insanitary habits' among Indians.<sup>10</sup> The department commissioned and used sociological studies of delinquency, alcoholism and domestic violence to identify and eradicate 'social evils'. In the departments of sociology and psychology at the Indian university of Durban Westville, research staff studied the transformation of the 'Indian family' in the townships. Most of this work gave a veneer of scientific credibility to widespread ideas of crime: 'social evils' were concentrated in certain areas and they were symptoms of the *charou* culture rooted in the old 'coolie' neighbourhoods. The *charou* was more vulnerable to the anomic effects of rapid 'westernization', which had to be tempered in order not to affect the larger 'Indian community'.<sup>11</sup>

The first democratic elections in 1994 had little immediate impact on police practices. Fearing a backlash among the security forces, the ANC postponed reform of the police force for several years. The work only began in earnest in 1999–2000 with the appointment of a new powerful public prosecution office, an independent complaints directorate, and a National Commissioner of Police who was African and recruited from outside the old police force (Schoenteich, 2001). A key problem was a very low recruitment for the police force for almost a decade. Pay-scales were left unaltered, advancement possibilities and resource allocation remained unchanged. A logistical implosion had ensued: the equipment of the police – weapons, vehicles, radios, computers, training and so on – are today hopelessly inadequate.

The re-naming of the police force as the South African Police Service was indicative of the inauguration of a style of policing that was to be based on human rights, evidence-based detective work and was to serve the community. Within the force, there was scarcely any comprehension of this style of policing. To many officers I talked to, abandoning the old-style 'confession-based' policing, that, is, beating a suspect until he confesses, was tantamount to allowing Africans to rob and kill with impunity.

Combined with institutional stasis, this police culture produced disillusionment and massive corruption. Many younger policemen left the corps to seek employment in the burgeoning private security industry. Among the remaining officers, many took long-term sick leave, which the new Employment Act made possible, while others were sliding into a destructive cycle of alcohol and corruption.

As a result, the main police station in Chatsworth, covering 300,000 people, had only two functioning vehicles for years, one of them with a dysfunctional radio; of the ten officers on each shift, half would be on sick leave or too drunk to perform their duties, and the remaining officers would only reluctantly respond to calls or leave the station. Emergency calls concerning serious shoot-outs or murders would – if at all – be attended to by the Flying Squad, a unit comprising almost exclusively white officers, often drawn from the former Security Forces, created by the Durban Police

to service the city as a whole. In practice, Chatsworth was hardly policed for years.

The regular police force reduced itself to the role of record-keeping. They would arrive late at crime scenes, record names and events, write sloppy reports and return to the station, or to their flourishing side-businesses, as soon as they could.<sup>12</sup> Private companies and shopping malls used private security guards who, in the case of robberies or assaults, would only get in touch with the police after the fact to record shootings, deaths and damages – mainly for insurance purposes.

### **Whither the community? Walls, guns and new fears**

As in the rest of South Africa, the crime rate in Chatsworth increased rapidly in the 1990s. House-breaking, hijackings, shootings, drug dealing, etc. became ever more common and ubiquitous.<sup>13</sup> This coincided with an increased influx of Africans into the townships as informal settlements emerged on the slopes and outlying areas of the townships, on vacant plots of land, near park areas and so on. Gun-ownership increased dramatically after 1994. This led to a major increase in domestic violence, especially 'love-murders' – the killing of young women by jealous lovers and husbands who were troubled by the independent lifestyle of younger Indian women. Most felonies and killings in the townships were indeed still committed by local Indians. While this was informally recognized by police, security guards and local news reports, violent crime was still widely seen as emanating from African townships and settlements.

From 1995 onwards, Community Policing Forums (CPFs) began to be established throughout the country. The aim of the collaboration between local 'communities' and the police force was to make local policing more accountable. Those representing the community would also perform the symbolic task of standing in for the new sovereign people of South Africa.

The meetings of the Chatsworth Community Policing Forum were never a great success. Police officers found it extremely difficult to listen to the many complaints and demands from often self-styled representatives of the 'community'. Some participants were long-standing foes of the police – ANC activists and others active in the anti-apartheid movement – while others were local self-styled leaders, religious figures, and people who had been active in apartheid's political institutions. The meetings soon began to revolve around the changing character of the township, the influx of Africans and general anxieties about Indian identity in South Africa.

