

# **Organised crime**

**A study from the Cape Flats**

**By**  
**ANDRE STANDING**

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The book is dedicated to Sophie.



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# Preface

This is a book about gangs and organised crime on the Cape Flats. Some people may be disappointed that it does not contain more stories and anecdotes. However, the aim of the book is more theoretical. It attempts to describe popular assumptions regarding these terms in South Africa and in doing so it explores contested definitions, explanations and policy debates.

Before the mid 1990s, South Africa did not have a problem with organised crime. At least, it was not an issue that had been identified as being a serious threat to the country. Yet two years after the first general elections there was a steady growth in newspaper articles and academic publications all carrying the same message – since the ending of apartheid, crime had increased in South Africa and there had been a proliferation of sophisticated organised crime groups. By 2001, the then Minister for Safety and Security, the late Steve Tshwete, described how organised crime had “extended its tentacles into South Africa after the country’s return to the global arena”.<sup>1</sup> Statistics on the scale of the threat were alarming. Some reported that the number of organised criminal groups operating in the country had risen to over 800 by 1998.

One of the regions allegedly worst affected by the expansion of organised crime was the Cape Flats – a sprawling and impoverished suburb of Cape Town that was used to accommodate so-called coloured people under apartheid. Street gangs had been a longstanding feature of this area and their genesis is usually traced to the forced removal of coloured people from the city centre, which occurred throughout the 1960s and 1970s. According to most reports, during the mid-1990s these gangs went through a period of profound change, caused by new criminal opportunities provided inadvertently by the process of transition. To some, at least, the Cape Flats’ gangs went through a process of *corporatisation*, as is alleged to have happened to street gangs in the US during the late 1980s. The men who run these criminal organisations are well-known multi-millionaires who terrorise their communities and evade prosecution through witness intimidation and corruption. Such is the influence of these criminal groups that the authorities estimate they are responsible for as much as 70% of all crime on the Flats, a place which is infamous worldwide for being one of the most dangerous and violent city areas.

Leading South African scholars argued that the rise of organised crime in the country required a specialised and concerted response by the state. This was a matter of urgency as the threat posed by organised crime was not only through

violence and the supply noxious goods and services, such as drugs, but also through corruption, the laundering of dirty money and the penetration of the legal economy. Such threats, it was argued, meant organised crime posed one of *the* major dangers to democracy in South Africa as well as to the success of the struggling economy. Indeed, it was repeatedly argued that transitional countries are most vulnerable to organised crime, as evident by rampant organised crime in Russia in the early 1990s.

Heeding this warning, the South African authorities put in place far-reaching legislation and set up a series of new crime-fighting agencies. The most important development was the Prevention of Organised Crime Act, passed in 1998, which permitted courts to administer extremely harsh penalties for those found to be members of organised crime groups or criminal gangs. It also increased the penalties for those found guilty of money laundering and allowed the state to seize the assets of those involved in organised crime through civil proceedings.

Not all sources are optimistic that such measures are sufficient to combat organised crime and gangs in South Africa; indeed, there is sufficient evidence that they still flourish on the Cape Flats. Nevertheless, there has been virtually unanimous agreement in South Africa on the conceptualisation of the problem.

As is described in chapter two, the dominant conceptualisation of organised crime and gangs in South Africa conforms to an orthodox interpretation that has its origins in the United States. There is a tendency to depict organised crime as sinister criminal entities that exist outside mainstream society. Their genesis is located in opportunities 'inadvertently' created by societal progress, such as improved information technology and travel, or the temporary weakening of law enforcement efficiency. Their threat is based on the assumption that not only do they create illegal markets, but they also corrupt an otherwise healthy body politic and undermine the sanctity of the legal economy by buying up legal businesses for money laundering purposes. This view is referred to in this study as the 'parasitic model'.

Core assumptions of the parasitic model are discussed in each of the book's main analytical chapters. In doing so, an alternative understanding is offered. Chapter three looks at the organisation of the drug economy on the Cape Flats and considers the role of the region's street gangs, as well as the significance and nature of police corruption. Chapter four considers the impact of organised crime on the formal economy and in particular, it deals with the claim that organised crime undermines the functioning of the market economy. Chapter five deals with the relationship between leading figures in organised crime on the Cape Flats and their communities and considers the argument that organised crime threatens democracy. Chapter six draws on the preceding chapters to critique current policy

thinking and suggests that not only is it unlikely to address the underlying harms associated with organised crime and gangs, but in many respects, it may also make matters worse.

The core argument of the book is that a parasitic model is seductive for policy makers, but it is problematic when scrutinised. It is based on muddled definitions and poor empirical evidence but more importantly, it presents a remarkably apolitical interpretation. Indeed, those adhering to the parasitic model are able to discuss organised crime and gangs with little reference to the environment in which these phenomena exist – criminal groups represent social viruses and if sufficient resources are given to the ‘good guys’, society can be cured of the problem.

#### A NOTE ON METHODS

Primary data for this book has been collated largely through semi-structured interviews, although quantitative data derived from surveys is also incorporated. Such data includes a survey of business on the Cape Flats, which was designed to uncover the extent and nature of protection rackets. Chapter five describes how the survey was not entirely successful, partly because we suspect that people living and working on the Cape Flats are not willing to divulge sensitive and potentially dangerous information to strangers with clipboards. Unfortunately, the same dilemma undermines less formal interviews, even when a degree of trust seems to have been established. Philippe Bourgois puts it concisely:

Traditional social science research techniques...cannot access with any degree of accuracy the people who survive in the underground economy...Most drug users and drug dealers distrust representatives of mainstream society and will not reveal their intimate experiences of substance abuse or criminal enterprise to a stranger on a survey instrument, no matter how sensitive or friendly the interviewer may be.<sup>2</sup>

The aim of this book is not only to better understand organised crime and gangs on the Cape Flats, but also to examine the assumptions and views of those in authority about these concepts. The research has therefore included interviews and interaction with policy makers, particularly at the Department of Community Safety and at the various agencies of law enforcement, including the Scorpions, the Asset Forfeiture Unit and the South African Police Service. In addition to interviews with people from these organisations, I also organised seminars in Cape Town that were attended by key stakeholders, where aspects of the study were discussed and debates on policy thinking were held.

Research on the Cape Flats has involved meeting and interviewing members of gangs and leading drug merchants. Many of these interviews were conducted 'in the field', but it was also discovered that interviews with members of gangs and criminal organisations held in prison – where most spend time – were particularly productive, although not without several methodological concerns. Of particular benefit to the research were structured interviews with gang members held in a private detention centre, known as a 'place of safety'. Unlike the large and brutal state-run prisons, this private centre appeared less stressful and was less intimidating, both for the interviewer and interviewees. Several interviews were also conducted in Malmesbury prison, including repeat interviews with a high-ranking member of the Prison Number who was also employed as a 'hit man' in one of the Cape's largest street gangs.

Gaining access to senior figures in organised crime on the Cape Flats – the men sometimes referred to as 'drug merchants' – was no easy task. However, I was greatly facilitated by key contacts that were made during the research, notably a pastor on the Cape Flats who is well known among gangs and drug dealers for his work in mediating conflicts. He introduced me to several drug merchants and his personal assurances to them that I was not working for the police undoubtedly helped to set up interviews.

From these initial contacts, the research proceeded along the lines of the 'snowball sampling method'. Although it is unstructured and opportunistic, MacGaffey and Bazenguissa-Ganga, who studied Congolese traders in the informal economy, argue that 'snowball sampling', is the "best method for research on activity outside the law".<sup>3</sup> Indeed, I have found obvious sources of information have frequently proved disappointing, whereas chance meetings have produced unexpected access to more in-depth and apparently reliable information. For example, the secretary of a businessperson interviewed for this study contacted me after overhearing our conversation. She was keen to talk to me as she had been intimately involved with two of the Cape's infamous drug merchants and knew many others. She was also a former member of the police and spoke freely about corruption and the dynamics of the drug trade. She proved an excellent source of information.

In addition to meeting those actively implicated in crime on the Cape Flats, the fieldwork involved speaking to a wide range of community members, including schoolteachers, social workers, businesspeople and members of local NGOs, as well as academics in Cape Town, fellow researchers and lawyers. An interesting finding, one regrettably discovered late in the fieldwork, was that the lawyers of the leading criminal figures in Cape Town have immense knowledge of organised crime, as well as of the weakness of existing legislation.

During the course of the research, which was mostly focused on the Cape Flats, I also spent three weeks in Atlantis. There I employed an assistant to assist in arranging interviews. She was also able to explain Atlantis' history from her past experience in the trade union movement. One of the more bizarre days we spent together involved interviewing young men in a nearby prison – surprisingly, the prison authorities left us alone for several hours in an office crammed with approximately 30 tattooed men who were eager to recount stories of their violent past and their position in the prison gangs. My guide was fearless and translated their stories for me (from Afrikaans to English) with much skill.

All interviews I have conducted alone have been in English. A minority of interviews were taped. In most cases, interviews were noted. Other interactions where there was no pen or paper proved some of the most interesting and this suggests that the process of a formal interview can be inhibiting. The majority of people interviewed were ambivalent about being cited in this study. Some requested anonymity. A consistent approach has been favoured and therefore all quotes from interviews are anonymous, although where relevant the context and essential characteristics of the interviewee are stated.

Alongside data gleaned from interviews, the book draws on the considerable coverage given to gangs and crime in the local press. Journalistic accounts are, of course, vulnerable to being sensationalist and simplistic; however, both the *Cape Argus* and the *Cape Times* offer rich pickings for the researcher through largely factual coverage of key events as well as through interviews with and articles by leading local commentators and policy makers.

Given the myriad practical problems of doing research on organised crime and gangs on the Cape Flats, it would be misleading to suggest fieldwork for this study has provided definitive answers to some of the main research questions, or that the fieldwork research could not have been bettered significantly. Information gleaned from interviews is frequently limited and of dubious validity and the fault may partly lie with my skills as an interviewer. Triangulation was attempted where possible, but even then, one is left wondering whether several sources repeat the same myth or piece of misinformation. Ultimately, most research on organised crime, particularly at the levels of drug wholesaling and distribution, must rely on second-hand information and rumours. Donald Cressey – one of the most well respected and influential scholars of organised crime – admitted that “our knowledge of the structure that makes organised crime organised is somewhat comparable to the knowledge of Standard Oil that could be gleaned from interviews with gas station attendants”.<sup>4</sup> It is hoped that the book uses primary and secondary data cautiously and that this is evident in the text.

#### NOTES

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- 2 P Bourgois, *In search of respect: Selling crack in El Barrio*, Cambridge University Press, Cambridge, 2003, p 12.
- 3 J MacGaffey & R Bazenguissa-Ganga, *Congo-Paris: Transnational traders on the margins of the law* Indiana University Press, Indianapolis, 2000.
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## List of abbreviations

AFU	Asset Forfeiture Unit
ANC	African National Congress
BAC	Business Against Crime
CAF	Civil asset forfeiture
CARA	Criminal Asset Recovery Account
CLPP	Coloured Labour Preference Policy
CORE	Community Outreach Forum
DA	Democratic Alliance
DCS	Department of Community Safety
GEAR	Growth, Employment and Redistribution
ID	Independent Democrats
IDASA	Institute for Democracy in South Africa
IMF	International Monetary Fund
ISS	Institute for Security Studies
JFP	Joint Forum on Policing
MNC	multi-national corporation
NIA	National Intelligence Agency
NIMSS	National Injury Mortality Surveillance System
NP	National Party
NNP	New National Party
OCU	Organised Crime Unit
PAGAD	People Against Gangsterism and Drugs
POCA	Prevention of Organised Crime Act
POS	IDASA's Public Opinion Service
RICO	Racketeer Influenced and Corrupt Organizations Statute
SADF	South African Defence Force
SALDRU	Southern Africa Labour and Development Research Unit
SAP	South African Police
SAPS	South African Police Service
STEP	Street Terrorism Enforcement and Prevention Act
TRC	Truth and Reconciliation Commission
UN	United Nations
US	United States
WECALTA	Western Cape Liquor Traders Association



# Introduction

## HISTORICAL CONTEXT

The theme of this study requires some historical background as well as a brief description of the wider social, political and economic context of the Cape Flats and the 'coloured' population that has lived there for the past 50 years. In the following pages, I first describe the impact of apartheid in shaping the city and then look at several developments during this era that have influenced gangs and organised crime in the present. I then provide a description of Cape Town after apartheid, which offers a context for the proceeding chapters and analysis.

Throughout this study I refer to *coloured people*. The validity of this label is highly contentious and so, too, is its history. It seems uncontroversial to say that the diverse population that later become known simply as 'the coloureds' were a product of European conquest in Southern Africa that began in the mid seventeenth century. Those referred to as 'coloureds' or the 'mixed race' by the European settlers in the nineteenth century comprised the remaining indigenous inhabitants of that region, the Khoisan, who had been systematically wiped out and displaced by the Europeans, and large numbers of slaves brought from Angola, Guinea, Madagascar, East Africa and Indonesia.

The coloured population has always been *given* an ambiguous, marginal status by the white authorities, which is at the heart of the controversy surrounding the label. For the ruling elite, they were considered 'non-white' and predominately 'non-native', a view that was sustained because many coloureds, if not most, traced their origins to foreign lands and were considered to have been brought up within a Europeanised culture. The coloured population was therefore distinguished from the whites, although in reality Cape Town's population was always diverse and included a wide range of skin colours – in the colonial era the line drawn between coloureds and whites was an arbitrary one, influenced by wealth, religion and status as well as crude racial criteria. Coloureds were also distinguished from the populous black people, who by the end of the nineteenth century had been displaced through armed conflict into small patches of land, known as the 'native reserves', throughout the eastern and northern parts of South Africa.

Although from 1834 onwards coloureds and whites were equal in the eyes of the law, in practice there was rampant racism, which served to keep most people with darker skins poor. Despite this predicament, the white government tried to win the support of coloureds in the hope of pre-empting their formation of political

alliances with black South Africans. It was for this reason that up until the 1930s the government argued against formally segregating the coloured population. Hertzog, the then Prime Minister, declared:

It must not be lost sight of that, in the Case of the Cape Coloured, we have to do with a class of our population which, in many respects, are close to the Europeans...he has an outlook on life which is in fact that of the European and not of the native; and speaks the language of the European as his mother tongue. In his case, there can be no segregation.<sup>1</sup>

This policy gradually changed from the 1930s onwards, when social Darwinist theory was in the ascendancy and stronger measures were taken to marginalise coloured people from the economy and politics. This agenda gained pace during apartheid, as will be described.

Although such measures are now dismantled, the legacy of dividing the country into distinct 'racial' groups is profound. Official statistics still refer to 'coloureds' as opposed to 'blacks' and 'whites' and there is a widespread feeling that coloureds, particularly the working class, distrust black African rule just as they previously distrusted white rule. Yet some argue that the term 'coloured' should no longer exist and is best discussed as an historical artefact of South Africa's obscene racist history. Others within the coloured community argue differently and promote a celebration of coloured history and cultural events. Those within this community who prefer to identify themselves as distinct religious or ethnic groups create yet another dynamic, particularly as there are class tensions underlying these debates.<sup>2</sup>

The dispute regarding the validity of the term 'coloured' is not a focus of this study and it is hoped that the divisive issue of coloured identity is not treated glibly as a consequence. However, it seems an important point to stress that in South Africa previous racial categorisations are still part of the country's lived reality. On the Cape Flats, there are distinct areas which are considered coloured, both by outsiders and residents, just as there are areas which are considered almost entirely to be the home of black South Africans: there are certainly no white communities living there.

#### APARTHEID CAPE TOWN

By the late 1940s, prior to the success of the National Party (NP) and the onslaught of apartheid, Cape Town was already characterised by a profound polarisation of wealth and power. The majority of both blacks and coloureds were poor and systematically discriminated against, although blacks seemed to fare worse than coloureds and they were subject to increasingly repressive controls designed to restrict their numbers in Cape Town.

During this time there was a deterioration of living standards among 'non-whites', made worse by a rapidly growing population. According to official statistics, there was a continual growth in Cape Town's population throughout the nineteenth and twentieth centuries, but there were decades when the coloured population grew particularly dramatically. For instance, between 1904 and 1911, it increased from just over 30,000 to nearly 81,000, while from 1946 to 1959 the increase was from 171,000 to 307,000. In the same period the white population remained largely unchanged, only increasing from 180,000 to 190,000.<sup>3</sup> It is believed that white support for apartheid was in part caused by this numerical shift in the population, leading to a feeling of their being swamped by the 'non-whites'.

Joined by many thousands of rural migrants, the large numbers of urban poor became crammed into increasingly dilapidated communities in the centre of town. The most famous and populous was known as District Six. Cape Town was far more integrated than the other three main cities of South Africa, with 37% of the city's residential area being defined as 'mixed' in 1936, but even before apartheid it was deeply divided. Those that could not find space in the central housing districts began forming squatter camps on the Cape Flats<sup>4</sup> – the sandy wind-swept area outside Cape Town that was later to become home to thousands more displaced black and coloured people – which some imagined to be the new 'homeland' for the coloureds.

The policy of race separation, which was at the heart of the new apartheid government elected in 1948, required greater clarity as to who, exactly, the coloureds were. Up until the era of apartheid, coloureds were not defined in legal terms and their status and origin were referred to somewhat ambiguously. Apartheid required greater clarity in order to enforce racial divisions in almost all spheres of social and economic life. This was achieved through several pieces of legislation that divided the South African population between whites, blacks, coloureds and Asians, but it was also achieved ideologically by pushing a new identity onto coloureds. Whereas coloureds had previously been viewed as part of the Europeanised population, prominent apartheid leaders, such as Verwoerd, referred to them as a '*volk in wording*' – a nation in the making.<sup>5</sup> Legal definitions of coloured people were noteworthy for being non-defining. A coloured person was simply a 'non-white' and a 'non-native'; the apartheid regime could find no other way of defining them.

The distinction between coloureds and whites was clearly made to protect the purity of the imagined white race although it was claimed that separate development was a policy designed to meet the aspirations of all groups, "preventing the domination of some by others and eliminating points of conflict".<sup>6</sup> Defining coloureds was therefore part of a *process* of separating the long-standing intermeshing of people with different skin colours. Any white person who had married a coloured person became legally defined as coloured and both sex and marriage between races were outlawed.

Imposing racial classifications was a tragic and obscene project, resulting in the white authorities deploying a bizarre and insulting mix of identification methods and criteria. It was testament to South Africa's cosmopolitan history that the apartheid government had to resort to many arbitrary indicators to create an artificial divide between South Africans. Initially it seems that Capetonians did not appreciate the importance of being defined one way or the other. However, as it was realised that belonging to the white group brought greater privileges and social security, many people tried to prove their 'whiteness' to arbitration panels. Many formerly black South Africans may have also passed into the coloured group, as this brought them slightly better treatment from the apartheid state.

At the heart of apartheid policy was consolidating the spatial separation of races. This project, perhaps above all others, represented the cruellest policy towards the coloureds, one that invoked the most condemnation then and still does now. It was not, however, a policy that apartheid city planners imagined in 1948 – plans to restructure Cape Town so that its inner-city slums would make way for bourgeois real estate had been considered for many years prior to apartheid.<sup>7</sup>

The policy of moving the coloured people living in Cape Town to new suburban communities outside the city centre is referred to as 'forced removals' and was legislated in the Group Areas Act of 1950. Large areas of Cape Town populated with a diverse mix of people were reinvented as 'whites only' areas. 'Non-whites' living in those areas were served eviction notices, some were physically removed and many were given scant compensation for their lost properties. For the large number of people living in the run-down and overcrowded slums of Cape Town, forced removals were presented as a form of 'urban renewal', or, as Verwoerd preferred, 'community development'. People were promised a better life in 'coloured only' areas on the Cape Flats, where improved housing was assured alongside well-developed communities with modern amenities.

There was an element of truth in this promise. It seems probable that a significant number of people living in intolerable conditions both in Cape Town and in squatter camps were indeed given marginally improved housing on the Cape Flats during the 1960s and 1970s. But widespread injustice, as well as the fanatical racial motivation behind Group Areas removals, was too apparent to allow this project to go down in history as a benign form of urban regeneration. There were other, more sinister dimensions to the process. On an economic level, forced removals gave many white property owners access to prime real estate for a fraction of its real cost. Within a short space of time, dilapidated slums that were considered a health hazard for coloureds and too costly to renovate had been gentrified for new white owners.<sup>8</sup> On a strategic level, placing coloureds and blacks in large communities outside the white city centre meant they could be easily contained and controlled, particularly in the event of political disorder. Indeed, residential

areas on the Cape Flats were designed in such a way as to limit the number of points of exit and entry, meaning the inhabitants could be easily policed and cordoned off. In contrast, the old slum areas of Cape Town were considered “major military hazards”.<sup>9</sup> It seems the white authorities were well aware of the potential for riots and armed protest as a result of apartheid.

Partly because it was a contested policy, even among white civil servants, and partly because building new accommodation was a slow process, forced removals took several decades to be fully realised. Each year between the late 1960s and the early 1980s, on average 3,000 coloured families were resettled. In sum, by 1982 official statistics showed that over 50,000 families had been displaced. The last of the 8,000 families living in District Six were forced out in the mid 1970s and it was only then that the buildings of District Six were razed – an act that consolidated District Six into a profound symbol of coloured people’s lost past.

The housing shortage that slowed the process of coloured community development reached crisis proportions by the mid 1970s. In 1974 the government estimated that the shortage was roughly 40,000 houses, although meanwhile, several thousand homes remained empty in ‘white’ areas. The government blamed the exceptionally high growth rate of the coloured population as well as continuing migration to the city by the rural poor. In their attempts to speed up the provision of housing the authorities were accused of cutting corners and stretching already inadequate funds. As a result, displaced coloured people – 90% of whom either rented or bought state accommodation – were offered shoddy buildings, many of which were in a state of disrepair almost immediately after they were declared fit for habitation. Properties in poorer areas were crammed with extended families of several generations. Those who fell behind in their rent or who were waiting for new accommodation added to a growing number of illegal squatters. In 1980 there were over 30,000 coloured squatter huts registered with the authorities, but many others may not have been registered.<sup>10</sup>

The government made little attempt to provide community infrastructure in the new housing estates on the Cape Flats. A summary report of the Theron Commission, published in 1976, painted a stark picture:

While Dr H. F. Verwoerd had preferred the name ‘Community Development’ to ‘Housing’, because he favoured the building of healthy communities and not simply the provision of housing, unfortunately, very little attention had been paid to this aspect. In the majority of coloured communities, which had for years formed part of ‘white towns or cities’, it was very noticeable that besides one or more churches and schools there were usually no facilities available for convivial communication and relaxation. One witness declared; ‘The only convivial gathering place in our community is the shebeen’. The [Commission] pointed

out that the streets were for the most part not attended to; there were no proper pavements; street lighting was absent, widely spread or ineffective; trees or other plant growth were not to be seen; open spaces meant to be playgrounds were used for dumping rubbish; rubbish and night soil removal was sporadic...The result was, that in spite of the reasonably good houses which were sometimes erected, the area presented a dismal appearance.<sup>11</sup>

The same report lamented that sport and recreation facilities had similarly been neglected. For example, a number of cinemas that had been popular with coloured people closed down when areas were reclassified as either only for whites or only for coloureds. Cinemas during this time were considered the major focus of entertainment so this was a significant loss for coloured people. Reservation of seats for whites in 'mixed cinemas' meant that by the mid 1970s there were only 20 cinemas that coloured people could attend in the entire region.<sup>12</sup>

The spatial divisions of apartheid Cape Town were reinforced by labour policy. The NP government came to power with the express aim of continuing the development of a 'civilised labour policy'. The vision was of a labour force structured to enhance white economic supremacy, but it was also intended to position the coloureds securely above the black population. The motives were clear: in order to create a white homeland in the Cape, the black population were to be kept at a minimum through strict labour regulations and the coloured population were to be given preferential treatment so that they would ally themselves with the white authorities and not with the large mass of black South Africans. The apartheid authorities claimed that by segregating the labour market, competition for jobs between races would be curtailed and so would the potential for interracial friction. This strategy was termed the Coloured Labour Preference Policy (CLPP), although, as Horner argued, "Coloured Labour Preference is not so much pro-coloured as anti-African".<sup>13</sup>

It is, however, misleading to imagine that the CLPP managed to create a neat racial hierarchy of wealth. In fact, during the era of the CLPP, the coloured population became more stratified and contained a growing number of structurally unemployed poor. According to Ian Goldin, stereotypes regarding coloured labour were the main cause of this situation. White employers believed that coloured people made poor employees, particularly for unskilled manual jobs. In contrast, African labour was seen as more reliable, stronger and more productive. Industry found ways to evade regulations favouring coloured people in the labour market and tended to employ black Africans for much unskilled work. Thus, whereas the CLPP helped protect the coloured middle class and skilled labour force from black competition, coloured people with little training or education made up a large

part of the most poverty-stricken in the Cape. A survey in 1984 showed the vivid racial division of labour in Cape Town that apartheid had managed to achieve. Unskilled labour was 54% black and 46% coloured, with no white representation at all. Semi-skilled labour was 5% black, 85% coloured and 10% white. Skilled labour was 8% black, 60% coloured and 32% white. Of the managerial class, 0.5% were black, 18% were coloured and 81% were white.<sup>14</sup>

The division of labour clearly caused a continuing racial polarisation of wealth in Cape Town. This was exacerbated by several other factors. Spatial segregation meant that coloureds and blacks tended to live further away from their place of employment, necessitating greater expenditure on travel, which was burdensome for many; particularly aggrieved were those who had previously lived in the city centre. In addition, spending on welfare and social security was racially skewed. Consider, for instance, that in 1974 state pensions for whites were R768 per year compared with R408 for coloureds, while for maintenance grants the figures were R768 and R308 for whites and coloureds respectively.<sup>15</sup>

#### ATLANTIS – AN APARTHEID FORDIST DREAM

Atlantis, situated approximately 50km outside Cape Town on the west coast, is a project that most vividly illustrates apartheid spatial planning and the CLPP. Atlantis did not exist until the late 1970s when it was designated as an innovative area for coloured occupation and development. Atlantis was to be a completely new town, designed to put a halt to coloured migration into Cape Town and to help house several thousand coloured families who were still waiting for homes in the city. It was also seen as central to the revival of the Western Cape economy and was going to be the site of a major industrial growth zone. The plan at the outset was that by 2010 Atlantis would be home to approximately half a million coloured people. It was therefore unsurprising that critics dubbed Atlantis ‘the new homeland for the coloureds’ – a ghastly ideological creation of apartheid.

Industrialists were lured to Atlantis by generous incentive packages including subsidies, tax cuts and guarantees of state contracts. Coloured people (the labour force) were enticed by similar promises to those made about new developments on the Cape Flats – Atlantis was going to be a modern town, with well-developed infrastructure, affordable housing, good schools and above all, secure employment prospects. This utopian vision was routinely proclaimed by the authorities; the project director of the Atlantis Development Committee declared that “Atlantis will be one of the most beautiful cities in the world” and in a newspaper interview in 1986 the same commentator described how, “for the first time anywhere in South Africa, coloured people will be able to have the waves lapping up on their

doorsteps".<sup>16</sup> But Atlantis was doomed from the beginning and the government's sales-pitch was shown to be a monumental fraud.

Atlantis managed to attract large numbers of people and companies, particularly from the manufacturing sector. By 1986 there were 6,410 state homes built and approximately 1,800 additional people were working in Atlantis but living either in Cape Town or in surrounding rural towns. However, from the start Atlantis received widespread condemnation due to the appalling levels of poverty and insecurity. Unemployment was high, the average wage income was too low for a significant number of residents to afford housing rents and the cost of living was much higher than in Cape Town. After a relative boom in the economy during the early 1980s, a national recession began in 1984 and meant that several companies closed or relocated back to Cape Town – government subsidies had been slashed and without them, Atlantis proved an uneconomical prospect for business. In 1986 a survey of Atlantis conducted by the Southern Africa Labour and Development Research Unit (SALDRU) painted a bleak picture.<sup>17</sup> The following are some of the key observations from this work:

- Fifty per cent of the residents of Atlantis were living below the conservatively established Minimum Living Level. Two in three adults earned less than R350 per month.
- The unemployment rate was 27% and unemployment among those under the age of 21 – more than half of the population – was 47%.
- Thirty per cent of the employed residents of Atlantis were working in Cape Town, which meant a significant amount of their time and money was spent on commuting.
- Forty per cent of residents had failed to meet payments for electricity and 30% for water bills, while 45% were struggling to meet payments on hire-purchase schemes. Thirteen per cent of households were in arrears on all major accounts. Evictions were therefore frequent.
- A third of all adults had no income whatsoever, as did 7.5% of all households.

#### **GANGSTERISM AND ORGANISED CRIME ON THE CAPE FLATS**

There were several developments in Cape Town under apartheid that are important to understanding organised crime and gangs in the present. Three issues stand out: the emergence of two highly profitable criminal industries, the reported prevalence of street gangs on the Cape Flats and the rise in importance of prison gangs. Each requires a brief overview.

## PATERNALISM AND PROHIBITION

The policy of giving coloured people so-called preferential treatment over blacks was perhaps the most vivid example of a wider sentiment towards coloured people by whites. Despite the clear intention to segregate whites from coloureds and to make the coloureds a subservient class, a significant number of white authorities had long fostered a paternalistic attitude towards the coloureds based on patronising stereotypes. John Western, who produced one of the most detailed surveys of coloured people's treatment under apartheid, reported on the frequent reference to '*ons bruinmense*', an Afrikaans term meaning 'our brown people'. Western termed this the "imperial possessive".<sup>18</sup> Sustaining this view were the pervasive stereotypes about coloured weaknesses – that they are prone to excessive drinking, violence, laziness and hedonism, that they have a carefree attitude which makes them childish and that coloured men often act like the 'happy jester'.

White paternalism has been used to explain specific policies towards the coloureds under apartheid. So, for example, abhorrence at the level of broken families and youth delinquency meant large numbers of social workers were dispatched onto the Cape Flats to save women and children from their drunken husbands and fathers.<sup>19</sup> The upshot was a tendency to send many young coloured boys to reformatories – draconian institutions that attempted, quite literally, to whip coloured boys into shape. In 1980 there were 2,500 coloured youths so incarcerated on any given day.<sup>20</sup>

The apartheid authorities were also concerned with curbing excessive alcohol consumption among coloured people. Thus, whereas whites had easy access to alcohol and drinking establishments, all alcohol for consumption by coloured people had to be bought from a small number of inconveniently situated state-owned outlets, approximately 20 servicing the entire Cape Flats.<sup>21</sup> These 'bottle stores' were not allowed to offer credit to 'non-whites', nor any form of entertainment including music and dancing.

However, the project to control alcohol consumption in the coloured ghettos backfired spectacularly and gave rise to a large criminalised market. Despite the moral condemnation of drinking among the coloured working class, efforts to enforce the laws were half-hearted. Many consider this to have been inevitable as the influential alcohol producers clearly benefited from a burgeoning informal market for large quantities of low-grade wine. A relatively safe environment was thus created for enterprising individuals on the Cape Flats to profit from the state's flawed regulations. Some of those who had access to transport and capital bought substantial quantities of alcohol from the state-owned stores and redistributed it through a myriad of illegal outlets, known as 'shebeens'. By the 1980s there were

several thousand shebeens on the Cape Flats and, due to the dreadful local facilities for entertainment and recreation, they became the focal point for socialising.

As is the tendency of criminalised industries, the shebeen industry became characterised by violent and morally reprehensible business methods. In particular, the inability to turn to legitimate authorities to sort out disputes meant shebeen owners required the ability to act violently in order to provide protection against their rivals or to help withstand demands for protection money from local gangs. Shebeen owners also became notorious for encouraging patrons to take alcohol on credit and then aggressively claiming their money, either on payday or when social grants were paid out. A commonly heard story on the Cape Flats, to this day, involves shebeen thugs harassing families for their grant money in order to pay for unemployed fathers' outstanding drinking debts.

Alongside alcohol, a second failed experiment in prohibition added greatly to the size and profitability of the criminal economy on the Cape Flats and to the prevalence of further substance abuse and violence. This involved the criminalisation of Mandrax in the late 1970s. Prior to its criminalisation, Mandrax was prescribed as a sedative and was available cheaply in pharmacies, costing approximately five cents per tablet. Although intended to be used as a sleeping pill, Mandrax became popular as a recreational drug, especially when combined with alcohol. However, evidence that Mandrax was addictive and being abused among coloured communities led the government to ban it in 1977. By the mid 1980s illicit demand, almost exclusively among working-class coloureds, had skyrocketed and illegal supplies of Mandrax were provided by smugglers from Asia (where it was still produced legally), as well as from clandestine laboratories in Southern Africa. As a consequence of prohibition the price of Mandrax pills quickly rose to high levels and has now evened out at around R45/50 per pill. The profits from selling Mandrax are therefore substantial and alongside alcohol and dagga (marijuana), the trade in this drug swiftly became one of the most lucrative illegal industries on the Cape Flats.

The reasons for the popularity of Mandrax among the coloured community are complex and several social and political factors have been important. On one level, as is somewhat predictable, the decision to ban the drug may have added to its desirability. In addition, and perhaps not entirely unrelated, at the time of its criminalisation people had developed more efficient ways to consume it – this involved smoking crushed Mandrax pills in a pipe with a mix of low-grade dagga, known as *majat*, that had been dried with solvents to aid its burning properties. The effect of smoking this 'white pipe' is described as intense and is considered highly addictive – users experience a loss of spatial awareness and physical numbing, a deleterious form of escapism.

## THE RISE OF THE STREET GANGS

Although there was a long-standing concern about criminal gangs in Cape Town, dating back to the early decades of the twentieth century, it is generally accepted that crime and gang-related conflict became much more prominent and problematic among the coloured community after they were relocated to the Cape Flats. A superficial survey of 30 areas of the Cape Flats in the 1980s revealed 280 groups who identified themselves as gangs. From this, a rough estimate suggested that as many as 80,000 people were gang members, which was approximately 5% of the city's entire population.<sup>22</sup>

By the late 1970s and early 1980s, social problems relating to gangs started to appear with increasing frequency in the press. Stories of 'gang wars' were commonplace and white readers of the local newspapers were introduced to such terrifying gangs as the Fancy Boys, the Scorpions, the Mongrels, the Virgin Breakers and so on. Consider, for instance, some of the stories that were reported late in 1978. The *Cape Herald* ran a feature on the gangs in Lavender Hill, entitled "Gang Rule!"

When night falls over Lavender Hill, the people who live there live in fear. They fear to go outside after sunset because of gangs who move about under cover of darkness and terrorise people.<sup>23</sup>

A few weeks later the same paper reported on a new gang, which called itself the Sexy Boys. The report relayed fears in white suburbs that the gang – whose membership was in excess of 40 – were roaming out of the Cape Flats at night and into the 'European' parts of town.<sup>24</sup> Barely a week later all papers covered at great length a particularly violent clash between the Dagger Kids and the Fluffy Gang, which resulted in petrol bombings, shootings, rape and at least 10 murders.<sup>25</sup> This event led to a spate of letters being published in the press from concerned citizens urging the police to do more to protect the suburbs. In reply, the police bemoaned the theft of guns from white areas, which was fuelling gang conflict – coloured people were generally not given licences for guns at that time and the gang shootings were seen as further providing support for this racial policy.<sup>26</sup>

Explaining the proliferation of street gangs during this time is contentious. The most significant academic publications on this topic remain those provided in the 1980s by researchers at the Institute for Criminology at the University of Cape Town. Of most importance was the work of Don Pinnock and Wilfried Schärf and, in particular, the former's highly influential book, *The Brotherhoods: Street Gangs and State Control in Cape Town*, published in 1984. It is important to note that this book draws on an eclectic mix of theory to explain gang formation. Yet there is one argument that seems most significant and this centres on the disastrous impact of the Group Areas Act.

According to Pinnock, in inner-city areas of Cape Town prior to apartheid, such as District Six, youth crime was largely kept in check by parents, neighbours and extended family networks. In other words, there was a strong degree of *informal social control*. Forced removals meant the inhabitants of the city were dispersed over the Cape Flats and many extended family networks were broken. Life on the Cape Flats became far more impersonal and distrustful – it lacked the “cement which held the working class culture together”.<sup>27</sup> There was a breakdown in the stability of family, shown in high divorce rates, a sharp increase in single mothers and a growing tension between children and their fathers, brought about because of the men’s sense of inadequacy in their new environment.

It was in this situation that large numbers of unsupervised youths formed street gangs, primarily as a coping mechanism but also as an act of defiance. According to Pinnock, the territorial instinct of street gangs could be understood as a symbolic reaction to the lost sense of spatial ownership of the previous generation. He writes:

The ultimate losers in this type of claustrophobic atmosphere were the working class families, torn from the areas they knew and scattered across the Cape Flats. The emotional brutality dealt out to them in the name of rational urban planning is incalculable. The only defence the youths had was to build something coherent out of the one thing they had left – each other.<sup>28</sup>

Pinnock’s theory therefore explains street gangs largely as a reaction to *social disorganisation* created by forced removals and the subsequent uprooting of the coloured community. He makes reference to the sub-cultural theory of youth delinquency developed by Phil Cohen;<sup>29</sup> the gang culture and territorial instincts represented ‘magical solutions’ to the manifest social contradictions:

In this ‘magical’ way the brotherhoods of Cape Town express a territorial ownership lost by the relocated parent culture – retrieving thereby the solidarities of the traditional neighbourhood destroyed by Group Areas.<sup>30</sup>

In fact, seeing forced removals as a cause of youth crime and gangsterism was a familiar argument some years before Pinnock published his book. In 1965, when an estimated 350,000 coloured and black people had been relocated into new areas on the Cape Flats,<sup>31</sup> a social worker gave his perspective at a conference on crime in Cape Town and it is essentially what Pinnock relayed in much more detail 20 years later:

To uproot a community and to tear people away from a settled environment and to put them in a totally new environment is bound to create insecurity among them... The adjustments necessitated by a changed environment and by the effort

to become integrated with a new community are always accompanied by extreme stresses which cause aberrant behaviour. Thus you find the divorce rate increases, juvenile delinquency increases, more illegitimate children are born and social diseases – such as drunkenness – increase. Every community had its unwritten rules or mores which controlled the behaviour in that community. These differed widely from one community to the next but they acted as a check on behaviour. The uprooting of a community caused the breakdown of these rules and created insecurity. Adolescents are in any case insecure, because they are neither man nor boy. They have the urges of a man but not man's ability to control them. It is insecurity that creates these problems of behaviour...they seek escape and compensation in liquor...juvenile delinquency and gangsterism are by-products of the uprooting of communities.<sup>32</sup>

This remains a well-versed argument – almost without exception, all people interviewed for this study explain that the policy of forced removals is the root cause of gangsterism in the coloured community now. Yet there are several reasons why the link between forced removals and gang formation is not as clear-cut as many may believe. Firstly, this account relies on a contentious history of the Cape Flats. Downplayed is the large number of rural migrants who were either living in squatter camps on the Cape Flats by the time new residential areas were being built, or who came to Cape Town during the 1930s and 1940s onwards, perhaps most importantly during the war when the city's economy demanded an increased coloured labour force. The communities of the Cape Flats were not made up entirely of relocated urbanised coloured people who had lived in areas such as District Six for several generations. If families from District Six were scattered on the Cape Flats, then they were scattered among a significant number of other 'non-Europeans' who had either arrived recently in Cape Town or whose first experience of Cape Town *was* the Cape Flats. Furthermore, we can speculate that tensions may have developed between the urbanised poor on the Cape Flats, who had a long history in Cape Town, and the new wave of coloured migrants, including mostly rural people. It is possible that rural coloured youth were the most marginalised, the worst affected by CLPP and therefore particularly vulnerable to being policed and victimised and, as a consequence, the most likely to be labelled as gangsters.<sup>33</sup>

A second critique of the theory that forced removals caused gangs was raised by Clive Glaser, who wrote extensively about youth gangs in Johannesburg during apartheid. Glaser agrees that the social disorganisation created by forced removals may well have led to an increase in the levels of criminal activity, although he also suggests that Pinnock's depiction of areas such as District Six suffers from a degree of romanticism (the good old days before forced removals may not have been so pleasant). However, Glaser argues that the link between disorganised environments

and gang formation was misunderstood by Pinnock and therefore remains a widely misconceived theory:

Distinctive gangs emerge once neighbourhood peers develop a sense of identity based on overlapping personal and territorial familiarity...gangs develop in more settled neighbourhoods, when male youths establish a bond with their environment and their peers.<sup>34</sup>

According to Glaser, the territorial 'defence' gangs that Pinnock focused much of his study on did not appear until some time after the height of relocation and when people had been living in their new areas for many years. This lull in gang formation, Glaser argues, makes it a mistake to link forced removals with gang formation in a mechanistic way. As Glaser understands it, gangs do not flourish in disorganised environments but rather emerge in more settled communities. To provide evidence for this argument, Glaser refers to his work in Johannesburg, where many residents were also forced to move from areas such as Sophiatown into new residential premises in Soweto during the mid to late 1950s. Crime rates were notoriously high in the new areas of Johannesburg but gangs that once existed in Sophiatown in the 1930s and 1940s were shattered by the process of relocation – just as Pinnock suggests extended families were shattered by the same process in Cape Town. According to Glaser's work, gangs in Soweto took several years to re-emerge, despite severe levels of crime linked to youth delinquency.

Glaser's claim that defence gangs did not emerge for some years after forced removals is difficult to substantiate in Cape Town. The formation of most communities on the Cape Flats was ongoing for several decades, starting before apartheid and then increasing during the 1960s and 1970s. According to John Western, many people who were moved to new areas of the Cape Flats moved houses several times before they eventually settled in one neighbourhood.<sup>35</sup> This would suggest that it is difficult to make generalisations between coloured communities before and after forced removals – the formation of new communities was a fluid process and it appears impossible to pinpoint, with any certainty, when 'settled' communities emerged.

The debate about the link between disorganised communities and gang formation is an interesting one. However, perhaps more interesting and relevant now is the remark Glaser makes about the relationship between gangs and crime. Because Glaser agreed that forced removals can be seen as a cause of an increase in the crime rate, but not of an increase in gangs, he suggests the link between crime and gangs may also be mistaken, or at least, that it is more ambiguous than is commonly assumed. As Glaser puts it:

Gangs are a particular kind of youth association that may be more or less criminal according to circumstances... Crime and gang formation, while often coinciding, follow separate trajectories.<sup>36</sup>

This is an important argument. Conventional wisdom takes for granted that street gangs cause crime. The explicit aim of *The Brotherhoods* is to explain the rise in gangs and gang culture but much of the book is about explaining juvenile delinquency. Nowhere is the question of how gangs relate to crime considered – the assumption is that gangs and crime are essentially the same thing. What follows from this assumption is that successfully combating gangs will, of course, lead to a reduction in crime; an anti-gang policy is an anti-crime policy. Yet to doubt this link, as Glaser does, is to subvert much of what is assumed about the nature of gangs.

#### THE PRISON NUMBERS<sup>37</sup>

From the mid twentieth century, there was a steady increase in the number of young coloured men being sent either to reformatories or to prison. The national prison population grew from 23,000 in 1945 to about 51,000 in 1959.<sup>38</sup> Coloured people were also being exposed to high levels of corporal punishment, including caning, and the death penalty: it was estimated that some 18,500 people were given official canings in 1958 alone.<sup>39</sup> Far more were beaten at school and in reformatories. It is moot whether this brutal response to petty crime and lack of discipline can be linked to high levels of interpersonal violence in the coloured community. Perhaps less contentious is the argument that exposure to prison was, and still is, psychologically ruinous and the cause of much more harm than good.

The rate of imprisonment for coloured people in South Africa, most of whom were living in the Western Cape, was more than double that of Africans: in 1980, for every 100,000 of each racial group, 729 coloureds were in prison compared with 362 Africans, 81 whites and 57 Asians.<sup>40</sup> It seems plausible that this heightened exposure of the coloured population to punitive state institutions was partly driven by the paternalistic attitude held by the white authorities, although high crime rates would be the more obvious factor.

From the 1950s onwards, an increasing number of young coloured men were therefore being exposed to prison. It was in these brutal and cramped institutions that the infamous prison Numbers became an established feature; they would go on to influence street gangs and organised crime on the Flats.

The prison Numbers are an exceptionally complex society formed by generations of inmates. They are referred to both by themselves and outsiders as 'gangs', but this use of the term may be misleading as they are large, clandestine organisations that are hierarchically organised and spread out through almost all of the country's

prisons. A Number's membership may be several thousand, many whom will not know each other. Numbers are seen as particularly significant in the prisons of the Western Cape although they are believed to be present in most prisons. Indeed, it is claimed by members themselves that a person who has wronged a Number is not safe in any prison in South Africa.

As detailed by historian Charles van Onselen<sup>41</sup> the origin of the Numbers can be traced to a remarkable bandit group, known as the Ninevites, that emerged among black mineworkers in the late nineteenth century, many of whom worked in intolerable conditions either as convicts or as badly paid and heavily policed 'free labour'. What made the Ninevites noteworthy was not only their size but also their militaristic organisation, which took direct inspiration from the white colonial administration that governed South Africa at that time. Decades of police investigations and the arrests of its leadership meant the Ninevites ceased to exist as an active bandit group after the 1930s. However, rather than disappearing, they migrated into South Africa's prisons and began imposing a new order on prison inmates.

The clandestine society of prison inmates that started as the Ninevites fractured into three organisations, referred to as the 26s, the 27s and the 28s. It was in prison that these three groups developed their own elaborate oral history. This was based only loosely on the real activities of the Ninevites and owes more to the vivid imagination of prisoners incarcerated in intolerable conditions with little to occupy their minds other than coping with the day-to-day realities of prison life – by all accounts, a brutal, de-humanising and squalid experience under apartheid.

Each Number has its own version of its founding history and these have been developed and passed down through generations of prison inmates. Knowledge of this history is used to determine status in the Numbers today. So, for example, if a person arrives in prison and claims to have a senior rank in a particular Number, he should be able to recount in detail the stories that inform the Number's lore. Learning this knowledge and climbing the ranks of the Number is considered highly time-consuming and so, in theory, only prisoners who have been inside for several years can achieve a high ranking. Moreover, as many of the rituals require violent attacks on warders and other inmates, by default members tend to be those serving longer sentences, even if they began by serving shorter ones.

While the history used by each Number is based on the same general story, each has its own version of it. However, as is to be expected with complex stories passed down through generations by word of mouth only, there are many differing interpretations. Here is not the place to attempt a synopsis of this oral history.<sup>42</sup> It is sufficient to note that within it are embedded key phrases, symbols and images that are used to inform conduct in prison and that order interactions between each of the Numbers, between the Numbers and the 'fourth camp' (other prison gangs)

and between Numbers and non-gang members. The result is that there is a very complex society in South African prisons that regulates inmates' lives and gives meaning to their existence. It is, in other words, a prisoners' religion.

To describe how the Numbers operate in prison is fraught with difficulties. Not only are they complex organisations but they also seem to be imperfect organisations. There is an idealised version of the Numbers and there is a corrupted reality in which the Numbers operate in ways that seem contradictory, haphazard and far from the rules laid down in their lore. This disjuncture between reality and the ideal may well be expected in any large organisation that claims monolithic status.

Based on the oral history, each of the three prison Numbers is now internally structured according to a ranking system derived from the colonial army that former leaders of the Ninevites confronted when they were bandits, as well as the similar militaristic regime that has governed South African prisons for over a century. In other words, the structure of the Numbers gangs is directly inspired by the regimes with which they have been in conflict. Uniforms stolen from army camps in the myths are worn by members in prison today – not literally, but in tattoos and in their imaginations. Each Number also has an imaginary flag based on key symbols mentioned in the stories about its leaders. Members of the Number also use the same hand signals as described in their oral history and they speak a particular argot, based on a combination of words from Afrikaans and several African languages. Knowledge of this language is also used to distinguish between insiders and outsiders.

The Numbers can be explained through the several different functions that they perform. Firstly, they are hierarchical societies that provide *criminal governance* inside prison. While their control varies from one prison to the next, many people suggest that the Numbers exercise a parallel rule to that of the prison authorities, one that the prison authorities have to engage with in order to achieve relatively peaceful equilibrium. This governance covers a range of activities: the Numbers organise illegal markets in contraband, regulate sexual relations and seek to control violence or at least to make it predictable and regulated. In doing so, they operate also as complex systems of privilege – those with higher rank have greater access to commodities and food and more choice in their sexual partners. Moreover, the senior men in the Numbers 'own' 'wives': male prisoners who wash their clothes, clean their quarters and satisfy them sexually.

Secondly, the Numbers can be understood as a form of *primitive protest*. They are based on an explicit hatred for the repressive regimes that existed both inside and outside prison. This comes across clearly in their oral history. In addition, the task of the Numbers is to fight for better prison conditions: better food, more exercise, more respect from the warders, etc. For the general of the 27s, known as the Lawyer, who was interviewed in Malmesbury prison for this study, this element of protest

was of uppermost concern. He claimed that many transgressions by the Numbers were designed so that members would appear in court where they had the opportunity to make public what they were suffering in prison. Be that as it may, it is difficult to attribute a political element to the Numbers – they are certainly not revolutionary and have no forward-looking ideology beyond wanting to improve prison conditions.

Thirdly, the Numbers can be explained as an elaborate *system for coping* with the psychological contradictions of prison life. This is Jonny Steinberg's chief observation and it may have resonance for gang formation outside prison.<sup>43</sup> As Steinberg argues, prisons systematically undermine inmates' masculinity and sense of worth. The constant stripping of prisoners, the physical and mental abuse by warders, the rationing of basic services and food, making men defecate in public and so on, are all actions that make men feel and act like children and women. The rituals and myths of the Numbers compensate for this. Senior ranking members of the Numbers assume masculine adult status. They sleep with other men but retain, and even exaggerate, their masculinity in doing so. The Numbers make men who are powerless and routinely degraded into generals, soldiers, lawyers and doctors. They are descended from a defiant organisation that denounced the colonial and apartheid regime.

Although for many decades the Numbers remained largely a prisoners' institution, in the late 1980s and early 1990s the 26s and the 28s began to feature prominently among street gangs, eventually having a strong influence on organised crime throughout the region. To explain how and why this occurred would mean jumping ahead of ourselves so this theme is continued in chapter three.

#### CAPE TOWN AND THE CAPE FLATS POST-APARTHEID

In 1987 Ian Goldin concluded his study of the CLPP by declaring:

It must be noted that this category ['coloured'] is itself rejected by the majority of individuals who are deemed by the authorities to fall into this group...The desperate gambles on the part of the National Party to win the allegiance of the 'Coloured' people is destined to fail...The overwhelming majority of the people classified as 'Coloured' however will not be won over by this politics of collaboration within the apartheid structure. Long since disillusioned with the promises of new reform they have recognised that only marginal benefits can accrue by aligning with the present dispensation. Increasingly, the common subordination and misery of 'Coloured' and African has led them to comprehend the fundamental inequalities of the society in which they live. It is out of this that a united opposition to the status quo is growing.<sup>44</sup>

As expected, when the NP finally unbanned the African National Congress (ANC) and conceded to the first general elections, the ANC swept to power and received the vast majority of the votes. However, in the Western Cape they were beaten comprehensively by the NP. John Western, returning to Cape Town in 1996 to update his book *Outcast Cape Town*, wrote: “It would have been a bold seer who prior to the coming of free and democratic South African elections would have dared even hint at such an electoral possibility”.<sup>45</sup>

In the first general elections after apartheid, the NP received 55% of the seats in the Western Cape and the ANC, 33%. A large percentage of the support for the NP came from the coloured people – the NP won three times as many votes from coloured people as did the ANC.<sup>46</sup> Moreover, it was from among the working class in the coloured community that the NP garnered most support, whereas the coloured middle class seemed to side with the ANC. The NP, rebranded as the New National Party (NNP) in 1997, continued to receive popular support in the Western Cape in 1999 but since then its dramatic demise has coincided with the ANC managing to secure sufficient support to assume overall political control. In 2004 the ANC received 46% of the vote in the Western Cape compared with 26% for the relatively new Democratic Alliance (DA) and only 9.4% for the NNP.

For many commentators the ANC’s success in the Western Cape was partly the result of a change in the coloured vote, away from the NNP and towards the ANC. However, as argued by Jonathan Faull,<sup>47</sup> while the ANC did make slight inroads within the coloured working-class community, it remains a minority supported political party there. The demise of the NNP was caused by several interrelated factors, not least the historically bizarre decision of the NNP and ANC to form a working alliance in the early 2000s. Many coloured voters who had previously supported the NNP switched allegiance to the DA, which capitalised in the coloured community on the NNP’s weak position of being allied with the ANC. In addition to this, Faull’s analysis of the 2004 election shows that coloured voter apathy, particularly among young people, was a major dynamic – the coloured working-class communities experienced turnouts of 50–60% of registered voters, whereas black African areas such as Gugulethu had turnouts of 90% or more. Within coloured working-class communities such as Hanover Park, Athlone and Belhar, the ANC secured typically less than 20% of the vote. In other words, while the coloured community does not represent a homogenous voting block, the majority nonetheless do not support the ANC.

The continuing apathy or resentment towards the ANC by significant numbers of coloured people is a sensitive conundrum. In 1994 many who had fought apartheid were utterly despondent about the coloured vote – how could the coloured people vote for the party that had been responsible for the Group Areas Act and

many other policies and strategies that systematically discriminated against them? A popular theory was that coloured people developed a sense of paranoia with the advent of black African rule. This is sometimes referred to derogatively as 'coloured racism'. Apartheid, it is believed, gave coloured people preferential treatment over black Africans and in Cape Town it also managed to protect them from being swamped by black African labour. Moreover, for over a century coloured people had been told (and perhaps some had internalised) that they were superior to the black African natives – coloured people were part of the more 'advanced' Europeanised culture, they occupied the middle ground in a racial hierarchy; they were "less than white, better than black".<sup>48</sup> The prospect of ANC rule signified a loss of this relatively privileged position and it was feared that coloured labour preference would be replaced by black labour preference. Indeed, during the run-up to the first democratic elections the NP were accused of fanning racial fears among the coloured working class, implying that the ANC would promote black African interests at the expense of all others as retribution for apartheid. Underlying this message was the theme that black Africans were ill-equipped to manage the economy and bring peace to a volatile situation. Indeed, two polls conducted before and after the first general election showed clearly that coloured voters were apprehensive about the ANC's ability to manage the economy successfully. Likewise, 74% of coloured people voting for the NP agreed that an ANC government would neglect the problems of coloureds, Indians and whites.<sup>49</sup>

In explaining the success of the NP in the Western Cape accusations of 'coloured racism' may have been relevant. They continue to be so although, equally, such racism may have been overemphasised by some commentators. Such a view risks arrogance – only stupidity and racism can explain why coloured people reject(ed) the ANC.

The reasons behind the NP's success and the ANC's continued struggle to win the trust and support of many coloured working-class people is complex and need not be considered in detail here. However, it is worth pointing out that other commentators<sup>50</sup> have put forward more pragmatic explanations – for example, that the ANC in the first two general elections did not run a good campaign in the Western Cape and its leaders, while guaranteed support from black Africans, lacked credibility with the coloured electorate through mishaps and damning allegations. In addition, while the NP was generally mistrusted by coloured people, FW de Klerk presented a far more persuasive image: he was hugely popular among coloured voters and they believed the rhetoric that under his leadership the NP genuinely embraced the ending of apartheid and that it was well equipped to tackle unemployment, inequality and perhaps most importantly, escalating crime.

## WERE THE FEARS PERCEPTIVE?

The ANC was elected in 1994 under the banner of redistribution and non-racialism and its leaders fuelled expectations that the obscene racial inequality that characterised the country during apartheid and before it would be reversed. Guided by advice from business leaders and foreign economists, it took two years for the ANC to settle for the macro-economic plan labelled Growth, Employment and Redistribution (GEAR). In doing so, the ANC leadership made a controversial choice to side with the 'Washington consensus' – South Africa's transition to a more equal and prosperous country would be aided by a mix of affirmative action and public spending that was less racially skewed, and through adherence to the neo-liberal imperatives of tight fiscal austerity, increased labour market flexibility, monetary discipline, privatisation, reduced corporate taxes, trade liberalisation and a gradual phasing out of exchange controls. South Africa, the ANC posited, needed to create a favourable environment for market-led economic growth. Such was the state of global capitalism that confronted South Africa in the 1990s that choosing any other macro-economic ideology would chase away much-needed private investment and cripple the South African economy further; there was no other choice. However, it was not the case that the ANC was coerced into adopting macro-economic neo-liberal policy by the World Bank or International Monetary Fund (IMF), as had happened to other developing nations seeking debt relief or loans. Rather, as Fine and Padayachee point out:

South Africa is in the remarkable situation of having adopted and persisted with the policies of the Washington consensus when it was under no obligation to do so and, most ironically, after its nostrums had already been rejected by its most ardent exponents.<sup>51</sup>

It was therefore a form of *voluntary structural adjustment* that horrified those on the left, particularly those who believed the ANC was historically a socialist movement – GEAR created a new political climate in which the ANC was accused of 'selling out' to white capital and an emerging black bourgeoisie. In the words of Hein Marais, the ANC had embarked on a "short walk to orthodoxy".<sup>52</sup>

To what extent GEAR and the conservative attitudes of the ANC can be blamed for South Africa's continuing economic and social crisis is moot. However, the positive economic and labour market projections of GEAR when it was presented in 1996 have not been achieved.<sup>53</sup> Most indicators show that under ANC rule, economic instability, inequality and social insecurity have either remained high or have risen, although it should be noted that this trend was occurring already during the late 1980s and early 1990s. So, for example, whereas the architects of GEAR predicted the creation of 1.35 million new jobs by 2000, the unemployment rate

in South Africa, using the strict definition, has grown from roughly 23% in 1995 to 30% in 2001; an expanded definition that includes *discouraged* job-seekers puts this figure at 41% in 2002.<sup>54</sup> This means South Africa has one of the worst unemployment rates in the world. Similarly, rates of poverty have remained exceptionally high: 18% of the population were classified as falling below the poverty line in 2002, with 9.6% earning less than \$2 a day (in 1995, 6.2% earned less than this). Income inequality – purposely created during apartheid – has increased since the first democratic elections. In 1995 the Gini coefficient (the standard statistical measurement used to describe the extent of wealth polarisation), was already very high at 0.596 but by 2001 it was estimated at 0.635,<sup>55</sup> placing South Africa alongside Brazil as one of the most unequal societies in the world.

Given these broad trends, Nattrass and Seekings have argued that since 1994 high levels of inequality are increasingly based on *intra-racial* and not *inter-racial* inequalities.<sup>56</sup> In agreement with this argument, Patrick Bond conceptualises the New South Africa as moving away from racial apartheid towards 'class apartheid'.<sup>57</sup> Affirmative action and the removal of racial barriers to employment have assisted the growth of a relatively small but conspicuous black middle class and there has also been a re-emergence of the white poor. At the same time, however, Nattrass and Seekings<sup>58</sup> argue there has been a re-segmentation of the working class. A shrinking sector of skilled and semi-skilled jobs, protected by a strong trade union movement, provides a core of working-class families with relatively stable and well-paid employment. However, increased labour market flexibility and international competition have created a growing marginal, unrepresented working class (reliant on unskilled, outsourced jobs, part-time work etc.) as well as an entrenched population of long-term unemployed with no skills and very poor prospects of rising out of poverty. South Africa therefore conforms to what some scholars term the 'Brazilianisation of advanced capitalism', wherein society moves towards a tripartite division of the social system that is led by the super-rich, with a squeezed middle and a large, immiserated poor.<sup>59</sup>

While the mechanisms that reproduce inequality in South Africa have changed, South Africa largely remains divided, spatially and economically, as it was under apartheid. In every socio-economic index whites are better off than coloureds and coloureds are marginally better off than black Africans. So, for instance, in 2002, 56% of Africans lived below the poverty line, 36% of coloureds were in the same category but only 6.9% of whites were. Of the economically active population, 27.8% of Africans were in full-time employment compared with 46% of coloureds and 61% of whites.<sup>60</sup>

On aggregate, coloured people are still relatively better off than blacks but much less so than whites are. However, in the last 10 years the process of re-segmenting the working class has undoubtedly affected the poor coloured

population. Thus, many working-class coloureds may have become worse off since transition, although it should be remembered that during apartheid a large proportion of the coloured people were already exceptionally poor – CLPP never operated in a way that protected all coloured people. The emergence of a black middle class, some of whom are considered to be profiting from their political and social connections to the ANC, may encourage a sense among the coloured poor that they are being discriminated against. Likewise, deteriorating living standards during an expectant era of change may well foster resentment towards the ANC authorities, particularly given their optimistic promises for social and economic change. However, it would seem that a more reasonable position to take is that the macro-economic situation in South Africa has struggled to alleviate poverty for the historically marginalised in general, rather than failing the coloured poor in a way that is discriminatory.

#### CAPE TOWN NOW – REPRODUCING SEGREGATION

The process of segregation in Cape Town has been ongoing, starting long before apartheid but increasing after its emergence. Due to these historical forces, Cape Town – now a darling of global tourism – has been one of the most divided cities in the world for decades. The poorest, most densely populated and most rapidly expanding areas are populated by black Africans. These are the townships of Khayelitsha, Gugulethu and Langa etc., which are swelling from rural migration mainly from the Eastern Cape. Alongside these areas are coloured working-class communities, many of which can be characterised by chronic overcrowding, poverty, unemployment and a pervasive image of criminality. These coloured ghettos, such as Manenberg, Hanover Park, Tafelsig and Belhar, were shoddily built during the 1960s and 1970s with little attention to community infrastructure. Affluent suburbs and the city centre have been historically white but there has been a growth in these areas in the numbers of middle-class black and coloured people. Despite this racial shift in the affluent areas, Cape Town remains blatantly separated along racial lines.

The polarisation of wealth in the city is an historical legacy, to be sure. However, there are powerful dynamics that reproduce spatial and economic segregation in ways that will be exceptionally difficult to reverse. On a macro-economic level the liberalised economy of South Africa seems to encourage polarisation of wealth and an increase in job insecurity – the resulting segmentation of the working class is producing a growing population of the structurally unemployed, containing those people who are referred to in unemployment studies as the ‘discouraged job-seekers’. Many areas of the Cape Flats can be considered home to these marginalised populations. Such areas are increasingly resembling other ghettos, particularly

those in the US described by French sociologist Loïc Wacquant as formerly resembling reservoirs of cheap labour but now increasingly looking like “a mere dumping ground of people that the surrounding society has no economic or political use for”.<sup>61</sup>

On a level specific to Cape Town, although mirroring wider national and international tendencies, ‘impatient capital’<sup>62</sup> shows little interest in the ghettos and poor commercial infrastructure means there is a problem of income leakage from these areas.<sup>63</sup> The boom in tourism, which some optimistically feel could help the development of the entire city, may in fact be making matters worse: tourism is pumping money into the beautiful, affluent areas, raising prices and encouraging private and public actors to make the city safe and to erect ever greater systems of security to keep *those who spend* safe from those who may beg, steal and generally downgrade the image of the city, thereby threatening tourism.

In comparison with other regions of South Africa, the Western Cape scores marginally higher on most social and economic indices. The Gini coefficient is lower than in other provinces, although still very high in relation to international trends. The fact that the Western Cape has a lower Gini coefficient than other regions but retains the highest statistics for rates of crime has led one commentator to dismiss the theory that relative deprivation is a meaningful indicator of crime in South Africa.<sup>64</sup> To what extent relative deprivation is a useful indicator of crime need not be considered here; however, it should be noted that the Gini coefficient, based on provincial areas, is a crude measurement of relative deprivation as it is actually felt by individuals. It may be higher in those provinces characterised by chronic rural poverty and with a lower population density, yet it is in the major urban centres of South Africa, and in particular Johannesburg and Cape Town, that affluence and poverty are most markedly juxtaposed and where the poor and the rich are found in close proximity and can glimpse each other’s lifestyles. Indeed, the social polarisation of Cape Town may well be compounded by its unique topography: most of the affluent suburbs are situated in areas of profound natural beauty, nestled under the spectacular Table Mountain and close to picturesque beaches. In contrast, the poor areas are situated on the Cape Flats, which in comparison are drab and unremarkable.

Statistical data on poverty in Cape Town is not abundant. However, in a recent household survey of Khayelitsha and Mitchells Plain,<sup>65</sup> which includes both black townships and coloured ghettos, unemployment figures were captured. If one considers only those people who are unemployed and were *actively* seeking work in the preceding week, then the unemployment rate in this survey was 28.4%. If one considers those who are not actively seeking work but are reliant on family and social networks to find work, then the unemployment rate increases to 35.5%. Under the broadest definition of unemployment, including those who are out of

work and are no longer seeking it (have given up, become too ill, etc.), then the unemployment rate rises to 46.3%. For individuals under the age of 30, using the broad definition of unemployment, the survey revealed that 69.1% of black Africans were unemployed as were 40.6% of coloured people. These are depressing statistics but they give some indication of the difficulties facing such areas. As one would expect, this structural poverty combined with the historical neglect of basic infrastructure means that life here is characterised by systemic social troubles that are simply alien to the affluent suburbs. Most common complaints by residents include overcrowding of existing houses and apartment blocks, a shortage of space and resources at school, a lack of adequate health care, high rates of divorce and of single-parent households, chronic lack of space for children to play and, of course, staggering rates of interpersonal violence that make these areas infamous for having among the highest instances of murder of any city worldwide.

Among the coloured ghettos perhaps nowhere is the “dull ache of deprivation”<sup>66</sup> more visible than it is in Atlantis. According to an informal and unpublished household survey organised by a consortium of local politicians and community activists, unemployment in Atlantis may be as high as 70%.<sup>67</sup> This absurd racial-Fordist dream of apartheid city planners is now known locally as the ‘Lost City’. Poverty is particularly acute as residents simply cannot afford to relocate or travel into Cape Town to look for work; instead, scores of people can be seen waiting outside the few remaining factories in the hope of being offered daily work. Meanwhile, according to the head teacher at one of the more successful schools, less than 20% of his former pupils find work within a year of passing their final exams.

#### A CITY GOVERNED THROUGH CRIME

Alongside – and reinforcing – the uneven concentration of capital and wealth, is the divisive issue of crime and violence. The prospect of victimisation and the informal and formal responses to fear of crime contribute profoundly to the reproduction of spatial and cultural segregation. In this respect Cape Town conforms to an image of many other global cities, described by Jonathan Simon as being “governed through crime”:

Today, it is increasingly the case that crime itself, and the host of responses to it, have become a locus for regulating urban life, influencing the siting of housing, transportation and commercial development.<sup>68</sup>

The scrutiny of official crime statistics in South Africa has been the subject of several publications and there is no need to rehearse the main arguments. However, it is important to note that there is some serious doubt about the validity of the data. The government realised this and imposed a moratorium on official crime

statistics in 2001 amid political concerns that inaccurate data was fuelling unsubstantiated criticisms of the government. However, the government recently ended the moratorium and it is revealing that, with the official statistics showing a marked decrease in many types of crime, officials now feel police statistics are more reliable. Cynics may feel that this suggests the process of producing crime data is not entirely objective. Nevertheless, a summary of the available data, including both official statistics and data provided from the National Injury Mortality Surveillance System by the Medical Research Council (the NIMSS data), does allow for some general observations.

South Africa is clearly a very violent country, with annual murder rates that place it among the most violent in the world. In 1994, the first year in which official crime statistics are considered even remotely useful, the murder rate was 67 per 100,000 of the population. Nationally this figure has been on a steady decline and by 2004 was believed to be 43 per 100,000. At one stage South Africa led Interpol's list for having the highest murder rate in the world, although now Colombia and Jamaica show the worst statistics.

At a provincial level, the Western Cape has consistently had the highest level of murders and it is the only province that experienced a marked increase in this crime after 1994.<sup>69</sup> However, trends in Western Cape murder statistics show that the rate increased to a very high level from 2001 to 2003 but thereafter dropped considerably: from approximately 80 per 100,000 in 2003 to just under 59 per 100,000 in 2005, which is somewhere near the murder rate of the mid 1990s. Despite this apparent drop – and it is perhaps too early to know if this is the start of a profound trend for the better – the NIMSS data reveals a shocking story: murder is by far the most common cause of non-natural deaths in the province. Fifty-five per cent of non-natural deaths are attributed to violence, compared with 25% for traffic accidents and 8% for suicide (2003 data). Guns are used in most instances of murder. Moreover, murder is clearly more prevalent among young men – more than five times as many men are murdered as women.

