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Contact and Property Related Crimes in South Africa: Need for Strategies and Democratic Policing¹

Doraval Govender²

University of South Africa

Abstract

The assumption is that police alone cannot address contact and property related crimes in a democracy like South Africa and there is a need for specific strategies to reduce the same. The failure of effectively and efficiently reduce contact and property related crimes appears primarily to be linked to the different policing styles adopted by leadership. The aim of this paper is focused towards highlighting some strategies that can be applied to overcome the issue of contact and property related crimes in South Africa.

Keywords: South Africa, Police, Democracy, Contact and Property related Crimes.

Introduction

The many features that the concept "democratic policing" embraces include equality, fairness, protection, consensus, partnership, collaboration, responsiveness, service, accountability and transparency. These are standards on how to practise effective, democratic or, more generally, good and professional policing (Mohler, 2009). A democracy is dependent on its police service to maintain law and order and to facilitate an environment for a free society. The whole democratic system is based on the principles of human rights, which brings us to the point that the consent of citizens should be at the heart of democratic and community policing. This means that the police should operate with the consent and approval of the people (The Organisation for Security and Co-Operation in Europe (OSCE), 2015). Democratic policing is viewed by citizens as the enforcement of those laws which have been understood and accepted by the majority of the people, based on the principles of the rule of law. The rule of law should encompass the protection of human rights, the principle of legality, the principle of proportionality,

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² Associate Professor, Department of Criminology & Security Science, School of Criminal Justice, College of Law, University of South Africa, Preller St, Muckleneuk, Pretoria, 0002, South Africa. Email: Govend1@unisa.ac.za

the interests of the people, good faith, conformity with international law and being perpetrator-focused (Mohler, 2009).

After the advent of democracy in 1994, the ability to police contact and property-related crimes in South Africa has become more and more complex and challenging, hence the call for a more effective and innovative police service. The assumption is that the police are not trained to address crimes in a democracy, because of the background of the former apartheid-trained police officers and liberation movement cadres with military training who were merged into the police service to do policing in a newfound democracy (Shabangu, 2013, p. 4). The statement by police leadership that limited support is received by SAPS from other stakeholders such as the communities, other statutory bodies and government departments in crime prevention is questionable as to what exactly is expected from these stakeholders. The fact that SAPS alone cannot address crimes in society is of concern to South Africans. In a democratic system policing is based on the principles of human rights, which brings us to the point that the consent of citizens is pivotal to democratic policing. It is very clear that the police should not act without the consent of its citizenry (OSCE, 2015). It is within this context that the researcher collected data from media reports, academic literature and from the experiences of police officers internationally and nationally, to look at ways of strengthening democratic policing.

Since the early 1990s, the South Africa Police Service (SAPS) has been involved in policing a changing society. Despite the changes in police leadership over the past two decades, South African society is still concerned about the crime rate and the level of violence perpetrated by perpetrators of crimes (Marriah, Soobramoney, & Somduth, 2015, p. 5). Many community members are asking why crime is still on the increase. The assumption is that the community and other government departments are not doing enough to assist SAPS in crime prevention and to address the violent behaviour of the perpetrators.

The purpose of this paper is to look at the historical context of policing in South Africa and other social factors that contribute to the commission of contact and property-related crimes, where the victims become the targets of violence or where property is targeted, and to consider strategies to support the police. The increase in contact and property-related crime appears to be linked to the colonial system of policing and the different policing styles adopted by police leadership. For democratic policing to be successful, the features of democratic policing should be practiced by the police including the criminal justice system. As far as democratic policing is concerned, it is necessary for leaders of the police department to develop clear policies and processes to decolonise the police and address the criticisms levelled at them. In any democracy, the citizens are dependent on the criminal justice system, including the police, to facilitate a free society.

This paper is aimed at bringing about a systematic change by looking at the historical context of policing in South Africa; nature and extent of contact and property crime in South Africa (2006-2016) and factors leading to the commission of contact and property-related crimes and offering possible solutions in order to work towards realising a democratic order for policing.