The station commander, a recent convert to Pentecostalism, began to decorate his office with Christian symbols. Officers called it the 'Station church'. He prayed loudly and publicly, including at roll-calls, and it was alleged that he favoured Christian policemen. For more than a year, members of the CPF (predominantly middle class, mostly Hindu) protested

against what they saw as an undue mixing of religion and public office. They found it objectionable that the commander was a Christian and thus not a 'proper Indian', while disregarding the fact that almost 50 percent of the population in the poorer sectors of the township had converted to Christianity.

The questions bedeviling the meetings were: who constitutes the sovereign community? Who has the right to protect themselves and be protected by the police in the name of democracy and rights? Is the average *charou* also a citizen and a member of the community? Are Africans residents of the township? By what marks can the sovereign people be known?

These questions became critical when the formation of civil patrols was proposed. It was clear that the police were unwilling to patrol at night and volunteers were asked to sign up for night shifts. Civil patrols were not supposed to carry firearms and were supposed to alert the police in cases of house-breaking or suspicious activity. For most of those signing up the target was clear: young African men threatening middle-class areas and Indian women. There was a distinct reluctance among the volunteers to patrol in poor Indian areas, long established as centres of drug-trading. The citizen-vigilantes thus embodied a long-standing idea of who was a proper Indian: respectable and tax-paying owners of property. Responsibility for organizing these patrols was indeed left to the various Rate Payers' Associations – the associations of homeowners that had spearheaded a renowned boycott campaign against the discriminatory practices of the municipal authorities for more than a decade prior to 1994.

The patrols attracted a mixed group of volunteers. Some had a history of encounters with the police force, while others were driven by strong religious and ethical motives of revenge and protection of family, community and property. Some were radicalized Muslims, many of whom had been involved in the short-lived launching of a Durban chapter of PAGAD (People Against Gangsterism and Drugs, a vigilante group started in Cape Town in the mid 1990s). Ahmed, the owner of a small workshop, and his son Shahid were among the most active. Ahmed described himself as a 'Tablighi', that is, a member of the global, quietist, conservative Muslim lay movement Tablighi Jamaat. Ahmed had a weapons licence and felt strongly about defending the community and his family.

In Islam the man is expected to defend his family and to protect women and children. A man who fails to do that is a man without honour, a man without courage, someone who cannot be trusted. . . . In doing this I show my son what it means to be a Muslim.

Father and son would show up in their truck, in boots, camouflage trousers, black jackets and caps with *La ilaha illa Allah* – there is no deity but God – written in golden Arabic letters. Shahid, who studied Arabic every day after college, was excited about these night patrols and managed to get a number of his friends involved as well – most of them belonging to the same class in his local madrasah.

Another new recruit was Shaun, a young Tamil who had converted to Christianity some years before. Several members of Shaun's church were active in the patrols and Shaun expressed their motivation succinctly:

There is so much evil in this world, not least in South Africa at the moment. . . . The people we arrest are not evil people but I believe that they are possessed by evil forces and demons that make them steal and rape. They don't steal because they are poor – most poor people are good people – they steal because they have lost their will and sense of pride. . . . We have to stop them and detain them. People say that we should not beat them, but you have seen in our church what people do when the demons take them. . . . We have to be firm and strong and show the demons who are the strongest. That is the only way we can help the criminals.

The patrols became involved in a range of intractable and unpredictable activities. Some volunteers were highly unreliable and risk-averse, while others attempted arrests that at times turned into shootings or savage beatings of young Africans. The invisibility of the patrols, and their increasingly free-booting mode of operation, made it apparent that the 'law-making violence' was disentangling itself from nominal oversight by the police and CPF as the patrols began to resemble vigilante groups.<sup>14</sup> For some residents, this amounted to a mixing and conflation of worlds and realms of experience that should be kept separate. Remarks like 'This is not a job for ordinary citizens', 'They don't have the training to do this', 'We need to be protected by professional people', abounded in everyday conversations on security. The sight of your neighbour or uncle on patrol in the evenings did not produce a sense of security. On the contrary, it was almost as if it 'profaned' an activity that many people preferred to be left somewhat opaque and handled by more anonymous professionals. Characteristically, it was ANC members, alarmed by the rise of unaccountable practices, who called for an end to the patrols.<sup>15</sup>

The alternative was almost tailor-made: a number of private security firms were now operating in Chatsworth and most of their employees were former policemen who had left the force, disgusted with the 'human rights culture' promoted in the force. Soon the Rate Payers' Associations in various parts of Chatsworth began to sign contracts with security firms. Their job was to provide protection at night, visible policing in the daytime, including patrolling around schools to prevent drug dealers from entering through holes in the fences, etc.