Statistics from individual policing districts confirm what everybody knows in the city – that the worst areas of violence are in the black and coloured ghettos. But again, it is important to note that recent statistics strongly suggest that murder rates have fluctuated wildly in some areas, giving rise to some apparent 'success stories'. Manenberg, a notorious area for gangs and violence, provides an interesting case study. The number of recorded murders each year between 1994 and 2000 remained at roughly 70. The worst year was 2001/2002 when 77 murders were recorded by the local police. Yet in 2003/2004 there were only 23 murders. Whether this is an indication that levels of crime and violence are fast diminishing in this and other areas remains unclear. The police statistics also reveal that from 2002 to 2004, when there was a marked decrease in murders, reports of the number of

violent assaults increased, as did the number of common robberies, housebreakings, culpable homicides and many other categories of crime. Likewise, the police in Manenberg recorded over three times as many cases of neglect and ill-treatment of children (10 in 2002, 36 in 2004). It therefore seems premature to claim that crime and violence are on the way down in Manenberg or elsewhere. It may well be, as the chief statistical analyst working on the NIMSS has privately speculated, that the recent drop in murder rates in some areas of the Cape Flats is a statistical anomaly and one that is unlikely to change longer-term trends. Indeed, reports from Groote Schuur hospital (Cape Town's largest public hospital) in early 2006 suggest that murders caused by gunshots have risen again. In the first four months of 2006 the hospital treated 247 victims of gunshots compared with 222 in the same period in 2005 and 209 in 2004.<sup>70</sup>

Despite these crime statistics, which will continue to be a source of contention between the government and independent analysts, what does seem beyond doubt is that people living in Cape Town are exceptionally worried about being victims of violence and crime and that this fear increased after 1994. A survey conducted by the Public Opinion Service (POS) of the Institute for Democracy in South Africa (IDASA) in 1997<sup>71</sup> showed that 60% of respondents thought crime and safety had deteriorated in the previous three years. Similar results were obtained in the national victims of crime survey conducted by the Institute for Security Studies (ISS).<sup>72</sup>

Due to the extent of violence and crime, whether it is exaggerated in the minds of people living in the city or not, many coloured working-class communities are considered no-go zones for people living elsewhere – particularly white people, but also black South Africans and black foreigners. But this is not only a view held by outsiders. Residents – and even the gang members who are thought to be the main culprits of violence – frequently advise leaving before dark, or they simply tell you: “It’s not safe for you to walk around here alone”, or “The gangsters will rob you/shoot you”. It is indicative of this pervasive sense of fear that when some schools on the Cape Flats were provided with a small budget to increase their safety, many chose to invest in electric gates, barbed wire, surveillance cameras and private security. Despite these measures, a recent survey declared that 250 schools on the Cape Flats are classified as very unsafe based on the prevalence of gang fighting, drug abuse and violence against teachers inside school premises.<sup>73</sup>

Fear of crime fragments Cape Town throughout its neighbourhoods. Affluent Cape Town deploys an elaborate system of protection and insulation geared to minimise criminal opportunity. Though it has not reached the lengths deployed in Johannesburg, where hundreds of illegal barriers have been erected in order to enclose private roads, gated communities have nonetheless emerged in Cape Town, particularly in middle-class suburbs where new housing developments are mushrooming. Those not protected in this way have instead spent an increasing

amount of money on sophisticated alarm systems, ubiquitous window grills, barbed wire, spikes and private security. In post-apartheid South Africa there are an estimated four private security guards for every policeman and the growth of this sector has been staggering: annual income was estimated in 2000 to be 11 times greater than it had been in the late 1980s.<sup>74</sup> Others have chosen the ultimate form of protection from crime and have emigrated – fear of crime is blamed for the phenomenon of white flight/brain drain (although ‘earning pounds’ also seems a strong incentive). Throughout the city centre, shops and restaurants employ armed guards or electric gates to vet visitors. It is, in other words, a fortified city.

Fear of crime does not simply fragment the city between the affluent and the poor; it has the same effect within and between poor communities. Pervasive insecurity breeds fear of *the other* and a sense that safety can only be achieved in immediate and familiar settings. Thus, it is not uncommon to hear from people who live in one block of flats that the real crime problem is on the other side of the street or in another area; people from Manenberg say the worst areas for violence are Hanover Park and Atlantis, whereas people in Atlantis consider that the real gangsters are in Manenberg and would never consider visiting that community. This is, however, not a new dynamic. John Western<sup>75</sup> described in some detail how people forcibly removed from inner-city areas onto the Cape Flats developed a strong sense of paranoia about their new neighbours, resulting in a strong aversion to socialising beyond the confines of an immediate block of flats or a row of houses.<sup>76</sup> Similarly, during a two-week fieldwork trip to Atlantis in 2004 it was remarkable to see how my local guide, a woman in her forties, was exceptionally nervous about visiting areas of Atlantis that were a mere 400 metres away from her block of flats. Despite her having lived in Atlantis for nearly 20 years, these other areas were places in which she knew nobody and felt most of the young men were probably ‘gangsters’.

The security achieved by the range of protective measures comes at a cost, as the response to fear becomes self-perpetuating. Fortification poses a profound threat to the social sustainability of the city as it perpetuates and hastens fragmentation while increasing levels of fear. Zygmunt Bauman, in analysing the phenomena of urban fortification elsewhere, writes: “The inhabitants find to their dismay, that the safer they feel inside the enclosure, the less familiar and more threatening appears the wilderness outside”.<sup>77</sup> Moreover, as Mark Shaw points out when discussing the rise of private security:

Whether or not private security officials acquire greater powers will not change the reality that the country has developed a parallel system of policing. Those who are poor, and generally black, must resort to the often inefficient and ineffective public police. Those who can afford it, and who are often white, now rely more heavily on private police. In some way then, the security industry

continues to reinforce the divisions and barriers of society that the political transition sought to undo.<sup>78</sup>

This trend toward social fragmentation and obsession with risk and safety brings with it further consequences: intolerance and a demand for more efficient and punitive 'justice'. Richard Sennett remarks that the "cries for law and order are greatest when communities are most isolated from other people in the city".<sup>79</sup> This seems highly relevant in Cape Town and South Africa.

#### CONCLUSION: CHANGE, CONTINUITY AND STAGNATION

At a recent seminar in Cape Town (June 2005) delegates were asked to comment on some preliminary findings from this study and to discuss new government policies aimed at tackling organised crime and 'gangsterism' among the coloured working class. At this gathering a long-standing station superintendent of one of the most violent coloured communities on the Cape Flats (Manenberg) made a poignant statement designed to explain why gangsterism remains prevalent in the coloured communities: "Everything has changed, but nothing has changed". This chapter has tried to offer a brief history of Cape Town that traces its unique racial and spatial divisions. A central aim was to consider what transition represents for the coloured working-class areas of the Cape Flats. To this end, *everything has changed yet nothing has changed* is a summary statement hard to better.

The message seems straightforward. The last two decades have seen profound changes in politics and culture in Cape Town: the collapse of the apartheid state, the peaceful arrival of a democratic system of government, as well as the ending of international sanctions and global isolation of South Africa. Cape Town has therefore been a city of transformation. The affluent society here embraces global consumerism as vehemently as in most other global cities – in the last 10 years the rich have gained access to most internationally desired consumer goods and their hi-tech, mobile lifestyles make them some of the most privileged people in the world. For the affluent, Cape Town is in constant change. Everything changes for them. In complete contrast, some coloured areas of Cape Town, such as where the station superintendent works, can be characterised by *stagnation*: a lack of inward investment, a lack of employment and a lack of mobility. Here the transformation of Cape Town has promised much but delivered little. The legacy of apartheid has yet to be undone and the dynamics of the city makes it unlikely that it will be undone in the near future; everyone knows this and no-one expects miracles. Yet to prosper in capitalist society requires growth and movement – stagnation represents decay.

Cape Town therefore contains a new tension between its citizens which may have been masked for several years due to expectations created after the monumental

era of political transition. The colonial and apartheid past created racial and class divisions more stark than in almost any other country of the world. The coloured population of Cape Town occupied a peculiar position in this system – an imagined middle ground between the whites, who owned everything, and black South Africans, who had nothing and were for a long time kept at bay and feared. In fact, this sense of relative privilege under apartheid may not have been relevant to the most impoverished class of coloured people who have been pushed to the margins of both the labour market and the city's spaces. Yet, an increasing feeling of political isolation and relative deprivation may be held by working-class coloureds now, as evident in their apathy in voting or their support for political parties that still seem to feed off paranoia about black privilege. Yet, alongside this, dissatisfaction within the black communities is growing and will no doubt continue to rise as the country's economy fails to absorb enough young people and as economic safety nets continue to be inadequate. How these new tensions within Cape Town will unfold remains a matter of some concern.

The notion of transition therefore is both complex and selective, influencing dissimilar sections of the population differently. The 1990s were an era of transition and in particular, political transformation, but the decade also became noteworthy for its surprising continuities with apartheid. Patrick Bond's argument that race-based apartheid has been supplanted by 'class-apartheid' seems empirically proven and politically uncomfortable.

#### NOTES

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- 30 Pinnock, 1984, op cit, p 10.
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- 33 Don Pinnock relays an interview with a member of one of the largest gangs on the Cape Flats during the 1980s, the Mongrels, which hints at this situation. Note the distinction between the farm youths and the 'local person': "Many of the gang are Bjs [*boere jongs*, farm youths] but you'll see the leader is always a local person. He's got a house, a headquarters, a pad to sleep. These upcountry guys get arrested and they're sent to Tokyo [a reformatory]. There they stay maybe two years, and they meet guys there who say, 'We'll fix you up when you come out'. Maybe they join a gang in reform. When their time comes they don't want to go back home now. There's nothing for them to do there and now they've got *gedagtes* [understanding] and they want to stay in town" (Pinnock, 1984, op cit, p 53). The relationship between migration, crime and gang formation remains a subject of some importance, particularly in the rapidly enlarging black African townships in Cape Town that include both new urban migrants and more established communities who have lived in Cape Town for generations. The point of interest here is not simply whether urban migrants cause crime but rather the tensions that can develop between urbanised populations and large numbers of people who arrive from the countryside. For example, what appears as straightforward vigilantism against criminals may, on closer inspection, be a conflict between insiders and outsiders – the urbanised communities in conflict with rural migrants, some of whom may also be foreigners. This remains a subject worthy of further study.

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- 37 Published information on the Numbers has been limited until recently. In 1981 Fink Haysom, a master's student at the University of Cape Town, produced an excellent first study of the prison gangs and argued persuasively that the Numbers were inspired by the authoritarian regime that ruled the prisons during apartheid. In 1984, Charles van Onselen produced an historical account of the bandit group that was the predecessor of the Numbers, in his book *A small matter of a horse*. This remains essential reading on the subject and it is unlikely that his account will be improved upon. The oral history of the Numbers, which differs from the history provided by Van Onselen, has only recently been put to paper by outsiders. This lack of knowledge about the Numbers is partly due to their code of secrecy – divulging information on their history and *modus operandi* to outsiders is considered a punishable offence. Jeremy Vearey, currently a station superintendent of the South African Police Service (SAPS) on the Cape Flats and a leading police gang expert, has provided an exceptionally rich account of the Numbers based on his time in prison during the late 1980s. Vearey was imprisoned for activities relating to the struggle movement and it was in prison that he became close to the 27s gang. Unfortunately, Vearey's work has not been published, although he was able to supply a copy for this study. More recently, Jonny Steinberg has provided several publications on the Numbers, one of them the lengthy biography of a 28s member, including his release from prison. This work was based on over a year of primary research in Pollsmoor prison. Finally, in 2002, Sasha Gear and Kindiza Ngubeni conducted extensive research into sexual violence in prison and, in particular, how this relates to the structure and ideology of the Numbers.
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- 55 Ibid, p 163.
- 56 Natrass & Seekings, op cit.
- 57 See P Bond, *Against global apartheid: South Africa meets the World Bank, IMF and International Finance*, University of Cape Town Press, Cape Town, 2001; and P Bond, *South Africa and global apartheid: Continental and international policies and politics*, discussion paper 25, Uppsala, Nordiska Afrikainstitutet, 2003.
- 58 N Natrass & J Seekings, A divided nation: Distribution in post-apartheid South Africa, *Daedalus*, 130(1), 2001, 45–70.
- 59 D Byrne, *Social exclusion*, Open University Press, Buckingham, 2002, p 64.
- 60 UNDP, op cit, p 145.
- 61 L Wacquant, 'A black city within the white': Revisiting America's dark ghetto, *Black Renaissance*, 2(1), 1993.
- 62 The concept of 'impatient capital' describes an increased pressure for investments to make short-term gains and is linked directly to the growth of speculation in the global financial market. Impatient capital is one force that exacerbates labour insecurity and intensifies the demands for 'flexible labour'.
- 63 See I Turok, Persistent polarisation post-apartheid? Progress towards urban integration in Cape Town, *Urban Studies*, 38(13), 2001, pp 2349–2377.
- 64 T Leggett, *Ganglands: A victim survey of Manenberg*, Institute for Security Studies, Pretoria, forthcoming.
- 65 SALDRU, *Khayelitsha/Mitchells Plain survey 2000: Survey report and baseline information*, University of Cape Town, Cape Town, 2000.
- 66 Marais, op cit.
- 67 The owners of this survey did not want me to take a copy as they feared publication of some of the key findings would only add to the stereotype surrounding Atlantis's dire situation – residents during my fieldwork trip constantly urged me not to give Atlantis a bad image, for this, they believed, was only worsening the lack of private inward investment in the area.
- 68 J Simon, Miami: Governing the city through crime, in M Polese & R Stren (eds), *The social sustainability of cities: Diversity and the management of change*, Toronto University Press, Toronto, 2000, p 98.
- 69 It is interesting to note that Cape Town has had a long history of being dubbed the 'murder capital of the world'; this is not a recently acquired status. In 1987 the *Cape Times* ran a story, entitled "Cape Town is crime capital" (*Cape Times*, 12 Aug 1987), which read: "Cape Town is the murder capital of the Western World. Its violent death is almost three times that of New York". Official figures showed then that the murder rate was 53 per 100,000, which is bound to be a gross underestimate.

- 70 *Cape Argus*, Wild West, 25 May 2006.
- 71 C Africa, J Christie, R Mattes & H Taylor, *Crime and community action: Pagad and the Cape Flats, 1996–1997*, Public Opinion Service Report No. 4, IDASA, Cape Town, 1998.
- 72 P Burton, A du Plessis, T Leggett, A Louw, D Mistry & H van Vuuren, *National victims of crime survey, South Africa 2003*, Institute for Security Studies, Pretoria, 2004.
- 73 This report was compiled by the Safer Schools Project, Western Cape Education Department, in 2005. The report has not yet been published.
- 74 See M Shaw, *Crime and policing in post-apartheid South Africa: Transforming under fire*, David Philip, Cape Town, 2002, ch 6.
- 75 Western, op cit, ch 9.
- 76 See also Steinberg, 2004, op cit, pp 113–114.
- 77 Z Bauman, *Community*, Polity Press, Cambridge, 2001, p 117.
- 78 Shaw, op cit, p 110.
- 79 R Sennett, *The uses of disorder: Personal identity and city life*, Faber, London, 1996, p 194.

# The problem: Organised crime on the Cape Flats

## PART I: THE OFFICIAL VIEW OF ORGANISED CRIME AND STREET GANGS ON THE CAPE FLATS

### INTRODUCTION

Understanding the nature of organised crime on the Cape Flats is a difficult and complex task. There is a dominant perspective, which senior officials in the Western Cape seem to share and which influences current policy thinking. It is a view that must be understood in a broader context of the apparent growth in organised crime that occurred throughout the country during the mid 1990s as a consequence of political transition. The first part of this chapter will describe this 'official' view. Following this is a description of the main policies that have been developed in the past few years to tackle the problem.

The second part of this chapter provides a theoretical analysis of this official understanding of organised crime on the Cape Flats and of the current policy approach. This places South Africa in a global perspective and it is argued that the official view in South Africa is largely consistent with an orthodox understanding of street gangs and organised crime, which has its origins in the United States (US). This orthodox understanding can be conceptualised as a 'parasitic model', due to the underlying assumptions regarding the nature of criminal groups and their threat to the economy and the state. A discussion of the critical issues regarding this model leads to the core analytical questions, which are explored in more detail in subsequent chapters.

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Don Pinnock and others have documented that street gangs and organised criminal activity were a prominent feature of the Cape Flats for decades under apartheid. This proliferation of criminal activities was linked to the process of forced removals as well as to the social structure created by the apartheid government, which was built on the unequal and racist governance of the colonial era. The collapse of the apartheid regime and the successful elections that saw the ANC instated as the new dominant political power did not manage to undermine the environment which seemingly allowed organised crime to flourish. In fact, according to virtually

all reports, various forms of crime, including the activities of street gangs and other criminal groups, increased dramatically during the early and mid 1990s.

By 1996, the issue of organised crime was isolated as one of the four core priorities of the government's National Crime Prevention Strategy. In the same year Chris Landsberg and Zondi Masiza, who produced one of the earliest reviews of South African organised crime, talked about a "tipping point" in the perceived scale of organised crime, which was leading to a "Nigeriansation" effect – where the new South African Republic gained an "international reputation for endemic and irreversible crime".<sup>1</sup> By 1997 the World Economic Forum had ranked South Africa, alongside Russia and Colombia, as being one of the nations most affected by organised crime. From that point on South Africa was inserted into the international literature of organised crime and has been used as evidence of the criminal opportunities afforded by globalisation and the need for transnational policing.<sup>2</sup> South African experts are now leading contributors at international forums on the subject, including committees assisting the United Nations Convention against Transnational Organized Crime.

The description of organised crime since the fall of apartheid has been relatively consistent. Most agree that knowledge is extremely sketchy regarding the *modus operandi* of criminal groups and a variety of definitions of organised crime have been put forward. In early attempts to define organised crime in South Africa, the tendency was to give importance to the hierarchical structure of groups. However, Mark Shaw argues that this is wrong and that criminal groups are organised in a more flexible way; they are segmented and decentralised, which allows them to adapt to new opportunities quickly.<sup>3</sup> This view now seems to be in the ascendancy.

Despite the disagreement on how best to define it, there has been a strong consensus on the size and causes of the phenomenon. All commentators agree that the number of organised crime groups has risen dramatically. Landsberg and Masiza cited police reports of 278 syndicates operating in 1994.<sup>4</sup> In 1999, Mark Shaw relayed police estimates that organised crime had doubled under the new government.<sup>5</sup> By 2002, Shaw had updated this information with police intelligence that claimed over 800 syndicates are operating in the country, with a combined membership of 12,000 'primary suspects'. Of these groups, 300 are believed to also operate either elsewhere in Africa or internationally.<sup>6</sup> Despite these alarming statistics, it is important to note that both Peter Gastrow and Mark Shaw have argued that forms of organised crime were prevalent in South Africa prior to the 1990s, although they were far less numerous and sophisticated and therefore less threatening. According to Gastrow, the transition from apartheid to democracy should be viewed as a springboard from which existing organised crime was to develop and flourish.<sup>7</sup>

The decade after the general elections has therefore been documented as a period of transition for organised crime. It is also an era when several radical new measures were enacted by the state, aimed at combating gangs and other criminal groups. This required an underlying shift in law enforcement philosophy: rather than relying on arresting individuals for their crimes, it was decided that stronger measures were needed to target criminal organisations and their assets; it was recognised that the state must make it more difficult for criminal groups to penetrate the legal economy and launder the proceeds of crime. This shift in law enforcement philosophy was directly inspired by experiences outside the country and, most significantly, in the US.

Although gangs and organised crime on the Cape Flats is a subject that attracts much media and political attention, there has in fact been little in the way of serious research and writing on the issue since the mid 1980s. This contrasts with other subject areas related to criminology that have received much more in the way of scholarly debate, such as policing, prison reform and violence against women. What writing does exist tends to concur on two salient themes: several factors meant the street gangs of the preceding era developed into far better organised criminal groups and the money being made through economic crime was far greater than previously. Irvin Kinnes, one of the region's prominent gang experts and policy advisors, described this transformation succinctly:

Street gangs are no longer characterised by youngsters who hang around the streets of local communities to 'defend' the community from rival gangsters. They have developed into organised criminal empires.<sup>8</sup>

This is a view shared by senior officials in the Western Cape. This was illustrated well by Leonard Ramatlakane, the provincial Minister of Community Safety, during his opening address at an anti-gang workshop in 2003 that was attended by law enforcement personnel and policy advisors.<sup>9</sup> Ramatlakane pointed out that "Participation in gang activity is still substantially driven by such elements as group identity, self-protection, pride, boredom and turf"; however, he continued, "the bottom line now is money". Thus, since the transition to democracy gangs have "increasingly become involved in organised crime" and "the nature of gangsterism in the Western Cape is increasingly ruthless and business orientated"; gangs are now, he described, "well structured businesses".

If there was ever doubt regarding the link between gangs and crime, this seems no longer to be the case. In 1998 law enforcement officials were cited in the press claiming that 50–70% of all crime on the Cape Flats was gang-related. Irvin Kinnes later confirmed these figures<sup>10</sup> and then Ramatlakane, in the same speech delivered in 2003, reported that "analysis of available statistics shows that a large

percentage of all crime in the Cape peninsula is gang-related". In an area with some of the highest levels of violent crime in the world, this is an important claim.

Of the 130 gangs believed to be operating at the moment a few have been identified by the authorities as having become particularly powerful, bringing other smaller gangs into their business organisations. Well-known groups include the Americans, the Firm, the Hard Livings, the Sexy Boys, the Junky Funky Kids and the Mongrels. It is reported that these criminal organisations have been particularly aggressive in recruiting new members and expanding their territories. Many areas of the Cape Flats now have cells of these larger gangs. The Americans gang, which is in the ascendancy, is believed to have as many as 5,000 members and is reported to have the most complex internal organisation.

While the structural nature of organised crime on the Cape Flats has not been explored in past studies, there is a growing consensus on the factors that caused this change. Some are developments that affected the entire country but local dynamics have also played their part. Most commentators acknowledge that gangsterism and organised criminal activity cannot be divorced from unemployment and poverty. However, three other themes tend to be cited as more critical in transforming the nature of organised crime, namely a weakening police state, the opening up of South Africa's borders and finally, anti-crime movements.

#### A WEAKENING POLICE STATE

One of the most important developments linked to the proliferation of organised crime both nationally and locally on the Cape Flats has been the weakening of the state's crime-fighting capabilities during the country's political transition, which occurred on either side of the first democratic elections. During the last years of apartheid the police became increasingly focused on political concerns and therefore did not address signs that organised crime was fast becoming rampant. From 1994 onwards the police went through a fundamental restructuring and redefinition.<sup>11</sup> Despite calls to completely reinvent the force,<sup>12</sup> particularly by those who saw the police as an explicit arm of racial suppression, the strategy adopted was in line with Mandela's vision of integration and reconciliation. Thus, the newly named South African Police Service (SAPS) set off on an ambitious programme of integrating many members of the old regime with new black colleagues in positions of authority and senior management. The SAPS was also reinvented as a modern police service that no longer condoned strong-arm tactics in police investigations. This shift in methods is often described as a move away from confession-based policing, which, to some, simply means the police can no longer physically intimidate and assault suspects to get the information they need for a successful prosecution. An unintended consequence of this police transformation was to

provide organised crime with a window of opportunity; it has been reported by many commentators that thousands of South Africans and foreigners exploited a period when there was a temporary paralysis in the state's ability to counter criminal activity.

Interviews with a range of experts in Cape Town have confirmed that police transformation was a key event in allowing gangs to become more sophisticated and better organised. However, there is some disagreement over when and why this happened. Those who are more critical of the old police force claim that the paralysis in the police started late in the 1980s when the state became obsessed with controlling the political uprising. As an anti-crime activist put it:

They had a field day. The police weren't doing their job because of what was going on in the country at that time and the gangs took advantage of the situation. They acted like they were untouchable.<sup>13</sup>

Those who were active in the police during the late 1980s tend to locate the problem with the onset of democracy and argue that the police under apartheid were by and large 'efficient' and held crime at bay. According to this perspective it was the process of political transformation that weakened the police's crime-fighting ability. A detective of the Organised Crime Unit (OCU) of the Western Cape provided evidence of this second understanding:

A significant reason for the increase in organised crime here was the police transformation. Whilst this transformation may have been good from a human rights perspective, it allowed the criminals a huge opportunity. At a single stroke of the clock in 1994 the whole way of doing police work was transformed. Under the old authority the rules were strict and police had a clear understanding of how the system worked. The police used to be very effective and there was a high level of trust amongst the force. With the transformation there was a complete overhaul of legislation and procedure. Many police had to be retrained. This caused a lot of stress and many police decided to retire. This left a bitter feeling with some feeling inferior. Now there is a feeling that you don't know who to trust.<sup>14</sup>

#### OPENING UP OF THE BORDERS

A second theme in explaining the explosion of organised crime throughout the country, including on the Cape Flats, was the opening up of South Africa after its long period of international isolation. According to organised crime scholars, borders were policed more efficiently during apartheid and there was the obvious restriction of international trade created by sanctions.<sup>15</sup> The transition from being an isolated country to being one that is far more porous has gone down as being a period when the floodgates were opened to transnational crime.

Many types of contraband can now cross the borders in both directions with far less risk. South Africa experienced a large upsurge in people from all over the globe entering the country and some of those contributing to the literature on South African organised crime see it as highly relevant that as many as 100,000 Nigerians are believed to be living in South Africa illegally.<sup>16</sup> Apparently some of these new foreigners were members of criminal syndicates who recognised South Africa as providing an excellent environment for their illicit business interests – the country, despite its extreme income polarisation, has a sophisticated banking system, excellent internal telecommunications and an efficient network of travel. It has an infrastructure that is equally good for criminal organisations and for legal business. The late Minister for Safety and Security, Steve Tshwete, lamented:

...since its return to the global arena, [South Africa] has felt the effects of transnational organised crime syndicates attempting to extend their tentacles to 'new markets'. Given South Africa's relatively well-developed infrastructure, modern telecommunication systems, technology and business practices, it would appear that the scope of organised crime has evolved from generally small-scale local operations to international syndicates.<sup>17</sup>

The targeting of South Africa by foreign syndicates therefore became one of the dramatic and virulent problems of the new democracy.<sup>18</sup> This has meant that South African reports on the nature of organised crime have nearly always differentiated between those groups involving domestic criminals and those that involve foreigners. The latter category is normally referred to as 'transnational organised crime' – a misleading concept, if only because it is generally acknowledged that South African domestic groups are engaged in frequent cross-border trade and are identified by bordering countries as being as threatening as the Nigerians and other foreigners from outside the region.<sup>19</sup> Transnational organised crime groups, as is the case in the international literature, are also seen to be culturally homogeneous, being categorised by their country of origin. The list of the most threatening includes the Russian Mafia, the Chinese Triads, the 'Nigerian networks', the Italian Mafia and the Colombians, although there are other foreign groups operating in South Africa with nationals from countries that do not rank so highly in the league of transnational crime, including groups of Peruvians, Pakistanis, Bulgarians, Portuguese and Congolese.<sup>20</sup>

According to most commentators, these foreign groups appear to be among the most threatening, partly because they are able to import and export commodities through existing trade routes and because they have accumulated criminal proficiency. Evidence for this view can be seen in the fact that transnational organised crime groups almost always receive the lion's share of analysis in research reports.

What seems a worrying trend is that these more sophisticated groups are linking up with domestic syndicates and thereby transferring criminal knowledge and expertise.<sup>21</sup> Peter Gastrow writes that “greater exposure to and competition from established international criminal groups active in South Africa, have been some of the factors that contributed to the increased sophistication of South Africa’s indigenous organised crime groups”.<sup>22</sup>

This latter point is a concern for those focusing on the transformation of gangs on the Cape Flats. New criminal operators and illegal commodities are reported to have entered into the criminal underworld here. West Africans, the American and Russian Mafias and Chinese Triads appeared on the scene and drugs such as cocaine and heroin became more easily accessible. This exposure for the indigenous gangs not only led to increased access to international illegal markets, including those in new forms of drugs and weapons, but it is believed that the foreign operators demanded a greater degree of organisation from street gangs if they were to become partners in illegal operations.<sup>23</sup> Benjamin Haefele describes this succinctly:

Like [in] the Soviet Union, the growth of organised crime in South Africa has been a feature of the political transition to a democratic order. The opening up of borders, the weakening of the policing institutions of the state and the volatile regional context has all contributed to the growth of organised crime in the country...international syndicates are forming partnerships with local gangs on the Cape Flats and in the process assisting them to climb the criminal ladder... several major international drug trafficking syndicates, e.g. Columbia, Nigeria, USA (Mafia), Peoples Republic of China (Triads), Russia (Mafia) have been identified to be presently involved in the RSA and in particular in the Western Cape.<sup>24</sup>

The Deputy Director of the provincial Department of Community Safety (DCS) in the Western Cape also summarised these developments in a newspaper article:

It is important to note that the reintegration of South Africa into the international community has opened opportunities for criminals to establish international links or adopt some of the more sophisticated methods of operations used by long-established international crime organisations. In addition, our [post-apartheid] Constitution and culture of human rights has made it difficult for old, traditional law enforcement agencies to deal with organised crime. Criminals are not restricted in this way. And as organised crime was never a priority crime in the past, the poor investigative skills of police made it virtually impossible to deal with this new sophisticated ‘crime’.<sup>25</sup>

Similarly, in an interview a member of the Scorpions in Cape Town explained:

If one is talking about gangs here the other important factor is the opening up of our borders. It is like globalisation that benefited the big countries but not necessarily the smaller or more developing countries. As a result of opening up our borders we have had an influx of various types of organised crime, for example, the West Africans, Chinese, Italians. Now we have organised crime here as we thought you could only have in other places, New York for example. It is simply because communication and travel is so easy we cannot isolate ourselves as we did – and the whole world did – under apartheid, which may have given a false impression that we were very efficient then; if the police force we had then was confronted by the situation now perhaps they would also not be successful. Because we have opened up and because we have problems with law enforcement the problem is very serious now.<sup>26</sup>

It is important to note that many South Africa commentators, when discussing the growth of organised crime nationally and locally on the Cape Flats, argue that transitional countries will, almost inevitably, undergo a struggle with this sort of crime. The comparison is regularly made between South Africa and Russia. Landsberg and Masiza claim that “international evidence suggests that organised crime increases in periods of political transition” when such transition “inevitably weakens states”.<sup>27</sup> Mark Shaw came to the same conclusion when he later wrote:

Comparative evidence suggests that organised crime grows most rapidly in periods of political transition and violence, when state resources are concentrated in certain areas only and gaps emerge in which organised criminal groups may operate. The most notable example is the former Soviet Union: the collapse of communist rule allowed the emergence of literally thousands of criminal organisations involving current and former members of the establishment.<sup>28</sup>

This comparison with Russia has become something of a mantra when analysing organised crime in South Africa and it is remarkable that so many of the country’s commentators on organised crime repeat it in almost every publication on the subject, even though transition in Russia was different, in so many ways, from the political and economic transition in South Africa.<sup>29</sup>

#### ANTI-CRIME MOVEMENTS

A third factor given for the change in the nature of gangs relates to several external pressures that gangs faced in the late 1990s, which resulted in their internal restructuring. The most important of these came from the vigilante movement known as People Against Gangsterism and Drugs (PAGAD), which began in 1996

and remained active for several years, during which it gained both an impressive following as well as a notorious image linked to alleged terrorist attacks.

The events surrounding the conflict between PAGAD and gangs on the Cape Flats are highly contested and there is no need to rehearse the debates here.<sup>30</sup> However, according to the available published material, and confirmed in interviews with former members of the movement, marches by PAGAD supporters on the homes of several drug dealers encouraged militant splinter groups from within PAGAD to violently attack leading gang members. This resulted not only in the deaths of scores of people, but also created a period of profound tension and fear on the Cape Flats. As a result, many well-known gangsters feared for their lives and there was also added pressure on the government to increase police operations in these areas.

It is alleged that, in response to this situation, those gang leaders who survived decided to work together and develop less conspicuous methods of doing business. As part of this process several leading gang members formed a short-lived organisation known as the Community Outreach Forum, or CORE. Those involved in CORE claim it was a benign organisation that was set up to administer funds for community development on the Cape Flats.<sup>31</sup> Yet those in law enforcement and those who have been actively involved in anti-crime organisations interpreted CORE not only as a cynical public relations stunt, but more importantly as a cover for a new level of organisation among the gangs. Most importantly, it is believed that CORE was the foil for a syndicate of leading gang leaders known as 'The Firm'.<sup>32</sup>

Also in the late 1990s and partly because of the violence between PAGAD and gang members, the government passed a new piece of legislation to combat organised crime: the Prevention of Organised Crime Act (POCA).<sup>33</sup> As described below, POCA made it easier for state prosecutors to target the leadership of organised crime groups and to confiscate their assets. It is argued by some local experts that the passing of POCA acted as another incentive for gangs to decentralise their organisation, allowing the leaders greater protection from investigation and prosecution. It is the understanding of local gang investigators that the upshot of both PAGAD's activities and the new legislation was, in effect, to create a greater complexity in the internal hierarchies of gangs and to consolidate power among larger, better organised structures. The larger gangs became more hierarchically structured to afford greater distance and protection to their leaders. As a member of SAPS explained in an interview:

[In the mid 1990s] there was a concerted effort to do something about the crimes they were involved in – there was an outcry about it. To protect themselves they had to do something and they realised that whenever they fight amongst themselves they attract attention and they knew they must stop that and so they

decided that instead of every gang fighting for territory, rather divide them on a map and render services to each other. What they learnt in the process was that they could not go on as before, everyone for themselves, they had to organise and they had to live in peace with the competition and rather work together to make a profit. Interestingly, PAGAD was a major contributing factor and so was the Organised Crime Act. What we encountered then in the late nineties was that those gangsters who were constantly involved in fights with each other realised there would be a concerted effort to clamp down on their activities, so they signed a truce, the CORE organisation. They changed from individual criminals and small gangs to a kind of federal system of gangs, like The Firm. This is playing an important role in our organised crime that we experience here today.<sup>34</sup>

These pressures on gangs not only forced them to consolidate and coordinate their illegal business operations but had the further consequence of pushing them out of the Cape Flats. No longer secure in those areas, many of the leaders set up residence in both rural areas and formerly white communities. In doing so they had access to new markets and consumers for their drugs:

What is important about the PAGAD phenomena is that PAGAD acted against gangsters and dealers in non-white areas, but they did not act against those people that were involved in drug dealing in white areas. The important thing was that white areas like Sea Point became a protective area where drug dealing could take place, whereas if they operated in the coloured or black townships they were under threat. So to that extent the drug dealers and gangsters had to move their operations to white areas, which was of course more profitable. This also made them realise they had to organise which brought about a different way of thinking which made the more powerful gangsters even more powerful. They had a bit of capital so they were able to buy houses and flats in white areas which they then used as drug selling houses, and that was also brought about by the situation that there was no obstacle to them owning property and that type of thing, so it was easy to transfer the activities.<sup>35</sup>

Similarly, Irvin Kinnes, who has continually raised the warning that gangs are expanding into rural areas, explains:

It has been obvious to activists and gang investigators that gangs have had a strategy of 'buying the town' in rural areas...The action involves gangsters initially buying property in these towns. They would then proceed to buy property that involves common use by the community, such as petrol stations, shops and game arcades, to provide the means to recruit local youth to sell their commodities.<sup>36</sup>

#### THE STATE GETS ORGANISED: POLICY DEVELOPMENTS AND THE WAR ON GANGS

According to the government, the paralysis of the state's ability to counter organised crime was only momentary. By 2001 Steve Tshwete, the then Minister for Safety and Security, claimed, "The government cannot be accused by anybody of sound mind of turning a blind eye to the menace of organised crime".<sup>37</sup> This statement reflects both the widespread criticisms that had been levelled against the government about its inability to tackle organised crime, as well as a somewhat defensive mindset that had built up among the authorities as a consequence. Tshwete was, however, correct. The South African government, in a surprisingly short space of time, passed extremely strong legislation aimed at combating organised criminal activity and several new specialised agencies were established to put these laws into effect. Alongside the Asset Forfeiture Unit (AFU) and a dedicated witness protection programme, the most important new law enforcement agency was the Directorate of Special Operations, the so-called Scorpions unit, an elite crime-fighting organisation set up outside the SAPS and inspired by the Federal Bureau of Investigation. The Scorpions comprise special prosecutors, detectives, forensic scientists, electronics experts and others who work together on priority crimes, most importantly on those activities relating to organised crime.

Linked to the creation of the Scorpions, in 1998 a group of experts drafted POCA, which was later passed by Parliament with virtually unanimous support. POCA was inspired directly by two American pieces of legislation, the 1970 Racketeer Influenced and Corrupt Organizations Statute (RICO) and the 1988 Californian Street Terrorism Enforcement and Prevention Act (the STEP Act). In justifying the need for this legal provision, those drafting POCA stressed that South Africa was lagging behind in what was considered 'international best practice'. This is reflected in the preamble of the Act, which states that:

South African common law and statutory law fail to deal effectively with organised crime, money laundering and criminal gang activities, and also fail to keep pace with international measures aimed at dealing effectively with organised crime, money laundering and criminal gang activities.<sup>38</sup>

And, as the then Minister of Justice explained in a press statement:

During the apartheid years, the previous government failed to keep the legal system up to date and failed to keep pace with sophisticated international measures aimed at dealing effectively with organised crime. These measures have been enacted in a world which has had to find sometimes drastic solutions to the rapid growth of organised crime on a global scale.<sup>39</sup>

POCA was controversial from the outset and concern about the constitutionality of the Act was raised along with worry about potential infringements on human rights. These were, however, dismissed by its chief protagonists as being of secondary importance to winning the war against organised crime. An article in the *Cape Times* read:

The greatest danger to building a human rights culture in South Africa is crime. South Africans may have to accept [POCA] although it would 'tread on the edges' of constitutionally protected human rights, said parliamentary Justice Committee member Willie Hofmeyr. 'Unless we get to a position to fight crime effectively, I think you are going to see a right-wing populist movement that will sweep away the constitution and all rights, rather than a few rights here and there.'<sup>40</sup>

Critics of the Act, which included the Human Rights Committee of South Africa and the National Association of Democratic Lawyers, argued that POCA was undesirable on the grounds of its potential for human rights abuses. Moreover, it was suggested the Act was based on limited research into the underlying threat. However, the Justice Portfolio Committee, which organised a consultation with several stakeholders on the formulation of the Act, dismissed these criticisms as being 'soft on criminals'. This was a time for getting tough and the state was justified in pushing the boundaries of due process to bolster the fight against what was seen as an exceptional new enemy of the state and of democracy. The argument was put forward that such was the nature of global crime that South Africa was compelled to design new legislation and adopt controversial tactics. The image given was of a government forced into a potentially unpopular policy, but one justified as 'the only way forward'. Be that as it may, it is clear from reading the minutes of the meetings of the committee that drafted POCA, as well as their statements in the South African press, that POCA was considered a monumental achievement which had the potential to profoundly impact on levels of organised crime. In responding to accusations that crime was fast getting out of control, Mandela had promised to "fight fire with overwhelming fire", and POCA was launched triumphantly by the Minister of Justice as the "most drastic law the government has ever passed".<sup>41</sup>

In the Western Cape, despite the existence of new legislation since 1998, the local authorities continued to come under criticism for being unstrategic and ineffectual. Claims that the criminal gangs of the Cape Flats were facing imminent arrest from the government seemed increasingly like empty promises. For example, in 1998, just after POCA had been accepted by Parliament, Bulelani Ngcuka, the first head of the Scorpions, said it was time for the "gloves to come off" in the fight against gangs.<sup>42</sup> The following year, Percy Sonn, the then head of the Investigative

Directorate on Organised Crime, announced his war on gangs and promised to arrest the 'Big Five' – those gang leaders thought to be most influential on the Cape Flats at the time. Sonn stated: "These are just the first five, there are other crime bosses who have evaded prosecution for years but the long arm of the law is finally reaching out to them".<sup>43</sup>

Unfortunately, Sonn failed to prosecute any of the Big Five during his tenure and it was strongly believed that a combination of corruption and poor investigation skills was behind the seemingly untouchable status of the Cape's infamous gang leaders. Despite promises by the Minister of Justice that the gangs' days were numbered due to the passing of POCA, strangely, no attempts were made to prosecute gangs by using the Act's harsh measures.

Exasperation over the lack of success was evident among civil society groups. By 2000 a collection of NGOs and CBOs, who had formed the Joint Forum on Policing (JFP), scripted a press release entitled "Where is the holistic gang strategy for which the people of the Western Cape have been waiting for 30 years?" It lambasted the provincial government and DCS and accused them of gross ineptitude. Worse, it strongly implied that there was a lack of genuine compassion for the people affected by widespread violence that the JFP saw as 'gang-related'. According to the JFP, policing at this stage conformed to the fire-fighting approach – the police and the army responded to gang crises when they occurred through street sweeps and special operations, some given ominous names, others promising a bright future (Operation Slasher, Operation Recoil and Operation Good Hope, for example), but these efforts clearly failed to tackle the root causes and it was obvious to many that gangs and organised criminal activities still flourished.

Similar criticisms were levelled at the former provincial government by the provincial head of the ANC, Ebrahim Rasool, when in opposition. In February 2001, at the opening of the Western Cape Legislature, Rasool criticised the leader of the ruling DA, Gerald Morkel, for failing to tackle the gang issue with any serious strategy. He accused Morkel of tokenism, of merely mentioning gangsterism to put it on the public agenda – "That's not good enough for the Premier of the Western Cape," Rasool argued. He demanded greater empathy from the DA in dealing with the issue:

The vulnerable in this Province include the youth – who with great ceremony despatch from our schools, certificates in hand – and we return most of them to the ghettos where the only meaning in life will come from the competition they have with each other about who can more brutally force their way up the gang hierarchy. They look to us to speak also in terms of redemption, as we speak only in terms of punishment.<sup>44</sup>

Such statements by the ANC, when in opposition, gave some people optimism that new strategies would be pursued to reduce gang-related problems when the ANC won the provincial elections in 2004. Indeed, there does seem to have been a sustained attempt to develop a more concerted approach to gangsterism and organised criminality in Cape Town – continually referred to as the search for the ‘holistic strategy’. It is certainly an issue that Ebrahim Rasool and Leonard Ramatlakane have ensured is regularly blazoned across the front pages of the local newspapers.

#### NEW WEAPONS TO WIN THE WAR

Ramatlakane and other senior officials have recently made several statements acknowledging the gravity of the situation, but they claim the demise of gang-related crime on the Flats is fast approaching due to their efforts. For example, Willem Basson, a senior employee of the DCS, published an article in the *Cape Times* that congratulated the local authorities on improving their commitment to arrest the leaders of gangs, recently called ‘high flyers’. It is interesting to note the range of social problems linked to these high flyers by Basson, which is not an unusual link to be drawn by the authorities:

...these high flyers finance the killing of children, raping young girls on the Cape Flats and corrupting of the criminal justice system [and] are responsible for corrupting the morals of society...As a result of [a failure to deal with high flyers previously] the people of the Western Cape suffered loss of human life, violation of human rights, assault of human dignity, assault on the rule of law, disruption of the economy, corruption, fear and, last but not least, a loss of confidence in the political leadership and government. [However] the current government leadership appears to be well aware of the serious threat organised crime is posing to our new democracy. In some countries, particularly in Africa, criminal organisations have infiltrated the state and government structures, thus undermining the optimal performance of their economies and the very system of democratic governance.<sup>45</sup>

The current provincial government has put in place several interrelated strategies aimed at nullifying the threat of organised crime on the Cape Flats. These have been greeted with a great deal of optimism among some local gang experts and the media has dubbed them “new weapons in the fight against the scourge of gangsterism”.<sup>46</sup>

#### **Prevention of Organised Crime Act**

POCA is far-reaching and contains several components. First, it allows for the civil forfeiture of the proceeds of crime, i.e. the state can take the possessions and

money of people suspected of criminal activities without obtaining a criminal conviction. The logic here is straightforward: by targeting the proceeds of crime the government will send out a clear message that 'crime doesn't pay' and by stripping syndicates of their 'ill-gotten gains' their power will be reduced significantly. By making the forfeiture a civil matter the burden of proof is also diminished. Having successfully taken back such assets, POCA then allows for the state to use the forfeited money, deposited into a Criminal Asset Recovery Account (CARA), either to compensate victims of crime, or where no victims are easy to identify, to fund the future costs borne by various law enforcement agencies. The head of the AFU, Willie Hofmeyr, explained to Parliament:

All international experience indicates that asset forfeiture is a vital part of the fight against crime. Not only does it help to ensure that crime does not pay, but it also has the advantage that seized assets are used to fight crime...The lesson from overseas is certainly that forfeiture is a vital part of any strategy to deal more effectively with crime, especially organized crime. In the US, more than R5bn is paid into the asset forfeiture fund every year.<sup>47</sup>

Although reinvesting profits from forfeited assets was justified as an essential component of the fight against organised crime, the prospect of securing millions of rand in the process was highly alluring. Philip Heyman, a Harvard expert on civil asset forfeiture, pointed out in a consultation report for the South African government that "it will be essential to see to it that a significant percentage of the dollars from asset forfeiture go back to law enforcement if law enforcement is to be motivated to use that tool".<sup>48</sup>

During the first years of the AFU little money was deposited into CARA, but in the past two years CARA has steadily grown in size (R140 million in 2004) and the targets set by the AFU for future years mean that it will grow to a very significant sum. No payments have yet been made to victims of crime from this fund, although the AFU has been able to return money to victims in specific cases (without the money being deposited in CARA) and some assets forfeited to the state have been used inventively to help crime-fighting activities. For example, a boat seized from a Hout Bay fishing company was donated to the law enforcement agency responsible for patrolling the waters where abalone is heavily poached. In Atlantis, the house of a suspected drug dealer was donated to a charity providing support to abused women. However, the reason why the funds in CARA have yet to be spent seems largely due to the practical problem of getting the ministers who oversee the account to sit down together and agree on how it should be used.

The second element of POCA is the criminalisation of participation in 'racketeering'. Again, the theory behind this seems straightforward. The POCA preamble states:

Bearing in mind that it is usually very difficult to prove the direct involvement of organised crime leaders in particular cases, because they do not perform the actual criminal activities themselves, it is necessary to criminalise the management of, and related conduct, in connection with enterprises which are involved in a pattern of racketeering activity.<sup>49</sup>

In other words, POCA is a legal tool to target the 'kingpins' who orchestrate criminal organisations, but who rarely get their hands dirty in actual criminal activities. POCA makes it an offence to be a member of a criminal organisation that engages in a pattern of racketeering activity, defined as "planned, ongoing, continuous or repeated participation or involvement in any offence that is punishable with imprisonment for more than a year without the option of a fine". A pattern is established if at least two of these crimes were committed within 10 years of each other. The scope of crimes included in a pattern of racketeering activity is therefore wide.

A key consequence of having a law to prosecute individuals for a 'pattern of criminal offences' is the need for courts to consider prior convictions. Alongside civil asset forfeiture this is a significant way in which POCA makes it easier for prosecutors and the law enforcement agencies.

The third element of POCA is that it criminalises different types of money laundering. Here POCA makes the distinction between *general money laundering offences* and *money laundering derived from racketeering*. POCA makes it an offence for anyone to attempt to launder the proceeds of a crime, under the first category. It also makes it an offence to enable or assist someone else in money laundering if the accused ought reasonably to have known that money involved was unlawful. A person convicted of a general money laundering offence is liable to a fine of up to R100 million or to imprisonment for a period not exceeding 30 years. However, the penalties for money laundering in connection to racketeering are even harsher: a person convicted such an offence is liable to a fine of R1,000 million or life imprisonment.

A fourth dimension of POCA, Chapter Four of the Act, is related directly to what it refers to as "criminal gangs". Chapter Four of POCA was not originally planned to be in this piece of legislation, but was intended to be used as a separate Gangsterism Prevention Act. The original motivation for this came from the SAPS Visible Gang Unit (disbanded in 2001). In 1997 several SAPS officers returned from a training trip to Los Angeles and Florida where they learnt about American techniques for countering street gangs. A document was supplied to the head of the police in the Western Cape, urging the adoption of the California STEP Act, along with other anti-gang strategies including a nationwide gang database based

on California's CalGang database. By the time POCA was being considered, the Minister of Justice championed the idea of merging this anti-gang legislation with the broader RICO-inspired Act. There was little resistance to this move from the panel of experts who drafted POCA, including academics who had been researching gangs for several decades in the Cape.

As a consequence of the SAPS trip to the US, Chapter Four of POCA was copied from the Californian STEP Act of 1988 almost word for word. The only major change made in POCA was a preference for the term 'criminal gang' over the American term 'street gang'.

The essence of the STEP Act, and therefore of Chapter Four of POCA, lies in two central ideas on how to hasten the demise of gangs. The first is based on the argument that members of criminal organisations, and especially the senior members, are difficult to prosecute under traditional criminal law. It is therefore important to criminalise membership of a gang as well as the recruitment process. Thus, POCA states that because "the pervasive presence of criminal gangs in many communities is harmful to the well-being of those communities, it is necessary to criminalise participation in or promotion of criminal gang activities".<sup>50</sup>

Chapter Four also deals with the fact that leaders of gangs order others to commit crime on their behalf, distancing themselves from the substantive criminal act and making them difficult to prosecute, although they are ultimately both the key recipients of the proceeds of crime and the crimes' architects. Chapter Four is therefore justified as a legal tool to catch gangs' leadership.

Second, because gangs have grown considerably in threat and scope, the state is justified in increasing the severity of punishments for members of such groups. If found guilty of being an active member of a criminal gang or being involved in a pattern of criminal gang activity, the penalty is six years in prison. A pattern of criminal gang activity is defined broadly as either being two offences committed by the same person within three years, or an offence committed at the same time as another member of the criminal gang. For encouraging others to be in a criminal gang the penalty is three years and if criminal gang activity is committed within 500 metres of a school or other place of education, the penalty is increased to eight years. In addition to these penalties, the Act states that a court should consider membership of a criminal gang as an aggravating factor for sentencing purposes.

At the time POCA was passed the authorities viewed it as being a strong legal tool to prosecute those in gangs for their collective crimes, but also it sent out a strong message of deterrence for people who are attracted to joining gangs. When the decision was made five years later to put Chapter Four into full effect, the same arguments were put forward. Irvin Kinnes claimed:

Members of gangs will [now] know that there will be consequences to their membership. This initiative will ward off people who potentially see gangs as a way of life for themselves.<sup>51</sup>

It is, however, important to note that in 1998 some of those associated with the drafting of POCA offered a more tempered perspective. Peter Gastrow, chair of the group of experts who drafted POCA, was reported to have explained: "The issue of gangs is far more complex than something that can be fixed by legislation".<sup>52</sup>

### **The high-flyer project and prosecutor-led investigations**

In addition to the decision to implement Chapter Four of POCA has been the policy to target the so-called high flyers – the gang bosses. Although this policy has been given particular coverage in the Western Cape and is promoted as part of the anti-gang strategy, the high-flyer project is in fact part of President Mbeki's national drive to arrest the top 200 criminals in the country – a policy that conforms to the target-led philosophy of Mbeki's office.<sup>53</sup> The high-flyer initiative therefore does not only target leading members of gangs, although most leading members of the larger gangs on the Cape Flats appear to be branded as high flyers.

Little has been written on who the high flyers are or how they have been identified. According to a senior prosecutor in the Scorpions, speaking at a seminar organised in June 2004 by this author to discuss anti-gang policies, the decision is somewhat arbitrary and is not based on any specific criteria other than that the high flyers are implicated in the more serious forms of organised crime. Interviews with senior officials, as well as press coverage, suggest that the logic behind arresting the gang leaders is that they are the organisers and generators of a great deal of crime. They also pose a unique threat to society, linked to their considerable fortunes and power among gang members. It follows that if the state can remove them, a severe blow will be dealt to organised crime and gang organisations. Two prominent gang experts explained:

All evidence points to the fact that where you are able to bring down a crime syndicate and create total disruption to their criminal economy, you prevent the emergence of gangs. There is no denying that bringing down gangs/organised crime is a long-term project, but short-term victories contribute to the total destruction of the criminal organisation.<sup>54</sup>

According to both the police and public prosecutors, one of the key reasons why the state has failed to prosecute prominent gang members thus far is a lack of synergy between police work and state prosecution. In most gang-related cases, information collected by the police is handed over to a state prosecutor only days

before the trial begins. Furthermore, evidence captured by traditional police investigations has often been exposed as inadequate and disorganised, meaning that state prosecutors have found it very difficult to build strong cases against gang bosses. In particular, police can be less than meticulous when documenting evidence of crimes and they are not always successful at interviewing key witnesses. The dire standard of many police investigations into matters relating to gangs and other violent crimes has been bemoaned repeatedly by magistrates in Cape Town and has been a source of some tension between the DCS, SAPS and the courts.

To counter these past inefficiencies, the new high-flyer initiative is strengthened by the introduction of investigations and prosecutions that involve police, the AFU, the Scorpions, the National Intelligence Agency and state prosecutors all working together over a much longer timeframe. This means prosecutors will be involved directly in gathering evidence and interviewing state witnesses. According to members of the Scorpions, one of the most important advantages of this approach is the added security and trust that prosecutors can offer witnesses – it is felt that in some areas, people are more reluctant to give sensitive information to the police than to state prosecutors. Implied in this observation is the realisation that there is a strong level of public distrust in the local police, who are often accused of being corrupt and of having close connections to gang members.<sup>55</sup>

The prosecutor-led investigations are also seen to be necessary with the advent of group-based prosecutions and those court cases that are dependant on showing a pattern of criminal activity. Traditional police investigations often fail to illustrate a systematic pattern of offending and it is thought that well trained prosecutors working with the police will have more success in generating the information for use in court cases.

### **Gang courts**

At the same time as deciding to implement Chapter Four of POCA, the authorities took the decision to set up a series of dedicated court sessions to deal with gang crimes, dubbed the 'gang court'. The idea of dedicated gang courts can be seen as a consequence of the prioritisation of gang cases. It is apparently something that certain members of anti-crime forums on the Cape Flats have wanted for several years.<sup>56</sup> However, the concept of a gang court must also be viewed in the context of a wider policy to tackle priority crimes through dedicated courts, such as the specialised commercial crimes court, the sexual offences courts and the planned car hijacking court, among others. This approach has been identified by the Department of Justice and Constitutional Development since 1997.<sup>57</sup> However, the unique feature of a gang court is that it seeks to prosecute specific types of criminals rather than specific types of crime, as the other specialised courts are set up to do.

The rationale behind dedicated courts is partly based on the need to fast-track priority crimes. Dedicated courts can be staffed with specialised prosecutors and magistrates who are knowledgeable about the relevant legislation and underlying problems. It is argued that this, in turn, may bring about consistency and predictability in the handling of sensitive trials. The authorities have also been particularly concerned that their new fight against gangs would otherwise clog up the general courts. It is argued that a worrying consequence of taking too long to prosecute gang members is the likelihood that accused will capitalise on this time to intimidate witnesses. Ramatlakane stated:

Our concern is that with the police's 'high flyer project' – arresting the so-called bosses of organised crime in Cape Town – the court roll will get clogged up. When this happens gangsters are given bail and they intimidate witnesses. Often these cases come up on the court roll only six to seven months later, by which time either the witnesses have declined to continue to assist the authorities or they are dead.<sup>58</sup>

### **Gang profiling and photographic database**

According to police experts, one of the difficulties in prosecuting and sentencing gang members has been the difficulty of proving gang membership. Thus, when the small entourage of South African police from the former Visible Gang Unit travelled to America to find inspiration for tackling gangs back home, they were impressed with how American law enforcement agencies had developed extensive gang databases and how the STEP Act made it easier to identify gang members. This later became a major incentive behind the decision to draft Chapter Four of POCA. In addition to providing a definition of gangs, POCA provides a list of factors that are relevant for the identification of a gang member during prosecution and sentencing. It is important to note that these factors are copied from the STEP Act, word for word:

In considering whether a person is a member of a criminal gang... a court may have regard to the following factors, namely that such person—

- a) admits to criminal gang membership;
- b) is identified as a member of a criminal gang by a parent or guardian;
- c) resides in or frequents a particular criminal gang's area and adopts their style of dress, their use of hand signs, language or their tattoos, and associates with known members of a criminal gang;
- d) has been arrested more than once in the company of identified members of a criminal gang for offences which are consistent with usual criminal gang activity;

- e) is identified as a member of a criminal gang by physical evidence such as photographs or other documentation.<sup>59</sup>

It is the last point that has inspired the idea of the police compiling photographs and dossiers of known gangsters. Ramatlakane has argued that these gang profiles and photographic evidence make it extremely difficult for gangsters to deny they are part of a gang.<sup>60</sup>

At the time of writing, it is not clear to what extent this policy has been implemented. There has been talk of providing the police with cameras, but it does not seem to be the case that a substantial photographic database on gang members has been collated to date. The police have had a 'gang desk' for several years and they have been involved in profiling gang members, although they are understandably reluctant to divulge this information or the process used to decide on which people are gang members.<sup>61</sup> We can only assume, given the public statements by leading policy makers, that this project of profiling gang members will be developed further in the future.

### **The elusive holistic strategy**

The use of POCA, the high-flyer initiative, the gang court and gang profiling are some of the most high-profile strategies that distinguish recent attempts to combat organised crime and gang-related activities on the Cape Flats from previous ones. However, the authorities have claimed that these are not the sum total of their efforts.

The provincial government claims that a defining feature of its new methods is the use of aggressive law enforcement strategies alongside approaches to assist with the rehabilitation of offenders. Ramatlakane has made several speeches describing this dual approach. The following is exemplary as it highlights well how the state marries zero-tolerance rhetoric with statements alluding to a more caring attitude:

Let me say to gang members, your days are numbered. We intend to pool our resources in order to reclaim the space of the communities. I want to inform you that we intend to harass you, we intend to make life difficult for you, I want to inform you that we will ask for you to be arrested if you continue with your intimidation and crime sprees. But I want to in the same breath say to you that we want to help those of you that needs and asks for help. We are aware of our responsibility to help rehabilitate young people that want to opt out of gangsterism. I want to say that when you are in a gang and want to get out...ask for help! [But] if you choose to continue with a life of crime, you must know that you are not untouchable and we will act to reach you, and you will be dealt with by our criminal justice system.<sup>62</sup>

However, given virtually no evidence of measures being put in place to help rehabilitate gang members, the government is open to criticism that its strategy remains based on arrests and asset forfeiture. What does not help the situation is that the authorities have not written up any detailed policy on gangs and organised crime in the Western Cape and they have remained reluctant to engage in public debate about their policy thinking.<sup>63</sup>

The closest to a policy document on this subject was produced in 2003 as a result of a two-day anti-gang workshop, but this was a weak document devoid of any substantial discussion of policy options and specific aims. Some of the papers annexed to the document were simply copied directly from American anti-gang websites, although they were passed off as original pieces from the DCS.<sup>64</sup> All that was written relating to the holistic strategy was that it would integrate several state departments, law enforcement agencies and communities in a coordinated way and that an expert group would analyse international best practice which would be implemented as part of a “long-term strategy to *replace the criminal economy* in priority areas”.<sup>65</sup>

Monitoring and evaluation of the progress of this strategy was promised but there was no detail on what measures of success would be used, nor on how such data would be collated and interpreted. From regular meetings and seminar discussions with those closely involved in formulating public policy on gangs, it seems that, at least at the time of writing, international best practice has only been identified as it relates to anti-gang legislation and crime-fighting tactics from America. There has been no serious thought given to the ideal of *replacing* the criminal economy – we can only wonder whether this means giving people currently employed in the criminal economy opportunities in the formal economy. If so, none of the people who could influence policy making who were interviewed for this study have considered how this could be achieved in reality, let alone what indicators of success could be used.

What we may conclude at this point is that when Rasool said that the youth in gangs look to the politicians to speak in terms of redemption, he was correct in saying that the latter only speak in language of punishment. Rasool, in power at the time of writing, took every opportunity to reinforce a particularly fierce attitude towards gang members that appeared to contradict his outlook when he was formerly in opposition. He warned that “it is no longer romantic to associate with gangs”,<sup>66</sup> and when responding to evidence that gangs were actively involved in the end of year ‘Coon’ carnival in Cape Town, Rasool gave a press statement in which he said those gangsters involved in the carnival would “feel the full might of the law...The only thing they’ll get is their plate of food in jail”.<sup>67</sup>

It seems reasonable to argue that the current approach to tackling gangs and organised crime in the Western Cape is premised on increasing the crime-fighting

abilities of various law enforcement agencies and it has been inspired by law enforcement measures developed in the US. The state is attempting to bolster resources in this area and also increase efficiency by improving the investigation and prosecution of criminal gangs. The theory is that not only will existing gangs thus be removed from society, but others will be deterred from taking their place. During the past few years this shift in anti-gang measures also reflects the belief that gangs have evolved into a more menacing and more organised threat to society. Assessing the success of these policies is difficult because the authorities have not described what measures of success they will be using.

Although it remains early days in the new fight, the authorities report that significant progress has been made. In April 2005, during his Budget Speech, Ramatlakane reported that there were 24 cases pending against 33 members of several gangs and all of the gangs involved would be declared illegal. Yet, perhaps the most significant evidence that the fight is being won came late in October 2004. At this time, death threats were allegedly sent to both Rasool and Ramatlakane. According to newspaper reports, the Chinese Triads held an emergency meeting with gangs on the Cape Flats, including the Junior Mafias. Police intelligence said that at this meeting, “the decision was made to stop infighting among the gangs and that drug dealing would become a business”.<sup>68</sup> The death threat was apparently motivated by the implementation of Chapter Four of POCA, the decision to increase police investigations into organised crime in the region and, in particular, the arrest of Quinton ‘Mr Big’ Marinus – one of the Cape Flats’ biggest drug dealers. In an interview with the *Cape Argus* the day after the threats were received, Rasool stated:

The threats are a confirmation that we are taking the fight to the gangsters and the drug lords and the high flyers... We have also received the threats with mixed feelings... For me personally, there is a sense of elation, as the threats mean that we are succeeding in attacking the impunity with which gang lords have been operating in the past... I would be surprised if gangs nationally and internationally were not rocked by last week’s arrest [of Mr Big] and, specifically, the thoroughness and comprehensive nature of the investigations. It tells them it is not a stupid and bumbling police force they are dealing with, but a machine that will pursue them... We will continue to put criminals behind bars. Those who do not want to reform from gangsterism, drug trafficking and organised crime voluntarily, should know they are choosing a road that will put them on a collision course with our law enforcement agencies. Therefore no amount of threats will stop us and our communities from this just cause.<sup>69</sup>

This episode shows clearly that senior politicians and law enforcement personnel feel they are engaged in a morally sanctioned battle against a well-organised enemy.

The state is clearly hampered in winning this war, but the political will is apparently there and thus the days of the gangsters are numbered.

#### **PART 2: DISCUSSION: THE PARASITIC MODEL AND RIVAL VIEWS**

A consensus has emerged on the analysis of organised crime in South Africa and on the transformation of street gangs on the Cape Flats. It is asserted that during South Africa's transition from apartheid to democracy, there was a profound change in the sophistication and threat of criminal groups operating throughout the country. Some of the region's long-standing street gangs evolved into better-organised criminal entities during this period, largely through opportunities inadvertently created by police transformation and the increased movement of goods and people across South African borders.

This South African analysis of both organised crime and street gangs is largely consistent with an international orthodox discourse on both these subjects. In the literature on organised crime it is sometimes referred to as the 'alien conspiracy model' by its critics, partly due to the belief that organised crime is dominated by culturally homogenous groups, typically foreign to their host country.<sup>70</sup> Here, however, the orthodox view is conceptualised as a 'parasitic model', a name reflecting not only the nature and genesis of criminal groups, but also the perceived relationship between organised crime, the legal economy and the state.

#### **THE PARASITIC MODEL OF CRIME: ORIGIN AND ASSUMPTIONS**

The origin of an orthodox, parasitic understanding of organised crime can be traced to the US since the Second World War.<sup>71</sup> Prior to this time the concept of organised crime was used among academics and law enforcement agencies but it was loosely defined. The Wickersham Commission, set up by President Hoover to investigate rising crime in America, particularly related to prohibition, interpreted organised crime as a complex issue implicating a range of people, including corrupt police, judges, businessmen, politicians and career criminals. The commission was orientated to investigate types of criminal activity under the heading of organised crime and it noted the blurring of legitimate business and criminal businesses, meaning the "line between criminal and non-criminal activity is a rather arbitrary one".<sup>72</sup>

This view was radically overhauled after the war and then updated in each subsequent decade. A new understanding of the term 'organised crime' emerged through a series of high-profile senate investigations into the activities of La Cosa Nostra, which was seen by US law enforcement officials as a highly organised and threatening criminal organisation led by people of Sicilian descent. Through these senate investigations, the US government conceptualised organised crime as a

hierarchical criminal conspiracy that seeks to operate outside the control of American people and their governments. Organised crime became a noun for a distinct criminal conspiracy.

In 1967 this official understanding was backed up by the groundbreaking study of the American Mafia by Donald Cressey, published in *Theft of the Nation*.<sup>73</sup> La Cosa Nostra was described at great length as a nationwide (American) institution, originating from Sicily, which had a regimented division of roles, strict internal discipline, restricted membership and centralised planning. In many ways his image represented the underworld reflection of Max Weber's influential theory on the principles of bureaucracy, which is why his view became known as the 'bureaucratic model'. While scholars may have learnt about La Cosa Nostra through Cressey's writing, the vast majority of people came to know it through media reports and the award-winning film *The Godfather*, released in the same year as Cressey's groundbreaking study and copied endlessly thereafter.

Cressey's model was not only definitionally important but normatively as well. As a definitional model, Cressey identified the criteria necessary for a criminal group to be considered involved in organised crime. He argued that the label of organised crime should be reserved for the more rational and complex organisations, such as La Cosa Nostra, and not used for other less developed criminal groups,<sup>74</sup> a view not shared by others, such as the British criminologist John Mack, who argued that this terminology was incoherent.<sup>75</sup> As a normative model, Cressey argued that La Cosa Nostra represented the most rational and efficient form of organisation. Criminal organisations became more advanced and criminally efficient the closer they approximated the bureaucratic model. For Cressey, the threat of a criminal organisation (its efficiency) is correlated with its degree of bureaucracy. Weber, in language similar to that used later by Cressey, wrote: "The purely bureaucratic type of administrative organisation is, from a purely technical point of view, capable of attaining the highest degree of efficiency".<sup>76</sup>

Cressey's model was also important as he convinced others that organised crime could not be tackled through conventional crime-fighting techniques. The men who ruled the Mafia did so by distancing themselves from actual criminal activities and their considerable wealth meant they could hire the best lawyers and attempt to bribe officials when necessary. Cressey advocated a more systematic approach to fighting this type of crime, based on the theory that law enforcement must bring down the entire criminal organisation rather than simply arresting those caught for individual crimes. It was this understanding that inspired the 1970 RICO legislation, which enabled the state to prosecute members of organised crime irrespective of their involvement in specific criminal activities and enabled the state to target the assets of criminal groups through civil court actions.

An important aspect of the revised understanding of organised crime is that it

no longer reflected the belief that there was a blurring between legitimate and illegitimate business activities, nor did it heavily implicate corrupt officials and politicians. Some suggest this was a deliberate attempt by the US law enforcement establishment to improve its tarnished image. Moreover, in an era embroiled with Cold War politics, the new vision of organised crime gave justification for the state to expand specialist law enforcement budgets and increase its covert powers, especially in its ability to monitor and remove potentially subversive individuals, some of whom may have been more political than criminal. Indeed, Woodiwiss<sup>77</sup> pointed out that measures brought in to fight organised crime during the 1970s, such as increased wiretapping, eavesdropping powers and civil asset forfeiture, were used far more often against perceived American dissidents than they were against American-Italians accused of leading criminal organisations.

During the early 1980s the orthodox understanding of organised crime in the US was updated. Again, a presidential commission, namely the Kaufman Commission, was largely responsible for this. This commission was set up by President Reagan in order to provide information on 'traditional organised crime' and new 'emerging groups' that rivalled La Cosa Nostra. The realisation that American-Italians did not dominate American racketeering may have gone some way in undermining the alien conspiracy model, i.e. that organised crime was largely conducted by a distinct group of outsiders. However, as argued by Mastrofski and Potter,<sup>78</sup> the new proliferation of organised crime was used by the US authorities merely to expand the old model. The new groups were all defined as ethnically, racially or culturally homogenous and they were presented as having a rational structure, being 'rabidly expansionist' and having alien origins. The emerging groups were mostly named by their nationality – such as the Colombians, the Jamaicans, the Mexicans, the Russians and so on – but also included prison gangs, some prominent street gangs and the infamous motorcycle gangs.

#### THE CORPORATISATION OF GANGS

It was also during the 1980s that street gangs in US cities were reported to have undergone a transition of their own. Emerging foreign criminal groups were seen as responsible for the burgeoning US drug market, which became highly competitive and cutthroat. Street gangs had historically been treated by the US authorities as youthful organisations, involved in petty delinquent crime and turf battles.<sup>79</sup> Based on this view, many state-funded gang initiatives during the 1960s and 1970s focused on social work and outreach programmes, designed to better integrate youth gangs into mainstream society and the economy. Although regarded as a public nuisance, gangs were not generally considered a major threat to the sustainability of cities throughout the US.

However, the drug economy changed this situation profoundly. Street gangs linked up with other organised crime groups and became the dominant groups controlling inner-city drug markets. There was a reported escalation of violence as a result, including the infamous scourge of drive-by shootings. Gang turfs were no longer areas protected against other gangs but became drug-dealing territories. Several scholars described this transformation as the 'corporatisation' of street gangs, wherein street gangs evolved into well-armed, rational criminal businesses.<sup>80</sup> Membership of these gangs was no longer limited to those who were youthful, but also included older people who remained leading members in order to exploit the wealth being made.

In response to this situation, the trend at both federal and state level in America was towards increasingly aggressive and specialised anti-gang law enforcement strategies that blurred with those considered necessary to tackle organised crime in general. This concerted clampdown on gangs was, and still is, routinely depicted by the US authorities as a *war* against gangs (much like the war against drugs) and therefore police operations have taken on militaristic dimensions, including frequent instances when heavily armed police, reinforced by helicopters, have performed 'street sweeps' in notorious gang areas.

In addition to these special operations has been a raft of new anti-gang legislation. Flagship legislation includes the 1988 STEP Act, which was inspired by RICO and therefore criminalised membership of street gangs in order to target its leadership core and increased the severity of punishment for gang members committed to prison for various gang-related activities. The STEP Act was so influential that it spawned anti-gang legislation in many other US states and is considered the inspiration for anti-gang legislation in various countries in South and Central America, as well as in South Africa. A different approach to the STEP Act was preferred in Chicago, where anti-gang loitering laws were passed in 1992. This enabled police officers to arrest suspected gang members for loitering in public places. Where specific gang legislation has not been developed, other American states have prosecuted gangs under the RICO Act.<sup>81</sup>

Integral to these new strategies are specialised gang prosecution units involving state prosecutors working closely with anti-gang police investigators. In addition, many states have either contributed to nationwide computerised gang databases or set up their own gang databases and tracking systems. Again, California has led the way and its gang database, CalGang, contains files on over 200,000 suspects.<sup>82</sup> In 1995, a similar database in Detroit contained files on two out of every three black males aged between 12 and 24.<sup>83</sup>

#### THE ERA OF TRANSNATIONAL ORGANISED CRIME AND THE AMERICANISATION OF CRIME FIGHTING

By the late 1980s the subject of organised crime was influenced by another profound change. Up to this point organised crime had been perceived as a national threat to the US. It was not an issue many other countries in the world had identified as a serious problem, at least not in the same way as it was in North America. However, within a relatively short time, organised crime was elevated as a global problem requiring radical new national laws and a concerted effort among governments and national law enforcement agencies to work together. Such was the perceived threat in this era, some leading scholars argued organised crime posed a greater challenge to national security than the nuclear arms race.<sup>84</sup> It was during this period that numerous countries began contributing to the literature on organised crime, although it is noteworthy that many academics at the forefront of this literature were trained in the US.