Review of literature

1. *Historical context: Policing in South Africa*

During the eighteenth century, when the Republic of South Africa was under British rule, policing was in shambles in many parts of the world. London, the seat of the colonial system of policing was itself plagued by insecurity and violent crimes. The London authorities were facing increasing political violence amidst the constitutional crisis over parliamentary representation for disenfranchised middle class citizens (Miller, 1975, p.88). It is in this context that the British created a model for policing specifically for the colonies, including South Africa. This policing model was developed in Ireland. The model was based on the Royal Irish Constabulary, which was a more centralised and coercive police force (Jefferson, 1990). According to Jeffries (1952), the colonial model provided for a militaristic style of policing, with officers, rank divisions and training centres that were based on the character and reporting structures of the military and where control was in the hands of the central government.

The South African Police Force, established in 1913, with the introduction of section 7 of the Police Act of 1912, defined the powers and duties of the police force as follows:

Every member of the force shall exercise such powers and perform such duties as are by law conferred or imposed on a police officer or constable, but subject to the terms of such law, and shall obey all lawful directions in respect of the execution of his office, which he may from time to time receive from his superiors in the force. Since the establishment of the police force in South Africa, the police were the main institution responsible for reducing crime. In the mid-1950s, police personnel figures began to fall, crime rates began to rise and the legitimacy of the police among the public began to slide (Dippenaar, 1988).

The police are, fundamentally and historically, a civil service and not a military force. The military style approach to policing has always been associated with the South African Police Force during the apartheid era, because of its structure, training and weapons, which is in accordance with the colonial system of policing. However, this characteristic of colonialism is still dominant in the SAPS today. It is, therefore, important that we look at decolonising the police (Van Heerden 1982, p. 106). Brogden (1987) stated at that time, “it is a tragedy to see that South Africa is continuing to police the country through a mechanism that is not appropriate for an independent democratic nation.”

When the legitimacy of the police was challenged by the majority in the Republic of South Africa, political instability grew. Since 1995, the SAPS have seen many challenges with regard to policing, motivated by aspects influencing the internal and external environment of the police service. One of the greatest challenges faced by the South African Police Service was the need to change its perceived role from that of the strong arm of an unrepresentative government to a legitimate police service that is professional and fulfils the policing needs of all the people in a democratic context. The South African Police Service formally came into being in 1995, with the appointment of a National Commissioner of Police, and a proclamation for the rationalisation of the SAPS on 27 January 1995 – which was created for the rationalisation, reorganisation and consolidation of the service with the enabling organisational and post structures (De Vries, 2008). A new Vision and Mission statement was developed for the SAPS.

The vision of the South African Police Service is to create a safe and secure environment for all the people in South Africa. Its mission is to create this by participating in endeavours to address the root causes of crime in all communities, as well as working to prevent any action which may threaten the safety and security of any community or person, and, finally, to investigate incidents of crime in order to bring the perpetrators of such action to justice. The police service is constantly involved in a process of interaction with its superiors, colleagues and other role-players from the internal organisational environment and the community, other groups and organisations from the external environment. This interactive process results in mutual influences which may have either a positive or a negative influence upon attitudes and perceptions (De Vries, 2008).

2. Nature and extent of contact and property related crime in South Africa

The South African transition to democracy, starting in the early 1990s, brought about a restructuring of the criminal justice system with the abolishment of a number of laws and the promulgation of new ones. Crime in any society impacts negatively on businesses and personnel, while profits and productivity go down, investor confidence becomes eroded. Violence experienced at home affects the ability of victims to work and increases fear. Children are affected in their ability to do well at school and their health becomes affected in the long-term. Since the beginning of the 21st century, the police began to move from a proactive approach towards becoming a reactionary crime fighting force, focusing on crime-oriented policing (De Vries 2008; Patterson, & Pollock, 2011, p. 33; Edwards, 2011, p. 1).

Victim surveys conducted since 1994 show that the poor are more at risk of being victims of murders caused through interpersonal violence, while the wealthy – living in the suburbs – are most at risk of residential robberies and burglary (Mc Cafferty, 2003). In 2005, the World Health Organisation (WHO) found that crime in South Africa is no different to that encountered in the rest of the world. It also found that domestic violence in South Africa is committed across geographical, religious, racial and gender boundaries and is prevalent in both urban and rural areas (WHO, 2005).