### **State violence vs community violence: whose law?**

With this initiative a rift has opened between the state's formal law-preserving violence and the deterrent law-making violence exercised in the name of 'the community'. The privatized dispensation of violence and (informal justice) has indirectly contributed to give the term 'community'

even more force and reality. The term has three principal local referents: (1) the older notion of a racial community of Indians defending itself against attacks by Africans – the much-discussed ‘1949 syndrome’; (2) the community as united in the struggle against apartheid, now the struggle against social evils and disorder; (3) the more recent neo-liberal sense of community as a spatially defined collection of rational economic agents paying for their own physical protection from irrational but naturalized dangers such as crime.<sup>16</sup>

During their operations, security guards detain suspects, collect evidence – effects stolen, weapons – make quick notes on the damage done and then deliver the suspects ‘prepared’ (beaten up) at the police station to their former colleagues. The policemen record the facts and decide whether to formally arrest the suspects. In most cases there is not enough evidence to warrant a formal arrest, which requires more paperwork, justification, collection of evidence, calling of witnesses and, later, probing questions from the Prosecution Service.

The security guards work for legally licensed firms. They are heavily armed and often schooled in the old style of policing. Like many police officers, they feel that arrests and prosecutions have become unduly cumbersome. A guard told me: ‘The police are not allowed to do the work they should do. How can we get them to confess their crimes if we can’t lay our hands on them?’ Instead of formal punishment, the security firms administer their own form of justice on the spot, or in their vans, by beating the young suspects. ‘We have to show them who is the boss around here, that they can’t get away with anything. . . . Someone has to do the dirty work and the police aren’t capable of it any more.’

The beatings go on with impunity, condoned and encouraged by the police and tacitly approved by the local community organizations. Many homeowners encourage the security firms to punish young house-breakers and those merely picked up on suspicion of crimes, that is, on the ‘assumption of criminal intent’ as the new operative quasi-legal category goes. This leaves young black men as targets, often scared and armed. A cycle of violence that often turns a relatively harmless house-breaking into a scene of extreme violence has ensued.

The security firms have several offices and control rooms taking emergency calls from customers and others in the neighbourhood. Every night shift sees several alarm calls and cases of shoot-outs, either inside houses or outside as burglars flee the premises, happen several times a week. Most of the guards are seasoned, cynical and battle-hardened former policemen. Many of them showed me gunshot wounds and they take pride in being the local warriors defending the community against attack, literally defending what they see as the border between the Indian and the African world. Few of them think much about the causes of the crime they deal with. Crime is entirely naturalized and racialized: black bodies are criminal and naturally unrestrained. In this view, the crimes and killings committed by local

Indians are almost written out of the picture. 'Most of the crimes among Indians happen in homes and we don't deal with domestic disturbances', the chief security officer explained. These crimes, many of which involve firearms and severe abuse of women and children, are domestic in a double sense. They happen inside the community – and inside homes, as men try to enforce patriarchal norms.

Many guards spend time in the local gym (where I met them in the first place), and their sense of themselves and their task echoed the desire of many residents to keep the world of 'security' separate from that of everyday life. One of the guards put it succinctly:

Most people are paying us because they don't want to be worried about the safety of their house. They want to relax at home. . . . They are not interested in who we apprehend, how we do it, and what happens to them. . . . There are those few people who want us to record everything, not do this, do that – but that is for political reasons only.

This racial classification of crimes, and criminalized bodies, is also visible in the interaction between the security firms and their customers. In accordance with the new employment laws, the firms hire many African guards who mainly patrol shopping malls and guard commercial properties. The security guards who move into people's houses are exclusively Indian. 'People would not feel comfortable about it [black men in the house]. . . . These are after all our customers, so we need to give them the service they expect', a security manager explained.