The explanation for the phenomenal growth of organised crime remains largely consistent and so, too, is the understanding of how organised crime threatens the legal economy and democracy. Orthodox accounts tend to emphasise that criminal organisations are predatory and show a remarkable ability to exploit opportunities provided inadvertently by society. Transnational organised crime grew dramatically in the last decade of the twentieth century, largely due to the same factors that enabled legitimate businesses to expand, speed up and prosper, especially the information technology and telecommunications revolution, the greater ease of travel and the deregulation of financial markets. As one scholar recently wrote: "To an extent, the legitimate world is a victim of its own success".<sup>85</sup> Exacerbating the situation as the parameters of the Cold War collapsed was that countries undergoing transition from command to market economies functioned as international criminal epicentres. Most noticeably, the disintegration of the Soviet Union spawned hundreds of crime groups who quickly ventured overseas and set up criminal business in places such as New York and London.

Thus, many leading commentators point to a combination of the end of the Cold War and the quickening of globalisation as the key factors in explaining the growth of organised crime internationally. As a result, the power of individual criminal organisations has grown considerably. Their ability to infiltrate politics and corrupt vulnerable law enforcement agencies threatens democracy, while their increased need to launder the proceeds of crime undermines the legal economy and threatens to destabilise market economies.

During this era a new understanding emerged of the structure of criminal groups. Unlike Cressey's bureaucratic model, experts argued that criminal organisations had adopted a new approach that afforded greater flexibility and mobility. More dynamic criminal networks had superseded hierarchical organisations, which

seemed in line with what was occurring in the global business economy. This view is put forward by Phil Williams, a leading organised crime expert, who has argued that new criminal networks are particularly difficult to police.<sup>86</sup> Despite the network model, it is interesting to note that individual organised crime groups/networks are still typically named by their country of origin, e.g. the Nigerian networks.

US officials alerted others to their concern about the globalisation of organised crime and it was they who argued that the US had developed the best strategies to respond to the threat, including RICO. According to a document circulated at the 1994 United Nations World Ministerial Conference on Organized Transnational Crime, RICO was: "generally considered the starting point of a new process of awareness of organized crime".<sup>87</sup> However, US policy thinking by this stage was joined by another important dimension: the importance of anti-money laundering laws to prevent criminals turning illegally earned cash into more valuable legal assets. Such arguments proved convincing and thus the subsequent United Nations (UN) Convention on Transnational Organized Crime obligates signatory states to implement legislation containing core principles of US crime-fighting strategies. Pino Alarcchi, the then Executive Director of the United Nations Office for Drug Control and Crime Prevention, declared:

A major breakthrough is the agreement to criminalise the simple participation in [an] organised criminal group, whether or not the individual actually carried out a crime personally. The ability to cast a wider net has proven to be a very useful tool in Europe and North America and will now become the global standard.<sup>88</sup>

Similarly, there has been a global consensus on the importance of establishing strong anti-money laundering legislation. Advocates of this policy argue that such measures can only be successful if all countries participate, otherwise criminals will always find safe havens.<sup>89</sup> Indeed, in 1996 Bill Clinton set the tone regarding this global anti-money laundering campaign when he suggested countries not complying might face US sanctions. The IMF and World Bank have made anti-money laundering strategies one of their conditions for loans, part of the drive to put 'good governance' at the forefront of economic development, particularly in the Third World.

An important aspect of the global fight against organised crime, referred to as the "Americanisation of criminal policy" by Bewely-Taylor,<sup>90</sup> lies in the underlying assumption that the only sure way to remove organised crime and stop it penetrating the economy is by targeting it as a distinct criminal entity. The secretary of the Ad-Hoc Committee for the Elaboration of the UN Convention, Dimitri Vlassis, wrote:

The convention should attack and seek to destroy criminal organizations, regardless of their activities...Many countries believe that the new convention will make a long-lasting contribution to national and international efforts by including provisions designed to achieve two fundamental goals – to keep organized crime out of the legal economy and out of politics. In order to shield the legitimate economy from the efforts at infiltration of organized crime, it is necessary to include measures that would prevent organized crime from identifying and entering markets, one of its increasingly prevalent characteristics.<sup>91</sup>

A glaring feature of those contributing to and championing the UN convention is the notion that they are setting out on a moral crusade to rid the world of a fierce enemy. There is a tendency to refer to the 'good guys' and the 'bad guys' and it is recognised that the bad guys are growing in power and thus so, too, must the good guys if the war is to be won.<sup>92</sup> A speech that illustrates this tendency well was given by Kofi Annan when he opened a major meeting for the establishment of the UN Convention on Transnational Organized Crime:

One of the starkest contrasts in our world today is the gulf that exists between the civil and the uncivil. By civil I mean civilisation: the accumulated centuries of learning that form our foundation for progress. By civil I also mean tolerance: the pluralism and respect with which we accept and draw strength from the world's diverse peoples. And finally I mean civil society: the citizens' groups, businesses, unions, professors, journalists, political parties and others who have an essential role to play in the running of any society. Arrayed against these constructive forces, however, in ever-greater numbers and with ever-stronger weapons, are the forces of what I call 'uncivil society'. They are terrorists, criminals, drug dealers, traffickers in people, and others who undo the good works of civil society. They take advantage of the open borders, free markets and technological advances that bring so many benefits to the world's people. They thrive in countries with weak institutions. And they show no scruple about resorting to intimidation or violence. Their ruthlessness is the very antithesis of all we regard as civil.<sup>93</sup>

If there is a final stage in the development of an orthodox view of organised crime, then this has recently occurred with the new War on Terror. There are strong parallels between the US-led fight against organised crime and the US- and British-led effort against terror groups both in the way the underlying concepts are understood and in the process of influencing other countries to fall into line with a global policy. In many ways the global war on organised crime set a precedent for the global War on Terror. At one stage it seemed anxiety about terror groups

might eclipse the issue of organised crime, but now the spectre of terrorists linking up with organised crime represents the next formidable challenge to the 'good guys'. It is a view that also reinforces the idea that organised crime is a noun for distinct criminal entities, which exist outside mainstream society. Phil Williams, for example, has written about a "murky underworld" where terrorists and organised crime groups meet and collaborate.<sup>94</sup>

#### THE ELEMENTS OF THE PARASITIC MODEL

The orthodox understanding of organised crime, referred to here as the parasitic model, contains a number of interrelated assumptions. It is preferable to see these as tendencies in thinking, rather than as issues that are categorically adhered to by specific individuals and institutions.

The first tendency relates to the conceptualisation of organised crime. The parasitic model is based on the view that organised crime represents distinct groups of career criminals and that these groups are internally organised. Organised crime is a criminal entity. To some extent the older view of organised crime as hierarchical and centrally governed has been undermined and in its place has emerged a view based on the assumption that successful criminal groups are less structured and prefer to operate as fluid networks. The move away from the bureaucratic model to a network analysis may suggest organised crime is no longer seen as distinct criminal entities, but rather as being complex and spontaneous. However, the interpretation of the network concept by mainstream organised crime scholars and law enforcement agencies retains a strong sense of conspiracy – it is asserted that criminals *choose* to operate in networks because they have decided this is the better way to organise crime in the period of globalisation; it is a deliberate decision, which only reinforces their expansionist tendencies. By seeing organised crime as distinct entities, they are analysed as both different from and external to mainstream society.

The second tendency relates to the opportunistic or predatory nature of organised crime. The parasitic model is based on the view that organised crime feeds off opportunities inadvertently created by society. Societal changes, particularly globalisation, are depicted as positive, but unfortunately groups including organised crime have undermined this progress because they have exploited weaknesses and acted for their own self interest. Organised crime is depicted as a disappointing reality of humanity – there are those who undermine and profit from the good work of others.

A third tendency is to argue that organised crime is highly threatening to national and international security. This threat manifests on various different levels, but most importantly organised crime penetrates the legal economy and attacks

democratic forms of governance. What is important here is that the parasitic model predicts a linear development of organised crime, which negatively correlates with the development of 'good society'; as organised crime grows in power, the stability and health of society are weakened as a result. The end point is a frightening scenario wherein organised crime literally runs the economy and the state.

A fourth tendency relates to policy thinking. The parasitic model encourages the idea that the way to combat organised crime is by a concerted effort to tackle the entire criminal organisation and starve it of its lifeblood – money. This view dismisses the idea that traditional criminal law is appropriate for organised crime, as it targets individuals only, not the organisation. It is the group that is important to focus on, not the underlying criminal activity.

A fifth and final tendency relates to a vision of success. Although organised crime represents a formidable challenge, if sufficient political will is shown, sufficient resources are given to law enforcement and sufficient synergy is established between national law enforcement agencies, then the menace of organised crime will be defeated. There is a victory in sight and thus the parasitic model is based on a vision of a world that can be, and will be, 'free of organised crime'.

#### **SOUTH AFRICA AND THE PARASITIC MODEL**

A core argument of this study is that the official understanding of organised crime in South Africa and current policy thinking are both heavily influenced by an Americanised perspective: the parasitic model. The language and tone used to describe organised crime in South Africa is essentially that which is used by leading commentators elsewhere. In turn, South Africa has made important contributions to a global orthodox understanding. It both copies a perspective from elsewhere and reinforces it. Mastrofski and Potter conceptualised the expansion of the alien conspiracy model in America during the 1980s as the 'pluralist revision' of organised crime.<sup>95</sup> We can update this by suggesting there has been a global pluralist revision, whereby countries such as South Africa have updated the underlying model with new examples. Leading commentators here have certainly not challenged any of the underlying assumptions of the parasitic model, nor recognised it as being contentious.

Several points need to be made to illustrate how South Africa contributes to an Americanised story. Organised crime in South Africa is depicted as distinct criminal entities although here, as elsewhere, the argument is put forward that a bureaucratic model is bettered by a network analysis. Organised crime in South Africa emerged as a predatory phenomenon during the period of political transition, feeding off opportunities inadvertently provided by that transition, including weak policing,

the opening of the country's borders to international trade and the advanced state of its infrastructure. Organised crime is seen as highly threatening to the liberalised market economy and also as an enemy of democratic transformation.

The policies put forward to combat organised crime are based on the philosophy of the parasitic model. Groups must be the target, rather than individuals, and there is a need to both confiscate criminal assets and stop organised crime laundering its cash. It is important to note that when advancing these policies, South Africans routinely make claims that such measures represent international best practice and that comparative evidence shows that they are effective.

The description of the corporatisation of street gangs, as a direct consequence of the emergence of organised crime throughout the country, is also a theme that complements an American history. New policy thinking is therefore based almost exclusively on American best practice and again, policies are based on the assumption that an aggressive group-based approach is required. The notion of a gang court illustrates this vividly: it is not the underlying criminal activities that should be the target, rather the state must deal with the new forms of street gangs by focusing on the entire organisation, particularly the leadership core.

The 'Americanisation of crime fighting' raises some important questions. It is possible that the parasitic model is essentially a good one and it describes the situation in South Africa well. The policies chosen are therefore sound. Yet, it is also possible that the parasitic model is problematic and therefore South African analysis is both misleading and encourages bad policy. The second scenario would suggest that, rather than experiencing a new threat, South Africa during the early to mid 1990s experienced a new concept and ideology; organised crime and the new corporatised street gangs did not emerge simply as an objective reality, but rather as new concepts. This is a matter to which we need to return.

#### ORGANISED CRIME ON THE CAPE FLATS: POINTS OF CONTENTION

The orthodox understanding of organised crime on the Cape Flats suffers gaps in knowledge. Comparative evidence also strongly suggests that there are a number of contentious issues with this analysis, which contribute to a critique of the parasitic model. Four broad issues stand out, although there are other themes that will not be covered here.<sup>96</sup> A brief discussion on these, based on the literature on both street gangs and organised crime, will help establish key research questions that are explored in more detail in following chapters. Exploring answers to these questions leads ultimately to an evaluation of the parasitic model, including its related policies.

## THE RELATIONSHIP BETWEEN STREET GANGS AND ORGANISED CRIME

The first issue that can be considered contentious relates to the notion that street gangs have transformed into well-organised drug-dealing businesses: that they have gone through a process of 'corporatisation', to use the terminology from American gang studies.

To what extent mainstream commentators in South Africa believe this to have happened to all street gangs on the Cape Flats is not entirely clear. However, there is a tendency to make this a general point and therefore an outsider to the region could easily assume this is a ubiquitous feature of street gangs on the Cape Flats.

If we accept that street gangs have undergone this transformation, then it is ambiguous whether they should be classified as forms of organised crime. In South Africa there is confusion on this issue. POCA suggests gangs are not simply a form of organised crime as it contains a separate section for criminal gangs. Indeed, we may deduce that gangs are considered less problematic than organised crime as the penalties for a person involved in a pattern of racketeering are far harsher than those for someone found guilty of gang membership. However, much official discourse asserts that gangs are now more sophisticated and are drug-dealing businesses. Moreover, given the extremely broad definition of organised crime – that it is any group of three or more people engaged in ongoing and serious offences – how is it possible not to see street gangs as a form of organised crime? Why there is this conceptual confusion and inconsistency is a matter we need to better understand. It is not an issue peculiar to South Africa and seems overlooked in the international literature as well.

Comparative evidence suggests a potential reason. The corporatisation theory is controversial and street gangs may have distinguishing characteristics that can differentiate them from those involved in what is seen as organised crime. Two main objections to the corporatisation theory are raised in the international literature, based on empirical studies.

The first concerns the notion that street gangs in inner-city areas have become primarily drug-dealing businesses, as asserted by both law enforcement agencies and some gang scholars in the US. Several leading gang scholars there have argued that street gangs have not evolved into corporate-style drug-dealing businesses and in fact, are ill-suited to organised crime. Those adhering to this perspective point to research that shows a spurious link between gangs and drug dealing,<sup>97</sup> as well as ethnographic studies that suggest that while gang members do sometimes sell drugs, gangs' internal organisation is largely disorganised and individualistic.<sup>98</sup> For example, Ira Reiner,<sup>99</sup> the then District Attorney of Los Angeles County, conducted research into the role of street gangs in the drug trade in the early

1990s. He concluded that street gangs were disorganised, conspicuous and prone to unproductive violence that brought them regular police attention. Reiner argued that prominent drug operators tended to have no street gang affiliation. Likewise, leading American gang ethnographer Malcolm Klein writes:

There have indeed been a number of locations in which drug traffickers have employed street gang members as street dealers, and some others in which gang members themselves have graduated to become major midlevel dealers... [However] they are more the exceptions than the rule... The reason that there is such a strong presumption of gang control of drug sales has to do with another stereotype about their nature: that street gangs are well organised. But... the group process that can amplify gang crime and violence tend to be short-term, immediate, impulsive processes that defeat the kind of organisation needed for sustained drug marketing. Street gang processes generally defeat good business practices.<sup>100</sup>

Irving Spergel, one of America's most eminent gang experts, also makes the argument that there is a tendency to overstate the degree of organisation and sophistication of street gangs:

The idea of sophisticated gang organisations is still largely a product of the self or organisational interested musings of gang leaders, certain police officials, academic researchers and media reporters based on very limited hard data... gangs are probably less rather than more organised and none certainly approaches the degree of integration and efficiency of most large organisations or corporations in society.<sup>101</sup>

McCorkle and Miethe go further and claim that the image of corporatised drug-dealing gangs is a fabrication intended to "sell papers, attract viewers, increase police payrolls, secure federal funds and win elections".<sup>102</sup>

The literature on street gangs in America is therefore highly polarised on this important issue. One side reports that prominent street gangs have developed into organised criminal structures, while the other argues that street gangs should not be considered as forms of sophisticated organised crime and that they remain rather a largely social and cultural phenomenon. What is not clear is whether this disagreement in the gang literature may simply be a problem with underlying definitions. We can speculate that few would disagree that enterprising groups in inner-city areas control local drug sales. Some feel these should not be confused with their notion of a street gang, while others may simply be using a broader interpretation of the term. Thus, Jack Katz and Curtis Jackson-Jacobs write:

A currently hot debate is over whether gangs have become instrumental and entrepreneurial as opposed to the older view of gangs as expressive and turf defending. The controversy may be an artefact of different samples of what are very different phenomena. Those who see expressive street gangs and those who see entrepreneurial drug gangs may not be looking at the same thing.<sup>103</sup>

Scholars such as Klein argue that the process that leads to gang formation is contradictory to that which leads to the formation of criminal businesses. The result of this argument is to push the debate towards an either/or predicament – either a group is a gang or it is a criminal business. However, a second objective to the corporatisation theory provides an alternative to this debate. This is based on a more complex and dynamic understanding of street gangs and their relationship with organised criminal activities. Scholars such as Felix Padilla, Jeffrey Fagan, Steve Levitt and Sudir Venkatesh<sup>104</sup> report that gangs can be internally contradictory: many attempt to function as both ‘family’ and ‘business’ and their members may have different ideas as to where the emphasis should lie. In other words, gangs may be multifaceted and contain an internal tension based on the different agendas and personalities of their members.

According to this understanding, the increase in profit available from burgeoning drug markets creates a potential strain within street gangs – it has the effect of accentuating underlying tensions between gangs’ family and business functions. Thus, the shift towards the corporatisation of gangs is potentially destructive and may generate conflict. This dynamic is evident in some gang research outside the US. For example, Denis Rodgers<sup>105</sup> conducted research into street gangs in Managua (Venezuela) between 1997 and 2002. Rodgers reports there was an increase in the local drug market in this period and profits available to drug dealers were greatly increased as a result. During his first fieldwork trip to Managua in 1997, the city was characterised by numerous street gangs that were attached to particular neighbourhoods. Members of these groups were involved in petty and delinquent crime as well as defending their turf from outside threats, often resulting in regular, *ritualised* fights with other gangs. As a general rule, these street gangs did not commit crime against residents of their own neighbourhood and non-gang residents, in turn, provided their local gangs with a degree of acceptance and support.

When Rodgers returned to the site of his earlier study in 2002, he found that the gang that had been the main focus of his study had disappeared. A small minority of the leading gang members remained associated with each other but they were now concerned first and foremost with the growing drug market. As a result, profits from crime were increased substantially. Communities no longer experienced ritualistic confrontations between neighbouring gangs, but outbreaks of violence were more instrumental in the competitive and cut-throat drug trade.

Furthermore, Rodgers noticed that the relationship between crime and the local community had changed significantly. Residents felt increasingly unsafe in their neighbourhood and crime between neighbours was far more common. In essence, the street gangs of the late 1990s, which were based on protecting turf and providing members with a sense of belonging, had been superseded and undermined by new forms of criminal networks with different motivations. Populous gangs had given way to more streamlined criminal syndicates.

The theory that street gangs on the Cape Flats underwent a transition in the mid 1990s into better-organised 'criminal empires' therefore requires some scrutiny. Reports that drug markets increased during the 1990s seem uncontroversial, although statistics showing this conclusively are not readily available. We need to explore whether gangs are indeed drug-dealing businesses and we need to examine the possible tensions that may arise due to increased profits being made by individuals within the criminal economy through market-based crime. Do these tensions undermine gang formation and if so, are there other factors that help gangs overcome these tensions and remain intact?

#### CONCEPTUALISING THE ORGANISATION OF CRIME

Exploring the idea that street gangs have evolved into forms of organised crime requires a theoretical understanding of the structure of organised crime. This is another issue that is contentious in the international literature and is under-examined in South Africa.

South African analysis of organised crime treats it as unitary phenomenon, as evident from statistics that there are several hundred organised crime groups. There is some debate about whether such groups are hierarchically organised or whether they operate as loose networks. This debate is a replication of arguments raised in the international literature.

In comparison to the literature on the organisation of social life in general, we can say that the literature on the organisation of crime is under-theorised. This paucity of theory is surprising given that much of the literature is based on how best to define and conceptualise organised crime. Frequently, analysis goes no further than arguing that organised crime is more or less organised than others have suggested, but what is meant by 'organisation' is rarely explained. Moreover, it is often asserted that the *more organised* a crime group becomes, the more of a threat it is: "crimes committed by an organised group represent a larger threat than if the same crime is committed by an individual or a causal organisation".<sup>106</sup> Why this is so is not entirely clear, which suggests the need for a general theory of criminal organisation.

Here we can return to Donald Cressey's work, which provides a useful starting

point. As described, his bureaucratic model, consistent with Weber's understanding, suggested the more rational a criminal organisation becomes, the more it approximates a bureaucratic organisation. Within a bureaucratic organisation internal order is created by rules and planning and there is a hierarchical award structure, strict membership and specialisation. Importantly, Cressey did not just describe organised crime but advanced his theory on why the most successful criminal organisations were structured in one way. It was a definitional as well as a normative model, which is why his work remains useful.

Cressey's bureaucratic model has been strongly criticised. Many empirical studies have challenged the notion that such well-organised criminal groups exist and there have been accusations that this vision is sensationalist and supportive of law enforcement agendas. For example, several studies of the Italian Mafia conducted before and after Cressey's work concluded that its membership mainly conducted independent legal and illegal projects. The Mafia was not a centrally planned criminal business. According to one study, it operated as a "blue collar fraternal organisation".<sup>107</sup>

Rival views of organised crime have resulted in several different theories. Most can be understood as conforming to one of three further models. Perhaps the most influential now is the 'network model', although rarely is it analysed in a way that helps elucidate the essence of a network in comparison to other forms of social organisation.

In advancing the network model as the method *par excellence* for organised crime, some scholars argue that the situational logic of organised crime tends not to favour hierarchical structures, since they are too vulnerable to detection and destruction. This argument has attracted the analogy of an octopus: cut off its head and the infamous tentacles are rendered useless. Rather than being centrally planned, it makes more sense for the underworld to form sporadic partnerships and spread risks, pool resources, utilise different contacts and exploit divergent objectives. This dynamic operation is in contrast with the infamous stifling properties of a bureaucracy. It is more flexible and responsive and does not require a permanence that renders it vulnerable to police, nor does it require complex coordination from a multi-tiered command that is prone to confusion and delay. Phil Williams pointed out that networks cross easily from the illicit sector to licit.<sup>108</sup> Perhaps this is caused by hierarchy's prohibitive demand for ongoing inclusion.

Unlike hierarchy, which is defined by a vertical division of roles, authority by rules, specialisation, departmentalisation and impartiality, a network can therefore be considered as a rather 'flat', flexible and informal approach to coordinating social (or specifically, criminal) life. A network denotes interconnectedness between essentially independent entities. Rather than via central authority, unity among the parts is achieved by shared objectives or trust – the central coordinating

mechanism is a mutual dependency of sorts. To use a term developed by Albert Hirschman,<sup>109</sup> conflicts between parties are resolved by voice. People connected via networks talk to each other and negotiate to resolve differences. Unlike hierarchies, in which recruitment is supposed to be impartial, networks are formed through introductions and connections.

A second model of organised crime originates from market economic theory, and can thus be referred to as the 'market model'. The work of Peter Reuter can be considered pioneering in this field.<sup>110</sup> He, too, disagreed with the conventional hierarchy model and, through research in New York in the mid 1970s on gambling and loan sharking, unearthed a more fragmented reality. However, unlike others who have depicted the relationship between gangsters as one formed by partnerships and networks, Reuter offered an image of organised crime characterised by competition, not collusion.

The theoretical legacy of Reuter's work is not that he argued crime was organised differently from the image presented by the hierarchical model or those believing organised crime was less well structured. Indeed, he argued that it is possible that criminal organisations can develop monopoly power over markets. But he presented an alternative explanation as to *why* crime was organised in the way it was. In doing so, he was answering the question Thomas Schelling, perhaps the first economist to glance at the underworld, had asked in 1967: "What market characteristics determine whether a criminal activity becomes 'organised'?"<sup>111</sup>

According to the hierarchical model, crime is coordinated on the basis of rational thought – the more advanced criminal organisations become (the more rational they are), the more they will tend towards bureaucracy. This is because bureaucracy is supposedly the most efficient form of organisation. According to the market model, crime is coordinated on the basis of economic considerations – the coordination of crime, and thus criminal organisation, will be shaped by market forces. The market system is one in which independent units (i.e. firms or people) strive for survival and profit and in doing so, compete with each other. The units within a market are rational economic actors and are predictable inasmuch as they want to survive and make money. In the terminology developed by Hirschman, the main communicative mechanism can be considered as 'exit' – independent actors in the market vote with their feet, so to speak. In its ideal state, 'entry' is determined by specific barriers. These may be barriers to entry created by the economics of the industry, i.e. economies of scale and expertise, or by artificial barriers to entry created by specific people, i.e. intimidation and price fixing. Unlike networks and hierarchies, "market coordination is the result of human actions but not of human design".<sup>112</sup>

Reuter went on to argue that the market forces common to illegal markets – both conventional economic forces (such as economies of scale) and factors largely

peculiar to illegal markets – make it unlikely that large monopolistic entities will emerge. Factors largely peculiar to illegal markets include “the riskiness of participation in the activity, the nature of the distribution system, physical characteristics of the good[s] involved and the policies of law enforcement”.<sup>113</sup>

Another example of how market forces influence the nature of organised crime was pointed out by Sidney Zabludoff<sup>114</sup> in his study of the cocaine trade. He explained that the nature of the firms involved in the supply of different drugs is partly dictated by characteristics of the commodity. For example, cocaine is a compact, yet high-cost global commodity, grown predominantly in one region of the world. These characteristics have allowed cartels to gain market share and grow into wealthy organisations that can attempt to monopolise the global market. In contrast, marijuana is a relatively bulky and less expensive commodity grown all over the world, meaning it is unlikely that participants will capture a significant share of the market. So, to a degree, market forces – and not just the business brains of ‘drug barons’ – dictate the nature and size of criminal organisations involved in the drug trade.

The final model evident in criminological literature is the ‘clan model’, which contrasts vividly with the three others. Letizia Paoli has argued that traditional forms of organised crime are not, in fact, bureaucracies, networks or the product of market dynamics, but rather familial organisations which are heavily based on group loyalty.<sup>115</sup> Much classic literature on street gangs, such as Thrasher’s on Chicago during the 1920s,<sup>116</sup> also suggests that these groups can be understood as conforming to the clan model, which is an interesting way of approaching the debate on the relationship between gangs and organised crime.

In understanding the clan model, membership is a key factor. In a network or market, membership is achieved on the basis of individual transactions – you are a member of a network or market only as long as you are in business. In contrast, membership of many forms of traditional organised crime is based on ritual kinship, an age-old practice that once dominated social organisation throughout the world – defined by Weber as a ‘status contract’. This form of membership is not based on specific duties, transactions or expectations; rather, it is achieved by becoming part of the group, which can involve a life-long pact that requires acceptance of a social status and a subordination of all previous allegiances. Under this arrangement there is a process of fraternisation – new members are made brothers of the ‘family’ and are expected to share a regime of generalised reciprocity, a regime that is often enshrouded in secrecy.

It is common for such groups to use symbolic gestures to mark membership, especially uniform tattoos. Fraternisation is also achieved via a symbolic ceremony where a member is sworn in, sometimes involving the transfer of blood to his new ‘brothers’. Terminology is also used to strengthen the notion of kinship; Mafia

units are referred to as 'families' and relationships between novices and experienced members are portrayed as that between father and son.

Also in contrast to the other three models, Paoli concluded that within such groups adherence to brotherhood and reciprocity means that wealth is shared among members. Paoli wrote:

In most Ndrangheta families, as well as in some Sicilian Mafia groups, this practice is fully institutionalised to the extent that each month, the heads of the families pay regular salaries to all the members of the cosca. All associations, furthermore, have a common account that is used to cope with exceptional financial needs of the affiliates, to meet their legal expenses in case of trial, to support the families of the imprisoned or dead members and, occasionally, to integrate the monthly salaries.<sup>117</sup>

From Paoli's contribution we can tease out parameters of the clan model. Again, to illustrate that model of criminal coordination, it is useful to distinguish the central coordinating mechanism. In hierarchies it is *central authority*, in networks it is *trust*, in markets it is *competition*. Completing Hirschman's famous trio of malleable concepts, in clans it is *loyalty*. Thus, while bureaucracies are governed by *rules from above*, markets are governed by *market forces* and networks are governed by *mutual expectations and reciprocity*, governance within a clan-based structure is maintained by *norms and tradition*. Unique to clans, and key to their existence, such norms must be shared by all members – giving rise to what Durkheim referred to as 'organic solidarity'.

It follows that, unlike in the Weberian bureaucracy, clan membership can be highly discriminatory. Such strength in membership brings with it strict codes of practice. If these are breached onerously, expulsion from the clan is usually exacted. In larger clan formations a court of some sort may exist. Expulsion might involve divorcing the member from the group – to mark them as an outcast – or it may involve the more extreme option of execution.

As an 'ideal type' some may argue that the clan is egalitarian and segmentary – there is a lack of differentiation between members and no hierarchy governs the group. As described by Paoli, the spoils of the group's activities are thus shared equally among the members. This type of organisation is in contrast to the uneven or meritocratic distribution systems under the other models. David Ronfeldt<sup>118</sup> argued that the emergence of a head of a clan represents a move towards a simple form of bureaucracy. However, an alternative perspective of a clan is that it does have a legitimised leadership, i.e. a clan head or chief. The type of leadership within a clan differs from that in a bureaucracy. In a clan the leader lays claim to social authority sustained by members' status contract. In comparison, the boss of a business has legitimacy to govern only in matters directly related to a purposive contract.

The prevalence of loyalty as the coordinating mechanism points to a quintessential aspect of the clan model as opposed to the other models – clans need not be formed for a goal-oriented activity. Instead, their formation may serve a plurality of functions, including social, psychological and perhaps economic. Unlike that of the network, gratification among members might be based on a sense of belonging rather than a sense of freedom as an individual entrepreneur – thus clan membership is often associated with a sense of status.

It follows that the cohesion of a clan structure demands a level of intimacy between members. Consequentially, clans are usually territorially bound. This differs from the network and market model in which members exist at arm's length and whose relationships can be anything but intimate. Bureaucracies are also less dependent on face-to-face relationships and the function of a hierarchy is, in part, one of distancing levels from each other – note that in Cressey's description of La Cosa Nostra, rigid hierarchy kept each layer isolated from the next so as to increase immunity from detection and infiltration, while acting as a justification for greater personal reward for members higher up in the organisation.

Over time, intimacy and cohesion generate tradition and group awareness. Such tradition may give rise to the group creating its own style, particularly by the use of its own cant. This serves to isolate the members from the outside, which may strengthen solidarity and a sense of kinship. Unlike the image created by Haller of the Mafia as working along the lines of a fluid 'gentlemen's club', the clan has a cohesion that separates it starkly from the outside world. There is a sense of 'Them' and 'Us'. This contrast between the group as a unit and the outside world is fundamental for the clan's existence.

In relation to its normative aspect, in the criminological sphere the clan formation is generally considered as an inefficient and weak mode of criminal coordination. It may be for this reason that successful street gangs are depicted as going through a process of corporatisation – they develop more rational ways of doing business that overcome the inherent problems of the clan. A disadvantage of clans is thought to be their relative inflexibility and discriminatory approach to recruiting new members. Unlike those within the other three models, clan participants might not be specialised or particularly good at certain jobs. Paoli suggests this is why Mafia have struggled to enter new markets and why they have been forced to outsource aspects of their operations, especially in areas such as arms dealing or money laundering.

Yet, in contrast to these negative aspects, clans do offer some competitive benefits. The advantage of clan-like structures stem from members' selfless devotion to the group's objectives. William Ouchi argued this with reference to Japanese firms that have long sought to hire inexperienced workers and socialise them until they internalise their company's goals as their own. Ouchi writes:

...industrial organisations can, in some instances, rely to a great extent on socialisation as the principle mechanism of mediation or control, and this ‘clan’ form...can be very efficient in mediating transactions between interdependent individuals.<sup>119</sup>

The goal congruence created within a group characterised by organic solidarity provides a particularly strong sense of morale and trust. Unlike that within networks, trust need not be created by building reciprocity, i.e. to obtain something one must promise to give in return. In clans, trust should be based on altruistic sentiments, i.e. I give because you are a brother. Moreover, such a sense of camaraderie should motivate individuals to act sacrificially or at least to take risks and fight more aggressively than the so-called rational economic actor or the self-seeking networked individual.

In summary, there are therefore four contrasting models which explain how group-based crime can be organised. These explain different coordinating mechanisms: trust, loyalty, competition and central planning. The question of what makes organised crime organised is therefore a complex one. To suggest that there is one way in which crime is better organised than another seems to lack coherence. We encounter this mindset when commentators distinguish street gangs from what is defined as ‘organised crime’ – street gangs are depicted as less sophisticated and less organised than the entity of organised crime. Because this is the basis of legal definitions we may therefore suspect conceptual problems with legislation such as POCA, which treats organised crime and street gangs as separate issues.

Although there has been a tendency to depict actual criminal groups as conforming to one of these four models, we should also expect that criminal groups will contain elements of each. We must therefore approach the subject of organised crime by asking what coordinating mechanisms exist and what are the contradictory elements and tensions within criminal relations. Moreover, when combined, the four models show that there is no obvious unit of analysis when studying criminal organisation – there is scope to study individual groups, networks or markets and the interplay between them. Failure to make clear the level of analysis chosen creates conceptual confusion.

#### CORRUPTION

A third issue of contention relates to the subject of corruption and organised crime. The orthodox ‘parasitic’ model of organised crime encourages a view that organised crime is caused by a unique breed of career criminals who exist outside the formal economy. Corruption is thought to be a key strategy of organised crime and it represents one of the most challenging threats to government and law enforcement

agencies. However, those adhering to the parasitic model, which includes senior law enforcement employees, tend to depict the nature of corruption flowing in one direction – organised crime penetrates the state and buys protection from law enforcement and the criminal justice system.

Some scholars depict this relationship through the metaphor of a virus, or they refer to organised crime as a ‘cancerous growth’, or as tentacles of an invading predator. This conjures up an image of organised crime infecting and infiltrating an otherwise healthy body politic. In this way, corruption does not undermine the legitimacy of law enforcement agencies but rather leads to pressure for an expansion of law enforcement budgets and capability in order to fight organised crime and root out ‘bad apples’ in the force. This is a view replicated in South Africa and one can see its allure from a law enforcement perspective.

However, this line of thinking loses its validity in several case studies of organised crime. In many instances of organised crime, politicians, businessmen, police and sometimes judges have been involved. Rarely is it the case that organised crime represents a conspiracy of professional gangsters preying on a passive upper world. In this understanding, the relationship between the state and organised crime is not one where the state is merely a submissive victim; rather, elements of the state engage in corrupt practices and take a more proactive role.

Such a theme is stressed in the influential text by Bayart, Ellis and Hibou, *The Criminalisation of the State in Africa*,<sup>120</sup> although it is ignored or underplayed in other African texts on organised crime. The authors showed that political and business elites in many sub-Saharan African countries are implicated in the illegal accumulation of profit, including controlling or applying rents on smuggling in contraband, such as arms, ivory, timber, precious stones and drugs. This suggests the need for an African interpretation of organised crime, which strongly emphasises the role of those with political power. There are, of course, reasons why African NGOs and research institutes may not wish to promote this understanding, being dependent on governmental and intergovernmental funding and favour.

Although corruption and elite plunder may be stark in many African countries, business, state and political elites have also been regularly implicated in organised crime in the North. Among others, this has been a theme developed by Michael Woodiwiss<sup>121</sup> in his extensive history of organised crime in America, which illustrates the ongoing involvement of a wide range of professionals and ethnic groups including, most importantly, white American men, some of whom have held public office. Woodiwiss argued that an ‘alien conspiracy model’, which most leading commentators favour, has been manufactured by authorities as a distraction from allegations of systemic corruption.<sup>122</sup> Despite this propaganda, evidence has regularly surfaced implicating American police agencies in criminal activity, including the Federal Bureau for Narcotics and the Central Intelligence Agency,

both of which have been linked to international drug dealing. Woodiwiss summarises the situation well:

While organised crime has never been exclusive to any one race, ethnic group, class, profession, or gender, many studies have shown that those with power, influence and respectability in local, regional, national or international society have tended to organise crime more successfully and securely than those without. Myth and misrepresentation have, however, distorted the historical record.<sup>123</sup>

This is reminiscent of Barrington Moore's observation in his classic study of dictatorship and democracy, that "in any society the dominant groups are the ones with the most to hide about the way society works".<sup>124</sup> This suggests the methodological difficulties in discovering the extent of state collusion in organised crime and the ease of falling into the trap of focusing on outsiders exclusively and thereby conforming to a parasitic model.

Although there may be a tendency for corruption to be a defining feature of organised crime, examples also highlight the need to examine different manifestations of corruption in historical perspective. The involvement of those in law enforcement or public office in organised criminal activities is likely to be influenced by political, ideological and economic conditions, which may shift over time, particularly during transition. A good example of this relationship between the state and organised crime is provided by Patricia Rawlinson<sup>125</sup> in her history of crime during the collapse of the Soviet Union. Using what she called the 'chameleon syndrome' as a model, Rawlinson argues that the relationship between organised crime and legitimate state structures went through four stages – reactive, passive assimilative, active assimilative and proactive – each representing a different form of interaction. Rawlinson explained that criminal gangs in Stalin's gulags were used by the Soviet state first to fight in the Great War and later to facilitate the enormous black market in goods and services that propped up the failing Soviet machine. The power in this secret relationship began as one-sided, the state officials being in control. However, as the economy stagnated under Brezhnev, rampant corruption allowed increased autonomy to both party officials and career criminals, which, in turn, provided increased scope for illicit enterprise and the accumulation of criminal private capital.

During the disastrous transition to a marketised economy, those with dubious capital and corrupt connections were allowed to excel at economic crime, especially by acquiring state assets at scandalously low prices. Hence, far from emerging from 1991, much organised crime in the post-Soviet era represented no more than the continuation of established criminal relationships condoned, if not instigated, by the Soviet state. Indeed, such was the scale of corruption and cronyism during the late Soviet era that several Russian observers have accused the entire Soviet

system of operating as one vast Mafia-style organisation.<sup>126</sup> By the mid 1990s, most people living in the former Soviet Union realised that corruption was at the heart of organised crime – in a survey of 542 adults in Kiev, 80% of participants chose as the most appropriate description of organised crime: “A criminal network with accomplices in law-enforcement agencies and governmental organisations”.<sup>127</sup>

Rawlinson’s understanding of organised crime in Russia is interesting for South Africa. Many commentators here have argued that growth in organised crime is almost inevitable in periods of transition and they have cited Russia as an example of this. We therefore must consider to what extent this growth is facilitated by corruption and the involvement of law enforcement agencies. In other words, how significant is corruption on the Cape Flats and has the relationship between state officials and career criminals shifted over time and been partly responsible for the current crisis? In answering these questions, we must also consider the implications for policy thinking: if corruption plays a significant role in organised crime, does the answer lie in providing more power to law enforcement?

#### ECONOMIC AND SOCIAL RELATIONS OF ORGANISED CRIME

A defining feature of the parasitic model is the notion that organised crime is highly dangerous to the economy and that it undermines democracy, particularly for those countries undergoing transition from command to market economies, or for those considered as ‘developing’. This concern is used to justify anti-money laundering laws as well as asset forfeiture, for it is these measures that stop criminal groups growing in size and power and they are justified as a means to hinder their ability to infiltrate the legal economy and corrupt politics.

According to mainstream analysis, the problem stems partly from the huge profits accrued by organised crime groups, which enable them to expand. This money is laundered back into the legal economy, thereby tarnishing ‘clean business’ with ‘dirty cash’. The infiltration of legitimate business by organised crime, it is assumed, threatens to undermine the former, by disrupting the functioning of competitive markets, fostering immoral business practices and harming economic growth.<sup>128</sup> This contamination of the legal world has long been considered one of the major threats posed by organised crime. Donald Cressey wrote in 1967:

Criminal organizations dealing only in illicit goods and services are no great threat to the nation. The danger of organized crime arises because the vast profits acquired from the sale of illicit goods and services are being invested in licit enterprise, in both the business sphere and the government sphere. It is when criminal syndicates start to undermine basic economic and political traditions that the real trouble begins.<sup>129</sup>

Likewise, a senior analyst from the US Crime and Narcotics Centre told delegates at a high-profile meeting on organised crime in 2002:

Through investments in legitimate business enterprises, organised crime groups can gain significant potential leverage over critical sectors of the economy. This threat is particularly acute in some countries making the transition to free markets or undergoing economic crisis. Criminally controlled or influenced business have ready access to considerable amounts of interest free capital to invest in productive enterprises, an advantage that legitimate businessmen do not have. Such unfair competition can put legitimate business enterprises at a competitive disadvantage and discourage investment needed to ensure balanced and stable economic growth.<sup>130</sup>

Alongside this process is the ubiquitous tendency of organised crime to corrupt state officials, businessmen and politicians in order to evade prosecution and create a favourable environment for crime. This political power wielded by organised crime means that in many areas it has the potential to undermine democracy and destabilise economies. As Louise Shelley makes clear, organised crime's presence within legitimate state institutions undermines political stability because their goals are to further their own interests (illicit profits), not the interests of the populace at large.<sup>131</sup> Similarly:

Organized crime is very dangerous...in its contemporary form, it has become practically invisible and all-pervasive...it is fully integrated and immersed in our everyday lives, part of the socio-economic and political fabric of our society. Today, across the world, organised crime has come to threaten, for example, the lives of citizens in the USA, Nigeria, Belgium, Jamaica and Austria, the banking systems of the UK, Switzerland, Germany, Luxembourg or Liechtenstein and politics in Italy, Russia, Japan and the EU. Democracy is generally in danger...slowly but surely, the tentacles of organised crime groups are spreading in different countries in different guises.<sup>132</sup>

This fear of organised crime penetrating the legal world of business, of it undermining capitalist development and threatening democracy, is repeated frequently at international conferences and in the international mainstream literature on organised crime. South African experts agree with this analysis, as will be shown in more detail in chapters four and five. These claims are an important dimension to a parasitic model; organised crime is depicted as an external threat which is the antithesis of the 'good society'. As argued, those who understand organised crime in this way tend to demonise it using highly moralistic language. Speaking at a UN conference on organised crime, Italian Prime Minister Silvio Berlusconi referred to organised crime as "armies of evil".<sup>133</sup>

This element of the parasitic model raises a number of critical issues when applied to South Africa, particularly the Cape Flats. The social and economic context cannot be divorced from the analysis. Organised crime on the Cape Flats is flourishing in an area which is characterised by poverty and high unemployment, poor community infrastructure and a population that, rightly or wrongly, feels marginalised from mainstream politics and society. The notion that organised crime is entirely predatory and has a negative impact on economic development becomes contentious in this setting and there are a number of issues that need to be carefully scrutinised before we accept the parasitic model as appropriate. We can divide these issues between two related subject areas: organised crime and the economy and organised crime as a form of governance.

#### THE ECONOMY AND CAPITALIST DEVELOPMENT

One source of contention stems from the premise that organised crime is entirely different from legal business and capital accumulation. This hypothesis requires giving at least as much consideration to the nature of so-called civilised society as to the nature of criminal groups. Predisposition to violence is perhaps one important factor that allows for this difference to be sustained. However, several scholars have argued that this is not sufficient.<sup>134</sup> What and who is demonised as organised crime tends to embrace, not reject, mainstream capitalist principals and therefore is not as dissimilar or alien as may be presumed. So, for example, those critical of mainstream organised crime literature have frequently questioned the validity of distinguishing organised crime from corporate crime, arguing instead that leaders of both share the same culture and it therefore makes analytical sense to conflate the two categories. Similarly, several gang studies have argued that a defining feature of the corporatisation of gangs is precisely their identification with, and assimilation of, the dominant neo-liberal ideology. In analysing the Black Kings gang, which went through such a transition, Levitt and Venkatesh wrote:

Although the gang was 'socially isolated'...the gang and its evolving corporatist mien could not be entirely divorced from a number of critical social developments taking place in the Reagan era. The Black Kings had seized upon a corporate ideology at the dusk of 'Fordist climacteric'. Their members were following their consumptive urges precisely at the time in which free market ideology and the romance of the 'bootstrap' mentality had produced a new phenomenal form of late capitalism, namely the individual yuppie who consumed with conspicuous and ferocious intent.<sup>135</sup>

There is therefore a sense that criminal organisations are driven by the same goals as mainstream society, which is at the heart of Merton's highly popular 'strain

theory' of crime. In a country such as South Africa, that has embraced neo-liberal economic logic, increased demonisation of organised crime seems, on the surface, as somewhat contradictory and the lack of critical reflection by organised crime experts is surprising. How this potential contradiction is sustained and why it is so alluring for policy makers is a matter we need to better understand.

By questioning the difference between organised crime and legitimate business, we see how the notion that organised crime is highly detrimental to the legal economy is also contentious. It is certainly an issue that is rarely, if at all, scrutinised in South Africa. Here moral absolutism may hinder rational discussion over economic contribution. If we accept that criminal groups provide goods and services that are in demand, then does it follow that organised crime generates wealth and development in accordance with the basic principals of capitalist accumulation? This is an issue that again needs to be contextualised. In areas such as the Cape Flats it is not difficult to put forward the view that economic crimes are a response to blocked opportunities in the formal economy. A simplistic argument links organised crime and street gangs to unemployment. Don Pinnock, in his study of the Cape gangs, put forward this view when he wrote that gangs are "defiantly entrepreneurial", which was at the heart of why the state's policing was failing:

A central reason for gang formation is not lack of motivation, laziness or poor education among the street youth. It is stark poverty in an equally impoverished environment. Ganging is primarily a survival technique, and it is obvious that as long as the city is part of a socio-economic system which reproduces this poverty, no amount of policing will stop the ghetto brotherhoods.<sup>136</sup>

The questions that lead on from this view are whether organised crime contributes to the economy in a positive way and whether it represents a mechanism for economic mobility. This latter view was advanced by Daniel Bell in his classic essay on organised crime in America involving immigrant communities, as he argued that criminal ventures allowed successive ethnic groups, first the Irish and then the Italians, to move from a marginal position into a more accepted and dominant position in the economy and politics.<sup>137</sup> He famously called organised crime a "queer ladder of social mobility". This is a very different view from the parasitic model. According to the latter, as organised crime develops it gains in threat, the end point being the complete loss of civilised society. The social mobility thesis suggests that, in contrast, there is a tendency for successful criminal groups to integrate into the economy and politics. In doing so they appear as conservative phenomena, rather than as ones that seek to undermine existing social structures and norms.

#### CRIMINAL GOVERNANCE

The parasitic model is based on the assumption that criminal groups are predatory and contribute only negatively to the surrounding community; they “terrorise local communities”, as is described in the preamble of POCA. Moreover, it is now frequently asserted that where organised crime is allowed to become powerful and entrenched, democratic forms of governance are threatened as a result.

Those adhering to a parasitic model tend not to contemplate the social relations of organised crime in detail. However, this issue is critical to understanding organised crime and is relevant to policy making. Here the parasitic model seems to describe one scenario well. However, there are other examples, which suggest different relations between organised crime and local communities.

In several studies it is shown that prominent organised crime groups engage in seemingly social activities that are ambiguously linked to economic crime. The Sicilian Mafia is the best-known example. The most convincing historical analysis of the Sicilian Mafia describes it as an informal method of dispute settlement and protection originating in a period when the state was largely absent. Diego Gambetta’s study of the early Sicilian Mafia described how people were willing to pay the Mafia boss protection money because it gave security to business deals and the Mafia presence acted as a strong deterrent to petty criminality.<sup>138</sup> It was much later that the Mafia became a group involved in lucrative economic crime, including drug smuggling, although it is not clear whether such activities were organised centrally or were individual projects.<sup>139</sup> According to Paoli the Mafia is still peculiar because it remains focused on consolidating its local territorial power and has not evolved into a truly dynamic entrepreneurial organisation.<sup>140</sup> If it was purely a rational economic business, the Mafia might have long since moved on to other regions, which are more profitable and less risky.

The Sicilian Mafia may be unique. If we accept Paoli’s analysis, we can say that performing criminal governance within their historical territory appears their primary function and illicit income can be viewed as subordinate to this. Whether this understanding of the Sicilian Mafia is accurate or not remains unclear. It is not important to review the evidence; we can rather use the Sicilian Mafia to represent an ideal type – it is a model that helps establish a theoretical framework.

There are other scenarios where people linked to organised crime also engage in acts of governance and this can explain their local power in communities. But we may interpret this as a functional consequence of economic crime. Here, performing seemingly social activities in a local community appears to be a method to protect their own safety and security. Governance is subordinate to making money. The American Mafia of the mid twentieth century appear closer to this scenario than do their distant cousins in Sicily.<sup>141</sup>

By no means should we suspect that all forms of organised crime are involved in forms of governance, or have a social dimension within communities. Successful career criminals may not identify with a given territory; they may become globetrotting entrepreneurs with safe bases in many countries. Likewise, wealth may provide mobility and successful career criminals look quickly to leave their community to set up residence in more affluent and stable environments. Even where we find groups that are very much tied to one particular community, these may adopt a purely predatory relationship with their local society and feel it is not necessary to win any support there. Here criminal activities may include a crude form of protection rackets, which are in fact run entirely as extortion rackets.

However, in all but the most extreme environments, pure terror can only last for a limited amount of time and will eventually lead to protest or successful petition for arrest by those afflicted. Where powerful criminals are entrenched in a region and not able or willing to escape to other localities, there may be a gradual interest in fostering respect and support. In doing so, extortion may steadily shift towards a more tolerated form of protection where those paying feel they are given a genuine service, at least one preferable to that on offer from the state. In moving towards this less predatory scenario, we may expect that those in positions of criminal power may also enjoy their status and sense of importance – being rich is rarely enough to satisfy those seeking power and thus we must not overlook the importance of glory as a motivation for organised crime, not simply economic self-interest.<sup>142</sup>

If we continue with a theory of the social relations of organised crime, we do not necessarily reach the point where the criminal group obtains outright legitimacy and widespread support – an endpoint of stability.<sup>143</sup> Rather, there are various tendencies that may undermine community toleration, even where the local 'big man' makes it his goal to become respected and therefore we suspect that the social relations of organised crime will be in a constant state of flux. One of these tendencies that undermine hegemony relates to competition from other aspiring career criminals. Such competition may result in open fighting, even death. The resulting community chaos may be detrimental and generate public anxiety and condemnation. A second tendency is for the goods and services being traded to become a source of community unrest.<sup>144</sup> The 'big man's' success may be based on selling goods and services that are socially destructive, such as drugs, prostitution, gambling etc. Of course, a counter-tendency may be for the 'big man' to insist that those selling drugs or taking them do so in ways that limit their detrimental social impact, or at least to make sure that drug addicts get high out of sight and petty crime to fuel their habit is done elsewhere.

An interesting example of this shifting relationship between a criminal group and its local community was described by Venkatesh. This analysis was based on

the transformation of a street gang due to increased local drug markets, which again takes us back to the corporatisation thesis:

[As the] gangs' stature in the community shifted from 'delinquent' to 'economic', so too did their relations with the broader residential population. Gang members were now household providers as well as kin; they were friends but also employers; their use of violence and intimidation was feared, but at the same time such force was useful in helping to settle disputes that arose in economic transactions... The gangs also gave back-to-school parties for the children... distributing shoes, pens and paper, clothing, and food. The gangs channelled money from drug sales into a quasi-community fund with which groceries could be purchased for residents or emergency income of household members to supplement public assistance money.<sup>145</sup>

Venkatesh's analysis of that area does not necessarily hold true for other locations. In Denis Rodgers' study of street gangs in Managua he seemed to report a very different dynamic.<sup>146</sup> There, the increase in money being made from drug sales undermined relations between territorial street gangs and their communities. In the scramble to make money, community support seemed unimportant, as did the pretence of the gang being an organisation for friendship. Moreover, the increase in drug taking was dysfunctional and generated uncontrollable petty crime, which the winners in the local drug economy had no interest in managing or displacing. Perhaps if Rodgers updated his research he may find that the situation has again changed and the most successful drug merchants remaining in the area have realised that a more congenial relationship with their communities seems preferable.

It is a point worth stressing that criminal governance, whether it is supported, tolerated or opposed, will flourish where the state is weak and unable to provide basic human security.<sup>147</sup> This can occur in isolated communities, including those areas where the state is either loath to enter or is uninterested (such as slums and ghettos) or where the state is despised or distrusted (such as in communities of ethnic minorities who feel marginalised). However, criminal governance can flourish on a wider scale in those periods where the entire nation state is in decline or crisis. Russia's political transition provides the pre-eminent example. Indeed, some commentators on Russian organised crime argue that the Mafia groups that proliferated in the mid 1990s were the only institutions that could enforce contracts, challenge business monopolies and provide some people with genuine security from random crime. As Jim Leitzel controversially argues, businessmen operating in Russia's lawless society turned "willingly to the Mafia as it was the best of the feasible options...unsavoury as the Mafia's enforcement tactics are, they give business people the confidence to enter into contracts that would otherwise be too risky".<sup>148</sup>

If we accept that a broad tendency of post-modern capitalism is precisely the shrinking of the state and the growing number of inner-city ghettos, we suspect that criminal governance is an issue of growing importance. It is certainly an issue we must consider when studying organised crime on the Cape Flats. Here is a region where law enforcement and other state departments may not be considered robust or legitimatised and simultaneously, it is well acknowledged that individual criminals are very powerful and have been entrenched in the community for decades. Identifying the source of this power is therefore a critical theme. We must approach this subject by identifying community sentiments towards organised crime, exploring whether the power achieved by organised crime is based predominantly on fear and violence or on more legitimate functions, linked to public demands. Ultimately the answers to these questions may help us better understand the threat organised crime poses to local social and economic development and to democracy.

#### CONCLUSION

This chapter is divided into two parts. The first reported on the official view of organised crime and street gangs on the Cape Flats, the analysis of which is closely linked to the proliferation of organised crime in the country following political transition. The policies chosen to combat organised crime and gangs were also described.

The second part of the chapter analysed the South African experience in a global context. The core argument was that the dominant South African understanding of organised crime and street gangs is largely consistent with an Americanised global orthodoxy, which was conceptualised as the 'parasitic model'. Core aspects of this model, referred to as 'tendencies in thinking', were described.

The final part of the chapter identified contentious issues that emerge from the international literature. A discussion of these raises key research questions which help explore the nature of organised crime on the Cape Flats, as well as the validity of the mainstream analysis and policy thinking. These issues related to the corporatisation of street gangs, the structure of organised crime, the importance of corruption and the threat posed to the economy and democracy by organised crime. These themes are now explored in more detail as they relate to the Cape Flats.

## NOTES

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- 53 The point here is not that targets are a bad thing for the government, but rather the types of targets chosen are often politically convenient and spuriously related to the underlying problem they pretend to solve. This is a tactic that British Prime Minister Tony Blair uses to good effect. In the example of the 'high-flyer project', the idea of arresting the top 200 criminals (why 200?) is that this will show that organised crime is being beaten by the ANC. However, there is little reason to believe that simply arresting 200 supposedly top criminals will undermine levels of criminal activity in the country. Moreover, by not identifying these 200 criminals in advance there is virtually no way the government's performance in meeting its target can be evaluated.
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- 60 *Cape Argus*, Mix with gangsters and you'll pay the price, 2 July 2004.
- 61 Interview with SAPS Gang Desk, June 2003.
- 62 Ramatlakane, op cit.
- 63 Invitations were sent to senior policy makers and their advisors to two seminars organised by the author to discuss state policy thinking on gangs and organised crime on the Cape Flats. At the first event, representatives from the DCS, who had been asked to speak about their future policy decisions, pulled out without explanation. At the second seminar, again intended to have representatives from the DCS, the head of the DCS decided on the night before to embargo all interaction between the DCS and the event. It appeared that the head of the DCS in the Western Cape was aggrieved at an article published in the *Cape Times*, which raised concerns over the direction in which the DCS policy makers were headed. The issues surrounding gangs and gang policy are therefore sensitive and the DCS appears defensive on the issue.
- 64 P Tsolikile & B Haefele, The reason for children's attraction to gangs and possible projects to counter them, presented at the Provincial Gang Strategy workshop, April 2003. Although not cited, the majority of this work was copied directly from Mike Carlie's web site at <[www.faculty.missouristate.edu/M/MichaelCarlie/default.htm](http://www.faculty.missouristate.edu/M/MichaelCarlie/default.htm)>. There are other reasons to be concerned with some of the literature produced by the DCS and their preferred consultants. For example, one report investigated the link between patterns of weather and crime, which is an absurd piece of research if for no other reason than that the weather data used was not from the same areas as the crime statistics. It is also worrying that in many of the publications there seems to be an unhealthy use of photos of the senior members of the department posing for their own glorification – holding babies, lecturing young boys, punching the air triumphantly at anti-crime rallies, and so on. These photos do little to quell suspicion that those at the top of the

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## **The structure and dynamics of organised crime on the Cape Flats**

The aim of this chapter is to provide a perspective on the structure and dynamics of organised crime on the Cape Flats. The resulting picture differs in some important ways from that preferred by officials in Cape Town. This is partly because the aim is not simply to describe how organised crime is criminally threatening, but rather to show that a fundamental characteristic of it is exploitation and insecurity. This dimension to organised crime becomes obvious when it is more closely inspected and viewed through the experiences of individuals engaged in criminal structures.

The theoretical questions set up in the previous chapter are considered here. The first relates to the notion that street gangs have gone through a process of corporatisation, largely due to increased drug markets and assistance from foreign partners. Comparative evidence suggests this is potentially contentious; street gangs may not have gone through this process, even though law enforcement agencies and others claim they have. Likewise, it is possible that there has been a change in street gangs caused by an increase in illegal market revenue, but that this has created tensions between them.

A second, more theoretical issue relates to how and why crime is organised the way that it is. Orthodox analysis tends to depict organised crime as a unitary phenomenon, either hierarchically organised, or more loosely organised along the lines of a fluid network. By considering rival views of criminal organisation it was argued that orthodox analysis tends to be simplistic. We need to approach the issue of organised crime through a more comprehensive theory of social coordination. The four models of criminal organisation – bureaucratic, network, market and clan – offer such a framework. However, it was stressed that actual examples of organised crime may not conform to one ‘ideal type’, but rather contain elements of each. With these models as a theoretical basis, we should therefore attempt to understand how and why crime is coordinated the way it is on the Cape Flats and what tensions exist between individuals and groups.

The same discussion on criminal organisation pointed out that we can approach the subject of organised crime from several different viewpoints. We can look at individual groups, if they exist, we can study market dynamics or we can look at the relationships between different actors and organisations. Because of these different viewpoints, a failure to make clear the approach used may create conceptual confusion.

The approach of this chapter is to conceptualise what I refer to as the *criminal economy* of the Cape Flats, or more specifically, those coloured regions of the Cape Flats that are infamous for their street gangs. As will become evident, this criminal economy is complex and involves collusion and competition between gangs, drug merchants and corrupt police. The analysis is therefore restricted to a specific locality. With more time and resources, it would be possible to analyse this region in a broader context. The local criminal economy is integrated into a wider system of production, distribution and consumption.

The final element of this chapter deals with a further contentious issue that was raised in chapter two. This relates to corruption and organised crime. It was suggested that the parasitic model is based on the assumption that corruption tends to be a tactic of organised crime; that organised crime penetrates the state in order to seek protection. However, a critique of this view suggests the potential for a more collusive relationship between the state and organised crime, one wherein the state takes an active role and is therefore an embedded feature. This certainly seems to be the case on the Cape Flats and the issue of corruption must therefore form part of our understanding of the criminal economy.

The chapter is divided into four parts.

- I. The first part provides a description of how the main players and organisations in the criminal economy relate to each other – in essence, this is about describing the relationships between drug merchants, street gangs and intergang alliances and also describing how market dynamics have influenced a change in these relationships.
- II. The second part focuses on the internal nature of street gangs and explores whether or not they can be considered drug-dealing businesses. The answer leads to a discussion on the function of street gangs in the organisation of crime. Here I put forward the argument that gangs are not only more complex than rational economic organisations, but are also as much about consumption as they are about production.
- III. The third part considers the exploitative nature of organised crime and discusses the resultant tensions within the criminal economy and how these are managed.
- IV. The final part considers the importance of corruption in the criminal economy and suggests the parasitic model of organised crime is insufficient in explaining the relationship between the state and career criminals.

#### PART I: DRUG MERCHANTS AND STREET GANGS

It is plausible that the idea of the Cape Flats gangs undergoing a process of corporatisation is bound up with two phenomena: the growth in larger gang structures that have turfs in several areas and the rise of wealthy career criminals involved in the selling of prohibited drugs and other contraband. When these aspects are combined, it is understandable that some will reach the conclusion that there are indeed large, well-organised groups operating in the region. The popular theory used to explain these developments has stressed the opportunities that were created through the collapse of the apartheid state and the ensuing political transition, which, as described above, led to a temporary paralysis of the police. These factors, among others, may well have had a bearing on the nature of organised crime, but what is often overlooked is a more obvious development, which happened some years before the end of apartheid. Here we find the importance of the market model in explaining the organisation of crime.

At the time Pinnock wrote *The Brotherhoods*, the beginnings of the trade in Mandrax was noted. Alongside that, the most profitable illegal trades on the Cape Flats involved the selling of alcohol, dagga (marijuana) and stolen goods. If the main income available to career criminals had only been selling commodities such as alcohol, dagga and stolen goods it is extremely unlikely that rich Cape gangsters would have appeared on the scene or that the Cape would have experienced the emergence of large gang structures and allegiances. Access to supplies of alcohol, for instance, was restricted under apartheid so that only those with some capital and transport could gain entry to that illicit market. But enough people had these resources to mean that many people could operate shebeens, meaning there was little chance for a small number to gain a monopoly on alcohol sales and thus become well off, at least not in terms that would elevate them financially far beyond the vast majority of coloured people.

There were no doubt plenty of attempts by shebeen owners to expand their businesses through nefarious tactics and successful shebeen owners carved out increasingly large markets, typically facilitated by engaging bands of thugs who would protect their shebeens and help remove competitors from their vicinity.<sup>1</sup> But ultimately, shebeen owners, even the most successful and ruthless, could capture a market comprising only a small neighbourhood. Due to alcohol sales being largely tolerated by the state (a policy encouraged by the large breweries, which made profits from the informal market in the low grade wine that was the drink of choice on the Flats), dealing in illicit alcohol was, and still is, seen as a relatively safe illicit activity. This again means many people will be drawn into the trade; a high-risk environment limits the number of willing entrants.

A similar situation relates to the selling of dagga. Marijuana is plentiful in South Africa, mainly being grown in the Eastern Cape. It is bulky, the profits are not enormous and many people can gain access to a ready supply. There are, therefore, few restrictive barriers to entry in the dagga market, a monopoly of supply is not possible and individual operators do not make much profit. So, if alcohol and dagga had remained the main illicit commodities for organised crime, their characteristics and the nature of the market makes it likely that the criminal economy would be characterised by numerous players, few of whom would be making high profits; criminal organisations would remain small and localised.

The rise of Mandrax as a popular consumer good and later, to a lesser extent, cocaine, heroin and Ecstasy, changed this situation. This was an outcome of the properties of these drugs and the way in which they are produced. Mandrax is a small drug and access to a regular supply requires money, some expertise and risk. The production of Mandrax occurs either in Asia or in clandestine factories in Southern Africa, most situated in or near Johannesburg. To get access to Mandrax pills coming from outside the continent requires considerable expenditure on travel and possibly access to corrupt state officials.

To make this exercise worthwhile a large quantity of the drug would be involved. We can speculate that if someone was going to the risk of importing Mandrax pills then they would more than likely stock up on a sizeable amount – several thousand pills can fit into a small box. Consider, for instance, that in 1992 two men were arrested for delivering about a million Mandrax tablets from Johannesburg to the Cape Flats. In other words, few people will have the ability to import Mandrax but if they can, they will be dealing in large quantities that could make them very rich. Likewise, producing Mandrax in Southern Africa requires access to chemicals, a pill press and an understanding of chemistry and pill manufacturing. Once such a set up is created, swift production of many thousands of pills becomes easy.

So, the prohibition of Mandrax and the rise in its popularity on the Cape Flats created the opportunity for a few individuals to become very wealthy. The Mandrax market may be characterised by many thousands of people selling small quantities to end users but there are only a few suppliers, who have an opportunity to make a considerable amount of money and thus become quite powerful. Furthermore, with a small number supplying a large market there is reason for more regional coordination; one shebeen owner can only supply one neighbourhood with alcohol, whereas the market for a high-level Mandrax dealer is much larger and more spread out.<sup>2</sup> An explanation of the development of the so-called supergangs of the Cape Flats cannot overlook this dynamic and suggests that gang structures need to be viewed in relation to distribution *and* consumption. More on this below.

To some extent, while it can be said that organised crime controls the markets in prohibited goods and services, it is the characteristics of these prohibited goods

and services that dictate the organisation of the criminal economy. Organised crime is not simply the outcome of rational business brains. Thus, the change in organised crime on the Cape Flats, characterised as it was by the emergence of extremely rich career criminals and larger affiliations of street gangs, was an outcome of (illegal) market dynamics – a product of human actions, but not of human design.

Recently, a new drug has emerged on the scene which highlights well how the nature of the underlying commodity partly dictates the way in which it is sold. The drug in question is known locally as 'tic' and is a methamphetamine similar to speed in its effect. Tic is easily made from chemicals available through pharmaceutical shops. It is a fine powder mainly sold in small straws and smoked in a glass pipe. A gram has a street value of about R400 and each straw is sold for about R40. The colloquial name of the glass pipe is a 'lolly', which confirms the status of tic as popular among the youth. As tic is so easy to produce, large numbers of people are involved in this new market and prices have been falling.

There are no reliable statistics on tic but it appears that the trade is characterised by a chaos of competing sellers and producers. One source in Atlantis involved in the trade said that there were "hundreds of people selling tic" and that no individual monopolises tic selling in the area. In contrast, there are rumoured to be only five main Mandrax suppliers. We can speculate that while tic is lucrative, it is a commodity that will never produce wealthy drug merchants on the same scale as Mandrax. A subject for further research is how the selling and distribution of Mandrax and tic relate to each other. It is possible that the popularity of tic will eventually undermine the Mandrax industry and erode the concentration of criminal wealth. However, according to people in Atlantis this is unlikely. Mandrax and tic have different effects, tic being described as an 'upper', Mandrax as a 'downer'. Indeed, after binges on tic it is considered pleasurable to end by smoking Mandrax. Tic may thus exist alongside the established Mandrax industry and not threaten its overall profitability.

#### **DRUG MERCHANTS AND THE DRUG TRADE**

From the early 1980s the Cape Flats witnessed the emergence of several rich 'gangsters', men who I will refer to as the 'drug merchants'. The state departments may prefer the name 'high flyers' but this term has been abused and is often attributed to career criminals who are not particularly wealthy or powerful. The number of drug merchants is difficult to establish, but members of the OCU and the local SAPS suggest there may be 10 to 15 men at any one time who can be considered to have risen to a prominent position in the local drug trade. Although in reality there are no rules to distinguish drug merchants from other successful career criminals, there are characteristics that most share that elevate them above

others in the area and in particular, distinguish these drug merchants from the majority of gang members.

To understand the drug merchants it is necessary to understand the workings of the drug trade. If we ignore the relevance of gang affiliations, this is not a complex industry and most sources agree on the principles. Although drugs are produced locally, most sold on the Cape Flats come from Johannesburg, which seems to be the main hub for drug distribution, although intelligence reports suggest that large quantities of drugs come to South Africa through Durban's seaport as well. As most drug distribution is controlled in Johannesburg, it is rumoured that some of the wealthiest drug merchants are based there and in comparison, the main drug merchants in the Cape are not as affluent.

Drugs are driven to the Cape by couriers employed by the main merchants, distributed through a multi-tier system and eventually sold to end users through shebeens and drug-dealing outlets. There may be several hundred places that sell drugs to end users and many are also local hubs of other illegal and semi-legal activities, including selling stolen goods and alcohol. It was noted in the introduction that shebeens became focal points for social and economic activity given the dire state of community infrastructure on the Cape Flats. As with all drug markets, profits are greater the higher up the chain one goes; the people involved in selling to end users make less than the people selling drugs to outlets, who make less than the drug merchants supplying larger quantities to regions.

This system relies on the extensive use of credit. At each point in the chain it is usual that drugs are sold in advance of payment. Drugs flow into the Cape and money flows out afterwards, since few have the capital to buy quantities of drugs outright. Herein lies a source of conflict – given the lack of formal insurance, the credit system is precarious. If drugs are confiscated or stolen or if a person is arrested or has money taken from him, those higher up the distribution chain will not receive their money, which means they will be unable to return money to the suppliers. Violence, or its threat, is an important way of enforcing these contracts. But this system of distribution also relies heavily on trust and familiarity between business partners – to receive credit one must be considered reliable.

#### WEALTH, MYTHS AND POWER

The drug merchants are thus the wholesalers of lucrative drugs including Mandrax and cocaine and they monopolise the distribution of these commodities within specific boundaries, which we can call their 'economic domains'. But these men typically have a wide portfolio of interests, including the sale of weapons (some stolen from households, others shipped into the Cape from military sources), protection rackets, diamond smuggling, prostitution and abalone smuggling. Most

also own prominent shebeens and have investments in legal businesses and properties. Some of the authorities claim that their investments in the legitimate economy can be explained as money-laundering activities. This conforms to a view expressed by many leading organised crime experts who argue that the only reason why criminals have legal businesses is to provide a cover for their illegal activity.<sup>3</sup> Although difficult to show categorically, it seems that successful drug merchants are shrewd businessmen and the distinction between legal and illegal businesses may not be as important to them as it is to the state or to criminologists (a theme explored further in chapter four).

'Paul' – a drug merchant from Hanover Park interviewed for this study – claimed he owned fishing boats and properties in many areas of the Cape and was part owner of a construction firm working on the site of one of the Cape's largest prisons. Whether drug dealing brings in the majority of his wealth is not clear, but that is the assumption by the authorities. When the notorious drug merchant, Colin Stanfield, faced allegations of tax fraud, his attempt to explain his considerable assets as his profits from selling vegetables and lending money seemed unconvincing and it is reported that it caused a ripple of laughter in the courtroom. However, a source close to Stanfield claimed he and his family had numerous legal businesses, including shops, hotels, nightclubs and laundrettes – for clothes, not money. Other drug merchants are reported to have similar diverse businesses, including owning taxis and second-hand car dealerships. The criminal economy therefore blurs into the formal economy and it is not certain whether one helps capitalise the other.