When discussing crimes in any society, it is important to know which crimes are on the increase and how these crimes should be addressed. Crime statistics reveal that contact crimes, which include murders, sexual offences, attempted murder, assault with intend to do grievous bodily harm (GBH), common assault and common robbery showed an increase of 1% for the period 2015/2016, compared to 2014/2015. Contact crimes are those crimes where the victims are targets of violence, or where they are targeted for their property. Although the police feel that the trend has shown a decrease over a period of 10 years, the data shows an increasing trend from 2012/2013 (608 724 incidents) until 2015/2016 (623 223 incidents). From 2006 to 2016, murder cases show an increase of 4.9%. Sexual offences showed a decrease of 3.2 % from 2006 to 2016 (Crime situation in South Africa, 2016). Since murders are a social issue, the police alone cannot reduce murders (Marriah, Soobramoney, & Somduth, 2015, p. 5). This is because about 70% of murders occur between people who know each other. They occur as a result of particular social and economic factors. These crimes are often referred to, by the police, as "contact crimes or inter-personal crimes" (Merten, 2015, p. 2)

Attempted murder showed an increase of 3.4% from 2006 to 2016. Assault with the intention to cause grievous bodily harm showed an increase of 0.2%, from 2006 to 2016.

Common assault showed an increase of 2.2%, from 2006 to 2016 (Crime situation in South Africa, 2016). Domestic violence cases are recorded as assault or assault with the intention to cause grievous bodily harm, attempted murders and murders (Machisa, 2011). For the purpose of this study, the statistics provided for assault or assault with the intention to cause grievous bodily harm, attempted murders and murders will be taken into consideration. According to the statistics for these crimes, there was an increase from 2015 to 2016, Assault common increased by 2.25% from 16,1486 to 16,4958; Assault with the intention to cause grievous bodily harm increased by 0.2% from 18,2556 to 18,2933; Attempted murders increased by 3.4% from 17,537 to 18,127 and Murders increased by 4.9% from 17 805 to 18673; (South African Crime Stats, 2016).

Common robbery showed a decrease of 1.5% from 2006 to 2016. Robbery with aggravating circumstances, comprising carjacking, robbery residential, robbery non-residential, truck hijackings, robbery of cash in transit (CIT) vehicles and bank robbery showed an increase of 2.7% from 2006 to 2016 (Crime situation in South Africa, 2016). According to the findings in the Victims of Crime Survey, conducted by Statistics South Africa (2015), trio crimes, which include carjacking's, robberies at residential premises and robberies at non-residential premises, are perceived, inter alia, by homeowners as the most common and are the most feared crimes in South Africa. These are crimes within the contact crime category, which recorded an increase for the period 2006 to 2016 (Crime situation in South Africa, 2016). According to Zinn (2010) and Snyman (2003, p. 539), a crime of residential robbery is committed when people are attacked in their homes and deprived of their property by armed gangs with weapons. For the same period, 2006 to 2016, carjackings showed an increase of 14.3%. Robberies at residential premises showed an increase of 2.7%, from 2006 to 2016. Robbery at non-residential premises showed an increase of 2.8%, from 2006 to 2016 (Crime situation in South Africa, 2016)

3. Factors leading to the commission of contact and property-related crime

There are, however, a number of factors, which may help to explain South Africa's state of contact and property-related crime and the level of violence used by perpetrators during the commission of these crimes. These factors indicate that the state of contact and property-related crimes may be attributable to the culture of violence that was prevalent during the apartheid era, recidivism, drugs and alcohol, illegal firearms and inadequate physical protection systems, but can also be attributed to the centralisation of specific policing functions through restructuring and the differing leadership and policing styles adopted by police leadership (Govender, 2015).

a. Culture of violence

For the purpose of this discussion, the researcher decided to use the definition of "violence", as defined by the World Health Organization. The World Health Organization (2002) defined violence as the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation. This definition is broader, as it also includes psychological, health and physiological harm. In addition, the definition acknowledges that violence can be self-directed, interpersonal and collective. The WHO (2002) specifies that its definition associates intentionality with the act; thus, unintentional injuries are

excluded. The emphasis on intention makes this definition similar in nature to the legal definition of violence (WHO, 2002).