## Conclusion

Law-making violence happens at the frontier – the racial and social frontier where the distinction between citizen and bare life is drawn. This frontier was previously drawn between the neighbourhood and the wilderness, that is, the community space of Indian men, women and children, and the 'savage' world of the African male. Now the frontier runs between the interior of the house and the streets of the township – the new dangerous and racially heterogeneous spaces. The violence exercised by security firms is largely hidden and unaccountable, and largely condoned by local residents. Is this law-making violence merely outsourced from the state to other bodies, or is it becoming something different, one may ask? Is it a new form of sovereignty arising from communities, executed by former policemen now free of the injunctions regarding 'correct' conduct and the rights of the detainees? Are we witnessing 'a fearsome hypostasis of the collective', which deploys violence to produce its 'identitarian substance', as Balibar (2002: 185) formulates the perils involved in direct representations of popular sovereignty?

Most local residents will concede that the security firms have brought violent crime under control, and most will praise their professionalism and

their polite conduct. Yet many find it unfair that they are paying for services that should be provided by the police force. There have been consistent demands for more visible policing but instead the security firms have now started patrolling in the daytime, outside schools, churches and temples, to provide a sense of security and comfort. The security firms, and vigilantes in other parts of the country, are now delivering policing that resembles what Benjamin called the 'all-pervasive, ghostly presence in the life of civilized states'. This presents a major problem for the ANC, whose visions of an unprecedented centralization of police functions and procedures across the country (see ANC, 1993: 16–18) are constantly stymied by the lack of respect for the police, and by the *de facto* dispersion and segmentation of the actual production of sovereign violence.

The Rate Payers' Associations – which see themselves as representing the new South Africa – wanted to recreate a foundational 'fiction of security'. Such a fiction rests on the unstated assumption that, beneath the visible surface of policing and law, there exist networks, eyes and knowledge that are vigilant and effective around the clock. However, the visible and the invisible cannot exist without the other. After 1994, the uniform of the policeman, the police car and all the other 'marks of sovereignty' were displayed as pure fetish, as defaced, discredited and ineffective. Yet the uniform, the pre-eminent, visible mark of authorized violence – now worn by the security guard – always returns as a mark of certainty, of predictability, as a visible sign that refers to an 'all-pervasive, ghostly presence' – an invisible mechanism of control and patrol. The anxieties that mark contemporary urban South Africa seem, in other words, to indicate that democracy and freedom presuppose a very powerful and complex 'fiction of security' – the basic illusion which allows one to sleep at night.

## Notes

- 1 See for instance Bozzoli (2004). For an excellent account of how the townships were governed by parallel senses of 'law' and justice not resembling those of the state laws, see Buur (2005). For an interesting account of the parallel universes of state law and the moral code among 'thieves', see Humphrey (1999).
- 2 Reported crime also increased steadily throughout the 1980s (see, for instance, Brewer, 1994: 325). On the mis- and under-reporting of crime and the manipulation of crime statistics by the police force, see Louw and Schoenteich (2001: 41–9).
- 3 The official Code of Honour of the South African Police Force stated that it served a nation with a 'Christian National Foundation' and the police journal, *Servamus*, exhorted police officers to see themselves as Christian soldiers stopping the evil work of Satan and 'Godless Communism'. For a good account of the police culture in apartheid South Africa, see Brogden and Shearing (1993: 41–89).
- 4 In the mid 1980s two new African police forces were created – the so-called