It is this wide portfolio that makes it hard to link organised crime with unemployment. Although the drug merchants originate from impoverished communities with high rates of joblessness, these men are shrewd businessmen who succeed in both legal and illegal ventures. Their involvement in organised crime is not about economic survival but about greed and a desire for wealth and power.

The wealth of these criminal elites sets them apart from their communities, although there is no way of knowing how much they are worth. Although this is probably an overestimate, a famous gang leader and drug merchant was rumoured in the press to be earning as much as R30,000 a day. The wealth of Colin Stanfield, perhaps the most successful Cape gangster in recent years, was glimpsed by the public when he was caught twice with large sums of unexplained cash in one of his many homes – on the first occasion a sum of R500,000 in used notes was confiscated and on the second, R2.7million was found piled up in boxes in a corridor. Stanfield owned several properties on the Cape Flats, a large house in one of the more expensive, formerly white suburbs and properties in Johannesburg. He had several expensive cars and his family was well looked after, his sons attending one of Cape Town's oldest private schools.

The ability to accumulate capital differentiates drug merchants from most gang members who depend on opportunistic and predatory income-generating activities. In contrast, drug merchants have reached a point where they 'earn in their sleep'. This distinction is highlighted vividly in prison; when a typical gang member serves time he earns nothing, while in a similar predicament the drug merchants and their families continue to receive large incomes. It is not the case that the wealth of these drug merchants makes them extraordinary in Cape Town. This is a city containing many of the super-rich. But the drug merchants' wealth is in stark contrast with the community from which they originate and of which they remain active members. While their wealth makes them famous throughout Cape Town, it is astonishing only in the context of their ghetto origins. Almost all are men whose origins are working class and whose 'criminal empires' started from nothing. Moreover, almost all the main coloured drug dealers who have risen to prominence in the Cape in the last 10 years are reportedly illiterate. This was the case with 'Paul', interviewed for this study, and was also allegedly the case with Stanfield.

Their conspicuous wealth sets the drug merchants apart from others on the Cape Flats. It is perhaps most evident to community residents when they see these men driving convertible cars or 4x4s – again, not an uncommon sight in affluent areas, but a rarity in the ghettos. Their wealth also places them in a unique position. Many of the most successful dealers own property outside the Cape Flats, often in desirable areas that were formerly white owned. Yet while they may live there most remain local men on the Flats, familiar to those in their economic domains, which is important when understanding their social power and influence in the region.

The wealth of the drug merchants is one aspect that gives them an almost mythical status. Another is their reputation for violence and power: most residents of the Cape Flats know who the top 'gangsters' are and many will relay shocking stories about them. For instance, it is rumoured that one of the most notorious dealers has built an underground chamber in one of his drug-dealing properties that is used for raping and torturing those who cross him; the torture is gruesome – it is claimed that victims are subject to a drill being inserted into their bones. There is no way of knowing if many of the stories are true and it is perhaps deemed beneficial by drug merchants to keep such rumours alive, even if they are false.

As shown in chapter five, the power and wealth of drug merchants means that they develop a controversial image in their domains. Despite being well known as dealers and as violent men, many engage in philanthropic activities, investing in local churches, sponsoring local football teams and giving cash handouts during festivities. Indeed, several people in positions of authority complain that because drug merchants are not visibly involved in selling drugs it is easy for impoverished

residents to forget their illegal dealings and see them simply as rich local benefactors. What is surprising for outsiders is that these positive feelings towards the drug merchants coexist with their image as violent and dangerous men. However, their relationship to violence is different from most gang members.

The drug merchants' threat to residents is not random and is instrumental to their business. The 'ideal type' image that comes from speaking to community residents is of someone who is reasonable and well liked, but who should never be insulted or cheated. In contrast, street gang members tend to be despised by locals who see them as contributing only negatively to township life. Their violence is seen as haphazard, indiscriminate and either predatory or related to arbitrary gang fights. Police estimate that most intragang conflict stems from arguments over women or turf, the two being closely connected in the male-dominated world of street gangsters.

#### **GANGS, SUPERGANGS AND INTRAGANG ALLIANCES**

Many street gang members are involved in some way or another in selling drugs to end users although, as argued later, it may be a mistake to view gangs as a drug dealing enterprises – it is not the case that all gang members are involved in selling drugs and nor does it seem that drug dealing is the main reason why individual gangs exist and new ones emerge.

According to police estimates, there are about 130 gangs operating on the Cape Flats. This number is not to be relied on, however, as the way in which gangs are counted is not methodologically rigorous; SAPS experts admit that the figure is a rough estimate. Of these 130 or so gangs, a few are much larger than the rest and have existed for longer. They can be distinguished not only by their size but also by their presence in several territories. They also outlive their leaders and can be considered institutions. Some policemen call them the 'supergangs'. The most infamous are the Americans, the Hard Livings, the Mongrels, the Sexy Boys, the Fancy Boys, the Dixie Boys and the Junior Mafia.

In comparison to the supergangs, many others form and die out on a regular basis. Some can be very small and their turf is nothing more than a block of flats. An example is the Puma Boys of Atlantis – a group of unemployed teenagers who formed a gang inspired by the multi-national clothing company; Puma shoes are 'must have' items, although their price tag of R1,000 a pair puts them beyond the reach of most township residents. The Puma Boys make do by forging the puma sign on their t-shirts.

There is no single way in which these smaller gangs develop. Some last only as long as their core members are active or alive and remain interested. Others may

recruit sufficient numbers to give the gang a momentum that might see it develop into a more enduring gang and perhaps eventually obtain the status of a supergang, with turfs in several areas. Alternatively, a smaller gang may develop relationships and agreements with a larger gang and be absorbed into it.

Whereas the small gangs may have as few as 10 members, supergangs are believed to have memberships running into the thousands. The Americans are said to have between 5,000 and 10,000 members, although it is not possible to provide a more reliable estimate of the size of any of the major gangs for this study. This is partly because membership is not as precise as many local experts presume. There are those who exist on the fringe of the gang, some who represent unambiguous 'hard-core' members and others who may be in the process of drifting away from the gang as they become older and less motivated.

To outsiders it is not always clear who is a 'real gangster' and who is not. This was illustrated to me several times in Atlantis. A woman who assisted with the research often pointed out 'gangsters' from regions of Atlantis where she was not known. She identified such people based largely on the way they dressed, the size of the group they were in and simply by the fact that some were of school age: "Only gangsters hang out here on a Tuesday afternoon when the other kids are in school". She may well have identified true gang members. However, when observing a group of young, unemployed men (wearing baggy trousers, caps, hoop earrings) drinking in a shebeen near to where she has lived for 20 years, she dismissed the idea that these were gangsters. These were 'local boys'; not the real gangsters from the neighbouring block of flats. It seems possible that the real gangsters are always found in unfamiliar areas, meaning there is a degree of subjectivity in understanding who is a gangster and who is not.

Another woman in Atlantis, the partner of a leading Americans drug dealer, explained that the young, aspiring members of the Americans are those who often over-identify with American paraphernalia, giving the impression that they are 'hard-core members'. Those who are established members of the gang know who is who; outsiders find it more difficult. In other words, membership is contested, meaning it would be virtually impossible to conduct a census of gang members. Likewise, proving gang membership in a court of law may not be straightforward.

#### INTRAGANG AFFILIATIONS

Although most of the Cape's street gangs can be defined by the turf they protect from other gangs, few exist as independent entities. Most are linked through intragang affiliations and these are important in the organisation of the criminal economy – gangs have their mutual enemies and their allies. Affiliations can be understood as trading blocks or fighting alliances. A group such as the Puma

gang relies on the Americans for access to drugs and weapons and in return the Pumas are expected to join them in any gang fight. These affiliations may contribute to the escalation of gang fights as, when gangs enter into a conflict, allies from both sides may be expected to lend their support.

An important aspect of these intragang affiliations is the influence of the prison Numbers. It will be recalled from chapter one that for much of the Numbers' history there was no formal relationship between them and street gangs. This is no longer the case. The two most important trading blocs now are the 26s-affiliated gangs (including the Americans, the Mongrels and the Fancy Boys) and the 28s-affiliated gangs (including the Hard Livings and the Sexy Boys). Almost all significant gangs on the Cape Flats are now aligned to one of these two groupings.

The association of street gangs affiliated to the 28s is made more complex by the Firm. It is common for the Firm to be called a gang but this is misleading. It is in fact a drug-dealing syndicate comprising many leaders of the 28s-aligned gangs. Although it represents one of the most powerful criminal organisations in the Western Cape, its origin remains open to different accounts. All agree that Colin Stanfield was its original leader and architect. Some stress that the Firm came about in order to compete with the Americans. Others have confused the timing of the Firm as coinciding with the emergence of PAGAD and it is assumed that the Firm represented a move towards greater organisation in a bid to counter the crisis caused by PAGAD's more militant splinter groups. However, the Firm was established several years before PAGAD was conceived.

Most accounts of the Firm's genesis are contradicted by information provided by a source in the National Intelligence Agency (NIA). According to this source, the Firm was not created by Stanfield at all – it was a name given to Stanfield's business network by the intelligence community. Taped telephone conversations by the NIA revealed that Stanfield was perplexed about the origin of the name but it stuck with the press and Stanfield and his associates then began using it themselves. Whether this alternative story is correct or not is difficult to establish.

If the Firm was a name given by the intelligence community then this might lend weight to the theory that organised crime operates as a loose network rather than as a well-organised conspiracy. It would also show how the state can play an active role in shaping organised crime through a labelling process; what was a loosely organised network took on a more consolidated image because the police and media portrayed it as such. To what extent career criminals in the Firm went on to emulate this image is intriguing. Perhaps the cliché of organised crime becomes a lived reality; most gangsters have seen films such as *The Godfather* and it is likely that they attempt to emulate Hollywood's image of the true Mafia.

## HOW THE NUMBERS CAME BACK OUT OF PRISON

Although the history of the Numbers can be traced to bandit groups that operated in the area surrounding Johannesburg, according to longstanding members of the prison Numbers – the so-called traditionalists – the Numbers have no relevance to society outside the prison. The Numbers system controls prison life and was created in part to oppose the prison authorities. However, there has always been a relationship between the Numbers and street gangs on the Cape Flats. While the Numbers are meant to be kept a secret, confined to the ‘four walls’ of the prison, they are well known among coloured working-class communities. Prisoners who had a rank in the Number are infamous when released back into the community; stories of their power and toughness give them a special status, making them demi-gods among gang members. It is therefore unsurprising that some former Numbers members have gone on to assume leadership roles in some of the larger gangs on the outside after leaving prison. Of course, finding their way into street gangs and groups of career criminals after prison was to be expected – former Numbers were highly unlikely to find formal employment, tarnished as they were with distinctive tattoos, using a strange language and bearing the scars of prison violence. Some seemed to bring elements of the Numbers’ culture and organisational skills with them when they joined street gangs. Thus many street gangs began to use militaristic ranking systems and some developed their own mythical history, which symbolised their nature and guided particular rituals.

The links between street gangs and the Numbers were also established when people went to prison for the first time. Because prison is so influential on the Cape Flats, many young people know about the Numbers from an early age – they know if they will have to negotiate the Numbers and that they will be watched from early on. The Numbers claim that street gang affiliations should have no influence on membership of a particular Number inside. New inmates are selected for a particular Number purely on observations made by active members inside. However, in reality it seems that gang affiliations on the outside are indeed influential on the inside and members of some street gangs tend to join a particular prison gang when incarcerated. For example, members of the Cape Town Scorpions usually became members of the 28s while Americans and Mongrels usually became members of the 26s. This was not always the case and there are stories of people belonging to the wrong prison Number for their street gang.

However, despite these relations between street gangs and the Numbers, for decades the latter existed only inside prison. The traditionalists in the Numbers say that it is impossible to be a Number outside prison; the Numbers can only exist within the brutal world of South African jails. In addition, to become a senior Number takes years of schooling and sacrifice – one has to take blood in

prison, pass through several drawn-out rituals and learn both the history of the Number and its language.

Yet, by all accounts, this division between the Numbers and street gangs changed in the late 1980s when the Numbers – originating as they did from bandit groups situated in the hills of Johannesburg – reappeared on the outside of prison. Several of the largest street gangs declared that they were now the 26s or the 28s. Most important were the street gangs that formed the Firm, which became the 28s, and the Americans, which became the 26s. In the late 1980s and early 1990s, new members of these gangs were given ranks in the Numbers when they were on the outside and they were taught the very basics of the Numbers' history. No longer was recruitment into the Numbers only conducted inside prison by specially appointed senior members following complex rituals, but membership was dished out on a far more ad-hoc basis. Moreover, prominent drug merchants and gang leaders were fast-tracked into the senior ranks of either the 26s or the 28s. This included some famous gang members who had yet to serve prison sentences. The Numbers still exist in prison and they continue to function in similar ways as they have done for several decades but most new recruits now have little understanding of the oral history. They have been given ranks in the Numbers without knowing its language or past in any detail. According to embittered traditionalists, this new breed of recruits do not understand why the prison Numbers exist nor how they are meant to relate to each other. A senior leader of the 27s described this situation during an interview:

The Number don't exist anymore. I am not a member of this 27s now. These people don't know what the Number is. They do not know about Killikijan and Nongoloza. They don't know how to salute me when I enter their cell. If I ask them about something they will not know the answer but then they tell me they are a 26 or a 28 and they have their tattoos. No, the Number does not exist anymore. Yes, the 26s and the 28s exist, but it is not the real thing. All that has changed.<sup>4</sup>

The reasons for the transformation of the Numbers are contested. Some people believe the influence of the Numbers outside prison is part of a grand conspiracy whereby the Numbers became powerful from within their cells and seized control of the region's criminal market. In this view organised crime is controlled from behind bars; places such as Pollsmoor prison represent the real heart of criminal power in the Cape.

However, the most persuasive account of how the Numbers appeared on the street involves the influence of leading drug merchants in the late 1980s and early 1990s, when the old timers came into contact with a new type of career criminal,

men who had accumulated wealth and notoriety in the Cape through selling large quantities of drugs. It is alleged that some wealthy drug merchants were fast-tracked into the higher ranks of the Numbers during short stays in prison. This contradicts the lore of the Numbers that requires members to suffer violent rituals, to endure hardship and spend years learning the oral history. According to the disapproving old timers, the corruption of the Numbers was partly a matter of obtaining access to a steady supply of drugs in prison. But the motivation was also borne out of insecurity. Some drug merchants were leading figures in increasingly powerful street gangs and it was feared that they may set up what was known as 'fourth camps' in prison, separate from and competing with the Numbers. By giving these dealers senior ranks in the Numbers it was hoped to avert the rise of the fourth camps. According to a 27s general interviewed in Malmesbury prison, the Numbers 'sold out' to protect their hegemony. It is also possible that there were personal benefits for the drug merchants being fast-tracked into the Numbers. It provided them with protection and privileges in prison and added to their kudos on the outside – to be a powerful general in the Numbers is no small matter.

While the reasons for the drug merchants being allowed into senior ranks of the Numbers remain murky, the importance of the transition is that the Numbers were corrupted and then exported outside the prison walls. With a new breed of senior Numbers – men who are accused of not fully understanding or respecting the Numbers' history – giving membership of the Numbers to people on the outside became a frequent occurrence. The motivation behind this is complex.

Most significantly, exporting the Numbers was a convenient means of forging alliances. Gangs associated with the 26s should buy drugs from leaders of the 26s, those associated with the 28s should buy from leaders of the 28s. These alliances place certain drug merchants in a commanding position, becoming leading figures in significant intragang formations with a wide geographical scope. As explained later, this is not just about expanding networks of drug distribution, but is also about enlarging control over consumer markets – the thousands of people who are supposedly loyal members of the Numbers and their allied gangs represent major consumers of drugs and other illegal commodities.

#### ALLIANCES IN REALITY

It is tempting to imagine that these intragang alliances, based on the prison Numbers, are adhered to categorically. Yet what needs to be considered is the extent that individual gangs in fact treat these coalitions as serious. Some give the impression that there is a strong loyalty to the Numbers, which transcends loyalties to individuals' street gangs. As one former member of the Americans put it: "Every gang member will go to prison and if they have wronged the Number then it is

there that that they will be disciplined...the Number is more powerful than the gangs".<sup>5</sup> Others, however, argue that loyalty among gang members is primarily to their individual gang and only secondly to the Number with which it is associated. Gang coalitions based on sharing the same Number are more fragile and easily broken. An episode that reveals the complexity of this relationship occurred in Atlantis in 2003, involving the murder of the local Americans' head by members of the Mongrels, both of which gangs are aligned to the 26s. A source in the SAPS gave his understanding of the events, which seemed in line with the views of other sources in Atlantis.<sup>6</sup>

*Q: What happened when the old leadership of the Americans got killed? What was the chain of events?*

A: Well, basically, it stemmed from a conflict between the leader of the Mongrels and the leader of the Americans. And they arranged a meeting and at the meeting the leader of the Mongrels killed the leader of the Americans. It was a midnight meeting, December last year. There were three Americans and four Mongrels. It was just, you know, a case of the one guy thought that the other guy was, how can I say, planning on him and then he just launched a pre-emptive strike and got rid of the problem. Three of the Americans were shot that night, two died. The one guy that didn't die, he identified the suspects and stuff and that's when they were arrested.

So it was basically just a matter of the gangsters didn't trust each other. The Americans and the Mongrels were never in direct fighting with each other. They used to talk to each other because they're both affiliated to the 26s, the prison gangs. But on this specific occasion, you know, there was just a break in trust and the one guy decided, okay, here's it's either me or it's either you and I decide it's going to be you and I'm gonna make a plan with you.

*Q: And what happened after that? Did the Americans retaliate?*

A: No, not really. The top guy was killed and his one guy who was left controlling the area, he left Atlantis immediately, you know, because he was scared about reprisal attacks or further elimination of the leadership. I think he just came to the decision that if he continues with this life he's also going to end up dead. So he packed his bags and he left Atlantis. And he comes here to visit his family and stuff, he might still be involved in a way, but he's not directly involved any more.

So, the Americans never retaliated at all. Now I think it's partly because the guy who's now in charge is confined to a wheelchair, so he's not as

mobile so he didn't have much options because he's an easy target. You know, he can't move as freely. Another factor was that their firearms – you know, they never had direct access to the firearms because the leader and one other guy knew where the firearms were. So the Americans couldn't just go out and do exactly what they wanted to do. And I don't think they were ready for out-and-out gang war at that stage. They decided to rather sit back and wait and see what the police is going to do. So I think they decided, okay, the suspects are arrested, they're going to court now, we'll see what happens from there. So we never had any retaliation attacks.

*Q: So what will the Numbers do? Surely the leader of the Mongrels will be vulnerable in prison now because he killed an American?*

*A: As I understand, the leader of the Mongrels, he had set his case in jail after the events and he had explained why he did what he did and it was decided his actions were justified and that there was not going to be any more fighting. Because the Mongrels are 26, the Americans are 26, they actually don't fight each other that much. I don't think they ever fight each other. You know, they have arguments and stuff, but it was sorted out in jail because a 26 killed a 26. That was the problem. It was sorted out there and they left it there.*

As this event suggests, bonds between gangs aligned to the 26s are fragile, but they do exist. It would be a mistake to believe membership of the 26s creates total loyalty to other 26s, but it would also be wrong to dismiss the power of the Numbers as a regulating factor. The Numbers function to provide some sort of governance among gangs, although to what extent this regulatory aspect is successful is open to question and, according to some sources, there is the feeling that the rule of the Numbers will not be prolonged.

#### DRUG MERCHANTS AND INTRAGANG AFFILIATIONS

The relationship between the drug merchants and gang structures is ambiguous and often not well understood. It is assumed that all drug merchants are 'gangsters' and active members of the region's infamous street gangs. This is a simplification. The confusion stems in part from use of the term 'gangster' – all drug merchants are described as gangsters but being a gangster does not necessarily mean that one belongs to a street gang. There are two types of drug merchants – those who are active members of both the Numbers and leading street gangs, and those who operate as individual 'businessmen'. The latter have dealings with street gangs, but will not claim membership of any of them and may seek to distance themselves from the label of gang members. In Atlantis there are thought to be five key drug

merchants who import drugs from outside the town, but only two are described as members of street gangs by knowledgeable locals.

An intriguing question is why some drug merchants operate outside gang alliances. As with so many aspects of the criminal economy there is no easy answer. In research for this study I attempted to understand the situation of two drug merchants who seemed to conform to the status of being non-gang members. In discussions with people close to these men or knowledgeable about their operations, what seemed the most important factor was that they had not been heavily involved in delinquent crime as youths and therefore did not spend long periods in reformatories and prison. This means they were not brought up within those institutions that encourage gang membership. But, it was also explained, staying out of the gang structures is to do with the perceived 'gang culture'. As noted above, joining a clan formation, such as the ideal street gang, involves a status contract, which requires a serious, often life-long commitment to the gang. This may not be very appealing. As one source put it:

He didn't want to join the 26s because he didn't want to get caught up in all that gang shit...you know, it is very difficult to get out of the gang once you are in, these guys operate differently, they are fucking psychopaths and they will take over your life. You can't just walk away from that life once you are in.<sup>7</sup>

In effect, the status contract, which we have seen is a defining feature of clan-like organisations, is just too demanding and there is a preference for independence. This independence is a feature of organisation, which we may refer to as conforming to a network model. Another source made a similar point – that these men were middle-aged and aspiring to be seen as middle-class, 'respectable' businessmen. Put simply, joining a gang at this point in their lives is considered beneath them and contrary to their self-image: "Why does he want to go round calling himself a fucking American!?"<sup>8</sup>

#### THE RELATIONSHIP BETWEEN DRUG MERCHANTS

The relationship between drug merchants is also a complex matter. It seems that many people believe they are in direct competition with each other – in this view the drug merchants are naturally monopolistic and will always attempt to 'do away' with their opposition to increase their market share. There is no doubt an element of truth to this understanding and there are many stories of rival drug merchants continually trying to murder each other. As seen above, rivalries also exist among supposed leading figures of allied gangs. However, there is also evidence to suggest that many drug merchants also cooperate with each other, enter into individual deals and trade between themselves. This interaction occurs even between members

of rival gang alliances. A confidential report by the NIA on organised crime networks in the Western Cape claimed that senior members of the Firm and the Americans were frequently involved in joint ventures. The authors concluded:

The interaction between gang leaders, Firm leaders and organised crime leaders must never be underestimated. It became very evident that members and leaders interact with one another...Due to this situation opposing leaders and gang members e.g. 26s versus 28s might and will work together...[for example] Current information shows that especially within the drug networks members of the 26s are being utilised and accepted by members and leaders of the 28s. The latter being in control of the Firm.<sup>9</sup>

Where there is rivalry is in relation to the areas drug merchants supply. For example, the Americans control drug sales in certain communities while members of the Firm control it in others. At this level, competition is more clear-cut and there is little cooperation. Yet merchants may collaborate in sourcing drugs and other commodities. This suggests that loyalties at the lower level of street gangs are far more relevant than they are at the higher levels of drug dealing – the clan form of organised crime is more relevant at the more localised level of drug dealing while the network model captures the essence of higher-level drug dealing. We need to return to this point when considering the notion of ‘tribal consumerism’.

The reality of organised crime does not seem to correspond to the notion of individual businesses conducting planned activities. There is a capricious network between operators that combines elements of cooperation and competition. There is organisation to these activities, but perhaps it is more difficult to identify ‘the organisation’. Describing gangs and organised crime in Chicago in the 1920s, Thrasher provided a neat summary that seems apt for the Cape Flats and possibly common to many urban criminal economies:

While there is considerable definite organization, largely of the feudal type, there is no hard and fast structure of a permanent character. The ease of new alliances and alignments is surprising. Certain persons of certain groups may combine for some criminal exploit or business, but shortly they may be bitter enemies and killing each other. One gang may stick closely together for a long period under favourable conditions; yet if cause for real dissention arises, it may readily split into two or more bitter factions, each of which may eventually become a separate gang. Members may desert to the enemy on occasion. Leaders come and go easily; sometimes with more or less violence, but without much disturbance to the usual activities of the gangs. There is always a new crop coming on – of younger fellows from whom emerge men to fill the shoes of the old ‘barons’ when they are slain or ‘put away’.<sup>10</sup>

## **PART II: THE RELATIONSHIP BETWEEN STREET GANGS AND ORGANISED CRIME**

We can begin to see the complexity surrounding the criminal economy, particularly the role that the region's street gangs and intragang affiliations play. But let us consider a critical question: Are the street gangs organised businesses? Have they gone through a process of corporatisation, as the state often suggests? Or are most street gangs better understood as social organisations tenuously linked to drug sales, as some scholars have argued is the reality in American cities?

First of all we can leave out many of the smaller street gangs from this enquiry. Gangs such as the Puma Boys in Atlantis may deal in drugs and stolen property from time to time but their involvement in market-based crime can only be considered petty, bringing in amounts of money that are not substantial. So let us concentrate on the supergangs, such as the Americans and the Hard Livings. It is these, with memberships running into the thousands, which seem primary candidates for the description 'criminal empires'.

The notion that the supergangs are neat criminal organisations is undermined by the analysis so far. We can see there is a complex interaction between active members of organised crime and this frequently cuts across or contradicts gang alliances. There is organisation to criminal transactions, but not just a series of clearly defined organisations. As the following pages explain, if we start with the traditional argument about whether or not gangs are drug-dealing organisations, we can say that the situation on the Cape Flats supports neither view. A more perceptive answer lies with the idea that gangs are internally contradictory and that the growth in the drug trade has exacerbated these contradictions.

As long as the environment is conducive to gang formation, they will be important to the organisation of market-based crime and will be used as a functional aspect of the criminal economy, as at present. However, it is likely that if the situation on the Cape Flats changes in a way that undermines the sustainability of gangs (through, say, the reduction of community violence, changes in the labour market, urban renewal etc.), organised crime could continue to flourish. The factors that support street gang formation are not necessarily the same as those that support the growth of organised crime, although they may overlap. Many areas in which illegal markets flourish are devoid of street gangs. This suggests that removing gangs may simply change the way organised crime operates.

## **HIERARCHY AND DECENTRALISATION IN THE SUPERGANGS**

What may seem a trivial point is that these supergangs are not run on the same basis that a legal corporation would be and few observers would argue that is the case. In this respect the language used to describe organised crime on the Cape Flats by some leading commentators may be misleading. If one imagines the extent

of bureaucracy and planning that would be involved in a legal corporation with as many employees as the Americans, we can see that it is unlikely that the supergangs operate in this way. There are no contracts, no job descriptions, no internal systems of communication among members (intranet, telephone network, etc.) and little evidence of annual or biannual 'company meetings'. If there is some internal organisation, then we can say that at best it will be primitive and haphazard. As pointed out by some organised crime scholars, a well-organised establishment would be too vulnerable to police investigations and it is unlikely that 'gangsters' would want to exist in a highly organised and bureaucratic organisation anyway – a point made by Patricia Adler in her classic study of drug dealers, when she argued that it was precisely an aversion to working in bureaucratic businesses that made drug dealing an attractive alternative lifestyle.<sup>11</sup>

Information on how supergangs operate is difficult to obtain. What is irrefutable is that some members are involved on an ongoing basis in market-based crimes. Typically it is the senior or leading figures in the larger street gangs who are involved in this way. Within gangs there is also some specialisation. According to a police expert, this division of labour can be quite regimented:

They've got people under their control, certain people there do certain tasks, like robbing people, selling drugs: That guy's task is to rob people, that guy's task is to sell drugs, that guy's task is to shoot if necessary. His specific task within the gang is a hit man. That's basically how they're structured. You know, it's not a free for all, everybody does what they want to. They're structured in a way that they've got control and command over their members, or usually they have.<sup>12</sup>

As we will see, the fact that there are specific jobs in the gang does not mean all members are employed. Many, if not most, are not and are involved only sporadically in market-based crime. But given this structure one can see that the supergangs may easily be mistaken for complex hierarchical organisations, coordinated by generals and leaders. Yet a feature of these supergangs is the extent of coordination and control between the various area cells. If it were the case that all cells of the gangs fell under a central command, we would be justified in seeing these supergangs as impressively organised businesses. However, it seems there is a tendency for supergangs to operate along the lines of a franchise, rather than as a strict, inclusive hierarchy. For example, the area cells of the Americans operate with considerable autonomy. It is not clear at this level whether each pays money to the leadership; police intelligence say they do not:

Basically the Americans in Atlantis get their drugs from the Americans on the Cape Flats. But these people are independent drug dealers here, but they deal

only with the Americans there, you see. They go fetch their drugs from them, they come sell it here and their profit is their profit, but they buy their drugs only from the Americans. It's a big chain, you know, like, 7/11 franchises. The main franchise supplies all the shops, but each shop is owned individually. That's basically what it comes down to.<sup>13</sup>

So, while there are these large gang structures – supergangs and intragang alliances – there is no central command issuing orders or controlling profits and the day-to-day running of business operations. The organisation is decentralised. The supergangs operate as a conglomerate of affiliated smaller businesses and the relationship between each area cell is distant. Sitting at the apex are those drug merchants who supply the individual gang cells and one merchant may supply many of the smaller turfs including those areas run by different gangs. In theory, the super gang provides each cell with mutual protection – if Americans are attacked in one area, help will arrive from another. However, as the story of the conflict between the Mongrels and the Americans in Atlantis shows, this is not always the case; area cells may be left to sort out their own conflicts.

Although drug dealing may be decentralised, we should not lose sight of the fact that many gangs retain a sense of loyalty to the group. This was illustrated vividly in an interview with a partner of a drug merchant in Atlantis who belonged to the Americans. She described how the merchant had been instructed to kill his own brother because he had double-crossed the gang. His brother died in a car crash a week later, although the interviewee did not believe her partner was directly responsible. A similar situation occurred, also in Atlantis, when a new recruit of the 28s was instructed to kill his own son, the son's mother and her neighbour, who had all witnessed a murder involving another 28s member. In this case the murders were carried out. As both these tragic stories suggest, street gangs do have a strong sense of group loyalty, which is expected to transcend all other loyalties including that to family. This is an interesting observation, for although illicit income generating activities may be decentralised and fragmented, the gang structures remain coherent due to an overarching group identity. Because there is this sense among members of belonging to a clan, outsiders may mistakenly view the clan as a well-structured economic entity when in fact it is not.

#### **PROFITS AND JOB OPPORTUNITIES IN THE GANG**

How, then, can we tell that street gangs are not only drug-dealing businesses? First, we can look at the ways that profits and jobs are allocated and can see that gang membership does not guarantee employment, nor does it offer career development. Second, we can explore the reasons for people joining gangs. This will show that while making money is important, there are other motivations at

play. When these are combined it appears that the street gangs represent something more than rational businesses.

Without substantial quantitative data on the money that gang members receive from illegal activities it is exceptionally difficult to be sure of gangs' economic dynamics and it is important to stress that the 100 or so gangs that exist on the Cape Flats are highly varied in form. Within this complex of gangs, individual experience differs again. This makes generalisations precarious. However, it seems uncontroversial to point out that most gang members are not wealthy and the vast majority never achieve wealth that can be considered extraordinary, even if some tell you otherwise. Membership does not guarantee a wealthy existence, even though recruits may hope that it will. Thus, in interviews with gang members in prison about their experiences in street gangs, I was told of times when there was 'lots of money'. What 'lots' means to young people on the Cape Flats may not correspond to what others in the city think it means. Hence, a prison warder who had been present during some of these interviews later urged me not to take the interviews too literally:

Look, don't believe these guys when they tell you they were rich before they came in here, they were poor as hell, look at them and you will see undernourished kids, they didn't come in with anything and I doubt they have anything waiting for them on the outside. They like to think they're big shots and they love telling people like you that they are, but they're not.<sup>14</sup>

From interviews with gang members it was unclear in what way the gang provided them with money through crime. One theme that came through strongly was that few members of the larger gangs sold drugs. Some claimed they were given drugs by the gang as payment for activities and one said that he was used by the gang to smuggle Mandrax pills from one area to another. He described how he was chosen to do this because he was the smallest of the gang and so the least likely to be searched by the police. Of course, some gang members do sell drugs and for many of the larger gangs, this is their most lucrative activity. Yet, selling drugs seems to be the work of those who have a higher status in the gang, or alternatively, where drug selling does involve young members or smaller gangs, they are used primarily for selling small quantities to end users and are therefore used as workers for drug merchants.

Steffen Jensen made a similar observation and claimed that although many are not involved in drug dealing at all, for some gang members, "their involvement is mostly pushing drugs for a drug dealer on the street and this is rarely very lucrative".<sup>15</sup> The situation on the Cape Flats may therefore conform to the operation of drug markets elsewhere. For instance, Vincenzo Ruggiero observed in Italy

that “many who worked in the drug economy were trapped in a highly productive system, the profits of which they never shared”.<sup>16</sup>

Police experts suggest drug-selling establishments increasingly prefer not to use young men, which may further diminish the employment of male gang members in the drug trade. Young girls are preferred as they are less likely to be searched by the police and if they are, the predominantly male police force is supposedly restricted in carrying out body searches. It has also been speculated that girls are less prone to stealing and to developing problematic drug habits. For these reasons, there is a feminisation of menial labour in the drug trade. Elaine Salo-Miller noted during her research in Manenberg that young women were being used as both sex workers and crack sellers by the Hard Livings gang. In one instance she reported that a girl was paid R800 a week working for a leader of the Hard Livings gang in a crack house in Sea Point.<sup>17</sup>

As membership does not regularly provide full-time employment in illicit markets, many gang members talk of being involved sporadically in other illicit income-generating activities. While some described how they were asked to act as lookouts near shebeens or other places where drugs were being sold, others relayed stories of being used by other members to carry out specific tasks, including robberies and thefts, or to carry out hits on rival gangs or people who owed money for drug purchases. Consider the following case:

Ben is a 17-year-old boy who has been in prison since he was 15. He is being prosecuted for an armed robbery at a shop where he was implicated in the theft of approximately R2,000. Ben described how this robbery was set up by an elder member of the gang. The shop owner was shot in the process although Ben denies he shot him and said he is taking the blame for the other's crime. He said this was not the only time he had been involved in a violent robbery and alluded to have been involved in several similar violent crimes. I asked Ben if he was involved in selling drugs for his gang and how he received money for the crimes he committed for the gang. Ben answered that he was not involved in selling drugs at all but was given drugs and alcohol by some of the elder gang members. The elders had also supplied him with a gun when he went out to commit the crime; he didn't own his own gun. For the armed robbery he carried out he was paid R100 and gave the rest of the money to the gang leaders. He said he didn't like the gang anymore as he felt he was being used and he wanted to get a job when he gets out of prison.<sup>18</sup>

Complicating the situation further is the way in which profits from crime are managed. If gangs were structured business organisations we would expect to find instances where membership was rewarded with a wage or that there would be

some sharing of the profits. Here the evidence points again to the varied nature of gangs. In my interviews with gang members, few talked of receiving payments that would approximate a wage, in the sense that employment provides a monthly salary. Some alluded to an unstructured system of payment related to specific instances of project crimes (as in Ben's experience above) and other gang members described a general system of welfare, where members are provided with basic needs. As one put it: "There is no food at my house so I must go to the gang to get food".<sup>19</sup> The following extract from an interview with a gang member is an example where money was apparently distributed, although it also suggests a pecking order in which the leadership claims the lion's share of the profits:

With the money [from robberies] they go and buy drugs to sell. We get about R10,000 to R15,000 from the robberies. They [the gang's leadership] use this to buy food, cars and clothing. They don't spend all the money 'cause they must buy food for everyone.<sup>20</sup>

In interviews with members of the Hard Livings gang in Manenberg, organised by Ted Leggett, some members claimed to be paid a monthly wage but this was found to be not entirely truthful:

Gang members [of the Hard Livings] initially referred to gang membership as a job and claimed to be paid R1,000 a month as a salary. More detailed probing revealed that this 'salary' was only paid during times when there was specific gang work to be done on a daily basis, such as during a gang conflict. While higher-up gang leaders are notorious for their wealth, the foot soldiers do not seem to benefit in the same way, particularly if they are not involved in an income-generating activity, like drug sales.<sup>21</sup>

Where payment is not in cash, it is a common practice to pay in drugs. One may think this is a destructive business practice as it makes gang members drug dependent and unpredictable. But it also is an easy way to pay people cheaply and keep them dependent. The parallel in the legal economy can be seen on the wine farms, which have a tradition of 'supplementing' the income of their workers in low-grade alcohol – the *dop* (tot) system, as it is known locally.

Although some gang members described being managed by their leaders, others said there was some autonomy. This suggests another dimension to gang membership: income-generating crime is not always centrally planned and idle members will seek to generate their own income, which may be spontaneous and opportunistic. In an interview with a member of the Dixie Boys it was explained:

A: I only saw the leader occasionally. Our leader is at present in Helderstroom.

Q: *Does the leader tell you what crimes to do?*

A: No, not actually. The group decide what to do like rob or hijack. It depends on the group where the money goes.<sup>22</sup>

A social workers was keen for me to understand the opportunistic and predatory nature of gangs:

It is interesting to see their eye for an opportunity. I was at my mum-in-law's the other day and she's staying in Lentegeur in Mitchell's Plain and we were sitting in the lounge and watching out of the window and there were two foreign guys – one was robbing the other at gunpoint, he took cash from his wallet. The local gangsters saw this and they then robbed the guy who was doing the robbing, took his gun, shot him and then shot at the other guy, took all the money from both of them and they moved on. *[laugh]* You know, that gives you some idea the level of, what's the word? It's like a hungry animal prowling, waiting for something, you know *[laugh]* and sure, it's happening all the time there. These guys are fucking desperate, they sit around and they are constantly on the look out for a way to earn a quick buck.<sup>23</sup>

The image that emerges from such stories is that many gang members are not employed in a formal business organisation. Rather, they form a pool of loyal labour used on occasion by leaders or other drug merchants. The gang is an unequal organisation where some are provided with the means and opportunities to make money, whereas others are used only occasionally. It is not a structured existence. The gang may not leave everybody to fend for themselves otherwise it would quickly disintegrate and the evidence strongly suggests that some gangs provide some material security, even if this amounts to basic functions such as making food available or providing access to drugs and alcohol. These restricted opportunities provided by illicit-income-generating activities means that many gangs appear to be undynamic organisations offering limited upward mobility. In an interview with a police officer an oft-heard view was made clear:

You know, as I see it, the only way you can go through the ranks is if the next guy's not there any more and that's usually when he gets killed. You know, that would never inspire me to stay in an organisation. If the police told me tomorrow I can only become a superintendent once someone gets killed, then, you know, why stay around waiting for someone to die so that I can go up in life. It does occur that the boys work themselves up in gangs by doing stuff. You know, a

guy that shoots has a higher status within the gang than the guy that stands on the corner as a look-out or sells *dagga*, but typically, the only way you can basically promote within a gang, as I see it, is through someone else's pain and suffering – the death of someone; the death of one of their own. That's what it comes down to.<sup>24</sup>

When talking, young gang members may exaggerate the importance of their position or the degree of organisation that the gang provides, but most who work closely with gang members agree that the daily existence of many low-level gang members is excruciatingly dull and unstructured. Many members exist both outside the formal economy and on the peripheries of the criminal one.

#### UPWARD MOBILITY VS RESTRICTED MOBILITY

We can speculate on the factors that limit the earning potential of gang members. First, the markets for commodities and services associated with gangs may not be as vast as is sometimes assumed. The areas in which gangs are most entrenched are often the most poverty-stricken and are not characterised by large numbers of people with surplus cash. Coupled with this, the fact that such large profits are taken by prominent drug merchants on the Cape Flats suggests that available profits from market-based crimes are channelled to a small minority and not shared out among thousands of individuals. It would be remarkable if a lucrative market existing without state intervention would operate in any other way.

Second, individual gang turfs are both small and often surrounded by those of rival gangs. This provides some gang members with a captive market for selling drugs or dealing in stolen goods, but typically the size of this market is limiting. What is more, the peculiar existence of so many gang turfs has limited their spatial mobility. Members remain in their turf both as a means to protect it from outsiders as well as to keep safe from their adversaries. Therefore, even from a cursory visit to gang hotspots such as Tafelsig, Manenberg and Atlantis, one can see areas demarcated by graffiti within which are young gang members passing an idle existence. Gang turfs are not hotbeds of entrepreneurial activity. As one social worker in Tafelsig described it, "Gangsters are like frustrated dogs tied up to a fence in a yard".<sup>25</sup> This claustrophobic existence, coupled with drug dependency and alcoholism, may contribute to interpersonal violence within the gang turf as well as between gangs. Here mobility distinguishes the drug merchants from the rank and file; mobility is an unequally distributed asset and is a key stratifying factor in the criminal economy, as it is in the formal economy.<sup>26</sup>

Limited spatial mobility plays itself out in several ways. In particular it reduces the opportunity to look for work and it also restricts the pursuit of romance. Several gang members claim that women from their turfs must only date the gang members from the same area. Thus those who meet women who fall outside their

catchment area can be frustrated. Consider the following excerpt from a conversation with a gang member from Hanover Park:

*Q: Why did you become involved in the gang?*

A: It was my own choice, I became a member of that gang because they lived so close to me.

*Q: What do you like about being in the gang?*

A: I can have a gun and I can shoot, but I can also go to jail...if you are not part of the gang you can walk anywhere, if you are you can't. For example, I've got a girlfriend but she lives in that gang's turf, they'll kill me if I go there. You can't walk anywhere and you can't trust anyone.<sup>27</sup>

It is important to take note of the point made here that "you can't trust anyone". We will return to this theme when considering the exploitative nature of the gang.

#### JOINING GANGS: A RATIONAL CAREER MOVE?

Gang life in the poverty-stricken townships start as early as four or five years old. You walk the streets as a *laaitie* [youngster] and you get beaten up so often that you've got no choice but to join a gang for protection.<sup>28</sup>

If gangs were organised businesses we would expect people to join them largely for reasons linked to making money and possibly advancing through a career structure. Indeed, the financial allure of being a gangster is acknowledged by many on the Cape Flats and this has been stressed by the authorities – "The bottom line," as Ramatlakane put it in a speech at an anti-gang workshop, "is money". Thus, it is common even among those who detest gangs to hear a somewhat sympathetic analysis explaining gangsterism as providing an alternative career path for people structurally excluded from the formal economy. The term 'gangsterism' denotes someone who gains an income from crime, often from violent crime.

In Don Pinnock's study in the mid 1980s, it was shown that gangs are a confusing phenomenon as they exist for many reasons. The evidence some 20 years later continues to support this view. People join street gangs or form new ones for many reasons, some of which are beyond their control. Within these reasons rational decisions to make money are prevalent but not always central. The gang therefore functions on several levels and at times these can give it an ambiguous and even contradictory nature. Here is not the place to grapple with a theory on why gangs form, rather it is important to illustrate that they are not simply rational economic organisations.

Continuing with the interview data gleaned from speaking with prison inmates who were gang members, it was apparent that for many, joining a gang was a decision based on an expectation to make money. Often it was stated that this meant they could buy drugs and afford nice *takkies* (sports shoes, important status symbols in South Africa as in many countries). This element of gang formation would suggest that Merton's classic strain theory may be relevant. The gang represents an innovative way of achieving material success, which is encouraged through mainstream consumer culture. As Jock Young would put it, coloured gangsters are turning to crime to deal with the contradiction of "cultural inclusion and structural exclusion".<sup>29</sup>

But the strain theory of crime can only be viewed as a partial explanation for gang formation. Moreover, a simple understanding of the strain theory fails to explain why those who succeed in the criminal economy often also do well in the legal economy – it is the winners in the criminal economy who are some of the least affected by structural exclusion.

Recurring themes in my interviews and fieldwork also included the notion that the gang gave members protection from bullying or crime, including being attacked by other gangs in their neighbourhoods. People join gangs partly as a way of getting revenge or fighting adversaries. On the Cape Flats 'ganging' may be viewed as a response to personal insecurity, although the relationship between gangs and security is complex. Gangs are producers of insecurity for others and as we will see, life in a gang may not be so pleasant or safe.

It was also mentioned regularly that being a member of a gang gave a sense of status, which was exciting and attractive; in particular, to be a gangster was considered a way to attract female attention. Having a *chappie* [gang tattoo] confirmed this status and gave them the feeling that they were important and dangerous. "What does the gang mean to me? It means that the other people or gangs is afraid of you."<sup>30</sup> In this respect we may consider the similarities between gangs on the street and the prison Numbers. The Numbers seem to operate in part as a psychological response to feelings of frustration and worthlessness – prisoners are treated as powerless children by the authorities and the Numbers allow such people to live in another world while in prison, where they are descendents of warriors, rebels and 'fighting generals'. Perhaps the street gang culture offers the same existential solutions for some, giving disempowered men a sense of extreme masculinity, importance and even order.

In the following two interviews, the first with a member of the Dixie Boys and the second with a member of the Fancy Boys,<sup>31</sup> some of these themes were alluded to:

My parents did not work and there was no food and no money. I joined the gang to get money for myself and for my parents....I had two guns and went with

friends to other gangs and shot them...As a gang member, people know you and are afraid of you and respect you. It is fun and you have money. The girls like you and the clothes you wear and of course, the money. In my area you don't get jobs 'cause of the tattoos. They think you will steal from them.

When did I become a member of a gang? Hmm, I just told this one boy, he was at the gameshop once...we were talking about gangs, guns, girls and that stuff. I told him that I also want to become a member of a gang. So he said come to my house tomorrow. So they chap me and I become a member of the Fancy Boys from that time on. I was 14 years old. They did not actually force me to do anything. It was actually my own feeling that it could be of use to go with the gang...(when I was joining) they showed me their houses and things and they told me about dangerous things they do like armed robbery, the stuff they steal and the lots of money.

As both of these interviewees revealed, access to drugs and guns is an allure of the gangs. Indeed, it was alarming to hear the subject of guns being repeated in almost every interview – often, when talking about the guns that gangs had, the interviewee's eyes widened and they became particularly animated. As one put it, "It was lekker to see all these different guns, some of them you've never seen before, big guns like you see in the movies, and grenades". It is noteworthy to see how many gang members have tattoos of guns and knives on their bodies. This may be further confirmation that a motive for being part of a gang lies with establishing a personal sense of power. One gang member described to me the psychological high he felt when walking with a gun for the first time; he was somebody and he felt "untouchable". This is possibly an addictive feeling and one that may become habitual, given the insecurity of living in a violent area.

While the gang members talked of joining the gang to gain access to drugs, money and guns, as well as to impress others or to protect themselves, several explained that they joined to escape home or to rebel against their parents. One member of the Sexy Boys expressed this through a tattoo that read: "My mother does not love me". He recounted the harrowing story of how and why he joined the gang:

You are not forced to become a gang member. The reason why I became a gang member was because my mother and father separated and I could not understand why. Because I was still small. I asked my mother but she told me it is something between them. Then I thought I rather go to the other people...It happened in primary school. I was 13 and in standard five. There were a few others, about six who were members of the Sexy Boys. I just started walking with them, talking with them. At that time I still

played cricket. They also played cricket for the primary school. So afterwards they tell me to come to their house. There were cars, *bakkies* [pick-up trucks]. They picked me up at home. My mother asked me, 'Who is that people?', so I told her it is only school friends of mine. The more I were with them, the others saw me and asked them, 'Who is that boy?' and afterwards they once gave me a gun so we were driving in a BMW. So I never knew what it was for, they told me, 'Now come there and get out of the car and kill a 28 gang member'. They call the mobster and I got out of the car and start shooting everybody. I shot one in the leg and stomach.

*Q: So what is it you like about being in the gang?*

*A: Women. Going out with the gang. You can be whatever you want to be. If I have a gun in my hand nobody can touch me.*<sup>32</sup>

As such stories suggest, joining gangs is often not a straightforward process in which the recruit simply decides to join; becoming a member of the larger gangs may also be a process that the person does not have full control over, even if they later think they did. The opening statement from the above interview ("You are not forced to become a gang member") sits uncomfortably with the story of being sent out to kill a rival gang member, possibly as part of his initiation process.

Meanwhile, we cannot lose sight of the labelling process, which may push some people into seeing themselves as gangsters. It is a feature of being young, coloured and living in some areas of Cape Town that others will tend to view you as a potential gangster and this may become a self-fulfilling prophecy. During fieldwork in Atlantis, an example of how the labelling process plays itself out became evident through research at secondary schools. In an interview with a headmaster of one of these schools he told me: "You can tell who the gangsters will be".<sup>33</sup> Later in our conversation he described how children are told to "stop acting like gangsters" and he had arranged a series of lectures by the local police on the dangers of joining a gang. Tellingly, his school was locally infamous for having a problem with gangsterism. It was protected by barbed wire and security officials. His office was locked from the inside when I interviewed him. In contrast, a school merely half a mile away was considered virtually 'gang free'. The headmaster of this school explained that he does not allow members of staff to use the word 'gangster' as he fears this may encourage bullying and stigma among learners who are low achievers. He was also not in favour of the police lecturing the students on gangs and drug-taking as he realised this was likely to be counterproductive. This school has open gates with no barbed wire.

It is noteworthy that the head of a private detention centre in Cape Town (one of the 'places of safety') also described how one of their policies is to get young

men to see themselves as individuals, rather than as gangsters. This seemed to be a process of 'de-labelling'.

Considering the myriad reasons behind gang formation we may therefore conclude that the gang is a complex phenomenon that serves various social and cultural needs. The link between gangs and making money is a key theme but it is not the only one. Again, this suggests that choosing to be involved in a gang is not just a simple rational economic decision. This is further confirmed in the way a gang reproduces itself, as we will see in the next section.

The relationship between gangs and organised crime is difficult to generalise about. It is true that gangs are involved in many forms of income-generating crimes; the profits involved may be distributed but not in ways that are predictable and consistent. Gangs provide the opportunity to make money. But the gang is not in itself a creation for the purpose of engaging in market-based crimes. It is a phenomenon that exists independently of organised crime. In some ways it is an organisation which career criminals exploit but it seems incorrect to encourage the perception that gangs are the organisers of crime – they are not business organisations and they have certainly not evolved into criminal empires.

#### TRIBAL CONSUMPTION AND THE FUNCTION OF GANG MEMBERSHIP

So, that the gang is not simply a drug-dealing business seems to be apparent. However, the emergence of the supergangs and the intragang alliances based on the Numbers play important functions in the criminal economy. This operates in at least three different ways.

#### FAMILIARITY AND SECURITY

It was noted above that a defining feature of the criminal economy is the inherent risks involved in financial transactions. Many people argue that without the ability to turn to the formal justice system, members of organised crime rely on violence or the threat of violence to enforce contracts and keep order. This seems uncontroversial and is no doubt the case – too many of the drug merchants are surrounded by stories of being ruthless and violent men and it is for these reasons that many are successful. However, the gang is a useful mechanism to govern illicit markets. The notion of organic solidarity is bound up with the idea that there is a shared loyalty to the group, an element of trust between so-called brothers. The gang may serve to help develop security among career criminals in the same way as ethnicity does elsewhere. To be a member of the same clan may mean there is familiarity and mutual confidence in conducting business deals. At the same time, belonging to a clan means that each member is governed by the rules of the

larger structure – to wrong a Number is a risky move, for everyone usually ends up in prison.

#### ORGANIC SOLIDARITY AND FIGHTING FOR THE GANG

A distinguishing feature of the clan, as opposed to other forms of criminal organisation, is the notion that members are encouraged to develop a sense of camaraderie – one is not simply part of an individualistic network but rather a brother in a familial organisation. A cynical view of gang myths and initiation is that it helps foster this group bond as a convenient way of maintaining a loyal army and workforce. Being a leading member of a gang could be interpreted as a strategic choice. To the outsider, what is remarkable is that so many youths seem to fall for the allure of being part of street gangs and prison Numbers; it is an ambition for them. Some police have expressed dismay with youths who claim their goal in life is to be part of a Number:

I can tell you I had a *laaitie* of five years old who told me once that when he grows up he wants to be a 28. That's his life ambition. And he told it to me in this office. He's five years old, when he grows up he wants to be a 28. By the time these boys are 14, 15, 16, 17, they've been indoctrinated so much that they believe that it's their destiny to be a gang member. It is what their life is all about. They'll die and kill for the gang.<sup>34</sup>

Such statements are clearly relevant when we come to discuss policy thinking. It suggests prison may not be the answer to 'gang-related problems'.

#### TRIBAL CONSUMERISM

This brings us to a controversial observation. It has been described that there are rival views on the dynamics of the Numbers. Some see them as sinister organisations controlled from within prison; others explain that they were exported by drug merchants in order to foster greater coordination between individual gangs. According to the second view, which seems more plausible, the drug merchants have operated as shrewd and calculating businessmen for they now command a regional network of loyal street gangs. Those who are 28s should source drugs from 28s, while 26s should source theirs from other 26s. It was argued that the emergence of larger gang structures was in part inevitable, given the characteristics of the market in Mandrax and other drugs. If alcohol and dagga were the only illegal commodities this situation would not have occurred.

It may be assumed that if the Americans appear in greater numbers in a particular area of the Cape Flats, this is because they are busy selling and distributing illegal

commodities there. However, in addition, street gangs are important players in a network of consumption. The growing numbers of gang members and those with whom they socialise represent major consumers of drugs, alcohol and other commodities supplied by leaders of organised crime on the Cape Flats. Their gang loyalty means they buy these commodities only from their gang, which is reinforced by the fact that much of the work done for the gang is rewarded with free drugs.

Therefore, we may consider to what extent the growth of some of the larger gang formations, particularly those that are franchised drug dealers, represents a form of *tribal consumerism*. In other words, those who profit from being leading members of ever-larger street gangs and intragang alliances may be encouraging the growth of such alliances as a way of increasing a population of devoted consumers, who are also available for petty labour. This was observed by Jonny Steinberg when he wrote about the careers of some leading Cape drug merchants:

Men like these were the first in the history of the Western Cape crime who needed to build and maintain province-wide allegiances. They required the allegiance, not only of foot soldiers, merchants and street dealers but above all, of consumers. A large portion of Western Cape drug consumers had always bought their drugs according to their gang allegiance. Now, the allegiance would have to be a large, abstract, province-wide entity. In other words, the imagination of the consumers became a vital resource on which to work.<sup>35</sup>

The myth of the Numbers, developed through decades of story telling based on the life of a group of black African bandits, has been used to create a form of brand loyalty in the illegal economy. The networks of high-level drug dealers, which seem to transcend gang loyalties, exist simultaneously with fierce gang loyalties at the lower levels of drug distribution. It therefore seems that those at the base of this economy – the consumers and petty workforce – idolise the brand more than those at the top.

### **PART III: EXPLOITATION AND TENSIONS IN THE CRIMINAL ECONOMY**

For the authorities, gangs and organised crime tend to be viewed as monolithic organisations, which, unless removed, will grow in power and sophistication. For the sociologist, a defining feature of the criminal economy on the Cape Flats is its exploitative character, in which internal victimisation implies that the gangs are anything but monolithic.

On one level, exploitation is based on the fact that the workers – street dealers and helpers, hangers on – earn a pittance compared with the drug merchants. The winners in this system take most of the profits while the losers make do with very little. Yet what makes the criminal economy particularly unsavoury is the sinister

way in which those at lower levels are abused by those above them. In many cases young and possibly gullible 'gang brothers' are used by the drug merchants and senior gang leaders to carry out the most risky and violent tasks.<sup>36</sup> This includes carrying out 'hits' on rival dealers or gang members. In other instances, fringe members of the gang are expected to take the blame for crimes they did not commit. The rewards may not be in cash; those carrying out orders successfully will be paid in drugs or the task will be deemed part of the initiation ceremony. Killing a rival gang member will be presented as a way of gaining entry to the Numbers' hierarchy. In short, many of the 'employed' in the criminal economy are conned, tricked and abused; they represent cheap, expendable labour power.

The last chapter described that the main function of the status contract in street gangs is to foster camaraderie. This is a way of governing people and helps to generate loyalty. In many instances gang members seem mesmerised by loyalty to the gang or Number and, as such, help to sustain a sense of organic solidarity. Yet support is not universal. During interviews with gang members some were acutely aware of the flaws of an existence in the gangs. Indeed, the exploitative situation was regularly described by gang members in prison. We may speculate that it is in prison, when they have a chance to reflect on their situation, that they realise that the image of the gang being an inclusive protective organisation is something of a lie. Thus, a desire to quit the gang to go back to school or get a job was often expressed:

Q: *Do you think you'll go back to the gang?*

A: *Nee, meneer*, I want to go back to school because no-one of the gang did come and visit me.<sup>37</sup>

It is possible that interviewees were deriding their gangs in a bid to show someone who might report to the authorities that they were reformed and ready to be given early release. But this may be a cynical interpretation of the interviews. The stories offered were believable. Consider the following from a member of the Americans gang, when asked why he became a gang member:

I used to walk with one of the guys and they told me, 'Here is some money. Go and buy yourself an *entjie*' [cigarette]. And I went to buy one. And then they start to use me. I had to keep drugs for them and stuff like that. I had to keep their guns if the police come to look for them. They use me. Then, you must gang fight. When the 8 Shells and the Americans fight, they tell you to go shoot that one. Then you go shoot him. Then they say, 'Ha, this *laaitie* is great'. You feel strong and say, 'Ha, *die guy sal saam met my doodgaan*' [this guy will die with me]. But if you get shot the guys run away from you. They won't die for you.

They say they will die for you, but they don't. When the other guys get caught you take the blame and go to prison. Now that I am here they do not come here or bring me something. They forget about me.<sup>38</sup>

Others told similar stories. The exploitative nature of the relationships within gangs is given further credibility by the fact that accounts of gang conflicts suggest that much violence is perpetrated between members of the same gang. This reason further complicates the notion that gangs cause crime (analysed further in chapter six). Above it was noted that one gang member claimed, "you can trust no-one". Indeed, few people who have spent time in or near gangs offer a romanticised depiction of how gang members relate to each other – internal order and politics are not only dealt with through myths and rituals, but also through violence and fear. That conclusion has been reached by gang research elsewhere. American academic Greg Scott put it well:

[T]he men in this study claim universally that the person most likely to hurt you is not a rival gang member but rather a 'brother', one of your own, a fellow gang member. None of the men in this study truly believes the ideology of loyalty and brotherhood that many gang members espouse publicly. The myth of communal habitus is a ruse, a conceit held by new recruits if anyone and most gang members find this out the hard way.<sup>39</sup>

This leads us to a point that regrettably can only be touched on briefly, namely the psychological damage to many who slide into the criminal economy. Gangs on the Cape Flats are not always 'magical solutions' to environmental and social contradictions. We have seen that gangs do not always provide their members with security or well-paid jobs. While reasons for joining gangs vary, including wanting status, protection, friendship and excitement, those who see joining gangs as a career move will more than likely be disappointed and disillusioned – gangs will lead most often to a prison sentence or perhaps death. Many of the tasks the gangs encourage are exceptionally violent and psychologically ruinous for both victim and perpetrator. And when serving time in prison, exploitation and physical abuse often continue. The dire state of South African prisons has been well documented, as has the fact that often juvenile offenders are locked up in harrowing, unhealthy environments where rape and violence are commonplace. That these institutions are far from acting as effective places of rehabilitation should be universally accepted.

A common image of 'gangsters' may be one of hardened criminals who have lost all sense of decency in the pursuit of money, men who glorify violence, rape and theft. Yet when meeting these so-called gangsters in prison one is more often than not forced to re-evaluate this mental stereotype. It is clear that they have

been subject to a maddening set of common circumstances and the resulting emotional and physical harm is obvious. An insight into the psychological damage caused by years spent in Cape Flats gangs can be observed among those who are sent to 'places of safety' – private youth detention centres that offer better care and resources than that on offer at the state's main prisons. A social worker at one centre explained:

The first thing we have to do is to de-stress them, you know, show them that they can relax here and that they are safe. We also have to give them a thorough medical exam because the state they arrive can be shocking, you know. Lice and infections they get in prison can be really bad, we get instances of TB and we've lost some of the guys because we just don't have access to the right medical resources quick enough. We make a big thing about not letting them use gang names here – our philosophy is that we don't want to give credibility to the gangs and the Numbers... [after a while] it is interesting to see how some of the really tough guys, guys who are here for murder, they actually start playing with kid's toys, cars, building bricks those sort of things. You know, you think perhaps these guys have never really learnt to play. They don't have normal lives. They're shooting guns at 12, taking drugs and learning always to be tough. So it is interesting to see them playing, they can't do that outside.<sup>40</sup>

Psychologists and psychiatrists who work with offenders who have been active members of gangs report high levels of trauma and mental illness, including depression and psychosis. According to Kerstin Stellermann, who is preparing a long-term project to provide training for social workers in these matters, it is common to find gang members suffering from debilitating recurring nightmares, which involve playing back acts of extreme violence: "He sees the person begging for their lives as he pulled the trigger and it's an image that haunts him".<sup>41</sup> We may wonder how these disorders play themselves out in the lives of gang members. Instances of drug dependency and violence may be a result of years of mental trauma from being exposed to gang cruelty, insecurity and prison abuse. As an interesting aside, a prison warden in Malmesbury prison claimed that those who fail to cope in this world are often shunned by the gang altogether; so-called self-harmers are excluded from the prison Numbers, which puts them in a position vulnerable to more abuse and physical danger. The prison is rarely able to provide such people with mental care and therapy.

The damage inflicted on gang members by their time spent in the criminal economy and then in prison is a subject needing more research, carried out not by criminologists but by those who are better equipped at talking to traumatised people in ways that could aid them in coping with their state of mind. This is

sensitive research and simply asking people to recount their stories, as has regrettably been the case for my research, is ethically problematic.<sup>42</sup>

#### TENSIONS

The criminal economy and use of gangs as a way to regulate drug-dealing markets is divisive for the townships. Young unemployed men are encouraged to despise other gang members, or the 'consumer bases' for other drug merchants. Yet, to what extent this method of governing the criminal economy on the Cape Flats will last remains to be seen. All systems of production have their internal tensions. We suspect that the wealth and mobility of those who are successful may increasingly become a polarising factor – one that puts strain on the credibility of their tribal loyalty to their consumer bases and petty workforce. The uneven profits undermine organic solidarity, which is a key requirement for a clan. We may also predict that the brazen exploitation of many gang members would lead to some form of revolt. Perhaps this will happen, but for the time being there seem to be too many gang members who are willing to play their active role in what seems a flawed organisation.

Nowhere is this potential for internal tension greater than in Atlantis. Here the most populous street gang is the Americans and they control small pockets of the town. Police estimate there are approximately 80 members in total. Most are young unemployed men who pass a limited and claustrophobic daily existence, typically hanging out at one of the town's shebeens. In contrast, no less than a mile from Atlantis is the heavily guarded, large farmhouse of one of the main leaders of the Americans gang, who I will call Cassiem. He moved to this property in the late 1990s as he felt vulnerable on the Cape Flats from attacks by the vigilante group PAGAD. Cassiem's wealth is regarded by those in Atlantis as almost limitless and he is rumoured to be financing the building of a mosque in town. I spoke to several residents about Cassiem and one summed up his relationship with the rest of the Americans:

You never see him in town. Why would he come in to Atlantis? He's too rich to hang out with the Americans, you won't find him in a shebeen on a Saturday night!<sup>43</sup>

The reasons why some successful drug merchants may prefer to keep a distance between themselves and the main street gang organisations have already been noted. But one also hears the view that the leaders of gangs are also increasingly distancing themselves from the rank and file members. The poverty and seemingly random violence of many gangs' members can be socially stigmatising and multi-millionaire drug merchants are considered more at home among those with similar spending power. A detective from the OCU put it as follows:

Some of these men [the drug merchants] no longer want to be seen as common gangsters. They wear nice clothes, cover up their tattoos. In fact, some don't even have tattoos any more. They've moved out of the Flats and have bought big houses in well-to-do areas. They like to think of themselves as businessmen now, not common gangsters.<sup>44</sup>

What may hasten their decision to distance themselves from gang members is the continued pressure put on gangs by the state, a result mostly of the public violence between street gangs that provokes fervent condemnation from community residents and the media. In other words, the move by those in law enforcement to criminalise gangs and pursue their members with added vigour may serve to convince ambitious drug dealers that distancing themselves from gang members is a good idea for business purposes.

However, one should not exaggerate the tendency of gang leaders and drug merchants to distance themselves from the ghetto. This is merely noted as a tendency which may become more pronounced. As we will see in chapter five, there are also reasons for rich drug merchants enjoying the company of the poor.

#### REPRODUCING THE GANG

What factors enable gangs to reproduce themselves in the face of such extreme flaws?

Even though gangs are exploitative, those working in prison with the gang members I interviewed expected almost all of them to return to their gangs upon release, even those who acknowledged that their gang had used them and in some cases made them take responsibility for crimes others had committed. The reasons for the longevity of gang membership, and what seems to outsiders a sad dependence on gangs, are complex and personalised. Two themes stand out.

#### MEMBERSHIP FOR LIFE

I asked the head of one of the Cape's places of safety to explain how gang members can leave the gang:

It's difficult for them. There's one, the one you spoke to with the two guns tattooed lying like that on his chest [*two guns overlapping*], he's living in Manenberg now. I ran into him the other day. I asked him, 'How are you?' and all of the rest and he said, 'Very good'. He said, 'I'm only doing armed robberies now. I've left all the other stuff off'. [*Laughter*] 'Oh, that's nice', I said. You know, he said he wanted to give it all up when he was here, but obviously, he's got deeply into the gang world and it's his only job, it's his career and he's going to die very soon. But, whereas others, you know, I got a call the other day out of the blue, from

Cecil. This one youngster was also deeply involved, but now he's an apprentice electrician. He said, 'Oh, I just thought I'd give you a call and say hi and let you know I'm not dead and I'm doing alright and I've got a job and I'm clean, I'm not using drugs'. 'Okay, that's nice,' you know. And another youngster now works for the bakeries and then one other phoned me the other day and he's working with one of our After Care guys who is involved with helping street children. So you know, there's a lot of lekker stories. But there are sad stories. You've got one of the local lads living in Kleinvlei. He gave up gangsterism completely while he was here and by some miracle, he went out and he learnt good skills here and he became a shop fitter and one Saturday morning he was taking his Mum to the shops and one of his friends walked up to him and blew him away. End of the story. Another youngster, also in Elsie's River was a deputy leader of the 28s gang, which is, you know, a very rough area and also, he was, *[pause, sigh]* he went, well, he gave up gangsterism and he went on radio to talk about the problems of gangs. The next day they went to his house, they came to the house and shot him. So those are some of the sad stories as well.<sup>45</sup>

Indeed, a popular explanation for members staying in the gang is that leaving is fiercely prohibited by leaders and can be punished by death, a story that adds to the image of gangs being ruthless and exploitative organisations. However, as explained above it is misleading to say that all gangs prohibit exit in this way. Gang membership on the Cape Flats can be short-lived. For some, being part of a gang is a passing phase in their lives; membership is not permanent. In his ethnography of the Homeboys – a small gang made up of friends from a football team in Heideveld – this was documented by Steffen Jensen:

When I left the township in 1999, it was altogether unsettled whether the Homeboys were gangsters or just soccer players. It had grieved me to see how fast they descended towards apparent doom, stabilised – and increasingly acting – as gangsters. It was with the greatest relief that I returned three years later to find that the Homeboys had ceased to exist as a group. Several had married and moved away. Two had become police officers! The rest either worked or studied.<sup>46</sup>

But the stories of gang members being murdered when trying to leave the gang are also plentiful and, as a result, it is common to hear gang members saying they will not leave the gang, even when they say they would like to. Consider the following excerpt from an interview with a gang member in Malmesbury prison:

You can't leave the gang. You have their stamp. If you try to leave they will shoot you. You can give them money and say you want to leave the gang, but it's difficult. But I like to go to home and get a job and stay with my mum.<sup>47</sup>

A member of the Americans had this to say:

It is not possible to leave the gang. Because you have shot so many gang members dead, the people remember you and come after you. Even if you go to church they still remember. The only way to get out of a gang is by moving away and change your life there.<sup>48</sup>

Alluded to here is the popular misconception that gangs allow members to leave if they declare themselves converted to religion. This notion may have been encouraged by certain famous gang leaders who have re-invented themselves as religious leaders. The reality is that few gangs respect the church to such an extent that they freely allow most members to leave the gang in this way. One gang member I spoke to remained defiant: "I don't care if they don't want to let me go, I will put my mind on the person who is up there".<sup>49</sup>

#### WHAT ELSE IS THERE?

In considering the reasons why gang members seem dependent and loyal to such exploitative entities, perhaps as significant as the idea that gangs prohibit exit is the realisation that alternative options are scarce. This is evident when gang members, many of whom will spend time incarcerated, are released from prison. After-prison care is woefully lacking on the Cape Flats and employment prospects are dreadful for those with the double stigma of a criminal record and gang membership, particularly as their allegiances tend to be visibly tattooed on their bodies. Moreover, re-entry into communities and family life for young ex-prisoners is rarely one paved with forgiveness and patience. In this situation, the gang operates as the only institution, albeit an extremely flawed one, that offers some form of security and provision of basic needs. As one social worker employed in a youth detention centre explained:

When young boys leave prison, the street gangs are the only option they have. Other gang members are the only ones who know what they have experienced in prison and they can relate to each other. They are not going to go back to Manenberg or Hanover Park and walk straight into a job or back to education. They will go back to where they have lived all their life, go to the shebeen and carry on with the gang. What do you expect? We do quite a lot with them in [the detention centre] but then we let them go and it is difficult to keep ties with them. Yes, unfortunately it can be true, the good work we do with them here can all come undone when they leave.<sup>50</sup>

During an interview with a former member of the Americans gang the situation for young members was put in rather depressing terms:

...the gang is their family. Their fathers are either in the gang or in prison or are not there. Their mothers have to work long hours and often have many other children to worry about...These are the 'latch-key' kids...The gang becomes their surrogate family. It's where they hang out, make friends and it is who they go to when they get in trouble.<sup>51</sup>

The strategic role gangs play in the process of recidivism reinforces the idea that the career paths of gang members cannot simply be viewed as a series of rational economic choices. The official denunciation of gang life demands that gangsters choose another option, the message being that they face an easy choice – life in the gang or in 'civilised society'. However, wandering into the gang and remaining an entrenched member can be seen as an unavoidable consequence of the social and economic contradictions of life on the Flats. Once tarnished with the label of a gangster (or even potential gangster) the small opportunities for meaningful wage labour in the legal economy evaporate.