In 1994, reform of the apartheid-era policing was one of the major challenges for the new government in South Africa (De Vries, 2008). The effects of apartheid, in addition to years of political violence and the continued exposure to violence in the home and in the neighbourhoods, have produced a destructive culture in society, which manifests itself in the use of violence as a means of solving conflicts domestically and socially (Statistics South Africa 2015).

b. Recidivism

Recidivists consider prison to be more attractive or "not too bad" (South African Catholics Bishops Conference, 2012). According to Montesh and Berning (2014), an estimated 20% of criminals are usually responsible for 80% of all violent crimes in South Africa. Although there are no accurate statistics of the rate of recidivism, it is estimated by the Department of Corrections in South Africa to be about 47% (South African Catholics Bishops Conference, 2012).

c. Drugs and alcohol

There is also a relationship between the use of drugs/alcohol and the commission of crimes. This does not mean that drug/alcohol users are ordinarily violent; however, there is a perception that perpetrators under the influence of drugs and alcohol are more likely to be violent and aggressive and out of control. The most common drugs seized in South Africa are mandrax, cat, cocaine powder, dagga and a mixture of other drugs known as "nyaope". According to Montesh and Berning (2014), there is a strong relationship between age and crime. They would commit any crime to obtain cash to buy drugs (Naik & Serumula, 2015).

d. Illegal firearms

South Africa's porous borders allow arms smugglers to bring large quantities of firearms into the country. Because of an oversupply of small arms, it is easily accessible to street criminals, many of whom use them to commit crimes (Schönteich, & Louw, 2001).

e. Inadequate physical protection systems

In the absence of visible physical protection systems, a residence may be perceived as a relatively easy target and, therefore, more vulnerable to burglary than residences that are well-protected through a range of security measures. Physical protection systems may include all the means that could be used to protect the household and its residents. Examples of such physical protection measures are access control, fences with spikes, electrified barbed wire fences, entry phones, burglar-proofing at windows and doors, locks, security guards, armed response services, security lights, dogs and CCTV surveillance systems. Physical protection systems are implemented for the protection of assets or facilities against criminals, terrorists, commercial or industrial competitors, malicious people or unlawful attacks (Van Zyl, Wilson, & Pretorius, 2003).

f. Centralisation versus decentralisation

Policing was centralised, by the decision to close down specialised units and area leadership structures at a decentralised level of service delivery; instead, these functions were centralised. This took away professional policing from, the people. To date, this is felt by the increase in crime (Burger, & Boshoff, 2012).

g. Differing leadership and policing styles

Since 1994, the SAPS was led by different National Commissioners and Acting National Commissioners, all of whom brought their own leadership and policing style. During 2009–2012, police leadership was intent on ending crime by applying maximum force allowed by law. During this era, there was an increase in incidents of police brutality. Against this brutality, there was an increase in the killing of police officials (Khobane, 2010). Since 1994, police leadership implemented different crime combating strategies to reduce crime and to win the support of the communities (Pruitt, 2010). However, at no stage since the inception of the democratic dispensation has the police leadership focused on decolonising the SAPS for the sake of establishing democratic policing.

The Present Study

A qualitative research approach was used to conduct this study. The researcher collected primary and secondary data from media reports, literature and from the experience of police officers (Shurink, Fouche & De Vos, 2011). This study is aimed at bringing about a systematic change by offering possible solutions in order to work towards realising a democratic order for policing.