- 'police assistants' (*kitskonstabel*), hastily trained police constables who proved highly unpopular and ineffective in the townships, and the municipal police, created to protect local black councilors and municipal property in the townships. These forces were all local, worked under many local jurisdictions, lived in the townships and soon became targets of popular reprisals with very high casualty rates (Cawthra, 1993: 61–3).
- 5 The exception was of course the mining compounds, where the contracted labour force was subjected to a minutely controlled and supervised total regime, recording and regimenting intimate details of bodies, health, diet, etc.
  - 6 In a discussion paper entitled 'Policing in the New South Africa', the ANC (1993) outlined a vision of police reform. The key words were 'visibility', 'accountability', 'pro-active policing', a force that is 'representative' and a mode of operation organized as 'service'.
  - 7 For a very instructive comparison, which illustrates this point as well as ideas of the necessity of using 'excessive force' in the colonies, see Raj Chandavarkar's work on colonial policing in Bombay (1998). On late colonialism and policing in Asia and Africa, see Anderson (1992).
  - 8 The number of Indian policemen was proportionately small but more than doubled between 1960 and 1976 (Brewer, 1994: 236).
  - 9 This racial delegation of policing was successfully opposed by local political activists in the township of Phoenix. The activists argued that such a move would involve substandard equipment and increased corruption (Cawthra, 1993: 79).
  - 10 Two institutions were central to the administration of the Indian townships: 'Community Social Work Section' and the 'Local Affairs Committees' (LAC), locally elected bodies that had a mere advisory function vis-a-vis the City Council. Their activities were carefully reported in a minor subsection of the annual *Mayor's Minute* publication from the City Council.
  - 11 Some of the published works are Chetty (1980) and Jithoo (1978). Student projects in anthropology had titles such as 'The Socio-economic Factors Affecting the Formation of a Subculture (Gang) in Chatsworth' (1982) or 'The Battered Wife Syndrome' (1988).
  - 12 The police station in Chatsworth became notorious for its rogue character when it was revealed that the famous '31 million Rand robbery', the biggest heist ever in South Africa, had been planned and executed by a group of policemen from Chatsworth. This now mythical story is the object of a new novel *31 Million Reasons*, by Naresh Veeran (2005).
  - 13 The number of homicides and robberies doubled from 1988 to 1993 (see Shaw, 2002: 17–18).
  - 14 For an overview of the role of vigilante groups in South Africa's recent history, see Jensen and Buur (2004).
  - 15 The critical re-assessment of the Community Policing Forums as non-representative, and the broader attempt to professionalize security services, was affirmed in a report entitled *Not Everybody's Business* (Pelser et al., 2002).
  - 16 The use of private security firms paid for by property owners has a long history in white neighbourhoods. The industry was largely unregulated and unaccountable until an act of 1987 brought it under a measure of governmental oversight (Cawthra, 1993: 69–70).

## References

- Agamben, Giorgio (1998) *Homo Sacer: Sovereign Power and Bare Life*. Stanford, CA: Stanford University Press.
- Agamben, Giorgio (2000) *Means without Ends: Notes on Politics*. Minneapolis: University of Minnesota Press.
- African National Congress (ANC) (1993) *Policing in the New South Africa*. Marshalltown, SA: ANC Department of Information and Publicity.
- Anderson, David (ed.) (1992) *Policing and Decolonisation: Politics, Nationalism and the Police, 1917–65*. Manchester: Manchester University Press.
- Balibar, Etienne (2002) *We, the People of Europe: Reflections on Transnational Citizenship*. Princeton, NJ: Princeton University Press.
- Benjamin, Walter (1978) *Reflections: Essays, Aphorisms and Autobiographical Writings*. New York: Schocken Books.
- Bodin, Jean (1992) *On Sovereignty: Four Chapters from The Six Books on Commonwealth*. Cambridge: Cambridge University Press.
- Bozzoli, Belinda (2004) 'The Taming of the Illicit: Bounded Rebellion in South Africa, 1986', *Comparative Studies in Society and History* 46(2): 326–54.
- Brewer, John (1994) *Black and Blue: Policing in South Africa*. Oxford: Clarendon Press.
- Brogden, Mike and Clifford Shearing (1993) *Policing for a New South Africa*. London: Routledge.
- Buur, Lars (2005) 'The Sovereign Outsourced: Local Justice and Violence in Port Elizabeth', in Thomas Blom Hansen and Finn Stepputat (eds) *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World*, pp. 192–217. Princeton, NJ: Princeton University Press.
- Caldeira, Teresa (2000) *City of Walls: Crime, Segregation and Citizenship in São Paulo*. Berkeley: University of California Press.
- Cawthra, Gavin (1993) *Policing South Africa: The South African Police and the Transition from Apartheid*. London: Zed Books.
- Chandavarkar, Raj (1998) *Imperial Power and Popular Politics*. Cambridge: Cambridge University Press.
- Chetty, Romila (1980) 'The Changing Family: A Study of the Indian Family in South Africa', *South African Journal of Sociology* 11(2): 26–39.
- Davis, Mike (1990) *City of Quartz*. New York: Vintage Books.
- Desai, Ashwin (1996) *Arise Ye Coolies: Apartheid and the Indian, 1960–1995*. Durban: Impact Africa.
- Dutton, Michael (1992) *Policing and Punishment in China: From Patriarchy to 'the People'*. Cambridge: Cambridge University Press.
- Dutton, Michael (1998) *Streetslife China*. Cambridge: Cambridge University Press.
- Eckert, Julia (2003) *Charisma of Direct Action: Power, Politics and the Shiv Sena*. New Delhi and New York: Oxford University Press.
- Engle Merry, Sally (1988) 'Urban Danger: Life in a Neighbourhood of Strangers', in George Gmelch and Walter Zenner (eds) *Urban Life: Readings in the Anthropology of the City*, pp. 115–25. Long Grove, IL: Waveland Press.
- Freund, Bill (1995) *Insiders and Outsiders: The Indian Working Class of Durban, 1910–1990*. Portsmouth, NH: Heinemann.
- Garland, David (2001) *Culture of Control: Crime and Social Order in Contemporary Society*. Chicago: University of Chicago Press.
- Hansen, Thomas B. (2001) *Wages of Violence: Naming and Identity in Postcolonial Bombay*. Princeton, NJ: Princeton University Press.
- Humphrey, Caroline (1999) 'Russian Protection Rackets and the Appropriation of