So, the gang is socially contradictory. It may provide status and protection, probably also much friendship, but it shows tendencies towards gross exploitation and internal victimisation. It may lure people into imagining they can secure upward mobility through crime, but in reality this works only for a small minority.

#### **PART IV: THE CRIMINAL ECONOMY AND THE STATE: CORRUPTION AND COLLUSION.**

Thus far the analysis has focused on activities of drug merchants and street gangs. These are the most obvious participants, benefactors and customers. However, this is only part of the story. State officials, particularly those tasked with enforcing the law, play a contributing role. It is common for this to be subsumed under the heading of 'corruption,' but, as we will see, this concept needs clarification. How significant the state's role is, particularly that of the police, is considered in the final part of this chapter. It is of paramount importance to stress the methodological difficulties in understanding this subject – information on corruption is hard to come by and frequently unreliable. Even where people have provided detailed information of corrupt practices, publishing this information becomes difficult given the potential consequences of exposing individuals. As with other elements of this study, the aim is to provide a theoretical understanding rather than a descriptive one based heavily on individual stories.

Before focusing on ways in which the state assists and contributes to the criminal economy on the Cape Flats, it is useful to step back and take a wider perspective. In particular it is important to analyse the importance of the country's transition in promoting organised crime.

**THE STATE AND ORGANISED CRIME IN SOUTH AFRICA**

Telling the history of organised crime in South Africa depends on one's definition of the problem. One could argue that the creation of the South African state has been one long process of organised crime (see chapter four for further discussion). However, even by following a contemporary view of what organised crime is, it is clear that in South Africa the state has been more than simply a passive victim.

The recent history of state-sanctioned organised crime in South Africa has much in common with the development of Soviet organised crime described by Rawlinson. In the later years of the Soviet Union, the state relied on organised crime to deflect attention from – and manage the consequences of – recurring crises in the economy. Similarly, in South Africa it was the political and economic crises of the late 1970s that prompted the apartheid state to sanction large-scale organised criminal activity in the face of the threat posed both by the economic shocks of the early 1970s and the political fallout from the Soweto uprisings of 1976. As lucidly described by Stephen Ellis,<sup>52</sup> the period from the late 1970s onwards was one in which the ruling NP faced growing hostility at home and abroad. In 1978, the new Prime Minister, P W Botha, declared that the country was under 'total onslaught' from Soviet-backed revolutionaries operating inside the country and from the neighbouring 'frontline' states. In response to this threat, a corresponding 'total strategy' was devised. A key element was the growing involvement of the South African Defence Force (SADF) and the South African Police (SAP) in escalating what the government saw as counter-revolutionary struggles inside South Africa and beyond its borders. The new strategy marked a change in the nature of the state apparatus for it was in this period that the police and ultimately the government as a whole became increasingly militarised, paranoid and aggressive and, as a result, began to turn to organised crime as a means of sustaining itself in power.

A core element of the total strategy was the establishment of an extensive covert state that ignored South African laws as well as those of other countries. Not only were secret units involved in gross human rights violations, including torture and assassinations, both at home and abroad,<sup>53</sup> but the apartheid regime also relied on state-approved smuggling through front companies to fund its military operations and bypass international sanctions on essential commodities such as oil and arms.<sup>54</sup> Infamously, the SADF created a large international trade in illegal ivory from elephants poached throughout Southern Africa, the profits of which may have funded military operations in Angola and Mozambique as well as swelling the fortunes of high-ranking officials.<sup>55</sup> As a consequence of involvement in these activities, members of the apartheid state's many secret units became skilled not only in violence and terror, but also in the foundation and management of illicit businesses. With the help of opportunistic entrepreneurs, security officials opened up clandestine trade routes, thus contributing, in the longer term, to the fact that

South Africa is now regarded as a transit state in the international movement of several illicit commodities.

In the mid 1980s, economic and political pressures encouraged the SAP and SADF to strengthen their effort to defend apartheid. Of particular importance was the strategy of 'low-intensity conflict' that involved apartheid officials enlisting the services of auxiliary forces drawn from among the black majority. This led to an escalation in the activities of armed right-wing vigilante groups who were responsible for the deaths of thousands opposed to the apartheid regime.<sup>56</sup> In this era stories spread suggesting that the SAP had become adept at 'sub-contracting' policing functions to various groups and organisations, including street gangs across the Cape Flats. As Schärf argued, the illicit nature of their activities made the gangs vulnerable to pressure from the police and willing to "trade information and services for the 'right' to continue operating," while their dominance of the 'coloured' townships, particularly at night, acted as a curb on political activity.<sup>57</sup> It is as yet an unproven allegation that security agents acting on behalf of the government during the dying days of apartheid also helped supply certain gangs with large quantities of cheap Mandrax and cocaine. For some, the available evidence is compelling and the political motive was clear: encouraging drug trade in the townships was part of the wider strategy to undermine political mobilisation.

Since the end of apartheid, evidence has begun to emerge of more direct and active involvement of individual gangsters in attacks on opponents of apartheid. One example is the testimony given at a hearing before the Amnesty Committee of the Truth and Reconciliation Commission (TRC) by a former operative of the Civil Cooperation Bureau, Abram 'Slang' van Zyl, about his part in plots to assassinate opposition leaders and undermine political mobilisation. Van Zyl and his colleagues paid a gang member named Ishak Hardien to help plant a bomb at the Athlone Centre where members of the Kewtown Youth Movement were known to meet. The same group of security officials also hired a gangster known as 'Peaches' to assassinate Dullah Omar, chairperson of the United Democratic Front (UDF) and later Minister of Justice. But Peaches was murdered under suspicious circumstances. The SAPS accused the leader of the Americans gang, Jackie Lonte, but many locals believe that Peaches was 'exterminated' by state agents. This was the view expressed by one of Lonte's legal representatives.<sup>58</sup>

While state agents probably relied more heavily on clandestine strategies involving cooperation with organised crime, TRC investigations have also uncovered evidence that opponents of apartheid may not have been averse to working with gangsters either, and may even have smuggled arms from Mozambique into the Western Cape to supply their auxiliary forces, such as gangs thought to want an ANC government. While evidence is lacking, it is also alleged that the military operations of the ANC-South African Communist Party (SACP)

coalition during the civil conflict was partly funded by crime, including vehicle theft and drug smuggling. Evidence is weak, partly because the TRC had no mandate to investigate such activities.

#### POST-APARTHEID DEVELOPMENTS

How significant apartheid-era corruption was in promoting organised crime and gangs on the Cape Flats remains moot. On a national level, it is difficult to refute the view that organised crime conducted by both sides of the civil conflict has continued and has contributed to the high level of organised criminal activity in South Africa since 1994. Some hidden operations that were previously sanctioned from above were quietly closed down, while the motivations, objectives and income-sources of some leading figures in the security apparatus became murkier. In retrospect it is unsurprising that, in this environment, some individuals, long operating in a world where they were above the law, exploited both their skills in clandestine business activities and their corrupt contacts to conduct freelance crime operations. South Africa in this regard does not seem unique. Charles Tilly makes a general historical observation:

In times of war, the managers of fully-fledged states commissioned privateers, hired sometime bandits to raid their enemies and encouraged their regular troops to take booty. In royal service, soldiers and sailors were often expected to provide for themselves by preying on the civilian population: commandeering, raping, looting, taking prizes. When demobilized, they commonly continued the same practices, but without the same royal protection; demobilized ships became pirate vessels, demobilized troops bandits.<sup>59</sup>

According to Ellis, precious stones, ivory, arms, luxury cars and drugs are among the commodities that former members of the apartheid regime continue to smuggle and trade.<sup>60</sup> At the trial of Wouter Basson, a leading military chemist under apartheid, evidence was led suggesting that, in the dying days of the regime, substantial quantities of high-quality Mandrax and ecstasy were produced, only to disappear in mysterious circumstances. Basson claimed to have dumped the drugs at sea, although he was caught by an undercover agent trying to sell Mandrax in Pretoria and a large drug seizure of ecstasy in Northern Ireland was eventually traced to his laboratory in South Africa.<sup>61</sup> Evidence collected by TRC investigators also strongly suggests that syndicates containing senior military and police officials had been smuggling arms and drugs from Mozambique on a large scale throughout the 1990s. A feature of these syndicates is that they rely on the services of illegal immigrants who are arrested, imprisoned and then used to purchase and smuggle

weapons and drugs back into South Africa. According to TRC investigations many Mozambicans used in this way have been executed by their employers; in one case approximately 60 people were shot and dumped in a lake near the South Africa and Mozambique border.<sup>62</sup>

Much of the illegal trade conducted by former security officials since 1994 was probably conducted for material self-interest. However, it is possible that dealing in arms and drugs may have served more sinister purposes, including helping to fund operations designed to undermine the transition to democracy.<sup>63</sup> Various people, including senior ANC leaders, believed that a right-wing 'third force' was active for many years, fanning conflict through organised crime.

Although such crime involving former and current security officials and police has gained the most interest, a relatively untold story involves the significance in post-apartheid organised crime of former members of the militarised organisations of the struggle movement. Many well-trained soldiers who became unemployed after the democratic transition were absorbed into the burgeoning private security industry. Others have been implicated in various forms of organised crime, notably in stolen-vehicle syndicates, cash-in-transit heists and the 'taxi wars'. One former MK agent interviewed for this study argued, "The ANC helped create the monster they now can't control".<sup>64</sup> This may be a simplification, but it is possibly more important than many people in power are willing to admit.

From this overview of organised crime and the state before, during and after political transition, it should be clear that during apartheid organised crime was already rampant and involved both sides of the conflict. Post-apartheid organised crime shows a continuation of these networks and it is possible that people have continued with criminal activities that were previously rationalised through ideology and politics. It is hard to quantify these activities, but the claim that organised crime exploded after 1994 is open to question. What is abundantly clear is that organised crime is not, and never has been, simply the preserve of a distinct class of career criminals and there has been active and instrumental involvement by political elites, police and other state agencies. In this analysis the parasitic model of organised crime has limited analytical worth. It is an embedded feature of politics and society.

#### CONCEPTUALISING CORRUPTION AND ORGANISED CRIME ON THE CAPE FLATS

Although the relationship between organised crime, the state and political elites is remarkable in South Africa, this should not obscure the fact that police corruption in areas such as the Cape Flats is normal in comparison with many other countries. The genesis of this corruption may lie in the propensity for police to seek additional

income and to extend their local power; and for organised crime, on the other hand, to find ways of managing insecurity.

Before speculating on how significant corruption is in the criminal economy on the Cape Flats, it is essential to try to understand the ways in which corruption plays itself out. To conceptualise this it is useful to consider several scenarios which depict the relationship between police and career criminals in different stages of collusion. Each of these is fluid and it is difficult to say which dominates at any given time. It will also be apparent that differentiating between those instances in which police corruption is active or passive is no easy task.

The first scenario can be considered a state of *conflict*, as a traditional state of affairs. The police scheme to find ways of arresting career criminals and in return, career criminals find ways to evade capture, achieved through various strategies including employing a network of lookouts who raise the alarm when a police patrol is in the vicinity of a shebeen or drug-dealing location, through intimidating or buying off witnesses and even through physically threatening the police. In this scenario there is no corrupt relationship between the police and career criminals; the relationship is antagonistic. Corruption may occur if law enforcement push the boundaries of acceptable police work to arrest criminals, i.e. fabricating evidence, intimidating witnesses, achieving confessions through violent means and planting drugs on people they know are dealers.

The second scenario represents a partial breakdown of that conflict. It arises chiefly through pressures put on law enforcement to succeed at their job, particularly to make sufficient successful arrests. This is a problem in areas such as the Cape Flats as the police face a legitimacy crisis characterised by limited flows of information from the public, ironically partly caused by the widespread notion that the police are corrupt. Under this scenario, *mutual dependence* can develop between law enforcement and career criminals, constituting a form of collusion. This is a subtle way in which power is shared between criminals and police and it is a theme to which we will return in chapter five. Mutual dependence arises in two ways. The first is informal and the second is based on a more formalised relationship. With regard to the former, a publication by Wilfried Schärf in the mid 1980s provides a good example. Schärf described the ambiguous association between police on the Cape Flats and a shebeen owner he called 'Joker', whose importance in the community meant he was a useful source of information for the police. By supplying information on an ad-hoc basis, Joker's power was increased; in other words, he fostered a congenial, mutually beneficial relationship with the police:

One significant aspect of the shebeen's private policing methods was its widespread network of contacts and alliances. Joker's ability to extract any

information he desired from the community was a vital asset in his relationship with the police. The latter frequently approached him for clues and leads in the course of routine crime detection, often using his pointers as the only information for making their decisions...Indeed, in this respect the official police force could be said to have worked for him, as their mutual interests coincided.<sup>65</sup>

Implied in this is the idea that by relying on Joker for information, the police gave him the means to undermine rivals and promote his interests, while the police could become more efficient. The police may have been aware of this but it was not of primary importance to their daily task of investigating traditional forms of street crime and deviancy. A similar observation was made by Steffen Jensen in his research on policing in one area of the Cape Flats. He described that those police conducting regular patrols depended on a number of "safe bases".<sup>66</sup> Some of these were drug merchants' houses or prominent shebeens. He noted that this practice provided benefits to both parties. The police were able to gain access to community information and the drug dealers or shebeen owners were able to trade information for favours. A classic example would involve a policeman visiting the shebeen to get information on a crime, in return for which the shebeen owner may avoid future hassles. In addition, Jensen also speculated that the visible relationship between the local police and the drug merchant may help sustain the latter's image of being a locally powerful person, which has incidental benefits (more on this later).

So, there is an informal mutual dependence that results from the realities of daily policing. However, this can become more structured and formalised through police using paid informants. It is an anomaly that many shebeen owners and drug merchants are used in this way. Although the police claim it is essential for developing intelligence on drug merchants, some sources argue that this strategy easily blurs into corruption, which, again, is mutually beneficial to both police and drug merchants. Corruption occurs in several ways. The informer system is poorly regulated and therefore fraud is common. Police strike a bargain with someone they have arrested to provide information, for which they offer an inviting sum of money. The expense claim for this may be far more than what is given to the criminal; the police pocket the rest. A similar scheme existed among security officials during apartheid, who were eligible for monetary rewards for capturing and destroying caches of weapons. According to TRC investigations, fraudulent claims were made virtually every day by Vlakplaas members as a means of fundraising.<sup>67</sup>

Where close relationships develop between police and their network of paid informers, there is the potential for informers to manipulate information for their own benefit. The prime example seems to be informants supplying information on their rivals. Alternatively, I have been told of a drug merchant who supplied

information to the police on the movement of drugs on the Cape Flats, including vehicles containing his own drugs. The information was supplied merely as a means to provide a decoy for much larger consignments of drugs being driven at the same time but in other areas of the Flats.

Because of the fractured nature of the SAPS, several police units independently investigate the crimes of gang leaders and drug merchants on the Cape Flats, each having their network of different paid informers. A national body has been set up to better coordinate this system but it is common to hear that competition between units is rife. According to some sources this internal competition produces the scenario where the careers of successful detectives and of successful drug merchants may be closely correlated.<sup>68</sup>

The informer system of policing creates problems of corruption within drug dealing networks also. There is a paranoia among career criminals, fearing that their associates may be paid informants conspiring against them. A leading stenographer in Cape Town was even contacted by the Hard Livings gang, which wanted to hire him to interview several of their members whom they suspected of working with the police. When informants are exposed in communities the consequences can be disastrous. This was highlighted in the trial of Rashied Staggie, who oversaw the gang rape of a young woman who was a paid police informer in Manenberg. Less well known is a story relayed to me in Atlantis, where a gang member mistakenly assassinated the brother of a police informer who was exposed by a policeman on the gang's payroll. Such stories highlight the 'ethical' dilemmas of the informant system, a subject made all the more contentious given the numerous trials where prosecutions have fallen apart because evidence supplied by criminal informers – known as 'section 204 witnesses' – carries little weight. It is beyond the scope of this chapter to explore the merits and pitfalls of the informant system in achieving a reduction in crime. A hypothesis worthy of research is that the informant system does more harm than good, particularly where organised crime is rife and so, too, is police corruption of various types.

The third scenario of police collusion with career criminals represents a more overt form of corruption and it is what many people regard as being the most problematic. This involves police trading information and assets with drug merchants to provide them with immunity from arrest or prosecution. Where the power lies in these relations would be hard to detect. In some cases, the police seem to engage in rent-seeking behaviour; in others, the drug merchants are the instigators. Two elements seem most problematic. The first relates to the selling and buying of police docket. Every investigation depends on an initial paper trail, which is stored in various locations, often in the police stations close to or within the economic domains of drug merchants. It is common knowledge that drug merchants acquire their own dockets as a means of disrupting police

investigations against them. So, for example, during a raid on a merchant in Atlantis police found two dockets relating to separate murder cases from failed investigations, which have now been reopened. Similarly, it is alleged that several police in Manenberg established a racket through which they would quite literally auction dockets to gang members. This practice was confirmed during interviews with gang members in prison, many of whom were open about the fact that their leaders buy their dockets from the police.

The second element to this scenario relates to police simply accepting money to supply information on future raids or to scupper investigations, either by spoiling evidence or by dragging investigations out over such a long time that momentum is lost and witnesses tire or can be intimidated or killed. It is a feature of these payments that they can be sustained over a long period. According to a source close to a drug merchant in Atlantis, he deposited money in an investigator's account for several years. So as not to raise suspicion, the account was kept roughly at R5,000 at all times, the monthly salary of an investigator being about this amount. In return, the investigator was able to supply information on planned raids on him or his business associates and he provided several dockets, some of which the gang member sold to other gang members.

Illustrative of the scale of this problem is that increasingly, police involved in raids on drug merchants are not told of the location and target until just before the raid. In addition, some of those heading such raids have banned cell phones so that corrupt police cannot warn their clients.<sup>69</sup>

The final scenario is one where the police become actively engaged in illicit markets, selling drugs, weapons and other contraband. A well-publicised case in 2000 involved police assisting the Hard Livings gang to steal weapons and ammunition from the police base in Faure. The police may also be involved in what we can call 'skimming' – taking a proportion of seized drugs or alcohol and selling it to other drug merchants. This is another practice that many residents of the Cape Flats, some close to drug merchants, claim occurs regularly. Drugs are confiscated, no case is opened and the drugs reappear soon after in another drug-dealing location. Indeed, it was revealing that, according to two defence lawyers who work with many leading drug merchants in Cape Town, their clients often claim that the amount of drugs or money the police report they have taken in raids is much less than was there.<sup>70</sup> So, for example, Andre van der Walt, an inspector at the OCU, was arrested in 2005 for his part in a drug-dealing operation that implicated so-called Mr Big. According to the state prosecutor, Van der Walt was one of several policemen who stole drugs from Mr Big's rivals in order to re-sell them to him for a lower price. In one such incident, the state prosecutor alleged that Van der Walt helped to steal 10,000 Mandrax tablets.<sup>71</sup>

As this example shows, skimming may develop into a more active role in illicit markets. Police in this case became the organisers of economic crime and the chief benefactors. This occurs elsewhere in South Africa, particularly regarding gun smuggling and the taxi wars.<sup>72</sup> It is not certain that this occurs regularly on the Cape Flats. However, during my fieldwork persistent reference was made by interviewees linking prominent gangland figures with syndicates containing senior police and former apartheid security and military personnel. A potential corroboration of these stories surfaced during an interview between TRC investigators and an elderly white man in Pollsmoor Prison, who claimed he had been an active member of this syndicate from 1985 to 1996. While the investigators suggest this evidence has been corroborated by other interviews, it was not possible to be sure the sources of information were correct. According to the interviewee, one gang in particular was being used by a group of senior police to steal vehicles, smuggle weapons and sell drugs. The following is an excerpt from the unpublished transcript of the interview conducted by the TRC investigators. The names of the policeman and the gang have been changed:

I don't know who runs the operation here in Cape Town but, what I do know is that a Mr. Mark was very much the one who had all the say here. For a fact I do know that the stolen cars went to his house first before being sent up-country. This Mark was also making use of a gang by the name of the Cape Gang. This gang was known to be used and under the orders of a police officer, Mr Smith. Last mentioned was also closely linked to the syndicate where firearms and drugs were concerned in the Cape...Drivers from the Cape will only take the [stolen] vehicles to Bloemfontein where they leave them...for others to fetch them...Someone in the police, maybe Smith, give them the routes over which these vehicles must be taken and which will be safe, before leaving Cape Town.<sup>73</sup>

In another section of the transcript it was described how he delivered firearms to Mr Smith at Green Point Stadium in Cape Town:

Twice in the past I have left cars with firearms at this stadium. I recognised Mr Smith this night as a person pointed [him] out to me in Durban...as a 'pig' from the police in Cape Town...The Greenpoint stadium is a place where arms and ammunition are delivered in the Cape. I don't know how long these weapons etc. stay there but, what I do know is that Smith uses the Cape Gang to distribute weapons and drugs in the Cape.<sup>74</sup>

I have received more evidence on the relationship between the senior police mentioned by this source and the same gang members. In a confidential report on organised crime by the NIA, both the Cape Gang and Mr Smith and Mr Mark

were represented in a complex flow chart that illustrated organised crime networks in the Western Cape. Other businessmen, gang members and police were also in the chart. Likewise, in an interview conducted in Malmesbury prison with a former hit man of the Cape Gang, he confirmed this relationship and alleged that the senior policemen gave the gang leader an expensive pair of handguns as a present.<sup>75</sup> Members of PAGAD claim they made a recording of a meeting that took place between the policeman and the Cape Gang leader at a café in a shopping mall in the centre of Cape Town.

During an interview, a former leading member of PAGAD told me about the night he was arrested for the murder of the leader of the Cape Gang.<sup>76</sup> The police who arrived at his house included some of those mentioned to the TRC investigators. It was revealing that after being arrested, this member of PAGAD was driven to the headquarters of the Cape Gang, a considerable detour, and the police made a point of showing him to the new leader of the gang. He said he believed he was being 'shown off' to the gangs as a symbolic gesture.

Evidence for these links between gangs and police is not conclusive and it is possible that misinformation is recycled, meaning that several seemingly independent sources corroborate on issues that may be untrue. It is also possible that what appears as collaboration may be part of sting operations or intelligence gathering. However, if it is the case that at certain times senior police have been actively involved in crime, then the Cape Flats will not be a unique case study.

#### QUANTIFYING CORRUPTION

The above illustrates diverse relationships between career criminals and the police. These can be understood as part of a continuum. At one end is a state of conflict whereby the relationship between police and organised crime is purely antagonistic. At the other extreme, the police assume leading positions in organised crime and employ career criminals as part of their syndicates. Lying in between these extremes are forms of mutual dependence and collusion based on rent-seeking behaviour and collaboration in disrupting investigations, arrests and prosecutions. These forms of corruption represent an important way in which organised crime is sustained and illustrate how certain individuals consolidate their position in the criminal economy.

The evidence so far may suggest that police corruption on the Cape Flats is endemic. Indeed, it is a challenge to find someone living there who does not feel the police are corrupt and that the police have corrupt relationships with street gangs. Yet what people understand by the concept of corruption can be radically different – as with notions such as organised crime, even experts on corruption fail to agree on a common definition. In Atlantis, for example, several community

residents I spoke to complained about corruption in the local police station. When I asked one woman to explain what she meant by saying “The police are corrupt,” she told me, “The police are corrupt because they are lazy, they don’t help you and they are often drinking in the shebeens with the gangsters”.<sup>77</sup> Her notion of corruption was different from those who understand it as active involvement in illegal activities; for her, police corruption seemed a broader concept related to the extent that police do their work well – they are corrupt because they do not care.

The sheer scale of corruption, however, came through in interviews with several sources, most revealingly in a group interview with three police station commanders of notorious gang-controlled areas.<sup>78</sup> I was reticent on the issue of corruption, believing that this would be a controversial and insulting question. However, when the subject was broached the response was alarming. All agreed that corruption represented the greatest problem confronting their efforts to combat gangs and organised crime. As one put it: “Corruption is our biggest enemy. If it wasn’t for corrupt police then we would have sorted these gangsters out years ago”.<sup>79</sup> Several sources I have spoken to suggested corruption has been the main cause of inefficiencies in investigating gang crime. Allegedly, an internal audit in the SAPS found that 1,500 murder and attempted murder dockets handled by the gang investigation unit between 1994 and 2001 were undermined by suspiciously bad policing methods that could not be described simply as careless. However, following up on this allegation a reporter unearthed a confidential note from a top Western Cape police officer claiming it would “not be in the interest of the South African Police Services to act against the members of the gang investigation unit because of potential bad publicity”.<sup>80</sup>

A similar scathing view on police corruption was expressed during an interview with a former leading figure in the PAGAD. For him, the name of PAGAD was misleading as from the outset it was a movement that not only targeted drug dealers and gangsters, but was also aimed at corrupt police officers who worked with them. In the early days of PAGAD, numerous investigations were conducted into police corruption. The most famous resulted in an audio recording of a meeting at the Waterfront between a senior policeman and the then leader of one of the largest gangs on the Cape Flats. Similarly, a member of PAGAD has apparently filmed police in Manenberg selling police dockets to gang members. It is one of the ironic aspects of PAGAD that allegations were made against the police that corruption between police and militant groups within PAGAD allowed the latter to elude arrest and then escape from a well-guarded prison cell.

Almost all gang members interviewed for this study claim that police conspire with gang leaders and drug merchants. Two defence lawyers who worked closely with gang members told me that all the top drug merchants had well-established

links within the police, which was a major factor in the extremely low levels of successful arrests and prosecutions. Hence, one reason for the police and prosecuting authorities developing specialised teams to investigate and prosecute gang members is because local police are corrupt. Wilfried Schärf, who studied gangs and organised crime on the Cape Flats during the 1980s and 1990s, claimed in a consultancy report on improving the methods to tackle gangs that no gang could survive without police corruption.<sup>81</sup>

Despite all these sources suggesting corruption is rife, there is no way of quantifying it. The 'bad apple' syndrome is not sufficient. Nor is the view that career criminals simply penetrate the state and corrupt law enforcement officials. But it is easy to take the analysis too far and tarnish the entire SAPS as inherently corrupt. What is clear is that police corruption is inadequately 'policed'. Established in 1995, the SAPS internal anti-corruption unit was downgraded in 2003 and integrated into the OCU. The reason for this remains unclear as the anti-corruption unit managed to increase the number of successful prosecutions against police officers by 600%.<sup>82</sup>

#### CONCLUSION

The aim of this chapter has been to provide a structural understanding of the criminal economy on the Cape Flats, including the role of street gangs. This understanding has differed in some important respects from the view provided by mainstream analysis, which was summarised in chapter two.

The picture that has emerged in this chapter is complex and it is no easy task to reduce the reality of organised crime to being the work of neat criminal entities. Mainstream accounts have tended to simplify the nature of organised crime and often there is little in the way of detailed evidence on how active members relate to each other and what mechanisms of organisation are occurring. Complexity in describing organised crime may seem unsatisfying. However, this is the challenge for those who study the subject – to move beyond the simple and to begin to explore the multifaceted dimensions of the phenomenon. Much writing on organised crime remains superficial, which is partly caused by methodological challenges.

The first section of this chapter drew on the market model and argued that the way crime has been organised is partly due to the properties of the commodities being traded. It is not simply the case that organised crime developed on the Cape Flats due to opportunities inadvertently provided by political transition. Mandrax has played a very important role in producing wealthy drug merchants and it has created the need for greater regional coordination between career criminals. The

influence of the prison Numbers on the street gangs may have been less likely to have happened if Mandrax had not been criminalised in the late 1970s.

Clearly the clan model of criminal organisation is highly relevant on the Cape Flats. Many of the street gangs conform to this form of organisation. Membership of street gangs is based to a certain extent on group loyalty and status, although we have also seen that there are tensions within gangs caused by exploitation and internal victimisation. Few of the street gangs represent ideal types, which may be a reason why the authorities struggle to develop suitable definitions for them.

Gangs cannot be considered the only form of criminal organisation operating on the Cape Flats, nor do they operate simply as drug-dealing businesses. There are high-level drug dealers who are networked with each other, some of whom are not members of street gangs. These men are not just successful in the criminal economy but are also often entrepreneurs with a wide portfolio of interests. Moreover, evidence suggests the active and passive role of the police in assisting and controlling illegal trade. In this respect organised crime blurs with the state and the formal economy. It is important not to imagine organised crime as representing an 'under' world containing those simply rejected from the 'upper' world. In fact, those most likely to be excluded from the formal economy are those who may fair particularly badly in the criminal economy – the ones who are exploited in street gangs or left to fend for themselves. It is possible that some of these unfortunate people die young, through suicide, or that they take to the streets as so-called homeless people. Likewise, the shrewd businessman who succeeds as a drug dealer may also have the skills and aptitude to do well in many legitimate businesses.

Here we can see that the orthodox perspective fails to give enough attention to the division of labour within the criminal economy. Just as the formal economy is characterised by class stratification, so, too, is the criminal one. Those at the base of the labour market differ markedly from those at the top, not only in their wealth, but also in mobility, use of violence, exposure to risk and 'brand loyalty'. Because many gang members are structurally excluded from the legal economy and they appear on the peripheries of the criminal economy, they suffer a double dose of exclusion.

Despite the exclusion of many gang members from illicit market activities, street gangs are integral to the organisation of crime. Gangs and intragang alliances organise distribution networks and help to overcome risks and insecurities for gang members involved in dealing in illegal goods and services. But the gangs cannot simply be viewed as organisations of production; too few members are employed in the illegal markets. What this suggests is that gangs are both social phenomena (providing security, friendship, excitement, etc.) and they are also

organisations of *consumption*. This means that gangs and gang affiliations may signify what can be termed 'tribal consumerism' as much as they do organisation of criminal production and distribution, if not more so.

If there is one theme that characterises the criminal economy above all others, it is its violent and exploitative nature. I have tried to explain how this exploitation works and how, despite serious tensions, the criminal economy manages to reproduce and sustain itself. There are several similarities between the criminal economy and the legal economy and this subject is continued in the following chapter.

#### NOTES

- 1 W Schärf, Shebeens in the Cape Peninsula, in D Davis & M Slabbert (eds), *Crime and power in South Africa*, David Philip, Cape Town, 1985.
- 2 Although it is unlikely that one supplier in alcohol can capture a large market, this only applies to the informal market in alcohol. South African Breweries (SAB) has a virtual monopoly on the distribution of beer and spirits – almost all alcohol being sold in shebeens on the Cape Flats originates from SAB. The interface between SAB and the illegal sale of alcohol in the townships is a matter for further research.
- 3 For example, P Arlacchi, The dynamics of illegal markets, in P Williams & D Vlassis (eds), *Combatting transnational crime: Concepts, activities and responses*, Frank Cass, London, 2001, p 8.
- 4 Notes from interview, Malmesbury prison, May 2004.
- 5 Interview, Atlantis, May 2004.
- 6 Interview, Atlantis, April 2004.
- 7 Interview, Atlantis, May 2004.
- 8 Ibid.
- 9 NIA 2004, confidential report, a copy of which the author was given by a source who requested anonymity.
- 10 M Thrasher, *The gang* (abridged version), University of Chicago Press, Chicago, 1966, p 414.
- 11 P Adler, 1985, *Wheeling and dealing: An ethnography of an upper-level drug dealing and smuggling community*, Appleton-Century Crofts, New York, p 148.
- 12 Interview, SAPS, Cape Town, May 2004.
- 13 Interview, SAPS, Atlantis, March 2004.
- 14 Interview, Malmesbury prison, March 2004.
- 15 S Jensen, Of drug dealers and street gangs: Power, mobility and violence on the Cape Flats, *Focaal*, 36, 2000, pp 105–116, p 111.
- 16 V Ruggiero, *Crime and markets*, Oxford University Press, Oxford, 2001, p 25.
- 17 E Salo-Miller, Negotiating gender and personhood in the new South Africa: Adolescent women and gangsters in Manenberg township on the Cape Flats, *European Journal of Cultural Studies*, 6(3), 2003, pp 345–365.
- 18 Notes from interview, May 2004. The interview was conducted at a youth detention centre, known as a 'place of safety', which will not be named here.
- 19 Interview, inmate, place of safety, May 2004.

- 20 Ibid.
- 21 T Leggett, *Ganglands: A victim survey of Manenberg*, Institute for Security Studies, Pretoria, forthcoming, p 22.
- 22 Interview, inmate, place of safety, May 2004.
- 23 Interview, anon., Cape Town, April 2004.
- 24 Interview, SAPS, Atlantis, May 2004.
- 25 Interview, anon., January 2004, Tafelsig.
- 26 As Zygmunt Bauman remarks: "...the freedom to move, perpetually a scarce and unequally distributed commodity, fast becomes the main stratifying factor of our late modern or post modern times". Z Bauman, *Community*, Polity Press, Cambridge, 2001, p 2.
- 27 Interview, inmate, place of safety, May 2004.
- 28 *Cape Times*, Gangster world of Desmond Meyer, 10 September 1988.
- 29 J Young, *The exclusive society*, London, Sage, 1999, p 88.
- 30 Interview, inmate, place of safety, May 2004.
- 31 Interviews, inmates, place of safety, May 2004.
- 32 Ibid.
- 33 Interview, anon, Atlantis, May 2004.
- 34 Interview, SAPS, Atlantis, May 2004.
- 35 J Steinberg, *Nongoloza's children: Western Cape prison gangs during and after apartheid*, Centre for the Study of Violence and Reconciliation, Cape Town, 2004b (page number unknown).
- 36 Perhaps the most vile aspect of the criminal economy is the brutal exploitation of women in the criminalised sex industry. I have not been able to provide primary research on this but the key issues are raised in *Molo Songolo*, The trafficking of children for purposes of sexual exploitation, Molo Songololo, Cape Town, 2000.
- 37 Interview, inmate, place of safety, May 2004.
- 38 Interview, Malmesbury prison, June 2004.
- 39 G Scott, It's a sucker's outfit: How urban gangs enable and impede the reintegration of ex-convicts, *Ethnography*, 5(1), 2004, pp 107–140, p 129.
- 40 Interview, anon., March 2004.
- 41 Interview, November 2005.
- 42 During interviews with gang members in prison I took the decision to end the research prematurely. One interview that hastened this decision involved a 17-year-old who started describing how he had been raped in Pollsmoor prison and showed signs of distress in recounting the story. Many of these interviews require a great deal of prompting for otherwise they provide accounts lacking in detail and clarity. However, it seemed irresponsible to push interviewees for more information on such subjects. I hope that this study makes a contribution, but I am not under the illusion that the research is so important as to justify causing upset to those providing primary data.
- 43 Interview, anon., Atlantis, May 2004.
- 44 Interview, Cape Town, January 2004.
- 45 Interview, anon., March 2004.
- 46 S Jensen, *The rise and fall of New York: Understanding gangs on the Cape Flats*, forthcoming.
- 47 Interview, inmate, Malmesbury prison, June 2004.
- 48 Interview, inmate, place of safety, May 2004.

- 49 Interview, inmate, Malmesbury prison, June 2004.
- 50 Interview, anon., April 2004.
- 51 From field notes, Atlantis, June 2004.
- 52 S Ellis, The historical significance of South Africa's Third Force, *Journal of Southern African Studies*, 24(2), 1998, pp 261–299; and S Ellis, The new frontiers of crime in South Africa, in J Bayart, S Ellis & B Hibou, *The criminalization of the state in Africa*, Indiana University Press, Indianapolis, 1999.
- 53 T Bell & D Ntsebeza, *Unfinished business: South Africa, apartheid and truth*, Redworks, Cape Town, 2001.
- 54 The second volume of the report of the Truth and Reconciliation Commission (see chapter 3, Volume 2) contains evidence of these illicit economic activities. For further details on oil sanctions-busting, see C Sholtz, Drive now and pay forever – The apartheid way, in Anon., *The oil embargo 1989–1991: Secrecy still rules*, Shipping Research Bureau, Amsterdam, 1992.
- 55 D Potgieter, *Contraband, South Africa and the international trade in ivory and rhino horn*, Queillerie, London, 1993; and S Ellis, Of elephants and men: Politics and nature conservation in South Africa, *Journal of Southern African Studies*, 20(1), 1994, pp 53–69.
- 56 N Haysom, *Mabangalala: The rise of the right wing vigilantes in South Africa*, Centre for Applied Legal Studies, University of the Witwatersrand, Johannesburg, 1986; and N Haysom, Vigilantism and the policing of African townships: Manufacturing violent stability, in D Hansson & D van Zyl Smit (eds), *Towards justice? Crime and state control in South Africa*, Oxford University Press, Cape Town, 1990.
- 57 W Schärf, Community policing in South Africa, *Acta Juridica*, 1989, pp 206–33. Schärf also noted that, though less well established than their equivalents in the 'coloured' areas, street gangs performed a similar function in the 'African' townships by, among other things, terrorising the populace, sustaining images of disunity, 'inhibiting political mobilisation' and helping to legitimise the police as a line of defence against internecine 'black-on-black' violence.
- 58 Interview, anon., January 2005.
- 59 C Tilly, War making and state making as organized crime, in P Evans, D Rueschemeyer & T Skocpol (eds), *Bringing the state back in*, Cambridge University Press, Cambridge, 1985, p 173.
- 60 Ellis, op cit, pp 61–62.
- 61 M Burger & C Gould, *Secrets and lies: Wouter Basson and South Africa's chemical and biological warfare programme*, Zebra, Johannesburg, 2002, pp 78–90.
- 62 The gun running report referred to here is a confidential report written for the Truth and Reconciliation Committee. A copy was supplied for the purpose of this research. The date it was written is unknown, possibly 1999.
- 63 Such violent operations were seen by some as the work of a well-organised conspiracy involving senior officials in the apartheid regime and were carried out by a so-called 'third force'. See S Ellis, The historical significance of South Africa's Third Force, *Journal of Southern African Studies*, 24(2), 1998, pp 261–299.
- 64 Interview, anon., Cape Town, September 2005.
- 65 Schärf, 1985, op cit, pp 103–104
- 66 Jensen, forthcoming, pp 109–10.
- 67 TRC gun running report, supra note 62.

- 68 See also W Schärf, Bombs, bungles and police transformation: When is the SAPS going to get smarter?, in J Steinberg (ed), *Crime wave: The South African underworld and its foes*, Witwatersrand University Press, Johannesburg, 2001, pp 57–59.
- 69 Interview with SAPS, January 2004, confirmed in an interview with SAPS Criminal Intelligence in January 2005.
- 70 Interview, anon., January 2005.
- 71 Information obtained from an attorney working on the case. This was also reported in the press; see *Cape Argus*, Corrupt cops sold Mr Big drugs, court told, 22 December 2004.
- 72 J Dugard, Drive on? Taxi wars in South Africa, in Steinberg, op cit. The issue of taxi violence is discussed further in chapter five.
- 73 This transcript forms part of a confidential report for the TRC committee, and was compiled alongside the report on gun running.
- 74 Ibid.
- 75 Interview, Malmesbury prison, January 2004.
- 76 This is a well-known event in Cape Town. It was described to me in detail during an interview conducted in May 2004.
- 77 Interview, Atlantis, April 2004.
- 78 Interview, Cape Town, May 2004.
- 79 Interview, SAPS, Cape Town, April 2004.
- 80 This information was published in the *Mail & Guardian*, Brotherhood sealed in blood, 2 August 2002. Several other sources have confirmed this, including members of the SAPS in private conversations.
- 81 W Schärf, Recommendations relating to the investigation of organised crime, unpublished report, Institute for Criminology, University of Cape Town, Cape Town, 1998.
- 82 H van Vuuren, *National integrity systems; Country study report, South Africa 2005*, Transparency International, Berlin, 2005, pp 57–64.

## Organised crime and the 'threat to the economy'

Much of the description of the criminal economy so far could be considered shocking. To the outsider, the criminal economy of the Cape Flats may appear as a brutal, alien world, defined by exploitation and routine violence. It would also seem understandable that many people may feel the protagonists of this world, the gangsters and the drug merchants, adhere to a different morality and culture. They are 'not like us'. On the surface this would support the orthodox view of organised crime, which tends to depict it as anathema to civilised society as well as being the antithesis to 'good business' – organised crime is evil and a source of incivility, whereas capitalist business is the foundation of the good society. Organised crime is viewed as parasitic, as a cancerous growth on an otherwise healthy body.

This understanding influences policy making. Policy makers, including politicians, law enforcement agencies, state bureaucrats and the various consultants who work for them, denounce organised crime by using highly moralistic language; the activities are so wicked that the authorities claim barely to understand what makes some people act in this way. The aim of anti-organised crime policy is therefore to show the criminals that the authorities will not tolerate such behaviour and there will be a concerted effort to remove it from society and to stop it *penetrating* the legal world. In mounting this reaction, law enforcement is frequently urged to work with other organisations, including big business, to rid society of the problem.

On an international level we encounter this mindset frequently. Senior statesmen who front international conventions to combat organised crime talk in terms of 'them versus us' – the 'us' representing an ambiguous mix of government organisations, civil society groups and business. So, too, do many leading scholars on organised crime. Many repeat the idea that it has emerged as the "dark side of globalisation".<sup>1</sup> Politicians and law enforcement officials are not the only ones who conjure up an image of goodies and baddies.

This chapter analyses this aspect of the parasitic model as it relates to South Africa, particularly the Cape Flats. Two key themes are explored. The first relates to the argument that organised crime represents a threat to the legal economy through money laundering and the penetration of legal business. Policy makers frequently use this argument to justify potentially contentious policy and legislation. The second theme relates to the assumption that organised crime is

different from legitimate business. The core argument is that while organised crime is a noxious social phenomenon, its actual threat to the legal economy is routinely exaggerated and when placed in a wider context we may feel that the danger it poses is surpassed by the threat posed by so-called legitimate business. Moreover, when scrutinised, the essence of such crime seems remarkably similar to the essence of capitalist business in general. This forces us to consider a contentious question: if organised crime should be viewed as a form of capitalist enterprise, are there then reasons to believe that organised crime has any beneficial consequences, such as providing employment or generating income that may trickle down to enrich society in general?

#### THE IMPACT OF DIRTY BUSINESS

In South Africa many influential commentators agree with the parasitic model and regularly repeat the mantra that organised crime is detrimental to the legal economy – experts talk about an ‘international consensus’ on this issue, which seems to permit a local literature to flourish devoid of critical reflection. Although the available literature on these themes lacks detail, several broad concerns can be identified. Many were well summarised by Swaziland’s Minister of Finance in a keynote address on money laundering and organised crime in Southern Africa:

The issue of money laundering and underlying criminal activities...affect our day-to-day socio-economic and political lives across the whole region...Dirty money is most visible when it is first introduced into the financial system. Once it is already in the system, it is more difficult to identify. An analogy would be the introduction of a drop of ink into a glass full of water...Failure to prevent money laundering and the financing of terrorism will allow criminals and terrorist organisations to further carry out their activities...The proceeds of serious crime have to be traced and prevented from falling into the hands of criminals and terrorists in order to deal a serious blow to the power of the enemies of humanity. Money laundering has serious consequences if allowed to occur without preventative action being taken. The integrity of financial markets depends heavily on both the reality and the perception that high legal, professional and ethical standards apply. If the proceeds of crime are laundered through a financial institution...this could affect the willingness of law-abiding customers and other institutions to deal with that institution, and could also affect the market as a whole...Studies conducted by the IMF have shown that money laundering can lead to inexplicable changes in money demand, increased prudential risks to the safety and soundness of the banking sector, a contaminating effect of legal financial transactions and increased volatility to international capital flows and exchange rates. It can also lead to reduced levels of foreign direct investment if the country’s

commercial sectors are perceived to be subject to the control and influence of organised criminal syndicates. Money laundering, organised crime and economic crime are often integrally linked and criminal organisations will use their profits to infiltrate or acquire control of legitimate businesses...over time this can seriously weaken the moral and ethical fabric and standards of society.<sup>2</sup>

We can see from this address that what appears to be a major political concern is that the international image of being plagued by organised crime will be detrimental to the creation of a business-friendly environment. In 2001, the then Minister for Safety and Security in South Africa, Steve Tshwete, made this clear:

The government is well aware of the fact that the consequences [of organised crime] could be disastrous for good governance and the economy in the absence of the political will to confront the problem head-on with all the might and ruthlessness that can be summoned...It could adversely affect stock market activity and consumer interest and contribute to the emergence of various illegitimate businesses, which deal in stolen and counterfeit goods. It could discourage foreign investment and create a situation where people start to question the integrity of genuine business practice conducted either by the government or by respectable private institutions.<sup>3</sup>

Given these anxieties, it was unsurprising that in the mid 1990s money laundering emerged as both a key priority area for law enforcement and a central reason to be fearful about organised crime. It is an oversight in the literature on money laundering in Southern Africa that not enough effort has gone into explaining precisely the harms caused by different types of money laundering, although much is written on the fact that 'going after the money' is an essential way to deter crime and deal criminal syndicates a severe blow.

As we have seen in chapter one, most local commentators agree that during the mid 1990s organised crime greatly increased in South Africa due to the country's political and economic transition. The result, it is assumed, has been a huge increase in the amount of dirty cash washing around the region, originating from both domestic criminals and international criminal groups who see South Africa as an easy target for crime. What makes this situation problematic is that dirty cash laundered into the legal economy is believed to have a destabilising and contaminating effect. In 1997, Franso van Zyl, a leading South African academic on the subject, explained in one of the world's most influential journals on money laundering (the *Journal of Money Laundering Control*) that:

The sophisticated South African financial system as well as technological progress by financial institutions will undoubtedly further facilitate economic criminal

activities. The current phasing out of exchange controls, allowing the South African economy to become more integrated into the international financial system, makes South Africa an increasingly visible target as an emerging country for money launderers. With the relaxing of trade barriers and the development of a more open economy, laundered money can enter the financial system in the guise of assisting the South African economy. The unwitting acceptance of such dirty funds can cause great problems in the medium to longer term, as the funds frequently depart as swiftly as they arrive.<sup>4</sup>

So, dirty money, it is believed, does not play by the same rules as legal cash and therefore increases volatility and distorts the functioning of the financial markets. However, the threat does not stop there. It is also argued that criminals who are successful in penetrating the legal business world bring with them their unethical practices, which have the potential to lower overall business ethics. Having used the legal business world to launder their ill-gotten gains, criminals are in a far stronger position to build their criminal empires, which, as Swaziland's Minister of Finance argues, gives more power to what he calls "enemies of humanity", which includes both terrorists and organised crime. If an anti-money laundering regime is tardy or ineffective, then the moral fabric of society is put at risk:

The intensification, diversification and globalisation of criminal activities such as drug trafficking, organised crime, fraud and corruption, has resulted in a substantial increase in the proceeds generated by these forms of criminality. The perpetrators seek to launder, or to conceal the murky origins of the huge sums of money which they have amassed from their dealings, by introducing these proceeds into legitimate financial channels. Although it has not been possible to calculate accurately the extent and size of this phenomenon, there is consensus in support of the view that the proceeds of criminal activities attain, on an annual basis, hundreds of billions of dollars. Today, the trend is for money launderers to move their activities to those geographical areas and jurisdictions where there is either an absence of counter money-laundering measures, or where existing measures are weak and ineffective. South Africa has become a centre for money laundering and, as a result, the legitimacy of its financial institutions and the very fabric of its society are being undermined as a result of the influx of capital generated by criminal activity.<sup>5</sup>

So, we can say that the fear in South Africa is that 'dirty cash' destabilises the formal economy, as well as the negative consequences of organised crime 'penetrating legitimate business'; the problem is not only with the perceptions of private legitimate investors, but of a weakening morality in the economy if criminals are allowed access. This view is espoused by some gang experts in Cape Town who

have raised concerns about the fact that gangs are investing in the legal economy or buying up legal businesses, such as hotels, nightclubs and garages. This is typically understood either as them laundering drug money or as them buying up strategic business to help in furthering their drug-dealing exploits. Yet it also seems that there is concern about the way gangs and the gang culture will influence the local economy. So, for example, Benjamin Haefele argues that the unchecked activities of gangs will lead to the "corruption of the legitimate economy...through the application of violence to distort the normal functioning of the market for goods or services".<sup>6</sup>

The danger of criminals investing in the legal economy is extended to politics and democracy. It is not only that the huge sums owned by criminals put them in a position to undermine the fabric of legal business, but also that the money provides the means to corrupt political leaders, which in turn may undermine democratic processes. We have seen in chapter one how this concern is often raised by mainstream commentators as a global threat posed by organised crime. So, it is unsurprising to find the same fears in Cape Town. For example, an article written for the *Cape Times* by Willem Basson, a senior employee of the DCS, argued that the local government realises the threat of gangsters penetrating the state although he points out that this is a concern that the local ANC government tackled head on through its high-flyer initiative:

As a result [of a failure to deal with high flyers previously] the people of the Western Cape suffered loss of human life, violation of human rights, assault of human dignity, assault on the rule of law, disruption of the economy, corruption, fear and, last but not least, a loss of confidence in the political leadership and government. [However,] the current government leadership appears to be well aware of the serious threat organised crime is posing to our new democracy. In some countries, particularly in Africa, criminal organisations have infiltrated the state and government structures, thus undermining the optimal performance of their economies and the very system of democratic governance.<sup>7</sup>

In sum, the arguments put forward by orthodox commentators on the threat of organised crime to the formal economy and democratic governance are as follows:

- Organised crime creates an environment that scares away legitimate capital investment. Those countries and areas with higher levels of organised crime will experience lower levels of legitimate business activity. Businessmen do not like mixing with criminals.
- Organised crime has dramatically increased since the mid 1990s. As a result, huge sums of money made by leading criminals are being laundered into the legal economy, a process which has a negative impact on that economy. Dirty

money distorts the normal functioning of the economy by encouraging greater volatility, short-termism and risk taking. Invested dirty money is more fickle than legitimate money and it tends to 'depart as swiftly as it arrives'. There is therefore a need to establish strong measures to stop organised crime laundering dirty cash.

- Those who succeed in the criminal economy do so because they adhere to a different moral code. When they succeed in penetrating the legal economy, they lower the ethical standards prevalent in formal business. The penetration of legal business has a contaminating effect, undermining the moral fabric of the economy.
- Having laundered the proceeds of crime, organised crime is in a stronger financial situation. This enables criminals to reinvest in criminal activities, thereby increasing the size and threat of organised crime.
- The wealth of organised crime not only enables it to corrupt the legal economy, but also allows it to corrupt politicians, thereby undermining democratic processes.

Collectively these arguments point to organised crime posing an ominous threat. They are also key arguments that sustain the distinction that is drawn between organised crime and the civilised world. However, it is important to note that so far, there has been little debate in South Africa about the validity of these claims. They have become accepted wisdom, repeated by politicians, academics, consultants and journalists. South Africans seem to base these arguments on the international mainstream literature. International experts then use South Africa as a country to provide evidence for these arguments. Local commentators and gang experts use the arguments in deriding the activities of drug merchants and gangsters on the Cape Flats. The growth of organised crime in this locality is bemoaned on the basis that it is detrimental for the same reasons that organised crime and transnational crime are feared elsewhere.

#### CHALLENGING THE ORTHODOXY

There are several assumptions that the mainstream 'parasitic' model relies on. We need to isolate these and consider their validity.

##### ASSUMPTION 1: THE PREVALENCE OF ORGANISED CRIME CAN ADVERSELY INFLUENCE INVESTOR CONFIDENCE

Through business perception surveys, business leaders confirm that they take corruption and organised crime into consideration when making decisions on where

to conduct business.<sup>8</sup> High levels of bureaucratic corruption and the activities of predatory criminal groups impose burdensome rents on companies that may force them not to work in certain areas. On the surface, this would support the idea that organised crime can scare away foreign investors and legitimate entrepreneurs, which in turn may hinder economic development. However, we need to temper this view by making several observations.

Areas such as the Cape Flats are not simply being bypassed by capital because owners and managers are loath to operate there because of the presence of gangsters. The progress of modern capitalism has created a growing number of ghettos, which come to represent 'dumping grounds' of people for which capital has no use. That the resulting poverty and tension in these areas may serve to increase levels of interpersonal violence, drug abuse, prostitution and other forms of crime, does not seem to permit an understanding that simply blames local organised crime for a lack of capital investment and local economic development. This is at best a limited argument. A more important dynamic, and one that politicians who champion neo-liberal ideology seem to overlook, involves the destructive market-driven system of global production and consumption that is concentrating wealth in some areas and neglecting others.

The hypothesis that traditional forms of organised crime such as drug dealing scare away private investment, sits uncomfortably with the argument that such criminality is partly an outcome of structural characteristics of the economy. The danger here is that politicians may be criticised for pandering to the needs of the winners of a system that in its nature causes problems they profess not to tolerate. So, for example, if we accept that escalating urban crime is linked directly to the wealth polarisation created by the dynamics of capital accumulation, we may feel it is unfair that private business successfully lobbies for more measures to control street crime, such as CCTV linked to private security firms or the police. This has happened in South Africa where the organisation known as Business Against Crime (BAC) has forged a working relationship with the government, which has included joint funding of CCTV in Johannesburg and Cape Town.<sup>9</sup> In this situation, it would be preferable for politicians to take steps to undermine the structural causes of crime, rather than to ensure that business is protected from the destructive environment it inadvertently helps to create. Whether or not this is happening in South Africa, the point is to raise caution that the orthodox paradigm of organised crime may lead to a situation where the wishes of foreign or domestic business are prioritised in a bid to 'win the war'.

What further complicates the story of business being scared away by rampant organised crime is that there is little evidence to suggest that many of the most successful business corporations are averse to working in risky environments,

particularly when there is a great deal of money to be made. Consider the fact that some of the world's largest multi-national corporations (MNCs) are active in several resource-rich African countries at times of civil conflict or major political unrest. A great deal of evidence suggests that when working in such areas, MNCs, which typically originate from the North, engage in corrupt practices and show a remarkable ability to lower ethical standards to a level that would horrify most people back in their home country. It is only when nefarious rents become too burdensome that corporations decide to pull out, or when competitors succeed by paying larger bribes, or, in rare instances, when civil society groups expose unethical business practices to such an extent that it is no longer profitable to remain.<sup>10</sup> The relationship between big business and organised crime is therefore complicated by the fact that the former may in fact thrive under disorganised and unregulated environments. The decision on where to do business does not appear to be a moral one; ultimately, the decision rests on simple considerations of profit maximisation.

If one needs a further reason to doubt that organised crime simply scares away legitimate business, then consider the possibility that, when measured in annual turnover, the US has one of the highest incidences of organised crime anywhere in the world; some estimates suggest that the US accounts for up to a quarter of all spending on illegal drugs.<sup>11</sup> Yet despite having such high levels of organised crime and money laundering, America is the pre-eminent economic superpower.

#### ASSUMPTION 2: DIRTY CASH COMES FROM OUTSIDE THE LEGAL WORLD

There is confusion about the origins of so-called dirty cash that may or may not be sully the local economy. Although it is difficult to provide estimates of the sums involved, we must not overlook the fact that much money that represents the proceeds of crime does not originate from those engaged in traditional forms of organised crime, such as drug dealing. A common image of money laundering is one whereby dirty cash is *introduced* into the legal financial system – it originates from an outside world and is brought into a legal world, like a virus contaminating an otherwise healthy body or a drop of dirty ink in a clear glass of water. This is misleading. Much, if not most, of the proceeds of crime originate from the legal business world through tax evasion, embezzlement, fraud and illegal capital flight. Unfortunately, this is overlooked in South Africa. Part of the problem may stem from those who dominate the debates surrounding the notion of white-collar crime. BAC, for example, has made it one of their priorities to understand white-collar crime and devise means to combat it. But BAC seems to understand white-collar crime as comprising those crimes that are committed *against* big business, not *by* big business. If BAC and others directed their attention to crimes committed by

business then they might come up with some startling sums. As it is, BAC merely tell us that crime costs business a great deal:

White-collar crime is costing the South African economy between R50 and R150 billion a year, with 82% of businesses being probable victims. It accounts for 30% of all business failures, and consumes 2–5% of a healthy company's economic turnover.<sup>12</sup>

Evidence that much of the 'hot money' should not be seen as originating from a murky underworld was vividly shown when the government declared a 'foreign exchange control amnesty' in 2003. This was designed to allow a return of as much as possible of the hot money that had been illegally exported from the country over the decades when a devaluation of the rand and the impact of political transition were feared. The government stated that no questions would be asked about the sources of this money and it would keep personal details strictly confidential, but a small payment was required in return. It may be sensationalist to suggest this was a massive state-sanctioned money laundering operation, but in essence, it was. By 2004, R65 billion had flowed back into the country, providing the government with about R3 billion in levies.

This exercise suggests that not all hot money originates from drug dealing and organised crime and the amount that does come from these activities probably pales into insignificance when compared with the billions originating from the activities of legal businesses, investors and otherwise law-abiding citizens. Of course, the image of a drug dealer searching for nefarious ways to clean his stash of used notes is a more sensational one that most find easy to denounce in moralistic terms. Yet the exercise of allowing hot money back into South Africa also suggests that zero tolerance for crime is selectively applied; a more tolerant approach can be pursued when the money at stake is sufficiently large. Then it is not so important to 'Know Your Customer'.

What further undermines the notion of dirty cash coming from outside the legal world is that much of the money used to buy illegal goods and services originates from legal activities. Some people may commit crime to afford drugs, but a large number work hard in the legal economy to acquire the same substances. As those who know the sordid underbelly of Cape Town will agree, some of the best customers for drugs such as cocaine, dagga and Ecstasy are in the entertainment industry, the booming fashion world and even among advocates, attorneys, estate agents, businessmen and the police. The taken-for-granted image that dirty cash originates from an underworld and that it is then 'introduced' to the legal economy, thereby infecting it, is conceptually simplistic and misleading.

ASSUMPTION 3: SINCE THE MID 1990S, CRIMINALS HAVE BECOME THE OWNERS OF HUGE AMOUNTS OF DIRTY CASH

This assumption leads to a number of important points. The first is that the orthodox understanding of organised crime needs to reassess the story that organised crime exploded in South Africa during the mid 1990s and that there was therefore an upsurge in the amount of dirty money washing around Southern Africa, mostly in the hands of criminal syndicates. South Africa under apartheid experienced a large amount of organised crime. I have already touched on this in the preceding chapter, but let me reiterate key points and make some further observations.

Under apartheid, political and business elites engaged in systematic criminal activities, particularly during the late 1970s and 1980s. It is not clear where the line between ideological concerns and personal enrichment could be drawn. Through these activities, state officials, senior military agents and business leaders forged links with international criminal operators. Illegal commodities were traded across state borders, including ivory, guns and drugs such as dagga, Mandrax and heroin. Through these business ventures and through operations to evade international sanctions large amounts of illegal money flowed in and out of South Africa. We can deduce that many unscrupulous people enjoyed a growth in their personal wealth of a staggering magnitude, some of which may have been stashed away in secret bank accounts in the North where bank managers were willing to enforce their code of 'banking secrecy'.

In short, during the gradual collapse of the apartheid state there was systematic criminal plunder and corruption involving a political, business and military elite. This has been conceptualised by Stephen Ellis as the 'criminalisation of the state'.<sup>13</sup> Such was the scale of 'wrong-doing' that it makes it trivial to consider organised crime during this period as acts that merely transgressed the law. Hennie van Vuuren has recently pieced together evidence of these crimes.<sup>14</sup> He makes the point that the task of uncovering the true extent of organised economic criminal activity in South Africa's past is exceptionally difficult given that much evidence was destroyed leading up to the political transition and given the deals that were struck in the 'sunset clause'; it was an aspect of the negotiated transition that certain issues remained brushed under the carpet and criminals got to enjoy their ill-gotten gains for the sake of political expediency. Those involved in the struggle movement were not averse to organised criminal activity for the sake of achieving political ends, either, even if we accept that these ends were understandable given the vile system of apartheid that was being challenged.

So, it is an historical error simply to imagine that technological improvements in financial markets, improvements in communication and travel, the integration of the South African economy, the weakening of border controls and the

restructuring of the police gave rise to an unexpected growth in organised crime and money laundering. One might argue, rather, that organised crime changed in nature during the mid 1990s, but not necessarily in its scope. Many disgruntled people took to stealing vehicles and to murderous ways of seeking profits to obtain a lifestyle they thought would be available immediately to them after the fall of apartheid. It is also possible that new criminal operators entered the country and introduced new networks of illegal trade in drugs, weapons and other contraband, although it is also likely that some of those who gained criminal proficiency under apartheid are some of the country's notorious gangsters now.

There is also merit in the argument that the new SAPS was inadequate in dealing with crime in the mid 1990s, which may have encouraged some people to be more brazen in their criminal activities, although the former police state cannot be considered much better in meeting the demands of reducing crime either. But it would be a mistake to imagine that organised crime had simply grown and therefore, so too did the extent of its illegal proceeds. One need not believe there is any political motivation to this idea, which is told by the majority of organised crime and money laundering experts, but, as Van Vuuren points out, the mistake in the telling of the story has a political dimension that has been seized on by some averse to ANC rule. For instance, Van Vuuren cites former leaders of the NP who can draw on plenty of literature to support the argument that corruption and organised crime are far worse now: "With regard to crime and corruption, the true facts are that the situation has deteriorated seriously since the ANC took over".<sup>15</sup>

In reality, the true facts do not support this claim. Indeed, it is most revealing to consider comments made by General Tienie Groenewald, a former senior member of South African Military Intelligence, in a speech to the American right-wing think tank, Conservative Caucus, in 1987:

South Africa is one of the few countries in which there is no control whatsoever over foreign capital...any foreigner can, with no restrictions, either bring money into South Africa – whether it is hot or not, does not matter – bring it in, or take it out. There is no restriction whatsoever on the flow of capital.<sup>16</sup>

We can therefore query the idea that the South African economy is under a new threat from greatly expanded amounts of dirty cash, although we cannot show this quantitatively. But another point needs to be made. In both the local and international literature on money laundering the tendency is to refer to 'huge sums' of money in the hands of powerful drug dealers and gangsters. We see this theme in the essay by Turkson quoted above, where the author refers to "hundreds of billions of dollars" and a link is made between this amount and the activities of traditional organised crime. Putting aside arguments that suggest estimates of the

amount of dirty cash coming from activities such as drug dealing are routinely exaggerated (rounded up, never down), the weakness in the analysis provided by orthodox commentators is to encourage an unrealistic, unsubstantiated view that individual criminals engaged in traditional forms of organised crime are very rich. It is possible that in much writing on organised crime, this assumption is encouraged – there is an attempt to inflate the image of organised crime in order to persuade others that drastic action is required, including the passage of contentious legislation such as that concerning civil asset forfeiture. Critics claim the economic reality of organised crime is not so frightening:

[T]he great majority of what is conventionally defined as crime is the province of small-time losers; if they really possessed the kind of initiative routinely imputed to them, they would have long ago realized that the serious money lies not in peddling dime bags of dope but in rigging defense contracts.<sup>17</sup>

When viewed in a wider perspective, the amount of dirty money accumulated by drug merchants on the Cape Flats is not enormous. Collectively, the wealth generated through this type of crime may be large. Drug merchants, in their immediate surroundings, can also be considered as wealthy individuals. But, as argued earlier, their wealth is not unusual when compared with that of the inhabitants of the affluent areas of Cape Town. For instance, assets frozen in the 2006 criminal trial against 'Mr Big' were not very large. The AFU suggested he and his extended family had an estate worth about R10 million. What proportion of this stemmed from drug dealing and what from legitimate economic activity is difficult to know – Mr Big owns a successful nightclub business. That he and other high-flyers were not nearly as wealthy as is popularly imagined was confirmed by a person who worked closely with some of the main drug merchants in matters relating to the law:

We're not really talking about seriously rich people here. I think most of these guys probably spend half their incomes on legal fees and they can't really afford the top attorneys anyway...no, it is a mistake to think these guys are filthy rich and most of the time their wealth is short lived, you know, they get robbed, arrested, blow it on stuff they can't really afford.<sup>18</sup>

The illegal cash entering the legal economy from organised crime on the Cape Flats should not be considered as a drop of ink in a glass of water. Putting aside the fact that the origin of the ink *is* the water, more appropriate would be to imagine a trickle of ink in an already murky and somewhat dirty ocean.

If the South African literature suffers from hyperbole, one should add that experts from the North fall into the same trap. Professor Mueller from Rutgers University,

a former senior employee at the United Nations Crime Prevention and Criminal Justice Branch, claimed that the billions of dollars being made by drug barons should be considered one of the most worrying features of organised crime and a potential threat to the world's economy:

...existing information permits no quantitative or qualitative assessment of the phenomenon, but it must be considered that the drug trade alone has between \$200 and \$500 billion to invest in the market. At this rate, one could theoretically predict the time at which the world's economy is controlled by organised crime.<sup>19</sup>

Such a view is not unusual in the international literature on organised crime and money laundering. It is a view that conforms to one of the core tendencies of the parasitic model described in chapter two – that without concerted law enforcement, organised crime will grow in power and eventually dominate the global system. This premise sets up a further assumption, namely that with enough power going to the 'good guys', the world can be 'organised crime free', irrespective of any major structural or cultural changes being made to the way society reproduces itself.

ASSUMPTION 4: DIRTY CASH IS DETRIMENTAL TO THE NORMAL FUNCTIONING OF THE LEGAL ECONOMY

From the arguments so far, we can see that this assertion could be problematic. Even if we acknowledge that drug merchants make sizeable deposits into legal institutions or purchase legal commodities and services, it does not necessarily follow that the net result will be harmful. It is hard to see how it could be. According to expert observers, the proceeds of crime have a destabilising effect on the local economy. The claim, which is only made fleetingly, is that dirty cash when laundered behaves differently from the proceeds of so-called clean activities. Money-laundering experts claim that the proceeds of crime increase volatility in currency values and market prices and that laundered money is characteristically fickle – it leaves the economy as fast as it enters.

In South Africa, this belief is repeated confidently, but without any serious argument or empirical evidence. But again, this is not peculiar to South African analysis. In fact, there is virtually no serious literature explaining precisely what the macro-economic impact of money laundering is. On the surface, an essay entitled "Macroeconomic implications of money laundering" by Vito Tanzi of the IMF, published in a collection of essays from the world's leading experts on this field, offers the most detail and is now well cited.<sup>20</sup> However, a reader of this essay is not provided with any rigorous economic evidence; rather, arguments are based on conjecture and 'worst case scenarios'. The result is highly unsatisfactory.

Tanzi's argument is based on the fundamental premise that criminal organisations

that launder money are not behaving as rational economic actors, as they 'invest' proceeds of crime in places and businesses that offer the least risk rather than the highest returns. He does not offer any evidence of this, but argues that, as a consequence, criminal organisations are behaving contrary to market dynamics, which in turn reduces economic growth and may set up confusing scenarios for policy makers:

Money may move from countries with good economic policies and high rates of return to countries with poorer economic policies and lower rates of return, thus seeming to defy the laws of economics. This implies that the world capital is invested less optimally than would occur in the absence of money laundering activities. The world rate of growth is reduced not only because of the allocation of resources but also because of the allocation of the proceeds of crime. As a consequence of these counter intuitive capital movements, the policy makers may get confused as to the policies to be pursued.<sup>21</sup>

A further concern raised by Tanzi is based on the extraordinary wealth criminal organisations have. If this wealth is moved from one country to another – again, based on decisions that do not correspond to rational economic logic – the impact could be disastrous and create economic instability:

The total assets controlled by criminal organizations or by their agents are so large that the transfer of a small fraction of them from one country to another could have important and possibly systemic economic consequences. If the annual flow of laundered money is in the hundreds of billions of dollars, and if stock of all laundered money is even larger, it is not too far-fetched to imagine that billions of these dollars could be moved around at particular times.<sup>22</sup>

What is more, because criminal organisations realise this power they have, it is plausible that in the future they may try to bully national governments into adopting favourable policies – favourable for them, not for law-abiding citizens:

It is not far-fetched to imagine that...criminal elements could intentionally seek to subvert financial markets by corrupting some of the designers and administrators of the laws governing banking, currency, and financial markets in particular countries and the administrators of the financial market. In a worst case and unlikely but not impossible scenario, a cartel of criminal organisations with control over large financial resources could attempt to destabilise a national economy by intentionally co-ordinating a transfer of funds...out of that country. They might do this, say, for punishing the authorities of that country for being extra vigilant or for introducing stricter controls...Of course, these criminal

elements may also corrupt the political process of particular countries by financing candidates who may be more likely to let these elements have their way...it seems realistic to expect that attempts will be made to install more friendly administrators.<sup>23</sup>

To accept these arguments put forward by Tanzi and others, one requires an exceptionally naïve view of global capitalism based on market fundamentalism, as well as a conspiracy model of organised crime that empirical evidence does not sustain.

The literature on money laundering seems to lack perspective. The policy of intergovernmental organisations, such as the IMF, and of national governments, including South Africa's, has contributed to the creation of a globalised economy that has come to be known as inherently volatile, fickle and ultimately unfair. While barriers to the movement of people are ratcheted up, barriers to capital flows have been taken down and currencies have been subject to market dynamics. The staggering amount of gambling in fictitious capital through complex financial instruments (derivatives, futures, etc.) has given rise to what Susan Strange famously dubbed 'casino capitalism'.<sup>24</sup> It is important to note that experts on money laundering seem truly terrified by the idea that as much as \$5 billion is made annually through organised crime, including drug dealing. What extent of this is laundered through complex financial transactions is, of course, hard to know, but whatever the answer, one must consider that approximately \$175 billion is 'legitimately' traded and moved around the globe *each day*.<sup>25</sup>

We need not dwell on the capricious nature of the global economy, although there is ample evidence of increased volatility in developing countries due to the premature opening of capital markets.<sup>26</sup> Moreover, we need note only briefly that the sort of bullying by criminal cartels which Tanzi suggests could occur in the future, already occurs now on a massive scale – not by cartels of criminals, but by pension funds, currency speculators and other immensely wealthy individuals or corporations who pressure governments to create a favourable environment for their own personal wealth, rather than for the good of the people. The same people 'punish' governments who try and put in place policies unfavourable to private capital, such as increased corporate taxes. Of course, through party political donations, successful attempts are routinely made to 'install more friendly administrators'.