Main Findings of the Study

1. Need for Strategies to combat crimes in a democracy

The many features that democratic policing embraces includes – equality, fairness, protection, consensus, partnership, collaboration, responsiveness, service, accountability and transparency. These are standards on how to practice effective, democratic, or, more generally, good and professional policing. A democracy is dependent on its police service to maintain law and order and to facilitate an environment for a free society. The whole democratic system is based on the principles of human rights, which brings us to the point that the consent of citizens should be at the heart of democratic policing. This means that the police should operate with the consent and approval of the people (OSCE, 2015). According to Telep (2012), the police have to be proactive if they want to succeed in preventing contact and property-related crimes in a democracy. They have to use specific strategies that differ from traditional policing methods. This will help them to come up with customised solutions to combat crimes in a democracy.

2. Need for democratic policing

According to Heslop (2014), Chapman (2014), Aremu (2014) and Ngantweni (2014), four senior police officers from four different countries in the world were purposively interviewed to obtain their views on the implementation of democratic policing, based on their experience in policing. In response to the main question, "Do you have democratic

policing in your country?" the police officers confirmed the importance of democratic policing by responding as follows:

Respondent 1 stated: "Yes, I believe that it is the democratic right of those elected in power to determine the relationship between the police, and the public, and that's been one of our great strengths since the days of Sir Robert Peel" (Heslop, 2014, p. 32).

Respondent 2 stated: "Yes, we need to be the protectors, because once you give up that right, you are not getting it back. That's an awesome responsibility we should not take lightly" (Chapman, 2014, p. 68).

Respondent 3 stated: "Yes, the term democratic policing emphasises that policing must support democratic values including, but not limited to, inalienable human rights such as life, liberty, and the pursuit of happiness" (Aremu, 2014, p. 119).

Respondent 4 stated: "Yes, at a fundamental level, democracy talks about involving people. As the police, we are not elected, but appointed to deliver a service. There should be no issues about partnership development and promoting a human rights ethos in our policing" (Ngantweni, 2014, p. 198).

Recommendations

The following strategies are recommended towards realising a democratic order for policing in South Africa.

Strategy 1: Police visibility

There are considerable demands on and expectations of policing in South Africa. Most demands come from the taxpayers and those who allocate funds for policing. These investors are concerned with their return on investment in policing. The most frequent question asked, is: "Are we getting a return on our investment?" The art of police management in the 21st century is to meet the public's needs efficiently, in part, by involving the public in policing, and also, to some extent, by targeting policing resources to the most important issues. The first and major expectation that the public has of its police is that the police should always be available. This expectation is certainly addressed, as the police do indeed provide a 24-hour service, seven days a week, 365 days a year, however, their visibility seems to be a problem in many communities (Edwards, 2011, p. 142-148).

Strategy 2: Legitimacy

In the early 1990s, policing had a lot to do with political legitimacy. This had a great deal to do with the capacity of police officials as agents of the government (Radelet 1977, p. 429; Du Preez 1991, p. 3). Since 1994, there has been some transformation brought about by the new political order, but this has not assisted in creating democratic policing. This only helped to change policing by creating employment for the disadvantaged groups and elevating disadvantaged officers to senior ranks; thus, bloating the top police structures and weakening the policing capacity at grassroots level. Since 1994, leadership has done very little to decolonise the police; instead, they came up with uninformed policing strategies, for example, by taking policing away from the people by centralising specialised

policing functions, where it is out of reach of communities, and by adopting a policy of going back to basics, which, in reality, entrenches colonial policing. This was done without consultation with or the consent of the communities, which gave rise to a new form of legitimacy crisis for the police service. Such a legitimacy crisis is presently having an adverse effect on policing. Because of this legitimacy crisis, the police officer has to decide whether to do community policing using his/her own discretion or to work under orders of political masters and pressure groups (Smit 1991, p. 10-12).

According to Pike (1985, p.155), neither politicians nor pressure groups may tell the police what decisions to take or what methods to employ; whether to enforce the law or not – in a particular case – or how to investigate a particular offence. The exercise of police judgment has to be independent, similar to the exercise of professional judgment by a doctor or lawyer. If it is not, the way is opened to manipulation and abuse of the law; whether for political or private ends. Although some sectors of the police service strive to improve their credibility by rendering an unbiased, professional service to all people in South Africa, there are still many who do not understand the concept of democratic policing. Problems mainly arise during the performance of crime-oriented policing and order maintenance functions.