- Law and Order', in Josiah Heyman (ed.) *States and Illegal Practices*, pp. 199–232. Oxford: Berg Publishers.
- Jensen, Steffen and Lars Buur (2004) 'Introduction: Vigilantism and the Policing of Everyday Life in South Africa', *African Studies* 63: 139–52.
- Jithoo, Sabita (1978) 'Complex Households and Joint Families among Indians in Durban', in Eleanor Preston-Whyte and John Argyle (eds) *Social Systems and Tradition in Southern Africa*, pp. 86–100. Cape Town: Oxford University Press.
- Louw, Antoinette and Martin Schoenteich (2001) 'Playing the Numbers Game: Promises, Policing and Crime Statistics', in Johnny Steinberg (ed.) *Crime Wave: The South African Underworld and its Foes*, pp. 41–9. Johannesburg: University of Witwatersrand Press.
- Pasquino, Pasquale (1991) '*Theatrum Politicum*: The Genealogy of Capital – Police and the State of Prosperity', in Graham Burchell, Colin Gordon and Peter Miller (eds) *The Foucault Effect: Studies in Governmentality*, pp. 105–18. London: Wheatsheaf-Harvester Press.
- Pelser, Eric, Johann Schnetler and Antoinette Louw (2002) *Not Everybody's Business: Community Policing in the SAP's Priority Areas*. Johannesburg: Institute for Security Studies.
- Schoenteich, Martin (2001) 'The South African Prosecution Service', in Johnny Steinberg (ed.) *Crime Wave: The South African Underworld and its Foes*, pp. 156–74. Johannesburg: University of Witwatersrand Press.
- Shaw, Mark (2002) *Crime and Policing in Post-Apartheid South Africa*. Bloomington: Indiana University Press.
- Siegel, James (1998) *The New Criminal Type in Jakarta: Counter-revolution Today*. Durham, NC: Duke University Press.
- Taussig, Michael (2003) *Law in a Lawless Land*. New York: Columbia University Press.
- Veeran, Naresh (2005) *31 Million Reasons*. Durban: Niche Media Network.

---

■ **Thomas Blom Hansen** is Professor of Anthropology at the University of Amsterdam. He has written on violence, religion and politics in India. He is currently completing a book on freedom and its affective powers in post-apartheid South Africa. His most recent publication is *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World* (co-edited with Finn Stepputat, Princeton University Press, 2005). Address: Department of Anthropology, Yale University, PO Box 208277, New Haven, CT 06520–8277, USA. [email: t.b.hansen@uva.nl]

---