The challenge for those adhering to the orthodox understanding of organised crime and money laundering is to explain how dirty cash introduced by organised crime can be meaningfully linked to market volatility or capital flight. In what ways does dirty money laundered into the economy by those traditionally linked

to organised crime behave out of the ordinary? The essence of successful money laundering is that dirty cash is made to look and act like legal cash. If dirty cash behaved so differently it would be easier for law enforcement agencies to detect it. Indeed, the idea that criminals launder money in ways that are 'counter-intuitive', and that all law-abiding citizens, in contrast, are predictable, rational investors whose investments are entirely 'intuitive', is a matter that requires evidence.

It is implausible that drug merchants from the Cape Flats can launder ill-gotten gains in ways that disrupt the stability of financial markets. What seems to be the case is that drug merchants and wealthy gangsters use their cash to buy expensive cars and houses in affluent suburbs and to send their children to private schools. A feature of this spending is that it is conservative and typical. Indeed, if we put aside the issue of whether criminals should enjoy the fruits of their work, we could argue that it is preferable for the drug money to be laundered into the local economy, since it may provide local job creation and even be subject to government taxes, a part of which will fund the police. It would be difficult for the government to reject this argument, given its recent amnesty on illegal cash stored overseas. The government realised it was better to have this dirty cash back home and there was the added incentive of creaming off taxes and levies in the process.

ASSUMPTION 5: CRIMINALS WHO PENETRATE THE LEGAL ECONOMY LOWER ETHICAL STANDARDS

This is a different argument from saying that dirty cash behaves badly in the legal economy. What is being suggested is that it is the criminals who behave differently if they are allowed to become involved in running legal businesses. Worse, it is suggested that the penetration of criminals into the legal economy could lower overall business standards – in other words, criminals will have a contaminating effect going beyond their legal businesses; they will make other businessmen behave like criminals. We need to draw on equally speculative arguments to suggest that this fear is not convincing.

If it is indeed the case that criminals lower the overall standard of doing business, then we may wonder why legal businessmen are so vulnerable and impressionistic. Are we referring to the same businessmen who are disinclined to operate in those environments that are corrupt and criminal? It is bizarre to assume there is a sound business world that can be led astray by criminally minded people. So, if it is not the contaminating effect of criminals on the economy, the real fear is that criminals who own legal businesses will run them in unethical and criminal ways. They will bring their criminal culture into the realm of good business. There are several points to be raised here.

From the description of drug merchants provided in the previous chapter, there

are at least three ways in which leading figures of organised crime may penetrate the legitimate economy. First, they might buy a legal business for money laundering purposes. If it is simply because they need a front company to launder the cash, then we may suspect that a rational criminal will want that company to attract little attention from the law. An ideal front business will be one that deals in cash and does not have as high a turnover as can be reasonably presented to the tax man. This will allow dirty cash to be entered in the accounting books in place of fictitious legal income. The problem is not that the front company is detrimental to the legal business world, but that it allows the criminal to launder his cash. The problem here is a money laundering issue, not one of organised crime penetrating the legal economy.

A second reason for criminals to take ownership of legal businesses is the motivation to escape from the stressful world of organised crime. A case was described to me in Atlantis of a notorious drug merchant, 'Richard', who decided to leave the town and take ownership of a small shoemaking factory on the Cape Flats. According to sources close to him (a former partner and employee in his drug-dealing business), the decision was based on several factors, one of which was the increasing pressure he was experiencing from rival drug sellers, and another, the anxiety created by pending investigations. As one informer put it:

He got old, you know decided to get out, calm down... The way I see it is that he had to [leave Atlantis]. There's too much shit here for him... to get away from it all you sometimes have to move away, people don't let you just walk away from things easily, you know. He still has connections here and he comes back from time to time, but really he has stopped selling drugs like he used to.<sup>27</sup>

The case of Richard, if accurate, suggests that in some situations criminals take over legitimate business as a form of escape. This does not pose a threat to the formal economy and might be something to be encouraged.

If, however, the criminal owns legal businesses not to provide a money-laundering front, nor as a means to flee the underworld, then we may presume that he owns such businesses to generate additional profits for himself – it is part of an expanding business empire. What makes this problematic is that the idea that the criminals will run their legal businesses in a way that is unethical, bringing in lessons learnt in the criminal economy and imposing these on their legal businesses.

Let us speculate on a worst-case scenario. In charge of a legal business, the criminal who succeeded in the brutal world of the Cape Flats would be a shyster: he would rely on violence – or at least the threat of it – and fear, he would pay extremely low wages, disregard the wellbeing of his staff, take a dim view of environmental regulations, become infamous for trying to cheat his rivals, evade

taxes whenever possible, push the limits of the law to maximise profits and break the law when he felt he could get away with it. If this is how men who succeed at organised crime would behave in charge of legal businesses, then we could accept the argument that they have a negative impact on the legal economy.

While it has not been possible to conduct in-depth research into how drug merchants on the Cape Flats run legal businesses, an insight was provided by sources close to a drug merchant – ‘Pete’ – who also owned several small commercial fishing boats. According to these informants, Pete is a brutal businessman, who routinely transgresses the law. In particular, he has used violent methods to resolve disputes, including threatening workers at gunpoint and pistol-whipping one of his boat-hands for turning up drunk. His boats allegedly fish over their quotas and he was also implicated in the illegal trade in abalone.

This case study is illustrative of a wider argument. Pete is not a rogue player in an otherwise law-abiding industry. According to several sources, the entire local fishing industry is tarnished by the gross abuse of labour laws and environmental regulations and by political corruption. A recent study claims that poaching and illegal fishing are endemic to both small and large fishing boats in South African waters. In 2004, it was estimated that over 200,000 tonnes of pelagic fish was illegally harvested. The annual value of illegal fishing is thought to be R4.4 billion, more than the annual value of the legal trade, at R4.1 billion.<sup>28</sup> Moreover, stories of criminal exploitation of workers are heard frequently and it is a defining feature of the industry both before and since the fall of apartheid that those with close connections to political elites are the most successful.

Perhaps the most vivid example occurred in Hout Bay where a business elite close to the local ANC managed to capture massive fishing quotas by cynically manipulating the policy to favour businesses that involve historically disadvantaged communities. Residents in the local township, Imizamo Yethu (translated as ‘through collective struggle’), were sold shares in new fishing companies run by local ANC leaders on the promise that the companies would invest in the local communities and provide training and improved wages. Unfortunately, this scheme ended in what seems to be a massive fraud. No money was returned to the ‘shareholders’, no part of the enormous profits were redistributed, no training schemes were put in place and shareholders were not paid dividends.<sup>29</sup> Meanwhile, the managers and owners of the companies were able to acquire huge financial rewards. The success of this scheme relied on corrupt connections to those who administer quotas, who seem uninterested in responding to evidence of the abuse of power.

What makes this case particularly unsavoury is that the ANC representative of the community, which has historically been exploited by white-owned companies, now lives in a multi-million rand mansion overlooking the people he fleeced.

When residents protested at this injustice, they were threatened and the companies that profited were able to hire the best lawyers to protect themselves. Furthermore, former employees on fishing boats who have been made 'shareholders' are expected to continue working on the boats but without protection from labour laws. They must even rent rods and bait from the fishing company, which they part own, and they have to buy their food on board. The key benefactors of this syndicate are also implicated in a similar fraud connected to the gambling industry in Cape Town. Here, again, ANC officials have managed to capture enormous wealth by posturing as leaders of empowerment companies. As a reward, the ANC leadership in the Western Cape have awarded tax breaks, estimated to be worth R40 million, to the companies running the gambling industry. One of the main benefactors in both the fishing and gambling industries is a long-standing fundraiser for the ANC and close friend of the Premier.<sup>30</sup>

The theme that organised crime penetrates the legal business world relies on the latter being essentially benign and ethical. Unfortunately, in some of the most profitable industries, crime and unethical practices can become systemic. What obscures the extent of corporate crime is that we often become aware of its scale only when corporations fail, as in the cases of Enron, WorldCom and BCCI. But, as the evidence mounts, it becomes increasingly difficult to accept the view that corporate 'wrongdoing' is merely the work of rogue businessmen. Such crime is increasingly *normal* in a world where the corporation is omnipotent. This was the conclusion reached by Edwin Sutherland in his groundbreaking research into 70 multinational corporations in the 1930s.<sup>31</sup> More recently, in a review of the business dealings of the world's largest corporations, Joel Bakan argued that the corporation is not a benign institution at all, but rather an institution driven by a pathological pursuit of profit at all costs. This has led to a situation where the corporation increasingly acts in ways that are amoral, destructive and selfish:

As a psychopathic creature, the corporation can neither recognise nor act upon moral reasons to refrain from harming others. Nothing in its legal makeup limits what it can do to others in pursuit of its selfish ends, and it is compelled to cause harm when the benefits of doing so outweigh the costs. Only pragmatic concern for its own interests and the laws of the land constrain the corporate's predatory instincts, and often that is not enough to stop it from destroying lives, damaging communities, and endangering the planet as a whole.<sup>32</sup>

John Lea presented a similar view, arguing that the 'innovatory' activities of criminals are becoming normal.<sup>33</sup> They are reflected in the general tendencies of contemporary capitalism. Criminality is not a *disruption* to business, but is integrated into its normal functioning. In other words, criminal behaviour is not peripheral to corporate business, but is becoming central to its nature. The blanket statement

that organised crime can penetrate the legal world of business and thereby lower business ethics is thus difficult to accept.

ASSUMPTION 6: CRIMINALS WILL UNDERMINE DEMOCRATIC PROCESSES

The claim that organised crime threatens democracy has become a new rallying call in the international literature on organised crime. A recent publication on the subject containing contributions from several leading academics raised alarm over the fact that in many democracies, organised crime seems to be growing in power and thus has the ability to infiltrate politics, challenge the state's monopoly on force and in some areas supplant local government. Democracy, it was claimed, 'is in danger'. As the editors of the publication argued, there is a paradox facing almost all democratic nations as democracy and a liberal economy appear to provide the environment conducive for the growth of criminal groups who threaten democratic principles:

The relationship between organised crime and the state can seem paradoxical: on the one hand, the control which the organisation exerts in a given territory is intrinsically totalitarian, whereas on the other, for it to gain such control in the first place, it needs to rely on the very freedoms which democratic systems offer that organised crime is able to thrive and speed up its profit making process.<sup>34</sup>

In South Africa, commentators who have raised concern over the threat posed by organised crime to democracy have provided little information on how this may manifest itself. It seems that the primary concern lies with gangsters bribing public officials and politicians. In doing so, they use the proceeds of crime to undermine democracy; they will have corrupted the system and this is why gangsters should have their assets confiscated.

Assumption 5 shows that bribes made by gangsters may well be numerous, although it also argued that corruption is more complex and it is misleading to imagine the state as merely a passive victim. It is plausible to believe that a feature of bribes paid to state officials, including the police, is that they buy protection from investigation and prosecution. If successful, such bribes may facilitate the careers of individual drug merchants and give them a competitive advantage over rivals. If we take the view that it is a function of a democratically elected state to provide transparent and honest policing then we can say that the corrupt relations between gangster and state officials undermine democracy.

However, again one must be cautious about casting gangsters as a serious threat to democratic processes. We can sidestep the broader issue of how democracy is facing crises of legitimacy and focus just on the criminal threat to democracy and state power.<sup>35</sup> Traditional organised crime may represent one interest group among

many that engage in corrupt business practices that weaken democracy. Because these traditional forms of organised crime exist on the margins of society and are characterised by protagonists who do not have wealth on a scale that puts them in a unique social standing, there is reason to believe their potential to corrupt democracy is not as great as some fear.

On one level is the fact that elected and non-elected officials show a remarkable weakness for greed and graft. Corruption of democratic processes is a problem as much from within the system as it is a problem manifest by the agendas of criminals outside it. Moreover, if we concern ourselves with the threat to democracy posed by private interests then we may feel that the greatest threat is not the activities of traditional organised crime, but rather the corruption emanating from the interaction between political and corporate elites. Here we find individuals who have both the means (substantial money) and the motive (winning contracts, evading prosecution, changing legislation, etc.) to undermine democratic processes.

Sadly, it has been a characteristic of the South African government that regular scandals surface indicating a degree of crony capitalism many would have thought unlikely in a political party forged in the struggle movement. Corruption and kickbacks implicating senior ANC politicians in relation to the state's massive arms procurement deal provides perhaps the most obvious case to date. Closer to the Cape Flats, crony capitalism is evident in the fishing industry, the gambling industry and tourism, to name but three. However, it is not just in South Africa that we find crony capitalism, which is characterised by a fusing of interests between senior politicians and big business, a revolving door syndrome wherein politicians take up lucrative positions in companies that were beneficiaries of their former political responsibilities. Nor is it only in South Africa that we find corporations paying bribes to win state contracts or influence policy for their own benefit. The problem of corporate corruption is an international one.

What further undermines the argument that it is gangsters who corrupt democracy is that all political parties in South Africa protect the right not to disclose party donations, even though anti-corruption analysts argue that this is a major factor that hides corrupt relations between private interests and the state. If the state is determined to reduce the threat of private interests buying their way into the political system, tackling this would be a necessary first step.

The relationship between organised crime and state power (perhaps a better term than democracy) is more complex than can be envisaged through the corruption of politicians or the criminal justice system. The next chapter illustrates this through a discussion of *criminal governance* – where organised crime assumes a position of local power and fulfils functions typically assumed to be provided by the state. But, as we will see, the parasitic model of organised crime is of limited relevance. Imagining that organised crime is in direct competition with the state

is too simplistic. In some ways, organised crime helps sustain state control and saves it from a more radical crisis.

#### THE UPSIDE: ORGANISED CRIME AS PRIMITIVE CAPITAL ACCUMULATION?

The critique of the mainstream ‘parasitic’ paradigm has focused on the distinction between organised crime and legitimate business. To suggest, as I have, that organised crime operates not in contradiction to, but in accordance with, the core principles of capitalist society, is to undermine the basis for this distinction and to cast doubt on the consistency of those who both excoriate organised crime and champion capitalist principles. That this is indeed what some observers wish to do is evident from the growth of official fears about organised crime in many areas of the world, when conspicuous consumption, the free market and the aggressive accumulation of private wealth have been glorified as key engines, and indicators, of social progress.

There is therefore a contradiction in much of what is written about organised crime. This stems from trying to sustain moral loathing against the ‘entrepreneurial’ activities of organised crime while society condones and at times glorifies the ‘entrepreneurial’ activities of those in legitimate business. It comes as an indication of this contradiction that some scholars adopt neo-liberal economic thinking to argue that the innovative activities of organised crime might not be entirely bad.<sup>36</sup> Daniel Bell came close to this when he famously described organised crime as being a “queer ladder of social mobility”, believing that organised crime was often dominated by those on the fringes of society and that criminal activities enabled these (ethnic) groups to pass into circles that are more respectable.<sup>37</sup> One of the problems with Bell’s thesis, however, was his belief that organised crime was perpetuated only by those on the bottom rung, when evidence suggests that those higher up engage in crime just as much but are merely more successful at it.

Perhaps a more interesting approach to this was presented by the American scholar Edward Luttwak, who produced a neat summary of what we can call ‘neo-liberal optimism’ in his controversial article, “Does the Russian mafia deserve the Nobel prize for economics?”<sup>38</sup> Luttwak made the bold statement that: “...in purely economic terms the conventional wisdom is all wrong” – pessimistic views on the Mafia overlook the natural evolution of the ‘capitalist animal’. In constructing his argument, Luttwak drew parallels between Russia in the mid 1990s and post-World War II Germany, Italy and Japan. He argued that following the war, economic conditions were so desperate in these countries that only ruthless criminal entrepreneurs were able to begin vital capital accumulation. Honest business in these harsh times was not competitive, nor particularly productive. Once able to

accumulate capital, the ruthless 'hyenas', as Luttwak calls them, were able to evolve into slightly more legal 'wolves' and eventually into entirely legal 'fat cows' – stable, highly capitalised firms, offering good employment, paying taxes in full, investing in productive and innovative research and technology and so on. Many of the large dynamic firms that are now stable features of Japan, Italy and Germany started with black-marketing, predatory buying, sub-standard manufacture and efficient stealing. In each of these countries, contemporary tycoons were initially known as "dance-hall operators, extortionists or gambling masters". Luttwak argues:

Had the respective police forces been effective enough to round up all the hyenas and lock them away, the economic recovery of West Germany, Italy and Japan would have been much slower, and many of the successful entrepreneurs of the fifties and sixties would never have been able to get their start.<sup>39</sup>

The capitalist ethos is therefore not in contradiction to morally reprehensible business activities. To clamp down too aggressively on the most innovative and entrepreneurial in society is counterproductive to economic development, particularly for those countries in a transitional state.<sup>40</sup>

Others have echoed these arguments, notably in the case of Russia. High levels of organised crime in Russia and other Baltic states have been described as a form of primitive capital accumulation that will kick-start the transformation of failed planned economies into more mature forms of capitalism.<sup>41</sup> Those who have put forward this line of thinking cannot be accused of romanticising organised crime. Martens, for instance, describes the New Russians, a euphemism for Russian Mafia, in unsavoury terms:

The New Russians represent...a criminal class who, rather than making their money honestly, are engaged in a variety of frauds, thefts of natural resources and the manipulation of economic institutions solely for the purpose of self interest. They care little about the larger society, nor are they interested in making life better for the common man.<sup>42</sup>

However, he goes on to criticise the 'Old Russians', a euphemism for those critical of neo-liberal economic change, for their disgust with and pessimism about these new 'skilful', 'courageous', 'risk-taking' 'swashbucklers'. Only they, Martens argues, can start the engine of a market economy and wrench Russia from the rubble of a collapsed system. The Old Russians, he argues, had plenty of time to improve the quality of the common man only to have the system collapse under its own contradictions. Martens argues that the "New Russians represent a necessary, albeit illegal or even immoral, route to a market-economy".<sup>43</sup> As with Luttwak, Martens'

advice for organised crime control is to be wary about making it a priority. A stable and more organised market will naturally evolve from within.

The notion that unethical, immoral behaviour can be viewed as the beginnings of a mature form of capitalism is supported by the writings of Karl Marx, for he made clear that the development of capitalist society was, in reality, not a peaceful process, but rather:

In actual history it is notorious that conquest, enslavement, robbery, murder, briefly force, play the great part. In the tender annals of Political Economy, the idyllic reigns from all time immemorial...As a matter of fact, the methods of primitive accumulation are anything but idyllic.<sup>44</sup>

In other words, the transition to modern capitalism was driven by aggression, deceit and ruthlessness. Indeed, as Charles Tilly argued, the struggle to monopolise violence, impose rents and capture wealth for the benefit of the most powerful, encapsulates the essence of the history of most developed nations:

If protection rackets represent organised crime at its smoothest, then war making and state making – quintessential protection rackets with the advantage of legitimacy – qualify as our largest example of organised crime...a portrait of war makers and state makers as coercive and self-seeking entrepreneurs bears far greater resemblance to the facts than do its chief alternatives: the idea of a social contract, the idea of an open market in which operators of armies and states offer services to willing consumers, the idea of a society whose shared norms and expectations call forth a certain kind of government.<sup>45</sup>

South Africa provides one of the most vivid examples of state-making as organised crime. Any honest history of big business in South Africa must acknowledge that the enormously rich individuals and families connected to mining and farming achieved their wealth through war, theft, violations of human rights and corrupt relations with the ruling elite, a practice that seems to have continued after the fall of apartheid. The original South African business tycoons resembled the infamous robber barons of the US who laid the foundation of a wealthy nation through exploitation, murder, political corruption and fraud. Consider, for instance, the findings of Judge Pieter Thirion, who conducted an investigation into the business activities of De Beers in Southern Africa. In an eight-volume report, Thirion argued that the scale of tax evasion, corruption and human rights abuses made a mockery of De Beers' expressed aim of helping the communities in which it operated. Thirion concluded by taking a swipe at big business in general:

The protestations of multi-national companies that their activities result in bringing prosperity to the host country reminds one of the cynical observations

of Jeremy Bentham. 'I am a selfish man, as selfish as any man can be. But in me somehow or other, so it happens, selfishness has taken the form of benevolence.' The overriding object of multi-national companies is to make a profit and all other considerations are subordinate to this one.<sup>46</sup>

This is essentially what Joel Bakan has argued recently in his best-selling book, *The Corporation: The Pathological Pursuit of Profit and Power*. Neo-liberal optimism makes no apologies for the nature of early capitalist development. In this, it provides a startlingly honest historical paradigm. It is not clouded by morality. Hence, neo-liberal optimism is different from mainstream analysis, which is blinded by a moral absolutism that obscures such an historical view. Those who think in terms of the parasitic model see those who engage in criminal business as inherently wicked; if organised crime is left unchallenged, the consequences for civilised society will be disastrous. It is a view that presumes both the existence of inherently bad people and inherently bad commodities and services. What I have called neo-liberal optimism challenges at least one of these assumptions – that people engaged in organised crime are not essentially evil, they are rather a class of innovative, selfish capitalists who may evolve in ways that are not necessarily bad for society. At least they will contribute to making a society that most democratically elected governments seem to accept.

#### THE PROBLEM OF PREDATORY CAPITALISM

An alternative paradigm to the mainstream must consider the optimistic neo-liberal arguments carefully. Indeed, rather than seeing organised crime on the Cape Flats as anathema to capitalist business, any credible characterisation of the criminal economy must acknowledge that it is a free market system operating under conditions of weak or non-existent state regulation. It is best seen as a form of what we may call 'predatory capitalism'.

The view that those engaged in organised crime are innovative rather than simply deviant is shared by some commentators. It is not uncommon to hear police officials refer to drug merchants on the Cape Flats as 'shrewd businessmen'. Similarly, Hein Marais, one of the best-informed observers of the post-apartheid South African economic scene, has argued that many leaders of organised crime are "exemplars of entrepreneurship" and that the high levels of this type of offending in the country may suggest that "the entrepreneurial excellence the government wishes to ignite in the legal small business sector is already prevalent in criminal activities".<sup>47</sup>

Whether or not organised crime can be calculated to have negative or positive effect on the local economy of the Cape Flats is difficult to answer, and it is not clear what methodology could be used to do so. There should be no doubt that

organised crime is involved in market-based crimes that are productive and generate profits. Indeed, Thomas Naylor points out that according to traditional economic logic, market-based crime such as drug dealing should be viewed as making a positive macro-economic contribution:

Judged in strictly economic terms, these [market-based] crimes should have a positive impact on GNP. Indeed, it is now standard procedure in many countries to try and estimate the value of underground transactions in both legal and illegal goods and services, provided they are based on consensual exchanges, and to add that value to their existing national income data to get a better picture of just how 'well' their economies are doing.<sup>48</sup>

Naylor points out that this makes the moral issue of organised crime "considerably fuzzier". However, any economic calculations of profits and productivity need to be tempered by recognising the fierce dynamics of the criminal economy, which are socially destructive. The criminalised system of production, distribution and consumption that exists on the Cape Flats, relies on extreme exploitation whereby winners take all and losers are often exposed to high levels of violence, risk-taking and prison. Young men – and some women – who are absorbed into this economy frequently acquire a criminal record, which will exclude them from an already exclusive legal economy. We have seen that there are those who belong to gangs who believe that the gang provides a means of economic mobility, whereas in fact illicit income generating activities are restricted and at times there is not sufficient work to go around.

The criminal economy relies on the same illusion as the legal economy – that success will come to those who try hard enough. In truth, the criminal economy relies on a surplus of labour, much like the formal one does. There are those who can be rejected from organised crime and simultaneously rejected from the legal economy.<sup>49</sup> Moreover, experiences in prison and in gang violence may mean that those who are exposed to the criminal economy experience traumas that turn them into even more unlikely candidates for stable wage labour, in both the criminal and legal business worlds. Despite these harsh dynamics to the criminal economy we have also seen how the system manages to reproduce itself due to notions of tribal consumerism ('organic solidarity'), prohibition of exit (i.e. killing those who try to quit the gang) and the simple fact that alternative means to succeed financially are scarce (the gang is the only place left to go).

The winners in this system take all. However, it is a feature of the criminal economy on the Cape Flats that winners themselves are not entirely successful. There is evidence that the drug merchants and successful gangsters enjoy their wealth at an extreme cost; they are subject to being arrested, robbed or murdered.

Their careers are often short-lived. The insecurity that is a feature of the top tier of the economy is also shared by the bottom, although in the latter it is an ironic feature of success rather than of failure.

We can also treat with a great deal of scepticism the notion that successful gangsters could go on to be 'captains of industry'. Here lies one of the key weaknesses to neo-liberal optimism if we apply it to the case of South Africa. Unlike the activities of the pioneering robber barons of South Africa, the drug merchants on the Cape Flats are trapped in a marginal situation. Despite fears of drug merchants corrupting the political system for their own ends, they are far from the centre of power – they lack the social and political influence needed to be successful in society. They are visibly working-class coloured men and their ascent up the social ladder will be made more difficult because of it. Moreover, the Cape Flats gangsters find themselves operating in a legal economy with limited opportunities – the wealthiest businesses in South Africa are accounted for and there is no collapsed economy such as there was in Russia, which allowed brutal entrepreneurs to capture vast business empires in a matter of a few years.

Moreover, many of those emerging as South Africa's new business tycoons seem to be benefiting from close connections to the ANC. Although we may see the drug merchants as entrepreneurs who have the personality types to be successful businessmen, if only they had been born into different social setting or point in history, the truth of the matter is that they operate in a society where there is a shortage of opportunities for successful coloured drug merchants to muscle into; the rungs of the ladder are occupied by people unwilling to give a hand up.

As it exists, the criminal economy's wealth, concentrated in the hands of a changing cast of drug merchants, shows little sign of enriching the rest of the community. Notwithstanding the activities of gangster-philanthropists discussed in the next chapter, the profits of illegal enterprise do not 'trickle down' to the inhabitants of the Flats but are piped out as expenditure on luxury goods and investment in suburban real estate. Capital in the hands of gangsters plays by the same rules as it does elsewhere; gangsters realise that the ghetto is not the ideal place to invest or spend their money.

The criminal economy therefore contributes to local 'capital leakage'. If asset forfeiture laws are to be used more extensively then we may see another form of wealth redistribution – seized assets sold off through auction to those who can afford them, typically people not from the Cape Flats. So far, there is little reason to suspect that the profits from this will be returned to the Cape Flats; they seem rather to be destined for law enforcement budgets. Unfortunately, the future of the Cape Flats seems bleak unless something can be done to redistribute the power and wealth currently monopolised by leading organised crime figures. Simply

arresting drug merchants and seizing their assets may not be an effective method of redistributing this wealth and power.

Far from representing the antithesis of orderly capitalist enterprise, the criminalised economy of the Cape Flats does no more than display, albeit in exaggerated form, tendencies apparent in the so-called civilised world around it. The Italian criminologist Vincenzo Ruggiero made a similar observation when he argued there is a “scandalous normality” to criminal markets as such markets “reproduce the most repulsive aspects of legitimate ones”.<sup>50</sup>

This is an important argument to stress, and clarify. It is not being argued that organised crime makes a positive contribution or that the drug merchants of the Cape Flats are just simply entrepreneurs contributing to a market economy. The mainstream analysis can be accused of hyperbole, where the threat posed by organised crime to the wider society is exaggerated. However, the difficulty in accepting the parasitic model lies in agreeing with the underlying *contrast* between organised crime and the civilised world in which it exists. What is therefore a striking characteristic of the mainstream literature on organised crime is how it in fact complements the damning literature in global capitalism presented by the Left, based as it is on the fear that corporate power undermines democracy, promotes environmental damage and polarises wealth. One need only replace the terms ‘organised crime’ for ‘corporate business’ in much mainstream writing to see this. However, in doing so students of organised crime may feel that the threat posed by organised crime is in fact far less than that posed by corporations. The underlying tension from this hypocrisy in the orthodox literature on organised crime was noted by John Lea:

The more blurred the actual distinction between criminal and legitimate capital accumulation becomes, the higher the moral tone of law enforcement agencies as they desperately seek to retain the old clear distinctions between ‘goodies and baddies’.<sup>51</sup>

#### ORGANISED CRIME AND CORPORATE CRIME RECONSIDERED

The UN defines organised crime as follows:

‘Organised criminal group’ shall mean a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences, in order to obtain, directly, or indirectly, a financial or other material benefit.<sup>52</sup>

There is an anomaly that frequently troubles the subject of organised crime. Official definitions of organised crime, such as this one, do not differentiate between

organised and corporate crime, or criminal activity committed by the state. Yet analysis remains doggedly attached to the notion that organised crime is a unique phenomenon. An indication that there is this mental distinction between organised crime and other types of serious crime lies in the fact that official statistics of South African organised crime do not pretend to include legal corporations prosecuted for serious crimes, nor revelations of ongoing corruption by the police or public officials. Organised crime is understood as the preserve of a distinct group of career criminals, even though the definition cannot sustain this view. But if we accept that organised crime operates on the same principles as capitalist business, that the criminal economy should be viewed as a raw free market that reproduces tendencies in the wider economy, then we may question the validity of traditional criminological nomenclature, particularly the division between organised and corporate, or white-collar, crime.

Putting aside the fact that many observers harbour conspiracy theories about sinister criminal organisations, a more presentable argument could be put forward to justify the distinction between organised and corporate crime, and this lies with a technical observation. Organised crime groups, we could argue, are organisations conceived to commit crime, 'staffed' by pathological criminals. Corporations studied under the banner of white-collar or corporate crime are organisations set up for legal business that transgress the law. For one, crime is central, while for the other it is peripheral. Whereas legal activities for the criminal entity are merely a foil for illegal activities or a continuation of crime, for legal businesses they are a disruption to normal activity. A similar method is used to distinguish organised crime from terrorism, for it is argued that the terrorist and criminals engage in similar acts, but for one political concerns are central, while for the other economic concerns are paramount.<sup>53</sup>

However, three problems undermine this line of thinking. First, it is often so in cases of corporate crime that criminal activities were key features of the business; crime was conducted on such a scale that it is hard to say whether legal or illegal concerns were peripheral or central to the business operations and its success.

Second, we have seen that the business portfolios of the drug merchants on the Cape Flats span a wide range of interests. While purely criminal ventures such as drug dealing may provide significant income, it may be the case that they are successful entrepreneurs for whom the distinction between legal and illegal sources of income are not as important as they are to criminologists or the authorities.

Lastly, as already described, some argue that there is increasing evidence to suggest that the corporation is pathological and criminal practices are not just the activities of a few rogue employees. Rather, corporate wrongdoing is becoming systemic in a globalised economy where the corporation is becoming omnipotent.

Based on such arguments, Dwight Smith was among the first to claim that the

distinction between white-collar and organised crime was flawed. He pointed out that “if business men and gangsters behave like each other, what is the sense of having two categories that, by definition, are not mutually exclusive?”<sup>54</sup> It seems the motivation for lumping corporate crooks and traditional organised crime together is partly to challenge the injustice in many countries whereby corporate crime is subject to little policing and where, when found guilty, business leaders manage to attract relatively weak punishments in comparison with other criminals.

This is a problem in South Africa, too. For example, the managing director of a large fishing company found guilty of bribing state officials and poaching huge amounts of fish was allowed to enter into a plea bargain with the state rather than face a criminal trial. The state netted R40 million in the process but by all accounts this was a sum that was easily afforded by the guilty party. In comparison, consider the harsh penalties given out to those found poaching small amounts of abalone – prison sentences or debilitating fines – or consider the fervour with which the state is pursuing leading gangsters on the Cape Flats. It is inconceivable that the state would enter into a plea bargain with a high flyer, unless it meant securing the arrest of an even bigger one. By denying corporate crooks their own category, we may hope to alleviate these inconsistencies.

To argue that corporate crooks should be subject to the same punishment and policing as others are seems justified. Moreover, we must also be aware that the distinction between organised and corporate crime requires a selective morality, which is problematic when scrutinised. The mainstream paradigm rests on the assumption that corporate leaders are essentially good citizens; the commodities and services provided by them are legally condoned. By contrast, gangsters are *a priori* bad people and the commodities and services they provide are intrinsically immoral. An obvious example of this selective morality relates to the comparison between drug markets (evil) and the global trade in cigarettes and alcohol (condoned). To illustrate this, consider the recent death of Anton Rupert, arguably one of the robber barons of South Africa. It is hard to better a short letter published in the *Mail & Guardian* by a reader who noticed the underlying hypocrisy amid the clamour by politicians, journalists and fellow business leaders to cast Rupert's death as a great loss to the country:

It's enough to make you puke watching the media lick the arse of big business. Anton Rupert was a promoter of substance abuse who made the Staggies look like a corner supplier, *main konyin* in an empire that exacted a human cost on the scale of the Holocaust. Don't editors hear graveyards groan with rotted lungs and livers, retirement villages wheeze, cancer wards croak?<sup>55</sup>

One can take a similar view with the trade in weapons and note how flawed the

position is of a government that supports the legal market in arms while simultaneously demonising those who peddle small quantities of illegal weapons. It is easy to see how fuzzy the morality is here. In South Africa, the hypocrisy surrounding the arms trade becomes even murkier given allegations of massive kickbacks and corruption involving a major state procurement deal.

Where the selective morality is also shown is in the fear expressed by commentators that when organised crime penetrates legal business, 'we' may end up buying 'their' legal goods and services, thereby unintentionally supporting 'their' crime:

... it is known that the vast money-laundering cycle operated by a Mexican 'drug baron', ultimately resulted in the purchase of auto dealerships in Mexico and of a Blockbuster Video outlet in Houston, Texas, as well as securities investments. Quite frankly, we do not know how many of the businesses we frequent daily have been infiltrated, or are actually owned, by transnational organised crime groups. The prospect is nothing but frightening.<sup>56</sup>

We may share the fear of supporting the business empires of unscrupulous people, but it is hard to know where to draw the line. It is worrying that so many of the goods and services we consume support unethical and criminal business practices. If forced to categorise commodities, services and trade on a scale of what is socially or environmentally good or bad, we would find that many legally condoned businesses peddle noxious commodities that have a disastrous impact on society, and the rational 'externalities' of big business could be worse than the externalities of many illegal trades.

It is therefore difficult to accept the message from politicians and organised crime experts that the threat to the world order comes from money laundering or drug dealing when we take stock of the socially and ruinous activities of some corporations and state-owned businesses. That the moral loathing has been most loudly heard from a country that is one of the main protagonists of destructive corporate business makes the issue more contentious.

#### KEEPING CORPORATE CRIME AND ORGANISED CRIME APART

The mental exercise of listing which criminal threats are the most worrying to the environment will go some way in exposing the tendency towards overstatement that is a feature of much mainstream writing on organised crime. Consider a well-rehearsed opening speech by a senior police official at a conference on organised crime, aimed at developing partnerships between the police and big business to combat organised crime in Britain:

While globalisation has benefited most of us – with improvements seen in economic, technological, educational and communication terms – the sad reality is that professional criminals have been quick to exploit these opportunities for their own selfish ends...we all have an interest in preventing transnational organised crime. Notwithstanding a number of positive initiatives in recent years we – the good guys – need to strive constantly to develop new ways to make it harder for criminals to operate.<sup>57</sup>

This self-congratulatory narrative dominates senior discourse on organised crime and it is tempting to expose the hypocrisy, particularly when senior politicians, business leaders and law enforcement officials denounce organised crime in highly moralistic terms, yet the conduct of the ‘good guys’ they represent can be ethically repugnant and at times also criminal.<sup>58</sup> We need only mention in passing how the hyperbole of good vs evil has been ratcheted up due to the War on Terror.

It is partly due to selective morality and hypocrisy that we may feel that it is important for laws not to differentiate on the basis of who is being punished, and rather focus on criminal behaviour. The concepts of organised crime and gangs have become legal concepts and therefore those associated are treated differently in the criminal justice system. It seems there is good reason for criminal law not to make this distinction and to punish criminals irrespective of their social standing or position relative to the formal economy.

Here, Thomas Naylor provides an interesting alternative.<sup>59</sup> Naylor argues that existing categorisations of profit-driven crimes are conceptually muddled and lack coherent method. At times concepts are based on ‘who’ is involved, and the underlying crime is not seen as defining, such as organised crime, corporate crime or white-collar crime; in other instances, ‘how’ a crime is committed is seen as the defining issues, such as telemarketing fraud, cyber-crime, internet fraud and so on. Naylor advocates a different paradigm for understanding profit-driven crime based on economic terms rather than sociological ones. According to Naylor, it is the ‘what’ that is of importance. This results in compartmentalising all profit crimes into several categories, each with further sub-divisions. The first is *predatory offences*, which involve illegally redistributing wealth from one party to another, where there is a clear victim and offender. The second category is *market-based offences*, which involve the illegal production and distribution of new goods and services, where there is multilateral exchanges between suppliers and consumers. This can be further sub-divided into market-based crimes relating to legal goods and services, and those based on entirely prohibited goods and services. Naylor advances a third category, *commercial crime*, and he relates this to several forms of fraud and criminal activities conducted by legitimate businesses and entrepreneurs. What distinguishes commercial crime from predatory crimes and market-based

crime is not clear in Naylor's analysis, and it appears he slips back into the trap of seeing the 'who' as more important than the 'what'.

Naylor's argument that predatory offences are quite different from market-based crime appears valid and we may agree that from an economic analysis this distinction is an essential one. Likewise, from the perspective of the criminal justice system we may prefer the 'who' to be less important than the 'what'. However, social scientists should not fall into the trap of conflating either economic analysis or legalistic requirements with social and political analysis. In making sense of the social world, the 'who' *is* important. This is not to say that a simplistic view of organised crime existing outside the legal economy is valid; we know from empirical studies that those engaging in criminalised industries such as drug dealing come from all social strata. However, corporate crime *is* different from other forms of profit-driven crime and the characteristics of the offender are critical. If we were to lump together organised and corporate crime on the basis that the crimes are similar – that they are either predatory or market-based – we might overlook social and political dimensions that distinguish the phenomena. Corporate crime exists from a position of legitimate governance, close to government and intragovernmental organisations. It is allowed to flourish precisely because the corporation is legitimised and embedded in the political economy. Organised crime, in contrast, is a label often used to describe the criminal activities of those distant from the centre of formal governance – ethnic minorities or marginalised people from the ghetto.

Corporate power can change the rules. It can lobby for less regulation, lower ethical standards and less environmental regulation by threatening to move to more favourable environments. It can use marketing to indoctrinate and can develop a benign profile behind the image of corporate social responsibility. Indeed, the challenge to those criminologists studying corporate crime is to not limit the analysis to those activities that merely break the law, for corporations can influence the law – criminology cannot simply use laws to define the boundaries of its subject, which suggests the need in criminology for consideration of a non-legalistic definition of crime that takes its reference from subjective, political criteria. The distinction between corporate and organised crime is not a moral one. Nor can it be sustained on normative arguments that suggest organised crime is an anathema to capitalism, posing a threat to its sustainability. The distinction between corporate and organised crime is based on the issue of power and legitimacy.

In the following chapter, we will see that there is more to what has been called organised crime than making money illegally – it is not simply an extension of capitalist business into prohibited markets and trade. Exploring the relationship between state power and criminal groups may reinforce the notion that some organised crime is politically and socially unique.

## CONCLUSION

This chapter has put forward several interrelated arguments that require a summary. First, it was described how orthodox thinking on organised crime assumes that it adversely affects society through its interaction with the legal economy. In particular, it is believed that organised crime has a contaminating effect on the formal economy by laundering the proceeds of crime and owning legal businesses. Assumptions of this aspect of the parasitic model were scrutinised and it was suggested that this threat posed by organised crime has been exaggerated in some cases and simplified in others. A core theme of the analysis was to suggest that the orthodoxy is problematic because it starts from a benign understanding of the way in which the modern formal economy operates. So, for example, those who argue that the laundering of dirty cash can have a destabilising influence on the economy fail to acknowledge that the global economy has evolved into an unstable and volatile system. Those who suggest that having criminals operating in the formal economy may lead to a general decline in business ethics fail to acknowledge that the legal world of business is already prone to systemic crime, with or without the influence of successful gangsters.

These critical arguments put forward as a response to the parasitic model on organised crime led to a fundamental observation – that the difference in the socially destructive tendencies of what has been referred to as organised crime and modern capitalist business may not be as axiomatic as many people suggest. There are increasing signs that big business acts in ways that are essentially similar to the stereotypical criminal group. This is a point that needs to be stressed. Both the South African literature on organised crime and the international mainstream literature are undermined by their silence on the threat that corporations pose to society and the environment. While a great deal of literature is being produced which speculates on the threat posed by organised crime to the world order, too few commentators place this threat in a broader critical perspective. Indeed, it is an overlooked feature of the international literature on organised crime that it tends to mimic the concerns raised by those who are fearful of the nature and power of corporations.

That the literature on organised crime fails to make this connection is problematic. It is not uncommon to hear the analogy of a cancer when discussing the threat posed by organised crime. This analogy tends to give the impression that the body concerned is basically healthy – if we can remove the cancer then the body will go on living. Based on a more systemic view of the problems facing society and the environment now, we may prefer to describe a sick body. Among the various symptoms, organised crime represents a sore which may become infected to the point where it represents a serious medical threat by itself. But any doctor

who focuses purely on the sore, and overlooks the more fundamental disease, is clearly not doing her job well.

## NOTES

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- 29 Information on this topic was supplied through a meeting with local community activists representing the community. See also M Weltz, Hook line and sinker: How Hout Bay's poor were ruthlessly scammed, *Noseweek*, issue 57, 2004a.
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- 33 J Lea, *Crime & modernity*, Sage, London, 2002.
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- 35 The crisis of legitimacy I refer to here is multifaceted. It involves the increasing tendency of state power to be held by un-elected officials, bureaucrats and international organisations and it involves voter apathy and the inability of most democratically elected governments to provide their side of the Faustian pact. It also involves an increasing lack of choice among political parties, all of whom show a tendency towards conservative neo-liberal values as soon as they come close to obtaining power, partly because the 'rules of the game' demand it, i.e. independency in choosing national policy is being undermined by global capital flows and the transnational movement of corporations. It is unfortunate that the literature on how organised crime undermines democracy has not contemplated the health of the democracy that is believed to be under threat from criminals.
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- 40 This is something of an antiquated view, far more popular in the nineteenth century than it is today. In England, for example, there was a robust debate over the merits of regulating joint-stock companies, which routinely took to fraudulent behaviour. Champions of the *laissez faire* economic doctrine argued that any state intervention would be unhelpful as it would give investors a false sense of security – rather let the free market expose the charlatans and the trustworthy businessmen would naturally rise to a position of dominance. This is a view reflected eloquently in the fictional writing of Joseph Conrad, particularly in the tale of corporate greed and political corruption captured in *Nostromo*.
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- 49 This is a phenomenon that makes the link between unemployment and crime ambiguous – we may speculate that those who succeed in the criminal economy are the most likely to do well in the formal economy (as evident by drug merchants with a wide portfolio of business interests), whereas those who fail in the criminal economy are also likely to fail in the legal economy. The hypothesis here is that the attributes of a good criminal are the same attributes of the good employee or businessman. The null hypothesis – that the ideal criminal will be a useless employee – seems dubious.
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- 52 This definition is used in the UN Convention on Transnational Organised Crime, available from <[www.unodc.org](http://www.unodc.org)>.
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- 55 *Mail & Guardian*, 27 January 2006.
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- 58 By way of example, at the conference opened by Abbott, a representative of British American Tobacco declared: "Without effective private-public partnerships, I have little doubt that the criminals will continue to seize every opportunity to maximise their crooked investments with, of course, no regard whatsoever for the damage done to the public purse, employment, public health and business". BAT and other tobacco companies were being investigated for organising a massive 'transnational' illegal market in cigarettes.
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## **Criminal governance and the 'threat to democracy'**

In the majority of the American-influenced literature on organised crime, the dominant debates, from both mainstream thinkers and their critics, revolve around the organisational characteristics of criminal groups, their relationship to illegal markets and the threat they pose to society and the state. From these debates one is given the impression that the salient feature of organised crime is its desire for profit and thus economists such as Peter Reuter attempt to explain the nature of organised crime through micro-economic analysis. Likewise, some scholars who are critical of the orthodox interpretation of organised crime argue that corporate crime and organised crime should be conflated – Dwight Smith suggested an analytical approach based on a spectrum of business from the most saintly to the most sinful.<sup>1</sup> This is an attractive concept as we may find corporations can be placed somewhere near the more sinful end, alongside those groups traditionally demonised as organised crime.

According to this perspective, organised crime can be viewed as a form of business operating on the wrong side of the law, as a criminal enterprise responding rationally to market dynamics. In many instances, this view may be justified and may well be preferable to the alternative of seeing organised crime as an external threat driven by a sinister agenda. However, in seeing organised crime simply as entrepreneurial, much contemporary research and writing overlooks the social and political dimension that is a distinguishing feature of some forms of criminal groups or associations. The issue of the social relations of organised crime on the Cape Flats and the question of how organised crime achieves local power in the community are the themes of this chapter.

### CONCEPTUALISING THE POWER OF ORGANISED CRIME

There is a large literature on the concept of power. A review of this would be onerous for the task of this chapter. It is, however, important to clarify briefly what is meant by the notion of power here and then review the theoretical framework for understanding the power of organised crime discussed towards the end of chapter two.

Power, particularly when related to organised crime, may be narrowly associated with physical force. However, a broader interpretation is needed. In Bertrand Russell's classic study of power, he defined it succinctly as "the production of intended effects".<sup>2</sup> This is essentially the same definition of governance offered by Foucault: "to govern," Foucault explains, "is to structure the possible field of action of others".<sup>3</sup> As both Foucault and Russell show, power is achieved in various ways and it is not simply coercive. For example, the power of the law in society is achieved partly through the state's coercive authority (prison, the death penalty) and through inducements such as fines and sentences. However, a significant source of power of the law is public sentiment, opinions and propaganda:

The law is almost powerless when it is not supported by public sentiment, as might be seen in the United States during prohibition...Law, therefore, as an effective force, depends upon opinion and sentiment even more than upon the powers of the police. The degree of feeling in favour of Law is one of the most important characteristics of a community.<sup>4</sup>

Power can therefore be achieved through various means and it is the sentiment of others that is one important aspect. In chapter two I set out a broad theoretical framework to understand the power achieved by organised crime in local communities, which illustrates this multi-faceted nature of power. It was suggested that not all forms of organised crime will achieve notable power in their immediate communities; it is most likely to happen where organised crime is entrenched and prominent members are not in the process of leaving the area. This is a relevant point for the Cape Flats. Leading figures in the criminal economy, the drug merchants, gang leaders or high flyers, appear to be prominent community figures. Although many of these men may buy properties in more affluent areas, it seems that most remain visible and well known in their domains on the Cape Flats. These are the areas in which they grew up and where they still dominate lucrative criminal activities, such as drug dealing. Why there is this tendency to remain attached to communities is not entirely clear. We may speculate that becoming successful businessmen outside the Cape Flats is not straightforward. Cape Flats 'gangsters' tend to be illiterate and retain their working-class status, despite being very well off. We may also suspect that psychological gratification plays its role; remaining local 'big men' provides a sense of belonging and a feeling of importance.

The theory in chapter two suggests three broad scenarios. The first, which largely conforms to the parasitic model of organised crime, involves criminal groups or 'crime bosses' achieving power through violence and fear. This may consist of extortion, intimidation and a general level of contempt for the well-being of others. In return, people afflicted by the reign of terror are frightened

and will have a very negative attitude towards organised crime. In this scenario, organised crime's interest is entirely that of making money and we can say it is socially dysfunctional and a clear threat to the community.

A different scenario conforms to an idealised interpretation of the Sicilian Mafia. Here performing functions of governance is the defining feature of organised crime and it is condoned by significant numbers of the local population who recognise that the Mafia does provide a necessary role, particularly in relation to protection and dispute settlement. The Mafia may go on to engage in economic crime, as well as legal business, but this is subordinate to their provision of governance. In other words, economic crime emerges as a consequence of governance.

A third scenario represents something of a mid-point between these two theoretical examples. Organised crime has its genesis in economic ventures but its power is achieved through developing congenial relations with the immediate society as a strategy for their own protection, as well as being a means to gain status and 'respect'. Governance is a consequence of economic crime. As noted, pure terror can only last so long and therefore we suspect that where organised crime is entrenched in a territory there will be a steady move in this direction, although there are several tendencies and counter-tendencies that keep the social relations of organised crime contradictory.

It would make understanding the theme of this chapter far easier if we could measure how people living on the Cape Flats view leading figures of organised crime. Such data would enable us to dismiss or reject our underlying models. If we found a large extent of community support, then we would feel confident that the parasitic model was not appropriate. We would still need to explore what generates community support for organised crime and consider if it is based on genuine governance, or not. Conversely, if the vast majority of people on the Cape Flats despised and feared leading figures of organised crime we would feel confident that the parasitic model is the correct one and our task would therefore be to show why organised crime is predatory and how it manages to remain in existence. Unfortunately, there is no easy way of making this measurement and therefore we cannot quantify the community sentiments towards organised crime accurately. However, the available evidence does suggest that not all people living on the Cape Flats loathe and fear the leaders of organised crime, although some do.

The chapter begins by providing evidence of these ambiguous social relations of organised crime, showing that the people living on the Cape Flats are divided in their attitude towards it and, broadly speaking, we find the most support and toleration from the more marginalised sections of the community. The chapter then offers explanations of what creates this divide; what factors help explain why

some people seem to tolerate or openly support prominent criminals. Here we must consider whether organised crime is involved in performing functions of governance, including, most importantly, the provision of protection and dispute settlement for those in business. Through considering the evidence, we can advance a general characterisation of organised crime here based on the three theoretical models. It will be evident that neither the Sicilian Mafia model nor the parasitic model are appropriate, but rather the reality lies somewhere between them, and the relationship between organised crime and communities is precarious and in a constant state of flux.

The chapter concludes by considering the threat posed by organised crime to the local community, as well as the danger it poses to the legitimacy of state power in the region. The official view conforms to the parasitic model, which suggests that organised crime represents a considerable threat to democracy. This view does not seem entirely accurate and we may feel the relationship between organised crime and the state is less obvious and antagonistic.

#### DIVIDED COMMUNITIES

The view that those involved in street gangs or organised crime on the Cape Flats are generally despised in their communities and that they terrorise innocent people, is held by the authorities and validated by many people living on the Cape Flats. However, it is also a simplification and does not reflect the social relations of crime well. There is ample evidence to suggest that significant sections of the population either support those involved in organised crime, or at least tolerate them to a point that may appear as tacit support.

The case of Colin Stanfield is exemplary. Stanfield was one of the leading drug merchants on the Cape Flats during the 1990s. He was a multi-millionaire who owned eight properties, including his last home in a middle-class, formerly white-only suburb, and had 11 children, many of whom attended private schools. Stanfield was finally imprisoned in 2002 for tax evasion. Significant numbers of people from his home region on the Cape Flats, Valhalla Park and surrounding areas, campaigned for him and tried to discredit the court cases brought against him. For example, when he appeared in court in 1996 on charges of drug dealing, approximately 500 people, mostly women and children from Valhalla Park, turned up at the court to protest against his trial. After his tax fraud conviction in 2001, a rally was held in Valhalla Park and about 2,000 people subsequently marched through the centre of Cape Town to protest outside the office of the Western Cape director of public prosecutions. The crowd was led by a banner declaring 'People Against Justice' and a spokesperson delivered a memorandum declaring the conviction 'racist and skewed'. Placards read 'Tax evasion, not child abuse,' 'Human rights, but no Stanfield rights'.

Stanfield was given early release from prison in 2004 due to lung cancer, of which he died later that year. His funeral in Valhalla Park became a front-page event in Cape Town. After the church service, thousands crammed into a marquee erected on football pitches in Valhalla Park. Other tents supplied wine and curry. During the packed ceremony, scores of local religious leaders and senior members of his community spoke about the tragedy of losing 'Uncle Colin'. Many wore shirts specially printed with the words 'We salute you Colin Stanfield' and a band played rousing religious songs, one of which changed the original chorus to 'It's Colin and Jesus, it's Colin and Jesus'. Miles Bhudu, head of the South African Prisoners' Organisation for Human Rights, spoke at the memorial, describing Stanfield as a community saviour who listened to the life stories of the poor and brought about life-changing results. Similar sentiments were repeated by pastors and senior members of his community as one after another dubbed him 'a gift from God'.

Colin Stanfield was not a unique case. Several gang leaders and drug merchants have gained an impressive social status and following, although this may become most apparent during a period of crisis. The Staggie twins from Manenberg are another example. The *Mail & Guardian* reported that during one of Rashied Staggie's court hearings, women from his local community were heard shouting "Viva Staggie...He's God's gift. He's the people's hero". The same report went on to describe how, after his gruesome murder at the hands of vigilantes, a mural was painted near his home that "dominated the decayed area not so much because of its size as its style – the heroic realist mode favoured by communists to portray idealised peasants".<sup>5</sup>

Many of the well-known and most successful career criminals on the Cape Flats may receive such support. But there are others who do not fit the ideal type and are generally seen as noxious men who achieve authority through violence and fear. An example of the latter seems to have been leadership of the Sexy Boys gang, who were sentenced to life imprisonment in 2004. According to several sources, these men regularly intimidated those who spoke out against them and had a reputation in their community as psychopaths. There was no protest when they were arrested and sentenced to terms in prison and it is possible that their lack of legitimate power eventually became their downfall as their successful prosecution relied heavily on testimonies from those living in their area.

Nonetheless, that some gang members and leading figures of organised crime receive community support is recognised by many. It is not a novel claim. Thus, in 1997 a telephone survey conducted by IDASA's POS on crime, law enforcement and vigilantism on the Cape Flats included questions designed to measure support for gangs.<sup>6</sup> However, a survey of 500 residents of the Cape Flats provided ambiguous evidence. Respondents were asked to what extent they felt gangs made a positive contribution to their community, to which only 14% responded that

they did. Respondents were also asked which persons or groups posed the greatest threat to the moral fabric of their community, in response to which 45% identified gangs as the greatest threat. This corresponds to another finding of the study by the POS on attitudes towards governance, in which 49% of respondents in the Western Cape felt that criminal violence was the biggest problem facing their communities.

A survey conducted by the ISS in Manenberg in 2003 (the ISS Manenberg Survey<sup>7</sup>) also attempted to measure the extent and nature of this support, which again illustrates the realisation that community support remains significant. The survey combined face-to-face interviews with household members and a questionnaire given to about 200 pupils at local schools. Questions were included on perceptions of gang behaviour and the relationship between gangs and community residents. The survey produced ambiguous responses: 47% of female students and 40% of male students agreed that gangs were respected in their community but only 14% of those interviewed through the household survey felt the same. Some 37% of those interviewed through the household survey reported that gang members helped community residents with money. The validity of the study was undermined by poor sampling and by the fact that interviewees felt some respondents were not truthful – there were many instances reported of young men covered in gang and prison tattoos claiming not to know about gang activities and denying being members of gangs or knowing any gang members.

Over and above sampling errors and possible misinformation, both of these surveys suffered weaknesses in their design and implementation, which means they have limited worth when it comes to understanding community sentiments regarding organised crime. A weakness common to both surveys is ambiguity in the concept of gangs. Gangs and gangsterism are concepts that relate to a broad range of phenomena and have different meanings to different people. Many low-ranking members of street gangs may tend towards antagonistic and anti-social behaviour, which will bring them contempt in their communities. However, it seems that more prosperous criminal businessmen, only some of whom are closely related to gang structures, have the means and the reason to develop more congenial relations in the community. In his study of violence on the Cape Flats, Steffen Jensen explained this distinction well:

[Street gangs] are generally seen to cause more damage to ordinary people of the township, through theft, robberies, assaults, and intimidation, than the merchant. This emerged clearly in interviews with people of the township who were more afraid of the street gangs than of the merchant: 'You can talk to the merchant. But these *laities* [young boys] – you cannot talk any sense to them. They are out of control'.<sup>8</sup>

Research on the Cape Flats that is concerned with community support for those who gain their power through organised crime must therefore grapple with the subjective understanding of such terms as 'street gangs,' 'gangsters' and 'drug merchants'. It is too crude to ask questions on gangs in general and future survey work must find ways of isolating the more prominent figures in organised crime from the rank and file of street gangs. This is not an easy task and highlights the limitations of quantitative research methods.

Identifying support for criminals is complicated for several other reasons. In the case of Stanfield, people were prepared to march in the streets, raise placards and turn out in their thousands at his funeral. Yet in other cases, support need not be so obvious or categorical and it therefore becomes more subtle to measure and detect. Criminals may be tolerated by people who are willing to turn a blind eye. One source in the police explained the frustration he had with people who choose not to recognise gangsters as criminals:

Yes, of course there have been people that have had the support. It's mainly your prominent gang leaders-slash-drug dealers that have people who support them, but it's partly because a lot of people know what they are doing and they decide that they're going to keep quiet about it, and other people don't have a clue what the guy is doing because they don't move in the right circles to know of all the wrong stuff this guy is doing. The individuals they know is the guy who does good things and is nice generous man. But in the darkness of the night when he's doing all his wrong deals and stuff, they're not there to see that. Deep down they don't want to see that.<sup>9</sup>

We could, of course, take this argument further. Many well-respected community leaders, businessmen and politicians in the Western Cape are also involved in activities that most would consider highly unsavoury if they knew about them.

There are further subtleties and pitfalls in detecting support for those involved in crime, which may not be detected through survey questions. Other sources on the Cape Flats have told me that people express toleration for known criminals by simply not cooperating with police investigations. A community worker in Bonteheuwel explained: "It is funny, people live right on top of where they sell drugs or there is a big crowd when someone gets killed, but amazingly people didn't see anything or know anything about it".<sup>10</sup> Similarly, in an interview, a member of the Dixie Boys gang claimed they are safe in their area because community residents help them hide when the police are sweeping the area. Of course, in these scenarios it is possible that people remain silent or help gang members because they fear reprisals or because they do not want the bother of getting involved – the line between support, toleration, apathy and fear is hard to distinguish.

Moreover, for many people, what may appear as toleration may in fact be the choice of the lesser of two evils – help the police, whom they distrust and dislike, or help the local gangster, who, while not being particularly well regarded, still remains a local person whose family and friends are known in the area.

Although we can detect support and toleration towards prominent criminals, we should not overestimate it. Others clearly view organised crime and gangs as noxious social phenomena. PAGAD, the vigilante movement, provides the most obvious example although there are many other civil society organisations which have formed as a response to crime and gang-related problems.

The Cape Flats is not, of course, homogeneous, but is rather internally divided, along gender, class and religious lines and also spatially between communities. In chapter one it was described how apartheid labour relations partly exacerbated these divisions as they helped create an economically polarised community. Meanwhile, the Cape Flats emerged as a fractured urban area, characterised by isolated communities who felt their surroundings were dangerous. People feel relatively safe in their own immediate area – a block of flats, a row of streets – but they do not feel safe to move to other areas of the Flats – or at least, there is a tendency to view other regions with suspicion and as potentially dangerous due to crime.

These divisions have an impact on how organised crime is viewed. A generalisation is that those who are poor and structurally unemployed are the most likely to be tolerant of prominent criminals and will sometimes champion them, whereas those on the Cape Flats who are employed and skilled tend to despise organised crime the most. This division has been present for many decades and simply reflects class tensions. But there are reasons why such tensions are acute in the coloured areas of the Cape Flats.

The colonial rulers lumped together a disparate group under one heading and advanced the ideology that they were inferior to the European race. Stereotypes of coloured people included a propensity for crime, drug dependency and laziness, which unsurprisingly angered and frustrated many middle-class and aspiring petty bourgeois among the so-called coloured population. Mohammed Adhikari illustrated this tension well through an analysis of articles in the *Educational Journal of the Coloured Teachers' League of South Africa*, dating back to the early twentieth century.<sup>11</sup> Adhikari considered this publication a leading journal that gave voice to the coloured middle class and reflecting common sentiments among them. It contained evidence of a continuous despair with the “pervasive stereotype that (all) coloureds were backwards, lazy, debased people for whom it was necessary to build strong jails”.<sup>12</sup> As Adhikari put it:

Rowdiness, drunkenness, criminality and the whole gamut of immoral and delinquent behaviour were sufficiently common amongst the coloured working classes to embarrass 'respectable' coloureds acutely.<sup>13</sup>

One member wrote in the *Journal*: "We are knee-haltered because a large portion of our people drag us down into a mire of filth".<sup>14</sup>

In 1916, the president of the Teachers' League, Dan Sampson, conceptualised the coloured population by way of three distinct classes: the sunken, the sinking and the uprising. The sinking class contained neither the "openly vicious, nor the hardened criminal", but was "indifferent to its own advancement" and "susceptible to corruption" – their "indispensable needs are not prison accommodation, reformatories or police officers, but schools and teachers, in other words, education". The uprising class Sampson described as containing those who, "being concerned about their advancement in life, zealously watch over the moral and intellectual training of their offspring". But the sunken class were hopeless:

Of the sunken class – what an accumulation of filth, vice, dissipation and crime! Such a combination seems to defy all the influences of human healing. Past social redemption we exclaim!<sup>15</sup>

We can speculate that the policy of moving all coloured people out of the city centre into new housing estates only added to this sense of frustration among some who felt they were being stereotyped as part of a homogeneous, troublesome coloured group. A point which is perhaps contentious and politically sensitive is that one still finds much evidence of anger and frustration among educated and working coloured people directed towards the 'less respectable' class of coloured people. In the 1920s and 1930s, the criminal coloured class was referred to pejoratively as the *skollies*. Now the preferred label is 'gangsters' and we hear people frequently using the term 'gangsterism'. One suspects that 'gangsterism' is not being used to describe a specific criminal phenomenon, but rather it is a general term for what Dan Simpson termed the 'sunken class', encapsulating a general social malaise.

We therefore find that the term 'gangsterism' reflects class tensions and that many of those who feel that they are not related to this class of people seem to favour the most draconian measures to combat gangs. The notion of a gang court, for instance, was not a policy invented by the central government but was instigated by leading members of anti-crime forums on the Cape Flats.

Class tension is one aspect that accounts for different attitudes towards gangsters and crime. A second concerns spatial tensions on the Cape Flats. A peculiar aspect is that people living in one area tend to tell you that the worst areas for gangsterism

can be found elsewhere. One never finds a single area that is universally accepted as being the worst place, suggesting that *fear of the other* is an important dynamic.

This spatial aspect was illustrated clearly during fieldwork in Atlantis. My guide for two weeks was a woman in her mid forties who was well known in the town. She was previously active in the trade union movement and currently volunteers at two local NGOs, as well as being an active member of one of the town's larger churches. There are many areas of Atlantis where she feels unsafe, primarily because of the street gangs. Her nervousness was evident in an insistence on locking our car doors whenever we approached these 'gang turfs' and she was reluctant to spend long periods in one place. When asked to point out who she thought were gang members, it seemed that any young men were potential gang members in particular areas. Her fear is not irrational, for crime in Atlantis is exceptionally high and being in a car with a white stranger may have added to her risk of being victimised.

However, when returning to her own area of Atlantis, which seemed no different from the other gang turfs we visited on a daily basis, my guide was far more relaxed. Young men were no longer potential gangsters, but the sons of people she knew. She described a group of young men sitting outside her local shebeen as "not really gangsters" but "local boys who get up to silly things". According to the local police, most poor areas of Atlantis are equally plagued by crime and gangs and my guide's residential area seemed no different to any of the others we visited.

In summary, a general tendency is that those supporting, or tolerating, people associated with gangs and organised crime tend to be the most marginalised on the Cape Flats and they will have the greatest respect for or empathy with those 'gangsters' living closest to them. Surprisingly often the most successful criminals receive explicit support, which clearly has implications for understanding their power. There are several reasons which account for this, with three key themes standing out. However, in considering each, we must not fall into the trap of seeing organised crime as simply good or bad. This is a weakness of mainstream analysis that conforms to the parasitic model – there is a simple delineation of the social world into good versus evil. The key is to be aware of the contradictory elements of organised crime and that its power and influence stems from both social and anti-social elements.

#### STATUS AND POWER

We can assume that the authority of leading figures in organised crime on the Cape Flats is partly sustained through their influence among members of street gangs. In many areas, many young men and some women become members of

gangs and gang membership becomes shared through extended families and networks of friends. This, in turn, influences others who, while not members, are nonetheless close to and complicit in street gangs: girlfriends of gang members, sisters, mothers, brothers and so on. In other words, the street gang is not simply relevant to individual gang members but is embedded in the wider community – it draws in thousands of people and should not be considered a fringe activity undertaken by a minority of outsiders. As a community worker in Manenberg put it: “The authorities tell us we must remove gangsters from the community. This makes our job very difficult: gangsters *are* the community”.<sup>16</sup>

Those men who have an ambiguous relationship with their communities sit at the apex of these extended gang structures. In some cases, they represent 'gang leaders'; in others, drug merchants may not be leaders through membership but rather assume a position of authority as suppliers of commodities, such as drugs and weapons, to senior gang members. It has already been described how important the notion of loyalty is within these clan-like organisations. Leaders claim a position of power based on a *status contract*, which is reliant on this loyalty and a tradition of belonging. The leaders thus have a psychological power over gang members. This is sustained through both fear and idolisation – it is particularly evident in younger gang members who see drug merchants and gang leaders as impressive and awe-inspiring men. As a pastor on the Cape Flats put it:

You grow up in the township, the first people you admire are gangsters, because of the way they dress, their beautiful clothing, the beautiful cars they drive, and very importantly, they get the best women. You say, damn it man, I must also go that route.<sup>17</sup>

In interviews with young gang members in prison, relayed in chapter three, it was clear that they saw the gang as bringing status. They were at times mesmerised by the wealth of the leaders and the guns available and believed that being a gangster would make them more attractive to girls. The power and authority leading members of organised crime possess lies partly in this adoration. It is psychological power possessed by many leaders in society generally. Several sources complained that alternative role models to drug merchants and gang leaders are scarce.

By assuming positions of power within these structures, some men can also lay claim to a monopoly on violence and force within specific domains. This is an essential aspect: men whom we can identify as having a criminal local authority are men who are leaders of violent structures. At times their authority stems from showing others they are capable of acting violently themselves. This is *expressive* violence that conveys a message. By way of example, the rise in power of Jackie Lonte, who allegedly built up the Americans gang, was based on a series of public

displays of vulgar violence. A former acquaintance of Lonte told me the following story, which he believed was pivotal in Lonte's rise to power:

At that time, 1978/79, Jackie Lonte was a member of the Fancy Boys. Jackie Lonte started as a Fancy Boy but then he started flexing his muscles and challenging the leadership. The leader of the Fancy Boys was actually a good friend of mine who I had recruited to come play in a soccer team. He had already shed his gang activities and they went to a dance in a local community centre in our community. Lonte challenged him and he said, 'No man, I don't want to fight,' so Lonte kept on persisting. Then he said, 'Look, alright, if you want to fight we will fight bare hands, no weapons'. There was now a big crowd so when he turned around to go outside Lonte just stabbed him in the back, through the heart and [he] was killed right away. And that is how Jackie Lonte made his ascendancy. Immediately after, Jackie did a stint in prison, came out and then formed the Americans. And this became the biggest gang in the Western Cape. He was a very violent man and he made sure everybody knew it.<sup>18</sup>

But as men like Lonte assume positions of authority, their relationship to violence can change and this has a profound impact on the nature and extent of their power. Having assumed a position of strength based on acts of brutality, it is common for gang leaders and drug merchants to adopt a more distant relationship to violence. They command others to be violent on their behalf or else no longer need violence at all because there is a widespread understanding that they can muster support among a virtual army of loyal gang members if they so wish. The perception that criminal organisations, such as the Firm or the Americans, are monolithic well-organised structures may help cement this power, although in reality, these structures may be less coherent than the media and prominent commentators suggest.

#### SUSTAINING CONTROL

As a result of this status, powerful criminals project a sense of control of communities. This is not illusionary and is evident through their ability to assure safety for some and not for others, an aspect one quickly comes to realise when conducting research in these areas for while it can be precarious for an outsider to unexpectedly enter a gang-controlled area, one can feel safe if the local gang leader or drug merchant has condoned the visit.<sup>19</sup> Criminal power is thus partly the ability to claim ownership of a territory. It is evidence of this power that the police often claim that their task in gang-infested areas is to show gangsters they are not the dominant force in the area and that they do not own the streets. Police work can become a show of strength and one often hears police arguing that they

“need to let the gang know that they don’t own this turf”. Altbeker described this situation on the Cape Flats and considered this aspect of policing as psychological warfare.<sup>20</sup> However, this may be somewhat simplistic. We have seen already that the relationship between drug merchants and the police is not always antagonistic. This is a point we will return to later in this chapter when considering the dynamics between the state and organised crime.

Adoration and fear are two key reasons that explain the power of leading drug merchants and gang members. Both aspects flourish where personal wealth is glorified and so, too, is the ability to command violence. The most prominent leaders of organised crime conform to these traits – they are far better off than anyone else in their communities and they can control violence. This power is a matter of despair for some living in these communities. There are those who recognise that the status of leading drug merchants indicates and reinforces the glorification of personal wealth and violence, which is strongly encouraged in mainstream society.

To sustain this image, leading gangsters must continually project a sense of control; they cannot be undermined by others, or back down from those who criticise them. In this situation, the work of civil society groups and state departments can be difficult. By way of example, those organising an urban renewal initiative in Manenberg decided that a prominent street gang mural was to be painted over. A local woman associated with the project was summarily given a death threat from one of the region’s gang leaders. A meeting was then held between the gang leadership and representatives of the community. It was unfortunate that many people from the local community felt too scared to attend the meeting. The manager of the project explained:

I went to the leader and tried to talk to him about this situation. He seemed open to conversation. But, you know, I told him, the problem with them is they fucking scare me, they scare everyone, so it is difficult to have an open conversation, like you would with other people. If you confront them in public, they know they have to respond, they can’t just let you get away with that, otherwise they lose face. They won’t back down.<sup>21</sup>

The same reasons that promote status and adoration are also the basis of nefarious power. We would expect this to be a concern for the church as well, it being an institution that provides local governance as much as, if not more than, any other civil society institution. However, church leaders are well known for their ambiguous relationship with prominent criminals. This is most evident with the many evangelical churches that have mushroomed on the Cape Flats, as they have in other poor regions in America and now throughout Africa. Pastors of these churches have often developed conspicuous relationships with infamous gang

leaders, being some of their most outspoken allies. In return, gang leaders are known to give considerable donations and some, such as Rashied Staggie, claim to have become born-again Christians, although according to many sources this is a ruse, a public relations stunt to deflect police investigations.<sup>22</sup> The ambiguous link between the church and organised crime is furthered when we consider that many sources claim that the only way out of a gang is 'death or religion'. We need not believe this is always true, however, and it appears as something of a cliché, as argued in chapter three.