Strategy 3: Independence and accountability

In a colonial system of policing, we still have politically partisan decision making, which leaves very little room for the independence of the police so that they can be held accountable for their actions. This is still the norm in the SAPS and in many other countries where entrenched colonial systems of policing are in existence (Verma, 2005). Democratic and accountable policing are regarded as important hallmarks of any democracy. In a healthy democracy, a police officer is there to protect and support the rights of the community, not to repress or curtail freedom and ensure power for the governing regime. Holding the police accountable for their plans, actions and decisions, provides the necessary balance to the exercise of professional discretion by these officials. Accountability also provides a means by which the relationship between the police and the state can be kept under scrutiny – a way of providing insulation against internal and external interference with the proper functioning of the police (Montesh, & Dintwe, 2008, p. 163).

Strategy 4: Police discretion

Police discretion has always been a debatable issue in policing. Although this is mainly left to the good sense, training and judgment of the police officer, it should be qualified by a number of factors and conditions. Discretion should be applied firmly and fairly and with sensitivity. It should not conflict with any principle of legality and the rule of law. Police discretion is an element of the principle of consent and balance. By using the principle of consent and balance, police officers will be able to act consistently so as to reduce the risk of abuse and arbitrary action (Pike, 1985, p.63).

Strategy 5: Policing models to combat contact crimes involving violence and property

- *Prevention:* Prevention of crime is the responsibility of everyone in the country, not only the police. Socio-economic conditions, inequality, child abuse, negative parenting, easy access to firearms, alcohol/drug abuse and corruption in the criminal justice system are some of the societal factors that support violence

(Seedat, Van Niekerk, Suffla, & Rateele, 2009) Community education should be reinforced to reduce contact crimes in society. Community education should be aggressively implemented in communities, schools and at workplaces (Tulane University, 2015; Govender, 2015, p. 466). Each police station area in South Africa, should develop a crime risk analysis document for the development of strategies to reduce prevalent crimes (Marais, 2003, p. 37-48).

- *Units with specialised knowledge and skills:* The SAPS should consist of units with specialised knowledge and skills to address different forms of prevalent crimes including organised crime at police station level. These units should be seen as a necessity, given the complexities of the various types of contact and property-related crimes confronting society (Burger, 2015, p. 1).
- *Counselling of victims and witnesses:* A multi-agency approach should be introduced to address the biological, psychological and social factors giving rise to the commission of crimes and to further provide counselling and treatment for both the victim and the witnesses, where necessary (Sheptycki, 1993; Thomas, 2007; Thorpe, 2014).
- *Crime intelligence-led policing:* Crime intelligence led policing entails getting to know the enemy's activities, a way of handling new and complex processes, or simply the application of knowledge or information to deal with a given task (Marias, 2003; Govender, 2015)
- *International relations and the harmonisation of legislation:* After the commission of the crime, criminals move to a country where extradition is difficult, it is therefore important to build good international relations and ensure harmonisation of domestic laws (Newburn, Williamson, & Wright, 2008; Ratcliffe, 2009).

Strategy 6: Training, development and education

To become specialised, police officers will need to improve their knowledge, skills and understanding of policing crimes in a democracy. This can be done through training, education and development (Newburn et al., 2008, p. 628).

Conclusion

To enhance service delivery, the right calibre of police officers must be recruited (Civilian Secretariat of Police, 2013, p. 43). In a democracy, it is vital for communities to identify challenges and become involved in the Community Police Forum (CPF) and work together with the police (Soobramoney, 2015, p.4). Police officers should see themselves as protectors of constitutional rights. This should be seen as being the main function of the police (Barnard, 2011). Policing crime should start with minimising the opportunities and disturbing the criminal's state of readiness to be involved in crime. There is widespread concern about the quality of service and the overall professional conduct of the police service. Sometimes, the public view the police as incompetent, corrupt and poorly trained, and they feel that the criminal justice system is in turmoil. This leads to mistrust and lack of confidence in the ability of the criminal justice system to deal effectively with society's concerns of safety and security.

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