Thus, unlike other civil society groups, there appears, on the surface, to be a mutual collaboration between evangelical churches and organised crime, rather than conflict between them. This helps sustain legitimacy for leading figures of organised crime and we may feel it is also beneficial for some churches as they not only receive donations, but also are able to access a considerable population for religious conversion purposes. Other, more traditional or conservative churches may not be as successful with the 'criminal underworld'; their congregation may not be so sympathetic. Cynics may feel that the most important reason for a mutually beneficial relationship between new evangelical churches and prominent criminals is more corrupt. Those adhering to this view speculate that evangelical churches are an easy cover for crime. Indeed, one suspects that some of the most successful evangelical church leaders (both here, and perhaps more evidently elsewhere) are racketeers *par excellence*. Far more empirical evidence is needed to explore this understudied theme.

#### TOLERATED ILLEGALITIES

There is another aspect that contributes to the ambiguous social relations of organised crime. It is reasonable to believe that a lack of moral outrage towards career criminals in marginalised areas is partly a consequence of the scale and the economic function of the illegal economy in which they and others are involved, be it directly or indirectly. In densely populated areas characterised by low levels of job opportunities and income, criminal means to gain capital and consumer items become condoned and accepted. Thus, a statement often made, albeit now a cliché, is that people will not ask questions when gangsters are able to 'put bread on the table'. Given the vast number of people involved, it should be uncontroversial to state that the criminal economy delivers employment and goods for thousands who are socially excluded. Without income-generating crime and cheap stolen goods, the "dull ache of deprivation"<sup>23</sup> would be felt more acutely. Thus, the criminal economy can be understood as a rational, rather than deviant, response to economic hardship – what some sociologists call an adaptive mechanism to poverty.<sup>24</sup>

While residents in more affluent areas may hold to a moral code that prohibits them from accepting the proceeds of crime or from purchasing illicit goods, some feel this is no longer relevant in marginalised areas of the Cape Flats. This is accentuated by the fact that certain criminal income-generating activities have become locally sanctioned. For example, in many areas the trade in stolen goods is regular and conspicuous. During a one-hour interview I conducted on the Cape Flats, we were interrupted four times by 'door-to-door salesmen' offering clothes, shoes, leather belts and radio cassette players. When I asked one of these salespersons where they acquired the goods I was told that some had been stolen from factories where a family member was working and others had been stolen from the city centre, probably from houses and cars. There was no pretence that the goods came from a legal source. The price was exceptionally cheap compared with their original value; genuine leather belts were being sold for R20. Likewise, in Atlantis a flourishing economy in goods scavenged or stolen has led to the creation of an informal market just outside the town. For some residents this provides them a peculiar access to both basic materials (plastic sheets, nails, bike parts), as well as goods with novelty value, thus satisfying the need for impulse consumerism so prevalent in affluent society. An Atlantis resident described how:

You can get all sorts of things there. But people here have strange things in their homes, things they don't really need but find their way to Atlantis from the factories or from Cape Town. You should see some of the things, they look ridiculous. One person I know has a microscope in her front room. I doubt she knows how to use it and it's probably broken anyway! Where do you think that came from?<sup>25</sup>

A story reported in the *Cape Argus* in May 2006 highlights well how crime may become tolerated and rationalised in impoverished communities. Approximately 500 people in the community of Philippi launched an attack on a local shopping centre, smashing the windows and emptying the stores of produce. The authorities denounced the activity as criminal and a "disgrace to the community", although the manager of one of the larger shops looted was reported to have said:

I saw people with trolleys full of electrical appliances and groceries, mostly baby food...young people and children were carrying kettles, irons and stoves away...the whole community was here, stealing. I've had enough this time. I think we must close.<sup>26</sup>

This episode shows well how some criminality in marginalised communities can become an embedded feature. Similarly, illegal drinking houses, often run by

well-known criminals, have become institutionalised and the consumption of prohibited drugs such as Mandrax and dagga are widespread and conspicuous. As described in chapter one, an illegal market in alcohol and drugs was made almost inevitable by the state's ambiguous or weak attempt to regulate their consumption among the coloured community. This has created a strong sense among many that the existing laws prohibiting coloured people from selling alcohol are merely a continuation of racist and unfair governance. One shebeen owner put it well and echoed a sentiment many others seem to agree on:

You see, it is not a problem for you to go into a bar and order a drink near where you stay. How many bars are there, near where you live? But what do we have here? Why must we be criminals? This is the law of the apartheid people, and still the government do not want us to succeed. They make it impossible for us to be normal business people. Why is that? Why are we treated so differently?<sup>27</sup>

This sense of injustice means there has been a shift towards the normalisation of certain illegal commodities including illicit alcohol, drugs and stolen goods where these cease to have deviant or shocking connotations.<sup>28</sup> We can say the power of the law is limited due to a widespread feeling that it is not legitimate.

Although the situation on the Cape Flats is unique given the racial dimensions and legacy of apartheid, there is a widespread global toleration of crime among many marginalised populations. A report by the United Nations Research Institute for Social Development provides an image of organised crime that is more sympathetic than the parasitic view typically espoused by speakers at the various UN conferences on transnational crime. In doing so, the authors of the report implicitly challenge the notion that organised crime is simply an anti-social phenomenon as it clearly provides income to a large number of people who are structurally unemployed:

At a time of narrowing economic opportunity across wide areas of the world, participation in the illegal economy furthermore constitutes one of the few realistic options available to many families who simply need to ensure a basic level of subsistence. Illegality makes certain commodities or services unusually profitable. Thus the drug trade has become one of the central economic activities of the late twentieth century, drawing millions of people – from the peasant villages of Third World countries to the inner cities of the industrialised North – into networks of exchange which provide great wealth for some and a tolerable living for many who have limited alternative sources of income.<sup>29</sup>

**COUNTER-TENDENCIES**

That income-generating crime is seen as a rational response to structural marginalisation may encourage sympathy for those engaged in illicit activities and those who knowingly buy illegal goods and services. Some forms of crime may make life more tolerable. But we need not romanticise the criminal economy. Care is needed not to fall into the trap of seeing organised crime as contributing only positively to the poor, obediently providing services that are in demand. Here we see the contradictory elements of organised crime.

**MANAGING DRUG MARKETS AND VIOLENCE**

Chapter three described how the drug economy is socially destructive for those involved – it is an exploitative system of production and consumption, causing much personalised harm, including violence, death, and psychological trauma. We can also say that the economy in drugs produces obvious problems on the Cape Flats, as with any inner-city ghetto suffering high levels of substance abuse and dependency. One aspect is that open drug markets invite police patrols and the arrest and harassment of many residents, particularly young men. A second aspect relates to incidental crime. While the relationship between crime and drug dependency may be complex, there seems little doubt that those habitually consuming drugs, particularly the unemployed, will commit crime to generate the necessary income to sustain the habit. Some of this crime may result in violence.

Those in control of drug markets face an ongoing tension caused by the negative impact of their trade and the unwanted attention this brings. We therefore see evidence that leaders of organised crime try to regulate violence and displace some of the more obvious social problems. In this way the relationship between illicit markets, violence and predatory crime is complex. Events surrounding 'Paul', one of the so-called high flyers in Atlantis, is illustrative of these complexities.

As with other drug merchants, Paul is infamous locally, partly because of some acts of extreme violence. On one occasion he killed someone who owed him money by locking him in a fridge at his shebeen for several days. A police investigation into this murder was derailed when Paul managed to buy the police docket. Paul is also well known for his abusive relationship with his wife. Two days after their marriage, Paul sexually assaulted her with a bottle. This and other stories of his violence are well known in Atlantis; in a crowded community where gossip spreads quickly, it is virtually impossible to sustain a completely private life.

Despite being known for his bad temper and violence, Paul manages to create respect from others through his philanthropy. This is a theme which will be explored in more detail later. Paul sponsors a football team, has given money to a soup kitchen and has donated R1,000 to a local charity providing counselling to

crime victims. Paul moved premises within Atlantis after a short stint in jail for a murder for which he was found not guilty. During his stay in prison one of his shebeens was confiscated by the local authorities and, ironically, was donated to an organisation caring for abused women in Atlantis. Paul was forced to take up residence in another area of town and when I spoke to people who lived opposite him, including a woman who had worked for years in the local police station, it was surprising to hear that petty crime, such as muggings, housebreakings and theft, had all but disappeared since he moved into the area. According to the former policewoman, the reason was straightforward:

Paul scares everyone. Before he was here there were lots of gangsters and people smoking dagga in the alleyways at night. Paul just told them all to leave and now the streets are far more safe. His lookouts will tell him whenever the police are coming, but they also make sure that the people don't take drugs here and cause problems. You don't mess with Paul. So yes, crime has gone down here since he came.

*Q: So where do people take drugs now?*

A: Paul does not let them take drugs at his shebeen. He is not like that. He doesn't even sell alcohol to individuals there, he only sells wholesale. So the people go elsewhere to get high and they aren't here at night, which is good because they are not here to cause trouble and do those bad things when they are out of their mind on drugs. The police could never achieve that!

*Q: Why do you think Paul wants crime rates low? Do you think he cares for people in the street?*

A: No man, it is not like that. Paul can be nice, but he does not care really. He knows that the police will be here if there is a lot of crime and people smoking. He wants things to be quiet, you know, so that he can make money.<sup>30</sup>

In September 2003, at a seminar organised by the International Association for Security Industry (ASIS International) attended by local security officials and businesspeople, I was invited to speak on the impact of organised crime on the Western Cape. In the subsequent discussion, many agreed that the relationship between gangs and crime was not straightforward. An ambiguous situation relating to crime and gangs was described by an employee of a chain of shops, some of which operate in gang-controlled areas. According to him, some of the worst areas for shoplifting and violence were where there were either no street gangs at

all, or where there was conflict between gangs trying to establish dominance. In one locality the situation between competing gangs had deteriorated to the point where the shop owner had to designate times when each of the rival gangs could visit the store. However, according to several participants at this seminar, where a gang did manage to become the dominant local player in the drug industry, petty crime affecting business decreased. As one participant in the seminar put it: "They control their own people because they know that is how to do business, it's not a free-for-all".

Such anecdotal evidence, including the case of Paul, does not confirm that organised crime can have a regulatory effect on crime. However, there is further evidence that suggests that it does, in some cases. In particular, events surrounding the activities of PAGAD show this relationship in reverse. It has already been mentioned that splinter groups connected to PAGAD killed many drug merchants and gang leaders in the late 1990s. An unintended consequence was to fracture the control of drug-dealing territories and create power vacuums. For some years after PAGAD, intragang and intergang conflict increased as a result, as acknowledged by the authorities. Leonard Ramatlakane responded to criticisms that the authorities could not control crime on the Cape Flats by arguing:

It is my Ministry's contention that the crime rate has increased in the Western Cape for particular reasons that are apparent to social scientists in the country and the province... Firstly, anyone will tell you that between 1995 and 1999, a war raged on the streets of this province, which the previous provincial administration was not able to deal with effectively. There was a war in which gang members clashed with a vigilante organisation, PAGAD. Pipe bomb attacks, drive-by shootings and urban terror incidents all contributed to the loss of life and an increase in the murder rate. By 1999, with key members of the gang organisation eliminated, gang violence erupted all over Cape Town. This was a result of the fact that the elimination and execution of gang leaders left a void. Younger gang members turned on each other in an attempt to establish their credentials, and soon gang members from the same gang turned on one another.<sup>31</sup>

While there are no statistics on gang conflict on the Cape Flats, the sense among police is that gang conflict has declined since 2003. Some in authority, such as Ramatlakane, claim this is because the police have been more successful. Others argue that it is due to a re-consolidation of power. As a police source put it: "Things are quiet now. Too quiet. Why? Because business is booming".<sup>32</sup> There are local commentators who explain this turn of events as an outcome of drug merchants working with sophisticated syndicates from outside the region – that

Chinese Triads and Italian Mafia *demanded* a degree of control from the gangs if they were to continue with their business dealings.<sup>33</sup> Apparently this decision was made to reduce police attention. However, I have found no evidence to suggest this had occurred and it is not clear how researchers have obtained this insight. As we will see in the next chapter, the idea that drug merchants and street gangs have been working closely with foreign organised crime is undermined by claims that the authorities have fabricated such stories for political ends.

Given this anecdotal evidence – which is not conclusive – we can hypothesise that as the power of organised crime increases there is more control over turfs. This has a stabilising effect on some types of crime, particularly violence between gang members and random crime on residents or customers. This suggests organised crime has an interest in managing areas in ways that reduce chaos – organised crime may attempt to regulate certain crimes, or it may have an unintended consequence of inhibiting certain types of crime. This perhaps has policy ramifications as removing key players in the criminal economy may have the ironic effect of increasing instability and conflict. It is possible that this could be one reason why some drug merchants are tolerated in their communities.

It would be a mistake to overemphasise this regulatory effect of organised crime and it may be wrong to see any control as being stable. As shown in chapter three, the criminal economy suffers from tensions and there are various ways in which these are temporarily resolved. Considering some of them, *counter-tendencies* work to undermine the local hegemony of organised crime. On one level, commodities that support organised crime are socially disruptive and the cause of interpersonal violence and petty crime. This is a contradiction for organised crime as the source of their wealth undermines the environment which may be conducive for business. Paul seems to realise this so he insists that people taking drugs must do so away from his surroundings.

On another level, we must also suspect that the leaders of the criminal economy may struggle to sustain their authority over many of the rank and file gang members. The criminal economy is an exploitative system of consumption and production that is not successful in providing meaningful labour to the vast majority of those who are involved. It seems plausible that hegemony cannot be indefinite; any tendency to centralisation is matched by a tendency towards competition and fracture. Thus, successful drug merchants may lose their regulating power and become the victims of predatory gang violence and assaults by competitors. In order to explore whether this may be occurring in some areas I asked a former 'hit-man' of the Americans gang about the relationship between younger members and the leadership. According to him, there has always been a tension between the youngsters, who like to smoke too much and get high, and

the elder members, who have calmed down and want to focus on making money. As he put it: "The youngsters are out of control – they scare everyone!"<sup>34</sup>

We may postulate a cyclical model of criminal power: stability is achieved as local power is consolidated, but the dynamics of power mean it will eventually fall away, giving rise to an era of relative chaos from which a new 'strong man' will emerge.

#### TRADE IN STOLEN GOODS

We can also see a contradictory element to organised crime in the informal criminal market in stolen goods. There may be many instances where such commodities are sourced from factories or from affluent suburbs, or they are looted from shopping centres. If this were true for all goods being sold for cut prices on the Cape Flats, the sympathetic or social argument would be easier to put forward. This would also account for why communities may be reluctant to approach the police with information.

However, thefts are not carried out discriminately against the wealthy. Theft of property is just as rampant on the Cape Flats itself as in other parts of the city and in many respects, people there are more vulnerable to property crime than those with more to lose. Security systems developed in the wealthy suburbs have become advanced and ruthless but in contrast, security on the Cape Flats is primitive and in many households is non-existent. For example, small businesses have complained that private security firms refuse to work in their areas because doing so is both too dangerous and not profitable enough. Similarly, few households can afford electric fences, CCTV, alarms and other mechanisms considered standard issue elsewhere.

However, although thefts, robberies and burglaries are all common on the Cape Flats, it is claimed by several sources that rarely are such crimes committed by those living in close proximity. Street gangs, for example, are generally described as preying on those living in adjacent gang turfs, or in areas far from where they are based. The explanation for this is straightforward: local gangs could not succeed in robbing their own people and if they did do so, the police would easily catch them.

What this means is that the local economy in stolen goods is not only a process of taking from the rich, i.e. forcefully redistributing property, but is also a continual *recycling* of property *between* spatially isolated communities. We can say this has a negative impact on the region of the Cape Flats, particularly as thefts often involve violence. In the case of Atlantis, the contradiction of the economy in stolen goods is blatant. The woman who described how many people use the informal market to gain access to cheap stolen commodities went on to describe how nothing is safe from theft:

They'll steal anything, I had the door handle from my house stolen. When we dry our clothes we have to watch them all the time or else someone will take them and either sell them or use them. It's exhausting.<sup>35</sup>

After examining stolen leather belts with a man I was interviewing and agreeing that R20 was a reasonable price, I asked if theft was a problem he had encountered:

Yes, man of course, I've had my bike stolen three times, I told the police but they aren't interested, people will take bloody everything and they will attack you if you try and stop them. The last time I had my bike stolen I was riding it and they just knocked me off and held a knife to my throat.<sup>36</sup>

The illegalities tolerated on the Cape Flats are reminiscent of the social crime studied in nineteenth-century Britain.<sup>37</sup> Both then and now the state's authority was undermined by the sense among communities that the law prohibits activities that are locally sanctioned, even if many people realise that these crimes can be a source of as much harm as good. As Russell explains, the power of the law is undermined by its lack of popular support. It is in this situation that criminal power can flourish in ways that simultaneously undermine the authority of those tasked to enforce the law – in communities that are characterised by high levels of sanctioned criminality, there may be a disincentive to turn to the authorities for help in matters relating to others types of crime and social unrest. Sellers and buyers of stolen goods, drugs and illegal alcohol may see interaction with the police as a potentially precarious endeavour, for it invites the possibility of 'getting into trouble with the law'. This may restrict the flow of information to the police, which is an essential aspect of their task of investigating crime. The situation is compounded where the police's legitimacy is undermined for other reasons, such as allegations of corruption and inefficiency.

#### PHILANTHROPY AND SOCIAL WELFARE

A consultant who helped develop a community-based organisation headed by leading members of the Firm said:

In Manenberg there is a problem in this sense that Rashied Staggie goes to a soccer club and he rigs them out with soccer uniforms and bags and so on and if you're a poor soccer club you will say 'damn, look at how we look now'. What can you do? You say, 'damn it man, thanks'. That's just an example of what they would do. I mean, when somebody does not have any money they will go to Rashied and ask if he can help them out and he does help them out. The same with Colin Stanfield. Colin can mobilise thousands of people in the space of a

few days, buses and everything, very quickly. In his area it is very difficult to talk against Colin Stansfield, not because of his drug dealing, I mean some people may be quite scared, but because of acts of benevolence.<sup>38</sup>

The most conspicuous – and contentious – basis for legitimate criminal power stems from acts of apparent philanthropy. This seems to be the case for Colin Stanfield, who was famous for paying the rents of people in Valhalla Park and giving cash and presents to people in need. He owned premises in Elsie's River known locally as the White House, from which each week his employees would distribute food and soup to the poor. At Christmas children from the area would be given parcels containing presents and food and at Easter they would receive chocolate eggs. The following is an excerpt from a story entitled 'The poor fear life after Stanfield dies', which appeared in a local newspaper before Stanfield's funeral:

The death of Colin Stanfield – alleged drug lord who championed the poor – has not only left the least fortunate of Valhalla Park grieving, but cast a shadow over their future... Washiela Arendse, who has known Stanfield since 1979, said desperate residents now had no one to turn to in time of need. 'Our children have gone quiet since they've heard of his death. He used to support them with everything from their school lists to their school uniforms. Christmas he used to give them chocolates and at Easter he gave them Easter eggs. Poverty is so high in Valhalla Park – and he used to put bread on people's tables. People are now wondering if they are going to get that piece of bread'.<sup>39</sup>

Some feel these press stories were sensationalist, exaggerating the extent of Stanfield's generosity. However, that he gave regularly to people from Valhalla Park has been described to me by various people, including those who remained suspicious of his intentions. For example, a political activist recounted spending time with Stanfield during the first general election in 1994, recollecting:

Stanfield was a quiet man but everybody knew him and he seemed to have a special relationship with the children. Kids would come up to him and ask him for money and he would reach in his pocket and get out a thick bundle of R20 notes and give them one. I don't know if he was showing off or not, maybe he was, but people really looked up to him.<sup>40</sup>

There are other cases where prominent drug merchants have donated money to people on the Cape Flats or have invested wealth in ways seen as philanthropic. For instance, in 2003, I was introduced to 'Mark', a well-known drug merchant who was one of the first to be targeted by PAGAD in 1997 and was considered to

be a high flyer. Mark was also an active member of his community and heavily involved with management of the Coon Carnival, a New Year Day celebration involving mostly working class coloured people from the Cape Flats. Mark also sponsored the most successful troop in the Carnival and was also at that time chair of the Coon Carnival Committee, whose job it is to liaise with the authorities in Cape Town to promote and develop the Carnival. Mark told me he invested about R200,000 a year in sponsoring his troop, which numbered over a thousand people. Much of the money went into subsidising the troop's practices, which were held every week six months before the Carnival at one of his shebeens. When I attended one of these practices, free food was on offer and large numbers of the community were attending, giving it the impression of being an important social event. In addition to this, Mark also initiated and donated money to a small charitable initiative aimed at giving local youth in his area free music lessons. At the opening event several people gave speeches and a recurring theme was the importance of young people learning traditional music. Mark did not speak at the event and remained peripheral to the proceedings, although he was thanked for his generous donations.

Other stories have been told to me about gang leaders who sponsor local football teams, or, as is the case in Manenberg, about a gang leader who is rumoured to have given money to help establish a religious community centre and offers food to local children before they go to school and training to the unemployed. In Atlantis a leading drug merchant is rumoured to be giving substantial funds to the building of a local mosque. On a more flamboyant level, there have been stories of prominent criminals distributing cash to orderly queues, giving money to workers picketing outside a factory and even throwing handfuls of notes from car windows. Irvin Kinnes recollects:

The act of throwing money from a moving car was quite a spectacle. Staggie would first drive his car up and down the street and tell the children that he would be throwing money out when he returned. As a consequence, hundreds of people, including adults, were drawn into the street. They would wait for the car to pass and everyone would scramble at the first sight of fluttering money. Adults, children, old and young would run around to get their hands on some money. In this way, the gang leader would sometimes throw up to R20,000 out of his car window for the community.<sup>41</sup>

Such philanthropy by criminals is not unique to the Western Cape. Other infamous heads of organised crime have been noted for generous acts of charity, most notably Pablo Escobar who, it was claimed, funded universities, housing projects and recreational facilities for poor urban communities in Colombia. Similarly, a study by Enrique Arias of the Brazilian *favelas* has revealed that drug dealers play a

prominent social role, regularly funding parties and festivals with free food and drink. As Arias reports, "In the narratives of poor communities, residents often see [drug] traffickers as local heroes".<sup>42</sup>

#### BUYING POWER, PROTECTION OR GLORY?

Taken collectively, these acts of philanthropy may have a very modest impact on the economy of the Cape Flats. Some residents of Valhalla Park claimed otherwise and panicked when Stanfield died because he had kept them from starvation and eviction, which was possibly an exaggeration seized on by the press for a good story. Moreover, while the giving may seem substantial, in relation to the fortunes of each criminal the sums may in fact be inconsequential, making it doubtful that the expressed desire of bringing improvements to impoverished communities, which accompanies these acts, is sincere. Yet, in areas with little relief from poverty, one can appreciate the significance of even small donations and gifts.<sup>43</sup> It was revealing that this situation frustrated and shamed the ecumenical secretary to the Western Cape Provincial Council of Churches, who felt members of his church have responded to the economic and social crises of the Cape Flats *emotionally* whereas some criminals have responded *materially* by providing the rudiments of an alternative welfare system. But, he added, "How can we compete? They have all the money".<sup>44</sup>

Speculating on the motivations behind philanthropy is difficult. For those who dislike and distrust gangsters, such acts of charity are despised. What may appear as community contributions have been interpreted as strategies to further nefarious power. Philanthropy, it is argued, is merely a method to buy off and entrap communities, as beneficiaries become indebted and are obliged to return favours. Kinnes depicted conspicuous giving as a "stepping stone in gaining control of a community to the point where gangsters are able to commit crime without fear of being reported".<sup>45</sup> A common anecdote consistent with this view involves a family that accepts assistance in the form of money for rent but, in return, is forced to stash contraband such as drugs or guns in their house. Similarly, a community worker recounted a depressing story of the gang rape of a young girl. The family was persuaded to drop charges against the gang when they were visited by the gang leader who supplied them with food from a fast-food restaurant. For some, the notion held by locals that these men are their champions and benefactors is naïve as in reality they are profiting from their vulnerability. With each R20 note accepted from his gang, the boss becomes increasingly protected; he is buying protection from his victims and potential adversaries and simultaneously offsetting the more unsavoury elements of the criminal economy which may generate public contempt.

To back up this view of crime bosses manipulating communities, it is telling that some of the most conspicuous giving occurred during the violence between PAGAD and drug merchants. This was an era when the legitimacy of leading gangsters and drug merchants was being violently challenged by the naked power of vigilantism. The Firm went as far as establishing a charity known as the Community Outreach Forum (CORE), funded by donations from its prominent members and by money allegedly extorted from reluctant partners. The official aims of CORE involved bringing peace on the Cape Flats and helping to alleviate unemployment. While short-lived, CORE was rumoured to have given money to various churches and other charitable projects. Many interpreted this as a public relations stunt aimed at winning over increasingly hostile sections of the coloured community, as well as the media.

A further cynical interpretation of philanthropic gestures is linked to the impact such activities have in court trials. Much importance is given to community sentiments in deciding the severity of sentences by magistrates and judges. Good work in the community may be used as currency to buy leniency. For example, Rashied Staggie was found guilty of ordering the gang rape of a young woman accused of being a police informer. To influence the severity of sentence, his defence team invited community leaders to comment on Staggie's good work in his community. One after the other cited his involvement in church activities and his generosity towards desperate people in his community. Pastor James Kotze said:

As a testimony of Rashied's contribution to Manenberg...I was astounded to work with him, to move in that area and to see the respect that people have for him, the great love they have for him. To me it was unreal. I mean, I had in my mind this ogre and everybody would come and they would just touch and just greet him and they really love him, they respect him.<sup>46</sup>

Staggie himself said:

Because I come from a poor background, I know what poverty is. If I have money in my pocket and I drive through Manenberg and people ask me for money for bread I normally give it to them. I do not see it as buying people over. I feel good if I can do well in the community. If people come to my home, even if I do not know them, I will help.<sup>47</sup>

In Staggie's trial the Judge decided that due to his community contributions, his sentence would be reduced by five years, from 20 to 15. Police claim there are many other cases where good community relations have hindered state prosecutors in gaining the appropriate sentence.

It is worth noting that gangsters engaging in philanthropic activities for strategic purposes are not unique in doing so. Donations by multinational corporations are frequently seen as media stunts aimed at hiding or compensating for negative business activities, rather than their being acts of 'corporate social responsibility'. Likewise, buying favours on the Cape Flats is not restricted to gangsters – political parties are known to give out food and soup there just before elections.

However, while acts of benevolence seem strategic, at other times the material benefit seems less clear. In other words, there is no obvious return on the money invested in communities. Stories of families stashing contraband as a return favour are widespread and we must accept these as valid reasons to feel cynical about organised crime, but often, help with the rent or other day-to-day expenses is provided unconditionally. As one source put it, one can tell when the motive is sinister by considering the amount involved:

I don't doubt that there could be that element, you know, the gangsters buying off people in the community. But it is not always like that. But certainly if they want to achieve those ends then they are very strategic targets they chose, not the whole community. I mean in Manenberg, if Staggie gives Mrs Jones, for instance, R75 for her rent, what does he expect in return? But if he gives Johnny R10,000 Johnny better do something. There is a difference.<sup>48</sup>

Similarly, interaction with Mark left me feeling unsure how his 'investments' could have helped his criminal business interests.<sup>49</sup> Many people close to the Coon Carnival will attest that the funding of troops is an endeavour of passion rather than economic self-interest – a successful troop in the Carnival is not a means to success but an end in itself. Mark seemed enthusiastic about the tradition of the Carnival and he was driven to produce the most competitive troop at the event.

The mistake may be to consider the only motive of philanthropic criminals as economic self-interest. One must look beyond material interests and see that a key motivation lies in the attainment of power and glory. The business activities of gangsters provide wealth but this alone is of limited worth. As displayed by the successful businessman who chooses to set up a hardship fund, circumnavigate the globe in a hot-air balloon, or fly into space, being wealthy is not enough.

Yet wealth does provide the means to glory. The random handouts, the ability to support families, the church or the football team, are all activities that provide local celebrity status. It is telling that Colin Stanfield, a man who some feel gave to poor people for cynical reasons, was also rumoured to have unsuccessfully offered a substantial donation to the private school attended by his sons. It would be

hard to interpret this act as a calculated way of extending his criminal power. Indeed, the fact that many leading drug merchants stay visibly linked to their communities, even long after they have moved to more affluent areas, suggests they genuinely enjoy being local icons. They may find this status is denied to them in the affluent suburbs, where people and schools find it easier to refuse generous gifts.

Giving people money and engaging in philanthropic activities are attempts to build community support and protection. This is one way in which criminal power seeks legitimacy. However, we cannot overlook the fact that philanthropy is also symbolic of a reality of life on the Cape Flats. Here, as elsewhere, philanthropy is one consequence of the extremely uneven distribution of wealth. The substantial money that ruthless businessmen accumulate occurs while the majority around them are struggling to realise basic needs. What is more, in impoverished communities that provide few celebrated successes, the crass antics of an obscenely wealthy crime boss can provide them with an image of being 'superhuman' or, in the case of Colin Stanfield, as a 'gift from God'.

#### PROTECTION VS EXTORTION

Thus far I have described reasons why organised crime manages to achieve a degree of social toleration or support on the Cape Flats, particularly among the most marginalised, although it has been important to point out the contradictory elements – the social contradictions of organised crime.

Other studies of organised crime suggest that where it is an embedded feature in marginalised societies, it may provide governance, particularly relating to protection and dispute settlement. This is an aspect we need to consider on the Cape Flats. It is a topic that requires some context, as well as conceptual clarity.

Perhaps the most lucid discussion on the notion of protection was provided by Charles Tilly in his classic essay, 'War making and state making as organized crime'.<sup>50</sup> Drawing on this work we can begin by making a crude distinction between protection and extortion, or 'racketeering' as it has been known in the US. The notion of protection evokes a positive feeling – someone who provides protection shields others from an external threat. In contrast, racketeers demand payment for protection against a threat that they themselves create. The distinction between the two, as Tilly puts it, is a matter of degree. We can imagine a continuum, with protection rackets at one end and genuine protection at the other, provided for a reasonable price. Where we place a given example is often unclear and will change over time. For example, the modern nation state is often depicted as providing genuine protection, but as Tilly argues:

Since governments themselves commonly simulate or even fabricate threats of external war and since the repressive and extractive activities of governments

often constitute the largest current threats to the livelihoods of their own citizens, many governments operate in essentially the same ways as racketeers.<sup>51</sup>

As a general premise, we can say that the provision of non-state protection flourishes where insecurity coexists with a nation state that either does not enjoy a monopoly on violence or is incapable or unwilling to use its powers to regulate disputes and conflict in certain areas of its domain. It is in this environment that other groups or individuals offer their services. This theory was the basis for Gambetta's understanding of the Sicilian Mafia. Sicily is described as an area lacking in a strong state and the Mafia therefore emerged as an institution that monopolised violence and provided security and dispute settlement, for which they charged a tax or tribute payment. Likewise, during Russia's transition from a command economy to a liberalised economy, the rapid shrinking of the state created both chaos and insecurity. Thousands of private organisations flourished by providing protection, although most accounts suggest that these groups began as predatory racketeers and only later did some start offering a genuine service to their clients, including debt recovery, dispute settlement, enforcing contracts and so on. Volkov describes this process well, referring to those providing private protection in Russia as violence-managing firms and noting that many of their staff are former military elites, members of the KGB, under-employed 'sportsmen' and members of the Russian underworld.<sup>52</sup> It is noteworthy that similar categories of people are well represented in South Africa's violence-managing firms, including many former members of the apartheid security forces, disillusioned police officers and former combatants in the struggle movement.<sup>53</sup>

From the recent history of Russia, we may suppose that there is a tendency for extortion rackets to gradually move into more legitimate forms of protection, which is a teleological theory consistent with the neo-liberal optimism thesis described in the previous chapter. This would be a simplification, however, as those providing less predatory forms of protection may move in the opposite direction and become racketeers. Examples can be found in South Africa, as will be described. However, pure extortion can only last so long and if it is overly burdensome, the victim will cease to be able to make payments. A move in the direction away from pure extortion may involve the racketeer offering something in return and there therefore may be a tendency for extortion rackets to generate reluctant demand. Even before this change occurs benefits may well accrue to the client, which will help consolidate extortion rackets. Those willing to pay the racketeer may be provided with a protection rent: customers of protection rackets may accrue certain benefits over their competitors, who chose not to pay and suffer the consequences.

The issue of protection is highly relevant to South Africa in general and the Cape Flats more specifically. Historically the state in South Africa has never achieved the sort of legitimacy and control that was a feature of democratic modernising countries elsewhere. The apartheid government provided a callous form of state control that was never intended to include the majority and as a result, there were large areas where informal, 'traditional' and criminal governance existed. Street committees provided local governance in townships and were involved in political disputes. The violent nature of some of these groups became pronounced, particularly as regards the use of 'necklacing'. In this era the state chose to govern the townships from a distance; conservative black vigilante groups were supported by state agencies and the state acted in ways to encourage lawlessness and chaos in townships as a strategy to destabilise political organisation.<sup>54</sup>

However, while the continued prevalence in South Africa of 'non-state ordering', as it is sometimes called,<sup>55</sup> represents the legacy of apartheid, the scale on which it occurred in the 1990s was surprising to many and a matter of serious concern to the new government. The advent of democracy did not see an end to the extent of various non-state mechanisms of governing historically marginalised communities. Moreover, the brutality and criminality of many of those groups engaged in non-state ordering was unexpected. It is now clear that the environment in which informal or criminal protection flourishes has been sustained and reproduced since the political transition. In many regions the SAPS continues to fall short of achieving anywhere near outright legitimacy. This crisis in policing seems to be largely due to the combined problems of perceived corruption, inefficiency and a lack of funding, which all coexist with a widespread feeling that crime is unacceptably high. In some areas, such as the Cape Flats, people seem also to harbour feelings that the new SAPS is still related to the old SAP. Many thus still refer to the police as the *boere* (which means 'farmer' in Afrikaans but was used derogatively to refer to white Afrikaners under apartheid and specifically, to the apartheid police force), and this situation is not helped by the fact that police still wear the same militaristic uniforms that they did under apartheid. Meanwhile, poverty and the polarisation of wealth remain huge problems for the state and there is pervasive resentment among many who were optimistic that political transition would produce a similarly miraculous economic transition.

Many areas of society in post-apartheid South Africa have therefore been characterised by tensions created through the inability of the state to apply a monopoly of force and provide basic human security. It is possible that the media and other commentators tend to notice this in the poorer areas of the country, but

it should not be overlooked that since the early 1990s there has been a massive boom in private protection services in affluent areas, to the extent that private security firms now outnumber the police by as many as four to one. This dramatic growth in private security is a vivid indication of a crisis in state authority, although it is partly encouraged through adherence to market ideology and the general trend towards privatisation.

In those regions where people cannot afford private security, it is difficult to know where to draw the line between street gangs, spontaneous 'mob justice', the more ruthless and criminal vigilante movements and the proliferation of non-state groups who seek to provide a more caring form of protection from crime, sometimes through active partnership with local government. There are clearly considerable differences between these phenomena, but distinguishing between them is difficult precisely because of the tendency of extortion to move into more legitimised forms of protection and for groups offering genuine protection to evolve into racketeers. Some notable examples illustrate this. It is rumoured that during the late 1980s and early 1990s, many inner-city businesses in Cape Town, particularly nightclubs and restaurants, were intimidated by individuals offering security from crime. Those who refused were subject to vandalism, threats and violence. However, some of the same racketeers are now leading members of the largest private security firms in Cape Town, who are generally seen to offer a good service at competitive rates. Allegedly there is little intimidation by these security firms for new businesses opening in the central area of Cape Town. We suspect that extortion rackets in the city centre quite swiftly evolved into more reasonable and legitimised protection services.

In contrast, there are examples of legitimate protection services developing in the other direction. In Gauteng province, Monhle John Magolego founded the anti-crime movement known as Mapogo a Mathamaga in 1996. Initially the Mapogo represented a small vigilante group providing paid services to approximately 100 businesses. Within four years the membership reached about 50,000 and there were over 90 branches throughout the provinces of Gauteng, North West and Mpumalanga. The state took a reserved view at first about the development of Mapogo and was willing to work with it. But as stories of brutal justice, kidnapping and extortion became more prevalent, the ANC denounced the organisation. In 2002 Mapogo was investigated for 20 murders, 140 cases of assault and 23 cases of kidnapping. Mr Magolego is rumoured to earn a substantial amount from Mapogo and he has made several attempts to win a seat on the Limpopo Provincial Legislature.<sup>56</sup> A similar story can be told about PAGAD, which started as a well-intentioned anti-crime movement but quickly degenerated into a brutal and criminal movement. Sources claim members of PAGAD abused

their power to extort protection money from businesses; some were rumoured to be selling drugs as well.

Alongside the proliferation of anti-crime movements and private security forces, the most notorious form of violence-managing firm has evolved in relation to the public transport industry and in particular, the minibus 'taxi' industry. The history of protection rackets in this industry began in the late 1980s when the NP government deregulated public transport and allowed independent non-white entrepreneurs greater freedom. A chaotic period followed with large numbers of people investing in taxis and competing for customers and trade routes. From the outset, the taxi industry nationally became troubled by violence and insecurity and the government showed little interest in providing effective regulation and enforcement. Some interpret this as part of the previous regime's attempt to destabilise the country in the run-up to the first general elections – an accusation that is given credence by several examples of former security officials and police seeming to encourage violence, directly contributing to conflicts between taxi operators and being suspiciously ineffective at apprehending perpetrators, particularly those who were considered to not support the ANC.<sup>57</sup> Be that as it may, the public transport industry was particularly conducive to protection rackets and this is precisely what emerged.

The taxi industry now contains many thousands of independent entrepreneurs, some owning a few vehicles, others owning large fleets. In the early 1990s exceptionally violent syndicates formed to 'represent' associations of these taxi operators and they became known euphemistically as 'mother bodies'. There are currently approximately 13 of these mother bodies nationally, with two dominating the Cape Flats. Few accounts suggest mother bodies are anything other than predatory racketeers that demand protection fees from clients and routinely order the execution of competitors or those refusing to comply.

The executives of the mother bodies are not simply providing protection in a cut-throat industry, but have been able to control the industry and secure considerable profits. Mother bodies are seen as one of the chief generators of conflict in the taxi industry, contributing to the notion of a national 'taxi war' that has been ongoing for the past two decades. According to some estimates, between 1994 and 1999 nearly 3,000 people were murdered through taxi conflicts in Gauteng alone. Mother bodies have become infamous for hiring and training hit men, some of whom were unemployed former combatants in the struggle movement. Those targeted included taxi drivers, taxi owners, rival bosses of mother bodies, police, politicians and even commuters, who were not only caught in the crossfire but were also intimidated and attacked for using competitors' taxis.

It remains moot whether the mother bodies have gradually moved towards becoming more legitimised structures offering a genuine protection service to

taxi operators. However, the taxi industry is another vivid indication that the state does not enjoy the monopoly on organised violence in South Africa and simultaneously there is an environment conducive for non-state violence-managing firms to flourish as a result. Whether or not the various violence-managing firms will develop into responsible organisations will be a key factor in South Africa's success.

#### PROTECTION RACKETS ON THE CAPE FLATS – FINDING A METHOD IN THE MADNESS

Given this national context, we may presume local protection rackets run by powerful crime bosses exist on the Cape Flats. What is of interest is whether those offering protection are entirely predatory or whether there has been a gradual move towards a more legitimised protection industry, which helps generate support and toleration for organised crime groups in this region.

Generating data to explore these research themes has proved exceptionally difficult and has necessitated using several different methodologies, none of which have been entirely successful. The reasons for this failure may provide clues regarding the nature of protection rackets here.

Official data does not exist. There appear to be no obvious recent court cases relating to protection rackets involving prominent figures associated with organised crime on the Cape Flats. Reinforcing this is the fact that police statistics do not show any records of extortion or protection rackets. There is, in fact, no relevant crime category, although many other categories of crime may implicitly relate to this phenomenon, such as robberies, acts of vandalism against businesses, murders, assaults and so on.

Likewise, in the past 10 years, only one story of protection rackets involving 'gangsters' on the Cape Flats has been reported by the *Cape Times* and *Cape Argus*. This event involved conflict between taxi drivers in Manenberg who refused payment to a local street gang. It is common knowledge in this area that taxi operators are forced to pay 'tax' to gangs in order to operate without being victims of crime, which is a classic example of an entirely predatory form of extortion. Taxis stop at the boundaries of gang turfs and money is openly given by the drivers to gang members. However, on this occasion, for reasons that are not known, a taxi driver refused to hand money over and during the ensuing fight, managed to stab and kill the gang member. A subsequent murder investigation forced the taxi driver to claim self-defence. Reporting on the incident, the *Cape Argus* relayed a statement from the local police commissioner who claimed this was the first time that a taxi driver had lodged a formal complaint against a gang member for extortion. The same police source admitted that extortion was an ongoing problem, but the police were powerless as taxi operators were too scared to come forward with information.<sup>58</sup>

Despite the paucity of official or secondary data, preliminary interviews with sources on the Cape Flats suggest street gangs systematically extort payments from businesses, in both the formal and informal sectors, including in the taxi industry and the shebeen industry. For example, according to a social worker in Manenberg: “Every business pays money to the local gangs”.<sup>59</sup> A former lead figure in PAGAD claimed likewise, as have many others spoken to for this research. However, such sources tend only to offer impressionistic accounts. Thus, asked to describe in more detail the *modus operandi* of gangs who extort money from businesses, the social worker in Manenberg was not sure of the details and argued, “no-one will talk about it”.<sup>60</sup> This view is confirmed by the police, who acknowledge that protection rackets are a problem but claim there is little information about them given the tendency for those involved not to report incidents to the police.

When beginning preliminary research into this topic, it was strongly urged that a cautious approach was needed. The issue of protection rackets was explored during fieldwork in Atlantis, albeit with due caution. Again, several sources initially claimed it was rife there, particularly in the shebeen industry, but also among formal businesses. However, the police there deny this, claiming it is a myth, as did several businessmen. According to the latter, although crimes against businesses by gangs are common, there has been no attempt by any of the prominent street gangs or drug merchants to establish a regular extortion racket. In Atlantis, at least, it appeared difficult to find any person in business who would admit to being a victim of extortion rackets or who knew anyone else who had been approached in this way. We may suspect that people would be unwilling to provide information if there was such a racket, due to fear, but it would be more to conclude that there are in fact no protection rackets in Atlantis – or at least, not involving gangsters and drug merchants.

In an attempt to find more information on the prevalence of protection rackets in the shebeen industry on the Cape Flats, interviews were arranged with members of the Western Cape Liquor Traders Association (WECALTA). WECALTA represents the interests of the shebeen industry and has a membership of several thousand shebeeners. Of particular importance for WECALTA are its attempts to apply pressure on local government to assist in the legalisation of the shebeen industry. It also assists members with their applications for formal business permits. It is run by several prominent shebeen owners and has been outspoken about the dangerous situation in which shebeeners operate on the Cape Flats. It has organised several peaceful protest marches in the city centre.

It was assumed that WECALTA would treat the issue of protection rackets, if prevalent, as a contributing factor in the need for greater regulation and legal status for their members. This belief was premised on the assumption that, once

given legal status, the ability to turn to the police and criminal justice system is greatly expanded, therefore undermining the environment conducive to extortion.

Interviews were conducted with five of the most active members of WEALTA who own shebeens in various locations on the Cape Flats. These interviews were largely consistent on several salient themes. The first was that shebeeners are routinely victimised by crime, particularly theft of stock and armed robberies at the weekends, when the most amount of cash is held on their premises. Because of their informal status, very few shebeen owners have bank accounts or pay tax and their operations are thus almost entirely cash-based. Street gangs were frequently pinpointed as the instigators of these crimes but most WEALTA members interviewed agreed that it was not local gangs that were the most problematic but rather gangs from elsewhere. As one interviewee put it:

The gangsters in my area don't bother me. It is the ones from the other places that come here and cause the trouble. I've been held up many times – the last time they stole my bakkie, all of the cash and the bottles. The local gangs don't do this because we know them and they have nowhere to hide. But, we know that sometimes our gangsters are in on the hit, you know, they have some sort of agreement that they will let the other gang rob us, if they can rob people and shebeens in other areas.<sup>61</sup>

When asked if shebeen owners had to give regular payments to gangs or drug merchants as a form of protection money, none claimed this was a widespread occurrence on the Cape Flats. The answer to this question was unanimous: "The gangsters are not our problem, it is the police". The accusation was that most shebeeners are expected to give money or free alcohol to local police officers if they wish to remain open. It is thus the police who organise local protection rackets, not the gang members:

The police are corrupt. Of course they are. Shebeen owners are very vulnerable to this. It is different for the drug dealers. When the police see them they can throw the [Mandrax] pills in the grass and say 'I'm not doing anything,' but we can't hide, we can't throw our bottles in the grass like that. So the police always come and expect free drinks, money or cigarettes. If you don't give them anything then you will be raided the next day. They will take your bottles. They don't confiscate them to stop people drinking. They take them away, drink it or sell it to other shebeeners who they are on good terms with. You know, there are some shebeens that never get busted, and you wonder why. No, the gangsters are not are problem, it is the police.<sup>62</sup>

It is interesting to note here the reference to a protection rent: those shebeen owners who accept police demands remain in business, those who do not, suffer

the consequences, which perhaps explains why a police protection racket, if indeed present in some areas, can survive.

Some sources in the police offer a different view. To them, the problem is that shebeen owners operate with impunity and the law is not sufficiently harsh. Thus, a common complaint is that when illegal alcohol is confiscated, shebeen owners are able to pay a small admission of guilt fine and can return to business relatively unharmed financially. The police feel they are incapable of stemming the trade, which is currently of massive proportions. A superintendent explained the situation, and alluded to a pragmatic strategy:

We know we can't stop them, but we can target certain premises that we feel are the generators of crime and the worst offenders. You know, we now take the 'oil spot' approach, we target specific generators of crime, and we come down hard on them. It all makes a bit of difference to crime, but we know we can't stop everyone. We just don't have the resources for that.<sup>63</sup>

One cannot be certain that WECALTA members were entirely truthful or offered a definitive analysis. Someone who was present during one of the interviews claimed later that what I was told was a simplification. According to this source, shebeen owners, although not the one interviewed in this instance, are some of the biggest drug dealers and their relationship with criminal groups is more complex. Indeed, time spent with a prominent drug merchant in Hanover Park was mostly based at his shebeen, which was one of the places clearly being used from which to sell drugs.

The complexity of the situation between shebeen owners, street gangs and the police was evident in Atlantis where the police estimate there are approximately 270 shebeens operating at present. Few sources, including senior police officers, deny that police corruption in Atlantis is a problem, although the image of shebeen owners being simply preyed on by the police is contradicted by those who suggest corruption flows in both directions. According to a former gang member, the largest shebeens are all allied to a particular street gang or drug-dealing syndicate. The shebeen owners allow drug dealing to occur and in return, the shebeen remains relatively safe from crime. In other instances, it is the shebeen owner who in fact controls drug dealing and requires his own loyal group to protect the premises. This scenario was described well by Wilfried Schärf in his study of a prominent shebeen owner in the mid 1980s.<sup>64</sup> Schärf explained that the most successful shebeeners on the Cape Flats tended to forge their own groups of gang members who provided both protection and the necessary force to help expand the business and intimidate competitors.

Those operating shebeens are reliant on protection and any sizeable shebeen, almost by default, has to develop relations with the police and gangs in order to

survive. There is little evidence that genuine protection is provided through rackets organised by a third party – it is more chaotic than this and those requiring protection must organise it themselves. Even if the accusations of a police racket are true, at best this seems predatory and there is little evidence to suggest it is well organised or is something that has clear mutual benefits to both parties. If this is indeed an accurate generalisation for the shebeen industry, it does not necessarily follow that other businesses on the Cape Flats will operate similarly.

#### AN ATTEMPT AT A 'BUSINESS SURVEY'

Given the contradictory and limited evidence received through interviews, an additional method of capturing information on protection rackets was deemed necessary. This involved a survey of 150 businesses on the Cape Flats, which was intended to capture information on a broad range of formal and informal businesses. In theory, results from this survey may allow for the triangulation of data, providing more certainty to the situation.

We suspected that businesses being extorted would not be willing to offer information on protection rackets, particularly if this was seen as the main purpose of the survey. In an attempt to overcome this, the survey was designed to study broader issues relating to crimes against business; questions that related to protection rackets were not given prominence.

The survey captured information on the types of businesses, their location, turnover and how long they had been in operation. This information may permit some broad trends to be observed, such as the relative prevalence of extortion for new businesses, or the vulnerability of businesses to extortion rackets if situated in isolated areas as opposed to shopping malls. Interviewees were asked about the number of crimes committed against their business, about the details of the most violent and costly crimes and about how they responded to these events, including what preventative measures they take to avoid crime such as CCTV, private security or keeping a weapon on the premises. In addition, interviewees were asked about gangs in their area and whether they were regarded as a problem for their business or for other businesses in general. They were asked if they had ever been victimised by gangs or if any other person or group had attempted to extort money from them.

Given the possibility that extortion rackets may evolve into more legitimate transactions, businesses were asked whether they paid money to private security firms and whether they were pressurised into accepting the services of one firm in particular. Finally, several questions were included on the relationship between businesses and the police, including information on corruption.

It was the intention of the survey to cover several different areas of the Cape Flats and to target both informal and formal businesses. Included in the original

list of areas were places renowned for having entrenched gangs, as well as a central business district, namely Mitchells Plain town centre. The latter contains many traders and businesses in close proximity. A hypothesis was that a concentration of businesses would be less vulnerable to extortion rackets compared with those areas with fewer businesses, which are relatively isolated.

Unfortunately, the implementation of the survey undermined its effectiveness. An experienced market research company was contracted to conduct the survey and fieldworkers from this company, who were residents of the Cape Flats, were tasked with conducting the face-to-face interviews. On completion of the survey, it was reported that fieldworkers had decided not to target certain areas of the Cape Flats as they feared for their personal safety. Those areas which are considered under the rule of prominent gang members were entirely left out and instead the research focused almost exclusively on Mitchells Plain town centre. It was not possible to conduct a second survey to generate more complete data.

The decision to omit certain areas means the data is incomplete. However, the exercise reconfirmed the notion that the power of organised crime groups in some areas is problematic for outsiders and that it may be precarious to conduct primary research on some topics there. This may be considered an interesting research finding in itself, albeit not one that was anticipated from the outset. However, the data captured from Mitchells Plain town centre remains of interest and suggests a number of issues.

The survey revealed high levels of crime perpetrated against businesses. Out of 75 formal businesses (those registered with the authorities and paying tax), only 19 claimed in the last three years not to have been victim of a major crime. Of the remainder, 17 had been victims of theft (not including theft by staff) once in the past three years, 39 businesses reported theft on several occasions with 12 of these reporting being victims of theft more than 10 times. A further 12 businesses out of the 75 reported being the victim of armed robberies, all involving guns. Two businesses, both supermarkets, claimed they had suffered more than 10 armed robberies in the last three years. It was not surprising to find that 58 of the respondents had considered relocating due to the fear of crime and 27 claimed they knew of other businesspeople who had relocated or closed their businesses for the same reason.

Similar high levels of crime were reported by the 53 informal traders interviewed although the results suggest they were much less likely to be the victims of armed robberies, with only two reporting this crime. Twenty-one informal traders said they had not been the victim of a major crime in the last three years, with 35 reporting thefts and vandalism on several occasions. Eight traders claimed they had been victims of violent crimes, including instances when they had been attacked by customers.

Perhaps an alarming finding was a very low level of reporting crime to the police, as well as poor experiences with the capabilities of the police to investigate and prosecute offenders. Only seven of the informal traders said they had reported crimes to the local police and not one said the police had conducted an investigation and found the guilty party. Among the formal businesses there was a much higher rate of reporting crime, possibly because of insurance claims. Fifty of the 75 businesses reported instances of serious crimes to the police but only 10 of these claimed that the police had been successful in arresting the offenders. When asked to give reasons why they felt the police were either effective or not, approximately 60% of the respondents cited police corruption as an issue. Despite this, it is noteworthy that over 80% of respondents agreed that they would turn to the police if they were subject to a violent crime, suggesting that the legitimacy of the police is not entirely undermined here.

When asked whether they had experienced extortion involving criminal gangs or other criminal operators, including drug merchants, only four of the formal businesses claimed they had done so, with two of these claiming they had been approached for money on several occasions. However, far more of the informal traders claimed this was a problem, with 14 out of 53 reporting being extorted for money by criminal groups. The survey suggests, however, that these incidents are sporadic and not part of a well-organised protection racket. When asked for more details regarding instances of extortion, three of the four formal businesses claimed they refused to pay while the fourth paid only once. In this instance, the fee extracted was R250. None of the informal traders who admitted being approached by gangs for payments provided information on the amount involved, which suggests they were not entirely trusting of the interview. However, only two said this occurred more than once, which again strongly suggests opportunistic crimes rather than a sustained racket.

When interviewees were asked directly if they thought other businesses were being targeted by criminal groups for extortion or protection payments, few thought this was widespread. Fourteen of the 53 informal traders thought other businesses were being targeted. When asked if the businesses were provided with any protection from crime in return for these payments, only two of the 14 agreed this was the case. Asked if they would consider approaching a gang leader or drug merchant for help in a crisis, only three said they would, although over half of the informal traders declined to answer.

In order to explore whether protection rackets were being organised through security firms, formal businesses were asked if they paid money to a third party for security, and if so, whether they felt they had a choice in which security firm to use and whether they felt free to stop making payments if they were dissatisfied with the service. Of the 75 formal businesses, 33 reported paying security firms,

which alone suggests that paying for third party protection is not a ubiquitous phenomenon. We would suspect that where a protection racket was active, more businesses would be forced to join. Out of these 33, only five were not satisfied with the service provided. Eleven felt unable to find an alternative security company but this does not suggest coercion and is probably due to the simple fact that few security companies operate in the area and competition is therefore low.

Respondents were asked additional questions regarding their relationship with criminal groups in the area. By and large, most respondents were negative about street gangs. However, 25 of the 75 formal businesses claimed not to feel threatened by them, as did 12 of the 53 informal traders, with two claiming they had good relationships with the local gangs.

#### SUMMARY: CHARACTERISING THE SOCIAL RELATIONS OF ORGANISED CRIME

Primary research on the phenomenon of protection rackets on the Cape Flats has produced inconsistent findings. There are many people who claim that protection rackets are common throughout the region, particularly involving the shebeen industry. However, in two areas studied for this research, Mitchells Plain and Atlantis, there is very little evidence of well-organised protection rackets, although there are high crime rates and insecurity alongside ubiquitous criminal groups and street gangs. Where extortion is recorded, our data suggests this is opportunistic, predatory and sporadic. Interviews with shebeen owners do not suggest that they routinely pay protection fees to criminal groups, but rather that they are vulnerable to receiving demands and threats from corrupt police. Others feel this is something of a simplification and there is a more intimate relationship between street gangs and shebeen owners.

It is not possible to be sure of the exact extent and nature of protection rackets throughout the Cape Flats. There are considerable methodological challenges to this work. We may suspect that protection rackets, where they occur, will be localised. It is also possible that this does not represent the main income of criminal groups, partly because the local economy is depressed and the money available from other avenues, such as drug dealing, is far superior. Much more empirical evidence is needed on this subject before we can make confident conclusions.

What does seem clear, however, is that organised crime on the Cape Flats is far from representing the Sicilian Mafia model. We find little reason to suspect that leading figures of organised crime gain their power through providing anything near genuine governance. Income from illicit market activity would not seem subordinate to providing protection and dispute settlement. Instead, what we find is that the power of organised crime seems linked to the growth of money being made through illicit market activities, above all drug dealing, which may generate the most impressive returns.

Organised crime is an embedded feature of the region, particularly among the poorer communities. Here we find evidence of support and tolerance for organised crime. This is due to a combination of factors, including adoration, widespread involvement in illicit market activities and largess, perhaps also the tacit support of the church. Overall, the impression is that organised crime helps create this community sentiment as a consequence of crime; it attempts to regulate aspects of the criminal economy and offset and displace its most obvious negative implications. Meanwhile, we suspect being held in high esteem provides a sense of glory, a celebrity status, which reinforces adoration among others. Cause and effect are hard to separate. Power may provide the means to accumulate wealth and wealth may be the source of further power as it confirms status.

Thus, the power of organised crime is not *entirely* predatory, and there are reasons why this was to be expected. Where organised crime is entrenched, pure terror and exploitation are not sustainable. This is why the parasitic model is limited for it denies the social contradictions of organised crime, namely that the power of organised crime lies in both anti-social and social elements. Overall, we may feel that the contribution made by organised crime is pernicious, but the social elements are allowed to exist in an environment which is far from the 'good society'.<sup>65</sup>

#### DISCUSSION: ORGANISED CRIME AND THE THREAT TO DEMOCRACY

When analysing the relationship between organised crime and the state there is widespread agreement that organised crime thrives in regions where the state is weak.<sup>66</sup> Whether we accept this as valid or not depends on what we define as organised crime and what we mean by a weak state. If organised crime is simply defined as making profit through illegal means we may find that it has been, and continues to be, prevalent in regions with strong central governments. However, I think we can improve on this theory by making the distinction between groups and individuals engaged in illicit enterprise (which may include business and political elites) and those who assume positions of community power, or governance. As noted above, criminal governance describes more than simply making money; it alludes to a social power based on regulating people and communities in ways not sanctioned by legitimate authority and frequently achieved through violence. Almost by definition, criminal governance will take place where there is inadequate legitimised state authority.

If we accept that criminal governance must thrive under conditions of weak or absent state authority, it follows that the process of what some refer to as modernisation – characterised roughly as the success of democratic rule, the expansion of the welfare state, a move towards full employment and the

strengthening of impartial systems of justice – will naturally diminish the environment in which criminal governance thrives. Indeed, this process has been discussed in the context of the Italian Mafia in America. During the early twentieth century, Mafiosi in Italian immigrant groups in American cities provided similar forms of violent protection and dispute settlement as their counterparts had in Sicily for over a century previously. Yet from the mid twentieth century onwards, during the New Deal, Italian immigrant communities were less marginalised and there was little requirement for the Mafia to provide protective or mediatory functions. While gangsters enjoyed an image of being important community members, the new breed of Italian-American gangsters who flourished from the 1940s onwards became consumer capitalists with a penchant for lavish lifestyles and housing in affluent suburbs, where they rubbed shoulders with other rich and famous people. As Hess argued, these men were no longer true Mafiosi, but were simple gangsters. This new breed of criminals still relied on corrupt links with the authorities to gain immunity from prison but the corruption was no longer sustained by control of voters or manipulation of labour; it was derived from the simple exchange of money derived from illegal enterprises.<sup>67</sup>

If this theory of a relationship between criminal governance and modernisation is correct, the relationship between the state and forms of criminal governance becomes pertinent in our contemporary epoch, defined by some as an era of post-modernity. As John Lea<sup>68</sup> has argued, the exhaustion of the modernising process, characterised by the weakening of democratic institutions, growing structural unemployment and the retreat of the welfare state – the shrinking of the state, as it is sometimes referred to – may lead to new areas where forms of criminal governance may be re-appearing. In these regions, the state loses its ability and interest in providing authority and basic needs. Non-state groups adept at monopolising violence are capable of muscling in and they will provide what one author has called “governance from below”.<sup>69</sup> This process may be particularly evident in inner-city ghettos, but equally there are large regions of the world where the process of globalisation has created nation states that are weak, corrupt and incapable of providing universal sovereignty. Manuel Castells has called those places that are excluded from the formal economy and/or state security the “black holes of informational capitalism”, of which there are many in Africa, but also an increasing number in First World countries.<sup>70</sup> Under these conditions, mafias, multi-national companies, warlords, guerrilla movements and street gangs all become possible wielders of non-state governance, which may be violent and criminal in nature and enjoy popular legitimacy to varying degrees, if at all.

Criminal governance on the Cape Flats, as described in this chapter, needs to be placed in this wider context. The social power achieved by drug merchants and gang leaders should be viewed as both cause *and* effect of inadequate state

authority and an inability by the state to provide a monopoly of force and basic social and economic security. This is uncontroversial. Less clear, and potentially more controversial, is the threat posed by criminal governance to democracy.

From a reading of the international literature on organised crime it will be clear that in the minds of many commentators, organised crime is a profound threat to all modern democratic nations. Some go so far as to suggest it is the most pressing problem facing the stability of the nation state since the Cold War. Susan Strange and Letizia Paoli, for instance, conclude a chapter examining the rise of organised crime by suggesting that it is now "*the* major threat to the world system in the 1990s and beyond".<sup>71</sup> In the introduction to a recent collection of essays on this theme, entitled 'Organized crime and the challenge to democracy', it was stated that the proliferation of organised crime globally means "democracy is generally in danger".<sup>72</sup> Roy Godson and Phil Williams argue that organised crime "has become a critical challenge to democratic governance, to transition and modernisation processes in many parts of the world, and to national and international security".<sup>73</sup> Peter Martin provided a neat summary of the problem as many view it:

Democracy around the globe is facing formidable challenges today, not from martial forces from outside, as we saw heretofore, but from subversive militants from within. Democracy is infected by a pernicious affliction initiated and propagated by organized crime that gains control progressively, maybe first as only a communal gang, to later transform itself into a market driven force, eventually infiltrating the legitimate government at all levels, and finally rendering the government powerless. Throughout the metamorphosis organised crime enlarges its power structure and fortifies itself as democracy atrophies or is lost altogether.<sup>74</sup>

This is a frightening image. Here a key dimension to the parasitic model is evident. Organised crime is treated as an external threat that resembles a virus. Democracy is the unwitting host to this virus and the disease develops in a linear fashion. Lupsha<sup>75</sup> identified three stages to this infection: a predatory stage, during which criminal groups gain a foothold; a parasitical stage, where criminal power and wealth has increased and infiltration of political office and legal business has occurred; and finally, a symbiotic stage, where organised crime groups have fully infiltrated the political, judicial and economic structure of a country. Democracy is almost dead at this point.

There are a number of issues which make this parasitic model a limited one and particularly when it is applied to the case of Cape Town and South Africa. First, it seems much of the literature can be accused of overstatement. Modern democracy is in a state of crisis and this is multi-faceted. Casting organised crime

as the major threat seems to lack credibility in all but a small minority of countries. Colombia and perhaps Russia are the worst-case scenarios but it is not clear whether these countries represent the future for other countries. As mentioned in the previous chapter, the corruption and infiltration of politics and legal business by criminal groups occurs alongside high levels of corruption and rent-seeking behaviour from within public office. Moreover, corporate elites bribe politicians, give huge 'secret' donations to political parties and use various tactics to influence state policy making for their own benefit, often in ways that create profound environmental and social damage. If we then consider the threat posed to countries such as South Africa by structural unemployment, disease linked to poverty, growing prison populations and interpersonal violence, we may feel that the relative threat posed to the country by criminals who have amassed impressive wealth is, at best, one ambiguous threat among many.

So, there is a tendency towards overstatement and exaggeration when theorising on the threat posed to democracy by organised crime. However, the critique of orthodox thinking must go further than this. The parasitic model also provides a limited scenario in depicting the evolving relationship between organised crime and the so-called democratic state. The parasitic model is based on a straightforward linear process. There are two variables: democracy and organised crime. The growth of organised crime is portrayed as opportunistic – democracies inadvertently allow organised crime to flourish and once this path is set, an increase in the power of organised crime naturally diminishes the power of democracies. There are two core arguments as to why this view is problematic.

#### CORRUPTION AND THE SHARING OF POWER

Eric Hobsbawm described the genesis of mafia groups concisely:

In lawless communities power is rarely scattered among an anarchy of competing units, but clusters round local strong-points. Its typical form is patronage, its typical holder the private magnate or boss with his body of retainers and dependants and the network of influence which surrounds him and causes men to put themselves under his protection.<sup>76</sup>

It is thus under conditions of lawlessness or where there are power vacuums that 'strong men' emerge capable of supplying some surrogate authority through monopolising force. It is for this reason that the phenomenon of criminal governance, or the Mafia, is often associated with regions considered backward or isolated. Criminal power on the Cape Flats, which is characterised by high crime rates and by law enforcement that has struggled to achieve legitimacy, can be viewed almost as a natural outcome. However, once established, the relationship

between those providing criminal governance and the state is not necessarily one of competition – it is not simply psychological warfare, as Altbeker observed. Having assumed this function, unless the state is entirely disinterested, the 'crime boss' becomes an important player in local politics and commerce, which means the relationship with the state and other institutions of power can be ambiguous.

Several historical examples show that criminal groups become convenient allies in local politics and are used for services such as breaking up protest movements, subduing organised labour and convincing those under their rule to vote for the right party. In the case of the Sicilian Mafiosi, providing these services to politicians and landowners meant the Mafia could be assured of immunity from investigation and prosecution. In other words, weak states do not simply leave the Mafia alone, nor is it the case that the Mafia simply regards the distant state as a threat to its local power. Rather, there is a tendency for corrupt relations between the two that, at least in the short term, can be mutually beneficial.

Chapter three discussed police corruption as it relates to the criminal economy. However, one should link police corruption with the broader concept of criminal governance. On one level, corrupt relations between organised crime and the police are a mechanism whereby those with criminal power become entrenched and virtually immune from prosecution and arrest. The scale of this corruption is indicated by the fact the state sees it necessary to turn to law enforcement agencies from outside the immediate community (as in the high-flyer initiative). However, the influence of the police in furthering criminal governance can be more subtle than corruption or collusion in criminal ventures. Here we must acknowledge the hostile environment in which police operate. Community distrust and animosity towards some police officers has the effect of undermining traditional strategies for investigating crime and gathering information.

It was noted above that the normalisation of certain crimes may be adding to this fracture between law enforcers and the community. It is in this situation that police rely on strategically placed individuals to keep abreast of what is going on in communities, to get access to information and gather 'intelligence'. Among others, drug merchants, shebeen owners and some gang leaders are all potential sources of ad-hoc information – what Jensen<sup>77</sup> referred to as safe bases for police patrols. This informal interaction between the police and career criminals strengthens criminal governance in various ways. First, it has a psychological impact in communities. Informal interaction between the police and prominent career criminals does not go unnoticed and this confirms a belief among community residents that the police cannot be trusted. Simultaneously, the fact that police frequent the houses and shebeens of career criminals may add to their local image as important men – the drug merchant's status as the local patron is confirmed.

Second, relying on organised crime for information opens the possibility that

criminals can influence whom the police investigate. This was an observation by Schärf<sup>78</sup> who speculated that in some instances, the rise of successful policemen is shadowed by a rise of criminals who are their source of information. In isolation, organised crime can have the effect of assisting law enforcement.

But what of the relationship between organised crime and politicians? Due to the limited evidence, the issue of political corruption involving Cape Flats gangsters must be treated as a question rather than as a matter of fact. During apartheid there was a limited role that powerful criminals could play in local politics. The state had no need to capture coloured votes for it had disenfranchised coloured people and made their political representation farcical. Nonetheless, gangsters were relevant to the political struggle, albeit not to an extent that could be considered historically significant. As described in chapter three, towards the mid 1980s the growing economic and political pressure faced by the apartheid regime encouraged the SAP and SADF to use some gang members to undermine the political mobilisation of those opposed to apartheid. Don Pinnock wrote in 1984 that gangs would not sell out to the highest bidder,<sup>79</sup> but this was shown to be optimistic. The fact that gang members were implicated in serving both sides of the political struggle shows that organised crime on the Cape Flats has been apolitical – street gangs in the coloured community cannot be considered ideologically motivated or aligned. Indeed, the most we can say is that gangs have tended to be self-serving and interested in their own wealth creation and local hegemony, which is not alien to many political movements and organisations.

However, with the advent of the first general elections the potential for gangs to play a more strategic role was increased. This is particularly so as the Western Cape emerged as the only province that contested ANC political dominance. The coloured community – and coloured vote – meant there was heightened interest by all political parties in gaining influence on the Cape Flats.

According to several people involved in campaigning during the first election, all parties met with influential gang leaders and drug merchants. If accurate, this confirms that these people represent ‘gatekeepers’ in these areas: people who have a strong degree of community influence, particularly related to regulating violence and crime. A member of the UDF told me that before the first election he was tasked with meeting Colin Stanfield in order to negotiate safe access to several communities that he controlled. The same source also alleged that later, those working for the ANC made similar requests to Stanfield and other leading gang members. Indeed, an event that has become infamous involved a meeting in 1993, between senior ANC leaders and gang leaders and drug merchants, at a hotel owned by one of the principal drug merchants of the Firm. The purpose and outcome of this meeting remain unclear. Almost all the drug merchants present have since been murdered. However, it was noteworthy that Stanfield, who

allegedly attended this meeting, became an open supporter of the ANC and held a mass celebration for Mandela's victory in 1994. Moreover, although local ANC officials on the Cape Flats were horrified when they heard certain gangs had obtained membership of the ANC, these memberships were upheld by provincial ANC leaders.<sup>80</sup> This suggests that deals had been struck.

According to a defence lawyer who has worked closely with several leading gangsters on the Cape Flats, to doubt the link between political parties and organised crime is naïve.<sup>81</sup> He believes the influence gang leaders have in communities is considerable, making it almost natural that politicians will come into contact with them through electioneering. Evidence for this link surfaced recently when the head of the Independent Democrats (ID), Patricia de Lille, was accused of taking R300,000 from Quinton Marinus, so-called Mr Big. De Lille has denied this but has admitted that Marinus lent a fleet of taxis to the ID in the run-up to the local elections in 2004. Moreover, the ID used a recording studio in a shebeen owned by Marinus to record their political jingle. The recording artist has become well known through his work with another gang leader, Ernie 'Lastig' Solomons, who made a controversial rap album containing tracks with lyrics on gangs and the prison Numbers. The claim by De Lille that she did not know Marinus was a drug merchant or gang leader was hard to believe.

The extent of corruption between organised crime and political parties remains almost impossible to know, as does that between drug merchants and the police.<sup>82</sup> Although there are those who suggest it is common, it would be mischievous to conclude that many leading figures in organised crime on the Cape Flats have gained protection from political parties. This requires more investigation.

#### ORGANISED CRIME AS A COUNTERMOVE

On a local level, we can say that the impact of organised crime is difficult to generalise about. There are clear reasons why those gaining criminal power are profoundly threatening. There is widespread evidence to show that organised crime does not tolerate those who threaten their own hegemony. Non-violent civil society groups may face extraordinary challenges in working in areas controlled by organised crime. In this way, organised crime does pose a threat to democratic forms of governance.

However, this chapter has illustrated that the power of organised crime on the Cape Flats lies partly in it exploiting power vacuums and supplying basic needs to large numbers of people, which are not being met by the formal economy or by state welfare. In this situation we need to consider whether, or to what extent, organised crime is softening the impact of a crisis in state governance. In doing so, the impact of organised crime may not be entirely threatening to the state;

rather, it is working as a force that helps sustain state legitimacy. We may prefer to see criminal governance and the criminal economy operating as what Karl Polanyi<sup>83</sup> termed a countermove against the destructive tendencies of capitalism. Such countermoves can be understood as aspects that either delay more radical crises or avert them completely.

I am not suggesting organised crime is a positive social phenomenon. Indeed, on a local level those engaged in organised crime are clearly guilty of intimidating people and occasionally terrorising them. Yet, the stark reality in Cape Town, as elsewhere, is that the government is no longer capable of including large numbers of people, who are currently languishing in the ghetto (or in prison), in the formal economy. Organised crime is a noxious substitute for decent employment and it provides an ugly form of control. But if the government were able to arrest all the drug merchants on the Cape Flats, dismantle street gangs and eradicate all trade in drugs and illicit commodities, there seems little reason to hope that the legitimate economic potential of the region would be unleashed and 'good governance' would flourish as a result. Removing organised crime and street gangs may expose more profound social and economic predicaments, which are currently muffled through abusing drugs, ad-hoc philanthropy and an obsession with intragang competition.

In this respect, those who hope to see radical changes in the way society is ordered may view organised crime on the Cape Flats as a hindrance to progressive transformation. Not because powerful criminals infiltrate government and encourage bad policy, but because organised crime inadvertently covers up the more glaring contradictions of the economy and dominant neo-liberal ideology. A similar situation has been noted elsewhere. Philippe Bourgois ended his remarkable study of East Harlem by explaining:

The inner-city represents the United States's greatest domestic failing, hanging like a Damocles sword over the larger society. Ironically, the only force preventing this suspended sword from falling is that drug dealers, addicts and street criminals internalise their rage and desperation. They direct their brutality against themselves and their immediate community rather than against their structural oppressors.<sup>84</sup>

We may feel that the influence of the church is similar, particularly relating to the new wave of evangelical churches that preach to the poor that their route to salvation lies in donating money, often to the great reward of the church leaders.<sup>85</sup>

Arguably, the threat posed to state hegemony from 'governance from below' lies not in its growth and consolidation, but rather with its internal disintegration. For the time being, this seems unlikely. Predicting the future is a precarious undertaking for social scientists, but the divide in the city may be unsustainable

and it is not far-fetched to imagine various groups, possibly including well-armed gangs, engaging in more frequent and better-organised protest. This is not to suggest street gangs represent potential institutions of well-articulated political protest. Rather, they may be potential generators of anti-establishment frustration. The riots in Los Angeles and, more recently, in Paris, show how single events can spark anger among marginalised people. The riots in Paris did not go unnoticed in Cape Town. In November 2005, the Finance Minister, Trevor Manuel, admitted during a speech in Cape Town that the city is facing a time bomb if it cannot address growing income inequality and unemployment in the ghettos.<sup>86</sup> The choice to adopt aggressive legislation and increased sentences for gang members may agitate social relations rather than 'remove the threat'.

The relationship between organised crime and democracy is therefore a complex one and it may be too simplistic to see organised crime as purely antagonistic. This is a key reason why the parasitic model remains inadequate as a general theory on organised crime.

A second reason takes us into the theme of the final chapter. The threat posed to democracy by external forces, such as organised crime, lies partly in the reaction of policy makers. In cases where politicians and their consultants exaggerate and simplify the threat posed by external groups, we see that perceptions of crime become a critical strategy to gain legitimate positions of power and authority; a simplified and exaggerated notion of crime, as is also the case for terrorism, becomes a convenient vehicle to manage more profound crisis and even extend power. This is an important dimension for the subject of how organised crime threatens democracy, for it is not only in the activities of such criminal groups where the threat lies but also in the retaliation by the state, which may undermine civil rights and entrench powerful interests. This process may be justified as being necessary steps in 'fighting the war', but ultimately these policies challenge notions of democracy and individual freedoms.

## NOTES

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- 9 Interview, SAPS, May 2004, Atlantis.
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- 12 Ibid, p 115.
- 13 Ibid, p 115.
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- 16 Interview, anon., Cape Town, May 2005.
- 17 Interview, anon., Cape Town, October 2004.
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- 19 For example, I visited Tafelsig and Hanover Park on consecutive days. I managed to get lost in Tafelsig on my way to a meeting. While I was attempting a three-point turn, an old man came out of his house and almost demanded that I leave because, as he put it, "The gangsters will shoot you". The following evening I was invited to a shebeen owned by a prominent drug merchant. I phoned him before our meeting to try and confirm that it was safe for me to visit. He took mild offence at this question, but nonetheless he asked me what type of car I was driving. When I arrived at the shebeen the drug merchant was not there, but several people outside the building welcomed me and offered me drink and food. I felt entirely safe, although there were several people sporting guns and other weapons. It seems entirely possible that my experience is exaggerated because I am white and clearly an outsider. However, I believe that other community residents on the Cape Flats would also not feel safe entering into gang-controlled areas where they were not well known.
- 20 A Altbeker, *The dirty work of democracy*, Jonathan Ball, Johannesburg, 2005, p 85.
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- 22 This is alluded to in B Dixon & L-M Johns, *Gangs, Pagad & the state: Vigilantism and revenge violence in the Western Cape*, Violence and Transition Series, 2, Centre for the Study of Violence and Reconciliation, Johannesburg, 2001.
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- 36 Interview, anon., Bonteheuwel, January 2004.
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- 38 Interview, anon., Cape Town, February 2004.
- 39 *Sunday Argus*, Gangster Stanfield hailed as a messiah, 10 October 2004.
- 40 Interview, anon., Cape Town, April 2004.
- 41 I Kinnes, *From urban street gangs to criminal empires: The changing face of gangs in the Western Cape*, Institute for Security Studies, Pretoria, 2002, p 16.
- 42 E Arias, The trouble with social capital: Networks and criminality in Rio de Janeiro, paper presented at the Annual Meeting of the American Political Science Association, 2002, p 16.
- 43 Antony Albekker, op cit, dismisses this view. He has argued that such an account is inadequate because it suggests the relationship between community and gangsters is one in which the community is reduced to "silly, sweets-obsessed children who could be easily and cheaply bought off" (p 86). Where Albekker is correct is that the relationship is more complex than this, but unfortunately it *does* seem that the extent of poverty on the Cape Flats, as elsewhere in South Africa, dehumanises people to the point where trivial gifts and small amounts of money are readily taken and are much appreciated, no matter who is doing the giving and for what reason.
- 44 Interview, December 2003.
- 45 Kinnes, op cit, p 16.
- 46 Official court transcript, November 2002, p 3654.
- 47 Ibid, p 3596.
- 48 Interview, anon., May 2004.
- 49 The link between running the Coon Carnival and making money may lie in the fact

- that some leading figures in this event monopolise the sale of costumes and paraphernalia. Given that there are 170 troops, with an average number of participants somewhere in the region of 800, we can see that there may be a lot of money at stake. However, this does not detract from the argument being made here – that assuming a visible position of authority in the Carnival provides glory as much as it does wealth.
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- 51 Ibid, p 171.
- 52 V Volkov, Security and enforcement as private business: The Conversion of Russia's power ministries and its institutional consequences, in V Bonnell (ed), *New entrepreneurs in Russia and China*, Westview Press, London, 2001, (page unknown).
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- 55 For example, see T Boyane, *Non-state ordering in post-apartheid South Africa*, University of Cape Town Press, Cape Town, 2001.
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- 58 *Cape Argus*, Taxi driver takes on gangster over 'taxes', 4 July 2003.
- 59 Interview, anon., Manenberg, October 2005.
- 60 Ibid.
- 61 Interview, January 2006.
- 62 Ibid.
- 63 Interview, SAPS, October 2005.
- 64 W Schärf, Shebeens in the Cape Peninsula, in D Davis & M Slabbert (eds), *Crime and power in South Africa*, David Philip, Cape Town, 1985.
- 65 I have argued elsewhere that the power of organised crime is based partly on social elements and this view was reported in the local press in 2004. Not all agreed with this understanding and several people voiced strong concern, some writing letters of complaint to the newspaper. However, I feel my argument was not being fully understood; it is not being said that drug merchants should be congratulated or considered to be making a positive contribution to society – far from it – but rather

that, to understand why they have become entrenched and locally powerful, one must appreciate reasons why some people living on the Cape Flats, and particularly the most marginalised, tolerate them. I would agree that drug merchants, typically, are despicable characters.

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- 67 H Hess, *Mafia & mafiosi: Origin, power and myth*, New York University Press, New York, 1996, pp 161–175.
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- 69 K Stenson, Crime control, social policy and liberalism, in R Smandych (ed), *Governable places: Readings in governmentality and crime control*, Dartmouth, Aldershot, 1999.
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- 80 Dixon & Johns, op cit.
- 81 Interview, January 2005.
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- 83 K Polanyi, *The great transformation: The political and economic origins of our time*, Beacon Press, Boston, 1957 (first published 1944).
- 84 P Bourgois, *In search of respect: Selling crack in El Barrio*, Cambridge University Press, Cambridge, 2003, p 326.
- 85 Again, some churches in this respect operate as a quintessential protection racket. But it is far more advanced than what we usually think of as organised crime. The Mafia, for instance, creates the threat of violence and demands money. The new wave of

evangelical churches takes this much further: they create the threat of hell and explain that the only sure way to escape this eternal damnation is to give money. Telephone donations are encouraged, meaning that people as far away as Africa can give their money to churches in America, for instance. Switch on the religion channel on any satellite broadcasting network and one will find evidence of this.

86 *Cape Argus*, 18 November 2005.

## **Conclusion:**

# **The problem with the parasitic model and related policies**

It will be remembered from chapter two that from 1998, South Africa experienced something of a revolution in fighting organised crime. At the forefront of this revolution was POCA, which is essentially a combination of the US statute known as RICO and the Californian STEP Act. Alongside POCA, the state developed new capacity to investigate and prosecute organised crime. The most important institutions in this regard are the Scorpions Unit and the AFU. On a level specific to Cape Town, the local authorities proposed 'new weapons to fight gangsterism'. Among these are a dedicated gang court, the high-flyer programme and a photographic database of gang members to support prosecutions under POCA. The announcement of these measures has been characterised by a concerted effort by the local authorities to declare war on gangs and organised crime on the Cape Flats.

It is important to be aware of the difficulties facing policy makers in this area. The problems associated with gangs and organised crime – sometimes inaccurately – are profound and there is clearly no easy solution. What is more, those in authority seem continuously under pressure to deliver unreasonable results. This is partly their own doing as those pursuing power in public office routinely make claims for the future that lack credibility – at regular intervals (and particularly before elections or after new senior appointments) we hear that the gangs will be destroyed and that a certain number of high flyers/gang bosses/drug lords will face the wrath of the law. Alternatively, dips in the crime statistics are simplistically attributed to something the authorities recently did, such as increasing budgets – although increases in crime statistics are not their fault, so we are told, and crime statistics anyway cannot be trusted! Meanwhile, the press and some civil society groups respond to the latest crisis (a gang war, an unsuccessful prosecution etc.) by demanding new solutions and more success. Further pressure is mounted by a range of claim-making agencies that may have a vested interest in overstating the real extent of the problem. Such claim-making agencies include anti-crime forums, research NGOs, academic departments and groups such as BAC.

Faced with these pressures, the authorities may feel on the defensive and so rush into making new policy or radical claims for the future. The environment in which policy is developed does not encourage realistic goals to be set, nor does it permit policy makers to be open about the complex task at hand, nor about the fact that the link between policy and outcomes is ambiguous, slow and difficult to measure. It is possible that this defensive mindset may have contributed to the decision taken by the then Head of the Western Cape DCS to proscribe members of his staff from participating in a seminar on gang policy organised in 2005.

We can thus be sympathetic to the situation facing policy makers and this needs to be born in mind when evaluating their policy choices. However, this should not detract from some important arguments that suggest the current policy thinking is far from satisfactory.

In this final chapter, the first part summarises the faults with the parasitic model, particularly regarding assumptions about the nature of organised crime and street gangs. In the second part the specific policies chosen by South African authorities are scrutinised, the general argument being they are unlikely to offer long-term solutions and they may have unintended negative consequences. The final part of the chapter considers what alternative approaches could be developed.

#### PART 1: RE-CONCEPTUALISING THE PROBLEM

Chapter two described the official view of organised crime and gangs in South Africa, and it was shown this is consistent with an orthodox understanding that has its origin in America and is referred to as the 'parasitic model'. Several points of contention raised in chapter two were explored in subsequent chapters. We are now in a position to review the conceptualisation of organised crime, as well as comment on the understanding of gangs. This is a necessary first step in evaluating policy thinking, for if policies are based on a poor conceptualisation of the problem, then we suspect policies themselves will be problematic.

#### ORGANISED CRIME AS A DISTINCT ENTITY

Although official definitions of organised crime are broad, merely stating that organised crime refers to a group of three or more people engaged in serious crime over a period of time, those adhering to the parasitic model show a tendency to interpret organised crime as involving sinister, distinct criminal entities with a degree of internal organisation, including a leadership tier. An indicator of this mindset comes from official statistics which describe organised crime as consisting of many hundreds of *separate* organisations. If one takes a different view of the reality of organised crime, then such statistics would seem dubious – relationships

between criminals (including corrupt police) engaged in profit-driven crime can be thought of as capricious and competitive. Where one group starts and another begins may not be clear in reality. This means it is not possible to quantify organised crime in the way most South African commentators have done. This certainly seems to be the case on the Cape Flats. It was argued that there may be several hundred gangs here, but the working of the criminal economy showed that one of its key aspects was the existence of networks between gang leaders and independent drug merchants. Moreover, the individual gangs, on closer inspection, seem internally fragmented.

Perhaps one of the least problematic definitions of organised crime is the one used by Michael Woodiwiss, which immediately broadens our understanding and undermines many of the assumptions contained in the mainstream international literature:

Organised crime is systematic criminal activity for money or power. Organised crime, understood in this way, is as old as the first systems of law and government and as international as trade... While organised crime has never been exclusive to any one race, ethnic group, class, profession, or gender, many studies have shown that those with power, influence, and respectability in local, regional, national, or international society have tended to organise crime more successfully and securely than those without. Myth and misrepresentation have, however, distorted this historical record.<sup>1</sup>

One criticism remains. Woodiwiss does not deal with the fact that those with power define what does and does not constitute crime and therefore the subject of organised crime, if followed narrowly and through legalistic definitions, will only tell a limited social history. In chapter four, I suggested that if one ignores what is proscribed in law and adopts a harms-based approach, one may arrive at a very different understanding. Here again, it is worth noting the work of Charles Tilly,<sup>2</sup> who argues that the history of state making was typically pernicious and thus, starting from a less legalistic definition of crime that is based on subjective notions of greed, violence and exploitation, most modern nation states – at least in Europe – had their genesis in what can be described, in essence, as organised crime or ‘racketeering’. This is an historical view applicable to South Africa.

Even from a contemporary perspective, based entirely on existing legal norms, we find that it is a difficult task to locate organised crime as defined in law purely among a select group of career criminals. Profit-driven crime is perpetrated by all classes, and is increasingly noted among corporate and political elites. Even if it can be shown that certain ethnic minorities or marginalised groups tend to engage in organised crime more than others do, the distinction is, at best, a matter of degree.

What follows from this re-conceptualisation of organised crime is that it is also no easy task to show that there has simply been a quantitative increase in organised crime since the ending of apartheid. We may wonder whether this increase is calculated based on the number of people involved in organised crime, the number of distinct groups, the aggregate turnover of criminal activity, the volumes of illegal goods and services traded, levels of victimisation or perhaps the perceived threat to society. None of these different ways of measuring organised crime have been seriously pursued through empirical research, although this does not hinder bold assertions about the rise of organised crime by many of the leading experts in this field. Moreover, taking any of these indicators, it seems plausible that South Africa had a very high level of organised crime under apartheid and it is moot whether the country experienced a huge increase during the mid 1990s, as has become the accepted wisdom.

This is not to argue that South Africa does not have a serious problem with organised crime. Nor is it to suggest that during the period of political transition there were no new developments in criminal activities. However, what needs to be considered is how political transition impacts on the way certain issues are viewed and reported. Organised crime was not a concept familiar to either the police or academics in apartheid South Africa. A hypothesis is that the discovery of the new problem of organised crime partly reflected the discovery of a new concept and was thus not a new problem at all.

A related possibility is that there was a political need for the new concept of organised crime during the mid 1990s. It is well documented that the police under apartheid were concerned primarily with managing political unrest and this became an important source of their funding and operational focus. With the onset of democracy, the police went through a period of restructuring and there was a need for a shift in focus. It would seem plausible that the concept of organised crime became one of the key subjects for the new SAPS. This is not to say this was a calculated manoeuvre, but rather we suspect that different issues would be raised as new priorities after a period of political transition.

In this way, the experience of South Africa reflects a wider development. It is argued by some that transnational organised crime provided a convenient threat in the US to sustain federal spending on agencies whose existence came into doubt after the Cold War.<sup>3</sup> Again, while this may have occurred, it would be a mistake to deny that real changes did occur in global crime during this time. However, the key point is that the concept of organised crime is not simply an objective truth, but is also influenced by political and law enforcement agendas.

#### AN EXTERNAL THREAT

Alongside the tendency to define organised crime as a distinct criminal entity those adhering to the parasitic model also show a tendency to externalise it, the two tendencies being reliant on each other. The growth in organised crime, as well as the corporatisation of street gangs, is explained through factors inadvertently created by societal progress such as improved information technology, easier travel, less policing and more open borders. Such explanations conjure an image of an essentially good society being threatened by invasive groups. The same factors are also used to explain why organised crime or gangs have become 'more organised', which appears to be an intrinsic reason why organised crime is increasing in scope, size and threat.

The problem here is multifaceted. The first issue relates to corruption. The state is viewed as a passive victim of corruption, with organised crime being the culprit. Corruption is considered narrowly as a means for those involved in organised crime to protect themselves and further their nefarious power. Throughout this study the issue of how the police, and perhaps politicians, actively engage in organised crime has recurred, which suggests it is a critical theme. There is a more complex reality to corruption, which does not permit a parasitic model to be the only version of events. At times, it is the state that engages in organised crime as a means to achieve hegemony; at other times it appears that people working in the public sector engage in organised crime for their own benefit and they can do so because of the privileged power they have. Thus, any general theory of organised crime must also include concern with the health, morality and accountability of the state and its various governing bodies, rather than simply seeing it as an external threat to the state.

A second issue relates back to the underlying concept, for if organised crime is widespread and conducted by people in positions of political power and in legitimate business, as well as those on the margins of society, then a general theory of organised crime being an external virus seems far from satisfactory. It is an embedded, systemic feature of society.

Even if we accept that what is popularly referred to as organised crime is perpetrated by those outside mainstream society, the parasitic model remains insufficient. We need first to disentangle the activities being subsumed under the title of organised crime to see this. Thomas Naylor's distinction between predatory crime and market-based crime is useful,<sup>4</sup> as is the notion of criminal governance. Each of these three concepts suggests different explanations for their existence.

Predatory crime may be linked to strain theory, although we have seen that it is not simply those denied legal wealth who commit crime, but also those who simply strive for greater wealth and power – predatory crime may be linked to

greed as well as survival and perhaps other emotional and psychological factors are also relevant in some cases.

Market-based crime, on the other hand, cannot be divorced from demand. This is not to suggest markets come into being simply through a latent demand, for suppliers create demand in some instances. However, any explanation of illicit trade in goods and services must start from understanding the reasons why such goods and services are willingly purchased. The range of factors are broad and many are peculiar to the underlying market or unique to the consumer. But ultimately, the parasitic model overlooks this most basic point. According to this view, the existence of markets in commodities such as drugs is blamed on the suppliers, often foreigners, and has little to do with the social, political and economic context, which may explain demand.

Criminal governance, as we have seen, brings forth another theoretical view. This is linked to inadequacies in formal protection and basic human security, which the state is traditionally set up to provide. Criminal governance represents the will of non-state actors to step into the void but we also recognise that criminal governance can exacerbate state weakness and therefore perpetuate the environment in which it thrives. Here criminality is also a matter of degree – there is a continuum from civil society groups offering caring protection to private security companies offering ‘violence management’ at a competitive rate, right through to those who are more predatory or unfair and who use violence more openly and freely.

Many South African explanations for organised crime therefore appear simplistic. We can agree, in principal, that the weakening of the police state and the opening of South Africa’s borders are factors that helped the growth of some forms of organised crime, although the notion that improved information technology has played a role seems less easy to accept, for most forms of organised crime described by mainstream commentators appear anything but technologically advanced. But to argue that these sorts of factors were pivotal in the growth of organised crime lacks credibility and suggests a poor level of theory among organised crime experts. This is not peculiar to South Africa but is rather a fault with the international mainstream literature which has been influential here.

#### ORGANISED CRIME AND GANGS

The orthodox understanding of organised crime is therefore problematic. The notion that there are distinct criminal entities, which exist outside mainstream society, seems to lack both conceptual coherence and empirical evidence. However, the subject of organised crime becomes even more confused when the notion of a gang is included.

It is important to stress that clarifying what these two concepts mean is a matter of interest beyond the confines of academic discussion. It is relevant to policy thinking. For example, in South Africa the distinction between the two concepts has been made in legislation: in POCA, gangs have their own section. Likewise, there are plans for a gang court and a gang database, and there is currently an operational organised crime unit in the police. Previously there was a specialised gang unit in the police in the Western Cape but it was disbanded.

Although there has not been a serious attempt in South Africa to explain what gangs are, we do find several brief explanations as well as an official definition. Copying an American official definition, South African legislators decided the following was adequate:

[A] 'criminal gang' includes any formal or informal ongoing organisation, association or group of three or more persons, which has as one of its activities the commission of one or more criminal offences, which has an identifiable name or identifying sign or symbol and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.<sup>5</sup>

Three issues stand out in this definition, rendering it virtually useless. The first is that this characterisation of gangs is essentially the same as that being offered to define organised crime. All that distinguishes the two is that criminal gangs have an identifying sign or symbol. One may deduce, therefore, that organised crime is any association of three or more people engaged in crime that does not have an identifying name or symbol. The second issue is the notion of 'criminal gangs', which suggests there are such things as non-criminal gangs and therefore criminality is not a defining feature of gangs. We would therefore require a definition of gangs before we can distinguish criminal gangs, but this is not offered. The third issue relates to the problem of defining criminal gangs by saying that they commit criminal gang activities. This is tautological and requires an explanation of gangs, which is not provided.

In South African scholarship we find only brief, superficial definitions. Mark Shaw, in a widely cited article, stated that gangs are different from syndicates:

According to SAPS definitions syndicates are seen as more sophisticated organisations operating on a wider level than gangs, which are considered to be criminal organisations of a lower order of influence and sophistication. Gangs may often be employed by syndicates to do the dirty work at street level, with the latter often acting to co-ordinate the activities of different gangs.<sup>6</sup>

According to this view, there is a simple hierarchy of criminal organisation and gangs represent those groups operating at the base of this hierarchy. They are criminal organisations but can be distinguished by their lack of sophistication and influence. Peter Gastrow offered a similar conceptualisation:

In general, gangs tend to be less formally structured than syndicates. They are often territorially based, their criminal activities involve less sophistication than those of syndicates, their members tend to be youths and they tend to identify themselves by a gang name. The many different manifestations of criminal gangs makes it highly unlikely that one single definition will ever be adequate or comprehensive enough to cover all the shades and variations. As a guide, and to indicate a general understanding of the nature of a gang, the following definition is provided: A criminal gang consists of an organised group of members which has a sense of cohesion, is generally territorially bound, creates an atmosphere of fear and intimidation in the community and whose members engage in gang-focused criminal activity either individually or collectively.<sup>7</sup>

As seen in chapter two, a different view was provided by the Head of the DCS when he argued that gangs on the Cape Flats have emerged as better-organised and sophisticated criminal businesses – as he put it, “they are increasingly engaged in organised crime”. This view is also put forward by a gang expert in Cape Town, Irvin Kinnes, who agreed no single definition is adequate but argued that certain key observations of gangs can nevertheless be formulated. These are:

- Gang members may range in age from youngsters to adults between 20 and 40 years of age.
- The nature and activities of gangs are mainly determined by their social context.
- Membership of gangs may include persons both inside and outside of jails.
- Gang members may be anything from street level operators to sophisticated syndicate bosses.
- They may belong to the category regarded by the government and its agencies as being at risk of becoming involved in criminal activities, or may make a choice to become involved with full cognisance of the associated risks.
- Gangs may be involved in criminal activities for the sake of survival, or may be high-level, structured criminal organisations.<sup>8</sup>

In short, existing definitions are confusing. They fail to describe the essence of gangs and they do not explain whether gangs are different from, synonymous

with or a sub-category of organised crime. However, it is remarkable that there has been no open disagreement about the concept and virtually all leading commentators see the term 'gang' as unproblematic and appropriate for legislation. In an interview with a senior member of the DCS, I asked whether the lack of an adequate definition was a concern. He replied, simply, "There is no confusion, we all know who is a gangster and who isn't. That's not a problem".<sup>9</sup>

It would seem clear, however, that there is a need to clarify what is meant by the concept of the gang. Perhaps the key difficulty of existing definitions, for gangs and to a lesser extent, for organised crime, is that they conform to a 'trait-based' approach – there are traits that certain crime groups have which can be used to distinguish them from other groups. The range of traits used by many organised crime scholars was summarised well in a paper by Jay Albanese, which surveyed the international literature on organised crime and provided a list of traits in descending order of prevalence,<sup>10</sup> namely:

- there is an organised hierarchy to the group;
- the group engages in rational profit-driven crime;
- they use force or threat;
- they rely on corruption to maintain immunity;
- there is a public demand for their services;
- they strive for monopoly over a particular market;
- there is restricted membership;
- they are non-ideological;
- there is internal specialisation;
- they adopt a code of secrecy; and
- there is extensive planning.

There are also traits that are used to distinguish gangs from other groups that are not gangs. These include distinctive clothing and 'colours', the identification with a turf, use of slang, the use of a distinctive name and the predisposition towards violence. Because the range of groups studied are varied, we find a tendency to produce long lists of typologies of gangs and organised crime groups based on seemingly arbitrary criteria, including ethnicity.<sup>11</sup> Irving Spergel points out the confusion that is created through this approach:

Gang typologies and classifications suggest a bewildering array, complexity, and variability of structures, purposes and behavioural characteristics of gangs, with these dimensions not clearly identified or interrelated.<sup>12</sup>

The problem with this trait-based method is that it relies on a circular method to reach a definition. Those adopting this approach start from knowing what a gang or organised crime group is and then they work backwards; they study gangs to try and find the traits that define them. An alternative approach to defining the gang offers an escape from the morass. This involves beginning from an abstract understanding of the different ways in which groups of people are organised and then working forwards, asking whether a particular social phenomenon contains aspects of a type of organisation or not.

The four models of organisation outlined in chapter two provide a useful framework. We can say that the organisation of crime can be either through the market model, the network model, the bureaucratic model or the clan model. In real examples, we find an overlapping between these models. Organised crime could therefore be used as a general concept, which covers each of these four models. I have already described the essence of each of the models in chapter two, so will not repeat the main points again.

I would suggest that the ideal type of what is referred to as a gang is that it conforms to the clan model of social organisation. This is not to say that gangs in ghettos are not different in some important ways from other groups that conform to the clan model, such as the Mafia described by Paoli, but their unique traits are secondary; their clothing, music preference, the age of their members, the penchant for violence, size of their profits, ethnicity, etc., are all additional characteristics and not characteristics that define whether or not they are gangs.

If we adopt this method, we may find that groups that are frequently referred to as gangs do not really conform to the 'gang model', but are in fact displaying other organisational characteristics. This may explain the conceptual confusion in the gang literature regarding the corporatisation of gangs. Rather than arguing that the essence of gangs has changed and therefore that definitions need to be updated, we may argue that some groups that were once organised as gangs have evolved into different forms of organisations, which appear to conform more closely to one of the other three models.

A consequence of adopting this method is that we may find that gangs are not only found in ghettos. Groups that conform to the clan model are far more widespread in society than this and some of them engage in criminal activities. This was an argument raised by Peggy Sanday through research on American fraternities, which she believed closely resembled aspects of gangs observed in the traditional American gang research.<sup>13</sup> We may find in the world of business and even in politics that there are groups involved in ongoing criminal activities that also resemble gangs.

Here it is important not to confuse the cultural meaning of the concept 'gangster' (or sometimes referred to as 'gangsta') with the analytical concept of a 'gang'. We know that the term 'gangster' has become widespread in society and has been embraced by the mass media and the entertainment industry. It is therefore a popular term, which is based on stereotypes and cultural references, which will differ in meaning among different sections of the population. But those who see themselves as gangsters or are labelled as gang members by others may not in fact belong to groups which display the gang form of organisation. Likewise, there are other people who are rarely called gangsters or gang members who are in fact part of gang-like structures. This was a point made by many people on the Cape Flats, including one police officer who made a provocative statement: "You know, when you think about it, the real gangsters are the politicians".<sup>14</sup>

This abstract model of criminal organisation has another consequence: it forces a more rigorous theory for explaining the organisation of crime. In order to develop this understanding of the organisation of crime, we require a general theory of why each of the four models may appear in a given social context. I began sketching these reasons in chapter two, describing why some scholars thought each model was beneficial to its members or represented the best way of organising crime in a given circumstance. Critically, explaining why groups are organised in a particular way is a different task from explaining why individuals do what they do. These two aspects are rarely separated, which causes confusion.

If we consider the case of gangs we recognise a potential flaw in popular gang theory, much of which assumes that gangs are criminal organisations only found in ghettos and therefore explanations for gang formation must be consistent with a social theory of deviance that can *only* be applied to marginalised populations. So, for example, to say that gangs are caused by poverty, or by the strain theory of crime, or by the desire to protest, in fact only tells us why gang members commit certain types of crime: it does not necessarily describe why groups of people form gangs. To do this would require a theory of organisation, one that should be divorced from the ghetto although we may find that the environment of the ghetto is particularly suited to producing this type of social organisation. The link between gangs and crime is a separate issue, which is discussed below.

This alternative method for defining organised crime and gangs will be criticised by those wanting definitions that work in courts of law. People cannot be prosecuted based on such an abstract framework; how can prosecutors and law enforcement officials distinguish between gang members and members of other types of criminal organisations? The answer to this lies in distancing the study of crime from the requirements of the police or criminal justice system. Although

they are concerned with pragmatic considerations, the categorisations provided by social scientists (or more specifically, criminologists), are arguably aimed at helping understand society, not at regulating it through penal systems. From this perspective we may find that criminology provides an opposition to existing legal categorisations, explaining why they are conceptually problematic and incoherent and possibly not appropriate for legislation.

#### CONCEPTUALISING THREATS AND HARMS

In much of what is written about organised crime and gangs, there is a predisposition to gloss over definitional aspects and offer a simplistic view. Often we find definitions are fleetingly covered in the beginning of publications. There is some acknowledgement that they may not be entirely adequate but this does not create an obvious problem for the proceeding analysis.

From this conceptualisation we also find that the issue of how criminal groups threaten society is treated in a straightforward way, devoid of critical reflection and empirical scrutiny. The claims are often put in stark terms: criminal organisations threaten democracy, they attack the working of the formal economy and cause widespread victimisation and much personalised harm. Of particular concern is the spread of drug abuse, as well as violence. At the level of the Cape Flats, it is claimed gangs cause a majority of all crimes, with some claiming as much as 70% of crime is gang-related. At its simplest, the parasitic model assumes that criminal organisations pose a tremendous threat to the sanctity and security of society. The threat is linear – if law enforcement is unsuccessful, then the harm created by criminal groups will progressively increase until society is literally run by violent criminals.

There is a consensus on these threats, both within South Africa and internationally. Indeed, we can say that much of the South African analysis amounts to paraphrasing the sentiments of leading foreign scholars and dignitaries of the various UN meetings on the subject. Such claims are therefore repeated endlessly, to the point they become accepted wisdom. Yet, when scrutinised, it becomes apparent that harms have not been well understood. We can say that, to a certain extent, there is a tendency towards sensationalism and exaggeration, which may be driven by underlying agendas. However, it would be wrong to argue that there are not real problems associated with organised crime or gangs and the aim here is not to trivialise harms associated with these concepts. The main fault, however, lies with the tendency to blame distinct criminal groups, to reach for simple, convenient explanations, which lead to an obvious 'cure'.

This is perhaps the key tendency of the parasitic model. It conforms to a broader interpretation of crime in society, sometimes referred to as the 'criminology of

the other'. David Garland describes this well, pointing out that it leads to a melodramatic mindset, where crime fighting is framed in the language of warfare and social defence.<sup>15</sup> The criminal is simply wicked and alien to us. In chapter two it was described how this mode of thinking is pervasive in the literature on organised crime and encourages a view of the 'good guys' fighting the 'baddies'. Such a view also encourages the notion that if enough will is shown, the threat posed by organised crime can be defeated; there is an endpoint where society can be free of criminal organisations.

When we re-consider the specific harms being attributed to organised crime and gangs, we discover problems are more complex and less easy to externalise. Let us consider some of the key claims and concerns made by mainstream commentators. Four issues stand out.

### **Drugs**

Perhaps the most important concern with both organised crime and gangs relates to market-based crime and in particular, to drugs. As already argued, it is feasible that suppliers can create demand. We see this through advertising campaigns, which at times indoctrinate consumers. However, given the global increase in drug consumption over the past few decades, which has occurred without any centralised advertising campaign, we suspect that the reasons for this growth cannot be simply explained by the wishes of those running drug markets. Perhaps few commentators would make this crude assertion, but this is the impression given when the threat posed by organised crime is described. We can therefore say that whatever detrimental consequences are connected to drug consumption, these cannot be shouldered entirely by those selling drugs.

It is, of course, important to agree that drugs such as cocaine, heroin and on the Cape Flats, Mandrax and more recently, tik (or tic), create tremendous social problems, even though we may also feel that taking drugs can be pleasant, perhaps even enlightening, and is condoned or even encouraged in the vast majority of cultures. Drug dependency has serious health consequences and where drug abuse is widespread, it can be seen to have consequences that undermine social cohesion and community well being. Cause and effect is, however, difficult to disentangle, for the social consequences of drug abuse, as well as the personalised harm, are influenced by context. Thus, what distinguishes drug consumption in affluent areas from poor areas may not be rates of dependency, but that poor people are generally less able to cope with the negative consequences of becoming addicted to drugs. The harms of drugs are therefore exacerbated by social conditions.

One aspect, which may increase these detrimental consequences, lies with the effect of criminalisation. For some this is an argument in favour of decriminalisation – by choosing to make drug markets illegal, prices increase massively and the

costs of being drug dependent are far greater, which includes the consequences of being caught by the law. Again, this is an affliction that is more prevalent among those on the margins of society.

Harms of the drug industry cannot be seen only with regard to consumption. There are other detrimental aspects of the drug industry that are related to production and distribution. Chapter three described them as they manifest on the Cape Flats. The criminal economy, which seems largely organised for the selling of lucrative drugs, is brutal and many of those employed in this industry are grossly exploited, particularly young people and women. If we took a wider geographical view, we would also see that those used to courier drugs are treated inhumanely, even if they are willing recruits in some situations. Regrettably, given the dominance of the parasitic model, such victimisation within organised crime is seldom elevated to a policy concern. The parasitic model denies people the status of being both criminals and victims. The consequences of doing so are worth contemplating: when caught, those exploited in the drug industry could be 'saved' by the authorities, rather than simply being punished. Perhaps there are those in authority who view prison as offering salvation?

### **The threat to the legal economy**

Alongside the threat posed by organised crime due to the supply of drugs is the notion that organised crime threatens the legal economy, chiefly due to the immense wealth being made through selling drugs. This was discussed in chapter four. Although this notion is frequently asserted, the way in which the threat manifests itself is not well articulated. It is believed that dirty money laundered into the legal economy creates volatility and it undermines macro-economic planning, apparently because money launderers and drug dealers are acting in ways that market economists consider irrational. It was argued that this line of thinking is unconvincing and begins from a rather benign understanding of the globalised economy, which is increasingly volatile.

Moreover, the idea that organised crime penetrates the upper world and threatens to contaminate it with unethical and criminal methods of doing business, is undermined by mounting evidence that unethical and criminal methods of doing business are increasingly embedded and normalised features of global capitalism. We suspect this predicament has not been caused by certain exotic career criminals gaining leading positions in the world of big business. Rather, it is generated by the cultural and structural characteristics of the global economy, which seems to encourage and even condone such behaviour, at a time when the ability to police and regulate corporations is compromised by the international courtship of private capital by governments.

### **The threat to democracy**

A third issue relates to the notion that organised crime threatens democracy. Again, this is a claim made with increasing regularity and fervour, but seldom is there adequate explanation. Those writing on organised crime who make this claim seldom, if ever, consider the broader crisis of state legitimacy and democracy in many countries. During the last few decades democracy has been eroded by historical developments including structural unemployment, the polarisation of wealth, the shrinking of the welfare state and the increasing fusion of power between corporations and political parties. Arguably, it is the latter that should be seen as the most worrying to those defending the ideal of democracy. The silence on this theme by most leading organised crime scholars is peculiar and should be considered a major weakness in the literature.

Placed in this broader context, to say that organised crime poses one of the most serious threats to global security and democracy seems incongruous unless we start from a broad understanding of organised crime that includes corporations and corrupt politicians. From this perspective we could agree that organised crime is a threat to democracy. But this would be a very different argument, not one to which senior dignitaries at the UN or the IMF would want to subscribe.

We do, however, see a more worrying influence of organised crime at the local level, in those areas where the state is weak or absent. This was described in chapter five. The impact of local 'strong men' who gain impressive wealth through drug dealing and other legal and illegal activities is generally noxious, despite the fact that the sources of their wealth may be normalised, their largess may be welcomed by those who are most poverty-stricken and they may offer a degree of protection to some. Again, the harm created by powerful career criminals in this instance is difficult to measure but it is most evident when they disrupt or intimidate the work of others or develop entirely bogus protection rackets. However, it would be too simple to blame this local power on drug merchants without commenting on the broader malaise of state governance. It may also be misleading to see their influence as a major concern for central government. Indeed, activities associated with organised crime that occur in ghettos such as those on the Cape Flats may be subduing or even hindering popular protest. If such protest was to be better organised and articulated it might become a serious concern for a government incapable of providing basic human security to large areas of the country.

### **Gangs and crime**

The final issue relating to how threat is understood is a matter specific to the concept of gangs. Gangs, it is believed, cause large amounts of crime, particularly violent crime. At its simplest, there is a straightforward argument being made.

The gang is an organisation for which crime is its central purpose. Where there are more gangs, there will be more crime. If the authorities can reduce the amount of gangs, then rates of crime will be reduced. An anti-gang strategy is therefore conceived as an anti-crime strategy.

That members of gangs on the Cape Flats are engaged in many criminal and violent activities is a point beyond dispute. However, as argued by American scholars Jack Katz and Curtis Jackson-Jacobs, the premise that gangs cause crime should be seen as more contentious; at the very least, it requires more empirical evidence.<sup>16</sup> There are at least four reasons to suggest the relationship between gangs and crime is more complex than is popularly assumed.

The first reason is that official statistics do not confirm that gang-related crime is as widespread as some have argued. Murder rates are a good example. Irvin Kinnes put forward the theory that gang-related murders peaked during the conflict between PAGAD and gangs on the Cape Flats between the end of 1997 and the beginning of 1999.<sup>17</sup> According to Kinnes there were 358 murders at that time that could be considered 'gang-related'. Although many of these murders were vigilante killings *of* gang members, and not murders *by* gangs, the number of 358 murders must be compared with the annual murder rate in the Western Cape. This has been roughly 3,000 for the last few years, although in 2005 murder rates were reduced to approximately 2,500. Interestingly, there was no claim by the authorities that the dip in violent crime statistics was caused by a reduction in the number of gangs or gang members. These figures, if remotely correct, suggests that during the most intense period of conflict involving gangs, gangs were in fact responsible for a minority of murders, certainly not 70% of them. With the ending of the PAGAD conflict, the proportion of murders involving gang members, we may presume, has become even less. This has been confirmed to me by some members of the police who work in so-called gang hotspots. They verify that domestic abuse and sporadic, spontaneous violence that occurs at shebeens are far more of a concern on a day-to-day basis than crime related to gangs. Asked how many murders are now attributed to intragang conflict, a member of the SAPS Crime Intelligence Unit estimated that it is less than 5%.<sup>18</sup>

However, any attempt to calculate the percentage of crime that is caused by gangs faces the difficulty of distinguishing between criminal activities conducted by members of gangs and crime that can be considered intrinsically caused by the gang as a whole. There may be many crimes committed by members of gangs which are spur-of-the-moment and individualistic and these may be inappropriately referred to as gang-related. For example, violent conflict involving members of gangs, which may on the surface seem planned and orchestrated by a gang leadership, may, on closer inspection, have little direct relationship to gang objectives and may be sparked spontaneously by relatively trivial events, such as

fighting over a woman, reacting to an insult, etc. It should be remembered that fighting over such issues by groups of men who are related to each other through peer groups is a common occurrence throughout the world, irrespective of the presence of gang membership.

Similarly, as we have seen, there is contradictory evidence relating to income-generating crimes, such as drug dealing or thefts. While some gangs may have a degree of internal control and order, others are less structured and individuals within the gang have a degree of autonomy. Profits are not always shared within the gang either, meaning many gangs do not appear as drug-dealing businesses and are therefore not individually responsible for the drug trade. Moreover, we have seen that large gangs and intragang alliances are frequently considered drug-dealing empires, but in fact appear as organisations promoting loyalty among consumers and petty street dealers.

A second reason complicating the relationship between crime and gangs was raised by Clive Glaser in his critique of Don Pinnock's study of gangs in apartheid Cape Town, described in chapter one. Glaser argued that in Johannesburg, and possibly Cape Town, high crime rates preceded the emergence of street gangs. Pinnock's analysis of gangs in fact explained why young men on the Cape Flats became involved in crime, and because he saw the gang as being essentially a criminal entity, the explanation for gangs was the same as his explanation for crime. Glaser suggests that explaining crime and explaining gang formation, while related, are not the same tasks.

Thrasher's classic study on gangs also suggested a more complex relationship between gang formation and criminal activities.<sup>19</sup> For Thrasher, gangs were depicted as normal, natural social phenomena among young men. The extent to which they became deviant and involved in criminal activities was largely dependent on their interaction with others, particularly the authorities and other street gangs. Thus, for Thrasher, the distinction between 'criminal gangs' and 'non-criminal gangs' is made, but nowhere is the impression made that the essence of a gang is that it forms to commit crime.

Instead of being a cause of crime, we may wonder if gangs form partly as a *response* to crime. This was Glaser's assertion – that defensive street gangs formed as a result of insecurity and victimisation. Pinnock in fact made a similar observation – gangs during the 1970s and 1980s were partly a response to insecurity and a loss of identity. On the Cape Flats now it is often lamented that young people feel vulnerable to being attacked by gangs, particularly when they have to walk home from school and negotiate several different gang turfs. As described in chapter three, some youth join gangs to protect themselves in response to this unbearable situation: as a member of the Americans, a person becomes a different target and may not be harassed in the same way. The fact that to most

observers joining the gang may increase an individual's risk of being murdered or shot at is not the point – we must acknowledge the possibility that some people, if not many, join gangs as a mechanism to defend themselves against crime and victimisation. This means gangs may be a product of a high crime rate, rather than simply its cause. It may follow that if the levels of crime and violence can be reduced, then gangs will cease to be so important.

A third reason that complicates the relationship between gangs and crime is the fact that most crimes that are attributed to gangs occur in high numbers in areas with no gangs and are committed regularly by people who are not gang members. Thus, if we believe that gangs are the cause of drug dealing or violence on the Cape Flats, then it is a challenge to explain why drug dealing or violence also occur in areas where there are no gangs. Gang members may commit crime, but then so do lots of other people. This may suggest that crime is not a good defining characteristic of gangs. Or, conversely, gangs are not a very good explanation for types of crime.

And finally, the link between gangs and crime may be influenced by what criminologists refer to as the 'self-fulfilling prophecy', or as the 'labelling process'. Those people on the Cape Flats who look like gang members or display signs of adhering to the 'gang culture' may be labelled as potential gang members by teachers, the police and even other gang members. For example, one of the area coordinators for the Department of Education's Safer Schools Initiative interviewed for this study said that it is often easy for teachers to know which learners are going to be the gangsters. Those labelled as potential gangsters may either live up to other people's expectations (thereby becoming a gangsters) or they will be dealt with in ways that make them more prone to crime. For example, someone labelled as a potential gangster may be attacked by other gang members (creating pressure for them to join another gang for protection) or they may be subject to increased surveillance by the police – this may increase their likelihood of being arrested for minor crimes and entering the criminal justice system, which, in turn, may lead them down the path of joining gangs in prison or reformatories. It is important to note that those labelled as gangsters may not respond in a predictable and passive way; we may find that what is considered the gang culture includes an exaggeration and reinterpretation of these stereotypes as a means of mocking the authorities.

In sum, there are several theoretical arguments that question the belief that gangs cause crime. It may well be that the link is spurious or even that high crime rates cause gangs, rather than the other way around. To question the link between gangs and crime is not to suggest that areas with gangs are not dangerous and violent. Nor is it to suggest that members of gangs do not engage in many criminal activities or that at times there are not gang-related criminal events.

But it does suggest that the relationship between gangs and crime is not a simple one. This is a matter that receives surprisingly little attention in the international literature. For example, leading gang scholar Irving Spergel devotes an entire chapter of his highly influential book on gangs to describing their increasing threat in the US.<sup>20</sup> To do this he argues that there have been increases in gangs throughout America and violence has also increased during the same epoch, although he admits that both variables are difficult to measure and will be influenced by racist labelling and policing. It is assumed in this chapter that there is a causal relationship, although remarkably Spergel does not contemplate whether increased violence may be a factor that increases gangs, or whether the relationship is spurious. Yet, in a subsequent chapter, when considering the claim that gangs are responsible for increases in drug consumption, Spergel points out that the relationship here is complex and often misunderstood by police and other gang researchers and therefore even though drugs and gangs increased at the same time, the link is indeed bogus.

#### SUMMARY

While there are clearly serious social problems associated with the concepts of organised crime and gangs, the fault with a parasitic model lies with the tendency to externalise these problems and locate the blame on distinct criminal groups who exist outside or on the margins of society. One consequence of doing so is that harms and threats are not well conceptualised and we suspect this will become relevant in policy thinking. A second, and related, consequence is that the parasitic model actively creates what Jock Young describes as the 'good enemy':

In order to create a 'good enemy' we must be able to convince ourselves: (1) that they are a cause of a large part – maybe all – of our problems; (2) that they are intrinsically different from us: that they epitomise wickedness, evil, degradation, etc.<sup>21</sup>

As Young goes on to explain, demonising groups in society is a prerequisite for declaring war on them. Without first presenting an image of gangs or organised crime as essentially evil, threatening and, above all, *different from us*, the authorities would not have the platform to speak in terms of war. I have tried to suggest that harms are not so easy to externalise and there is hypocrisy to this view. The difference between what is labelled as organised crime or gangsters, on one hand, and big business and state power, on the other, is not nearly as obvious as mainstream thinkers would suggest. In chapter four it was argued that by evaluating business activities according to their environmental and social damage, irrespective of their legal status, we may find that much legitimate enterprise is as noxious as certain forms of illicit enterprise. Moreover, in the same chapter it

was suggested that what makes the criminal economy so unsavoury is that it tends to mirror the worst aspects of the legal one.

The reasons why there is this tendency to externalise threats and simply blame gangs and organised crime is a matter we need to understand. A simple explanation is that the process of demonising groups helps divert attention from more profound crises. Those who actively create these demons may be unwilling, or even unable, to understand and deal with more profound issues. It is a process of displacement and distraction.

At the same time, demonisation also works to confirm the wholesomeness of others, typically those who do the demonising. What makes this particularly interesting is that, as John Lea has suggested,<sup>22</sup> it is precisely when the differences between organised crime, politics and big business have become less obvious that we find an increase in the moral loathing of organised crime by those in a position of legitimate power. In doing so, the image of an essentially moral and good world is projected, even exaggerated, when the evidence to the contrary is mounting. If we need an example of this other than organised crime, then we can look to the war on terrorism. This has illustrated vividly how a complex political and economic crisis is negotiated by the creation of monstrous scapegoats, who are used simultaneously to illustrate the sanctity of the victims and the victims' leaders. This is happening on both sides of the conflict.

An event in Cape Town that possibly represents an example of this demonisation occurred when the ANC Premier of the Western Cape and the Minister of Community Safety claimed they had received death threats from a criminal consortium comprising gangs and the Chinese Mafia. This was an interesting event for various reasons. As described in chapter two, the story alleged that this group of criminals held an emergency meeting after the authorities announced that they were going to use POCA to its full extent. It was reported in the press that the group made the decision to better organise their business operations and that they would assassinate those responsible for enforcing the law. The story allowed the Premier and his colleague to claim a major victory: here was the proof that the architects of organised crime were panicking over the state's new level of organisation and efficiency. The story also confirmed the authorities' conceptualisation of organised crime: there is a murky underworld that has meetings and makes sinister plans for the future. And finally, the story allowed the Premier and his colleague to be presented in the media as fearless warriors in the fight against the evil force of organised crime. This was an image both leaders encouraged through interviews.

I spoke to several people to validate this story, including journalists, police, defence lawyers who had worked with the gangs mentioned in the story and informants on the Cape Flats who were both close to the Premier and

knowledgeable about the gang scene. Remarkably, few of these sources felt the story was true. Worse, it was alleged by more than one person that the entire story was a deliberate fabrication. None of this information proves that the story was a fraud, but it certainly seemed a highly suspicious event. It seemed incredible to many that the Chinese Mafia and gangsters from the Cape Flats would meet and decide that they were going to better organise their businesses. Equally one may wonder how direct quotes from this meeting found their way to the press. Likewise, it seems unusual to give credibility to those issuing death threats by making them public through the local media. Moreover, there were no arrests or police investigations reported subsequent to this story. It therefore remains a possibility that in its bid to create the 'good enemy' and simultaneously generate political support, those in positions of authority were willing to fabricate intelligence and mislead the public.

#### **PART 2: EVALUATING POLICY**

It will be remembered from chapter two that from 1998 South Africa experienced something of a revolution in fighting organised crime and gangs. It was argued that new crime-fighting strategies were needed to confront a new criminal threat. Due to the period of transition, criminal organisations were growing in power and sophistication. On the Cape Flats, this period also enabled many of the long-standing street gangs to become more sophisticated and better organised. Traditional criminal law and existing law enforcement agencies were seen as incapable of responding to the new crisis.

South African analysis of the problem, and the resulting policy thinking, did not occur in a vacuum. By the mid 1990s there was a global consensus on the most appropriate measures needed to combat organised crime. This consensus derived from an American perspective, which the European Union and the UN later championed.

There are two key aspects to the Americanised response to organised crime and we can say that they represent coherent thinking if one agrees with the underlying parasitic model. The first aspect is based on the assumption that criminal organisations are distinct criminal groups and they need to be confronted as organisations. It is believed that the leaders of these organisations distance themselves from actual criminal activities. This makes successful prosecutions difficult and often the authorities can only prosecute the leaders for minor offences, even though they are the architects of systematic and highly damaging crime. It is also assumed that arresting one member of a criminal group is not likely to disrupt the entire organisation.

Effective legislation to fight organised crime must therefore do two things. It

must first make it an offence to be a member of a criminal group, irrespective of being directly involved in a criminal activity. In this way leaders of these organisations become responsible for the activities of their subordinates. Secondly, there needs to be an escalation of punishments for being involved in a pattern of criminal activity. This means key members of criminal groups can be punished harshly even if they are found guilty of committing several relatively minor offences.

A second aspect of the Americanised response to organised crime is based on the notion that the longevity and power of criminal groups is facilitated by their ability to amass fortunes and launder these through legitimate businesses. As we have seen in chapter four, many commentators also fear the consequences of organised crime *penetrating* the legal world of business and contaminating the economy with dirty cash. There is therefore a need to target the group's assets and illicit capital. This not only disrupts its ability to exist but it also creates a disincentive for others to engage in organised crime.

This is achieved through another two measures. The first lies with criminalising the practice of money laundering, making it an offence to turn dirty cash into legal wealth and making it an offence for those in the formal economy to assist with this process. In doing so, the interface between criminals and legitimate businesses is made highly unattractive for the latter, thereby rendering dirty cash unusable and, it is hoped, worthless. The second measure lies with asset forfeiture. The state should be able to confiscate the illicit wealth and capital of criminal organisations, which are either the proceeds of crime or instrumental to the group's ability to function. Because organised crime is powerful and has extraordinary resources, it is also argued that the state should be able to confiscate the assets of organised crime if shown that these are more than likely derived from crime or will be used to further the organisation's business. In other words, there should be measures for civil asset forfeiture.

South Africa's new policy thinking was directly inspired by this American approach. Indeed, this was made clear by the authorities and their preferred consultants who regularly justified new policy measures by pointing to the US as an example of international best practice. POCA represents the most important development and it is heavily based on the RICO statute. Thus, POCA criminalises membership of a criminal group, contains harsh penalties for a 'pattern of racketeering', criminalises money laundering activities and allows for civil asset forfeiture. POCA also formed the basis for re-organising law enforcement capacity in South Africa as it led to the creation of both the Scorpions and the AFU. In the early 2000s, it also underpinned the high-flyer project: a multi-agency approach to investigating and prosecuting the leaders of organised crime, which includes the key drug merchants and gang leaders on the Cape Flats.

As described in chapter two, new policy thinking to combat gangs on the Cape Flats was also inspired by national policy thinking to tackle organised crime. Indeed, the issue of gangs and organised crime began to blur in the late 1990s and, as we have seen, this produced conceptual confusion between the two categories. Although originally conceived as a separate piece of legislation, POCA contained a dedicated section, Chapter Four, which criminalised recruitment and membership of gangs. This was a direct copy of the California STEP Act, which was also inspired by RICO in the US. As an adjunct to Chapter Four of POCA, the authorities in Cape Town have also made plans for a gang photographic database and a dedicated gang court. Such measures have typically been announced in combative terms – they are new weapons to fight a war against gangsterism. Talk of a simultaneous programme for rehabilitating gang members, part of an envisaged *holistic gang strategy*, has yet to be realised.

#### REDUCING HARMS

We can say that the fundamental premise of Americanised policy is that the threat and harms posed by organised crime can be removed through successful prosecutions, deterrence and financial starvation. The parasitic view of organised crime encourages the tendency to imagine a healthy society devoid of organised crime, where the ‘baddies’ have been defeated by the ‘goodies’. It is acknowledged that reaching this nirvana will be difficult but if enough will is shown, there will be victories and the tide will turn.

Pointing out the flaws to this mindset is straightforward and has been done repeatedly in the non-mainstream literature on both organised crime and gangs. The remarkable feat of the parasitic model is its endurance, despite clear evidence of its failings.

The first problem with the policy mindset that can be associated with the parasitic model relates to the issue of corruption. At its simplest, those involved in law enforcement are seen as the soldiers fighting the war against organised crime and in order to win this war, more soldiers with greater powers are needed. However, it was described in chapter three how empirical studies of organised crime have frequently exposed the active involvement of the police and other public officials. It is therefore possible that corruption is an intrinsic feature of societies with high levels of organised crime, both as a cause and effect. Without stringent anti-corruption measures, increasing the powers of the police in a bid to win the war may be counterproductive and embed organised criminal activities. In South Africa, it is noteworthy that despite impressive results, an independent anti-corruption unit in the SAPS was disbanded and integrated into the Organised Crime Unit (OCU).

Even with a largely uncorrupted law enforcement system, it is contentious whether arresting key players will automatically result in the reduction of organised crime. There may well be certain illegal markets that can be stamped out, or at least meaningfully reduced, by a concerted effort by law enforcement. The trade in certain exotic animals and plants is perhaps one example. Here, given the relatively small demand, along with the scarcity of the commodity, law enforcement can be significant and may also be the only viable response. However, when dealing with such massive illicit industries such as drugs, the supply side approach has been repeatedly criticised for being ineffective. We need only look to the lack of success of America's hugely expensive war on drugs to see that this is the case. Tom Farer summarised the 'lack of success' by describing how total expenditure on the drug war in America rose from \$1.5 billion to over \$8 billion between 1974 and 1994. During this period the price of cocaine and heroin fell by 800% and 700% respectively.<sup>23</sup> As consecutive reports produced by the United Nations Office for Drugs and Crime show, despite massive expenditure on law enforcement and many attempts to better coordinate law enforcement efforts across the globe, trends in global drug consumption seem unaffected.<sup>24</sup> Claims that law enforcement has stabilised the industry and kept it from growing faster are unsubstantiated and appear as wishful thinking. Exactly the same problem haunts the war on terrorism inasmuch as arresting individual terrorists, including the masterminds, may satisfy public and political short-term goals, but in the long run this seems a strategy that will do little to address the underlying problem.

Those writing on organised crime refer to this as the 'fallacy of head-hunting'.<sup>25</sup> In most situations arresting prominent figures in organised crime merely opens up a new opportunity for other operators. In other words, there are thousands of people who will take the position of a high flyer if he is arrested or killed.

This is not to suggest that headhunting tactics will not have an influence on the dynamics of organised crime. By continuously removing successful criminal operators, it is feasible that illegal markets will become more fragmented and characterised by a greater number of participants who share a smaller percentage of the market. Conversely, without any state intervention it is possible that a small number of operators would monopolise large areas of business, as is the case in certain areas of the legal economy.

It is also possible that the process of removing key operators may lead to greater competition in illegal markets. In the absence of other strategies this in turn may lead to violent clashes between competing organisations or individuals and possibly even a reduction in the prices of illicit commodities. The Western Cape provides one of the most lucid examples of this scenario. When PAGAD successfully executed scores of leading gang members and drug merchants, not only did gangs and drug markets continue to exist, but there was also evidence of increased

violence between people competing for new market opportunities. It was explained in the last chapter that the authorities realised this, so it is perplexing why they remain hopeful about their high-flyer programme. During the last decade the number of high flyers killed by competitors or vigilantes is almost certainly a great deal higher than the number of those that the state has managed to arrest.

Optimism that asset forfeiture can increase the effectiveness of combating organised crime faces the same fundamental criticism – there may well be several notable success stories, but ultimately all that is being achieved is considerable inconvenience for individual operators. To suggest that this is not the case would require comparing data on forfeiture with an estimate of the total sums involved in organised crime. This data does not exist in South Africa. However, it is worth contemplating the evidence from elsewhere. In the UK, for example, Michael Levi points out that optimism about asset forfeiture for reducing the drug trade is diminished when the estimated £1 billion believed to be spent each year on drugs is compared with the £37 million confiscated from drug-related cases over a seven-year period.<sup>26</sup> Moreover, it would seem dubious to believe that the amount confiscated each year represents a net loss in organised criminal activities – £37 million may be confiscated, but this does not necessarily mean that £37 million worth of drugs have been taken out of circulation or that total drug profits have diminished by £37 million.

What further diminishes optimism for the potential of asset forfeiture in reducing organised crime is that there are no obvious examples in South Africa where the AFU has managed to dismantle an entire organised crime group through asset forfeiture. Cases are always directed towards specific people. This may suggest that in reality there are few, if any, criminal organisations that operate along the lines of a traditional bureaucratic business, where assets are combined and used to benefit the entire organisation. Thus, the underlying logic and justification for asset forfeiture are problematic.

Despite these problems, the argument has repeatedly been made in South Africa that all international experience shows asset forfeiture to be a vital component in fighting organised crime. The Head of the AFU, Willie Hofmeyr, explained to Parliament:

All international experience indicates that asset forfeiture is a vital part of the fight against crime. Not only does it help to ensure that crime does not pay, but it also has the advantage that seized assets are used to fight crime...The lesson from overseas is certainly that forfeiture is a vital part of any strategy to deal more effectively with crime, especially organized crime. In the US, more than R5bn is paid into the asset forfeiture fund every year.<sup>27</sup>

Asset forfeiture in the US has certainly been lucrative for law enforcement, but there is no evidence that it has reduced criminal activity.<sup>28</sup>

Chapter Four of POCA, derived from the California STEP Act, also seems unlikely to reduce problems associated with gangs. Advocates of this piece of legislation argue that not only does it allow law enforcement to target an entire group and therefore also the leadership tier, but it also sends out a strong message of deterrence. Comparative evidence again suggests optimism in this piece of legislation is misplaced; most independent reviews of such legislation in the US have shown how it has failed and that during the period when such legislation was enacted, gangs continued to exist or even to flourish.<sup>29</sup>

Part of the problem stems from the notion that people will be easily deterred from joining gangs or forming new ones. We have seen that gang membership is driven by a wide range of factors, some of which may be beyond the control of certain individuals. We may also detect a degree of rebellion and protest in many gangs on the Cape Flats, and we certainly feel that gang members or potential gang members may not respect the dictates of the authorities in Cape Town. Moreover, simply criminalising membership of these gangs may only work to inflame a sense of persecution. Let us not forget that the ingredients for greater protest are there. If, or when, Chapter Four of POCA and the dedicated 'gang court' get into full swing, we may find that young men on the Cape Flats are not willing to roll over and abandon the close bonds to their brothers and gang heroes. As Thrasher noted nearly a century ago, the consolidation of a gang is largely dependent on the presence of a threatening external force. If the authorities want to undermine the reasons for gang membership, criminalising gang membership may be counterproductive.

#### THE PROBLEM WITH PRISON

Civil asset forfeiture seeks to combat organised crime without recourse to prosecutions and incarceration. In a country facing a huge problem with prison overcrowding this may be a perverse reason to support it. Some people in South Africa champion the death penalty for the same reason. However, the overall principle behind the state's attitude towards organised crime and gangs is one that ultimately depends on putting people behind bars. There is nothing original in pointing out the flaw in this approach. In 1959 the *Cape Times* published an article by the Reverend H. P. Junod:

If we consider our statistics of crime we may feel that all our efforts towards a true correctional system have so far shown very little result indeed... In the past 15 years the average population in prison daily has risen from about 23,000 to about 51,000. We have seen a considerable increase in the cane – from about

2,700 persons caned in 1945 we have passed to over 18,500 in 1958. We have also tried to stop crime of violence by use of the death sentence. [Yet] serious crime had risen from about 140,000 in 1949 to 215,800 in 1958. This is a very disheartening and frightening picture. We have seen many, unaware of the true significance of correctional progress, shake their heads and wonder that so much care is given to change a system which, whatever the methods used, seems to be unable to check crime in modern society. The answer to such defeatism is that society is itself 'criminogenous'. It breeds crime at a tremendous rate... When crime increased, society had advocated greater and greater severity in retaliation, which was known and had proved to be unable to change the situation.<sup>30</sup>

Prison cannot be considered part of a strategic response to reducing gangs and crime associated with illicit markets. The reasons why prison does not seem to be effective have been well documented both in South Africa and internationally and there is no need to rehearse these arguments in detail here.<sup>31</sup> Put simply, prison is a brutalising institution that does not seem to succeed in rehabilitating offenders. For many people, spending time in one of South Africa's prisons may be emotionally and physically ruinous. Inmates exist in severely overcrowded prison cells and have little access to education or exercise. South Africa has 228 working prisons. If filled to their original capacity, these prisons should accommodate roughly 110,000 people. However, in 2001 the country's prison population stood at just over 181,000. The prisons were thus approximately 70% overcrowded. For some prisons, such as Pollsmoor in the Western Cape where most gang members are sent, this figure is much higher and prison populations have reached twice their allotted capacity. Jonny Steinberg wrote:

It seems clear that the extent of overcrowding in South Africa's prisons places the incarceration of the vast majority of this country's inmates in violation of constitutional standards, no matter how low these standards are set.<sup>32</sup>

During interviews with prisoners in Cape Town, I repeatedly heard claims that new prison inmates are routinely subject to violence and sexual abuse (often spreading STDs, including HIV/Aids), while there are also high levels of drug consumption.<sup>33</sup>

Ex-prisoners are provided with virtually no support upon re-entering society. They leave prison with the stigma of a criminal record that further undermines the likelihood of finding work. In this situation crime becomes an obvious source of income and street gangs are one of the few places, alongside the church, where ex-prisoners are not pre-judged for their past sins. Thus, recidivism is highly likely, especially for those returning to poor, marginalised communities and so, too, is the longevity of street gangs. Although there are now the beginnings of a

South African discourse on prisoner rehabilitation, it is interesting to note that paternalistic attitudes towards coloured criminals, particularly the youth, are no longer as prominent as they were during apartheid. Broadly speaking, there seems to have been a shift away from seeing the criminal justice system as a mechanism that can bring about 'moral personal improvement' to seeing it as simply a mechanism to punish and deter.

In areas considered to be gang hotspots there are regrettably no statistics on how many young men go to prison. Yet it is widely recognised that rates of imprisonment among young men from these areas are very high. Indeed, it does not seem to be beyond the realms of possibility to suggest that young men in some areas are more likely to serve a prison sentence than they are to find decent long-term employment. Coloured men are certainly disproportionately incarcerated – 18% of all South African prisoners are defined as coloureds though coloured people make up only about 9% of the population.<sup>34</sup> The coloured community has long been subject both to more incarceration and to higher crime rates than any other section of the population. Increasing incarceration of those populations who are structurally unemployed has attracted the attention of labour market economists.<sup>35</sup> The situation gives the impression that prison has become a mechanism to deal with those populations who are no longer of any use to the formal economy.

As we have seen in chapters one and three, the almost mythical prison Numbers have had a powerful influence on many young coloured men. The Numbers have been exported from prisons to the street, which shows how influential the prison experience has been in this area. It is thus unsurprising that there is some evidence to suggest that prison functions as a rite of passage for young, unemployed men in coloured communities. Serving time may be viewed as an important way to gain status and respect. Several interviews with police and gang members in prison revealed instances where young men have wanted to go to prison in order to obtain a rank in the prison gangs. This may not be a widespread phenomenon, but it should be apparent that for some sections of the population prison has a very different connotation than it does for the rest of society. For the middle classes, serving time in a South African prison is a terrifying prospect; perhaps it is less so for those coming from gang hotspots. In other words, the deterrent effect of incarceration may be diminished among those sections of the population exposed to prison more often.

Although it may seem obvious that prison makes matters worse, rather than better, the authorities remain mesmerised by the idea that a punitive approach to gangs and organised crime is justified because it will lead to a reduction in these phenomena. It seems no amount of contradictory evidence can challenge this taken-for-granted belief. Of course, there are reasons why it has become an accepted

part of our culture to send those found guilty of crime, particularly violent crime, to prison. This approach, based on retribution, has philosophical merit but it is a different matter entirely to believe that prison has a utilitarian function. A fundamental mindshift is required. A prison sentence should be seen as a failure: something that may be justified philosophically, but indicative of a breakdown in society and more than likely the beginning of a detrimental and costly process. Increasing prison sentences is not a policy that should be congratulated.

#### DETECTING SUCCESS

Although an Americanised response to organised crime and gangs seems unlikely to reduce harms – and comparative evidence has shown that it does not – this mode of thinking remains well supported. An important reason is that there are no measures of success, nor are there systematic evaluations that would show success or failure. Law enforcement claims that high-profile arrests, seizure of data and the amount of money confiscated through asset forfeiture are meaningful indicators that the war is being won. Yet the relationship between such data and a reduction in underlying problems is, at best, tenuous. In fact, conceptualising the problem of gangs and organised crime has not been approached systematically. There are no methods to quantify the extent of organised crime or gangs or their detrimental impact on society.

The lack of meaningful measures of success has two consequences. The first relates to “self-reinforcing criteria of success”.<sup>36</sup> The parasitic model becomes entrenched because it is shown that arrests are made, money is being confiscated and even gangsters have had to resort to death threats. More success will therefore be achieved by giving more powers and greater budgets to law enforcement. The second consequence is that, devoid of any meaningful measures of success, the authorities are allowed to set unrealistic objectives – destroying the criminal economy, removing gangs, winning the war, etc. It is difficult to imagine another area of government where controversial policies would not be subject to a review and evaluation process.

#### THE CONSEQUENCES

In isolation, the policies adopted in South Africa to fight gangs and organised crime do not seem to guarantee a reduction in harm. This alone is reason to criticise them and suggest the need for a different approach. However, there are several reasons to suspect that these policies may have unintended negative consequences, and therefore a re-assessment is more pressing.

### **Escalating punishments**

The architects of POCA created a remarkably punitive piece of legislation. While there is a philosophical disagreement as to why people should be punished – to deter crime, to rehabilitate offenders, to satisfy notions of ‘just deserts’ – it would be unusual to hear arguments in favour of excessively punishing people or for not treating all people as equal before the law, irrespective of gender, race, ethnicity, class and so forth. POCA stretches the limit of some of these fundamental values, which, according to its protagonists, was necessary given the scale of the underlying problem.

One element of POCA that seems particularly punitive relates to the escalation of punishment if an accused is found guilty of ‘racketeering’. The definition of racketeering is so broad that any person who is found guilty of two listed offences spanning a period of up to 10 years (excluding time spent in prison), is liable to be fined up to R100 million or to receive a life sentence. The list of offences that can be included in a racketeering charge is very broad and includes fraud, vandalism, defeating or obstructing the course of justice and any crime for which the sentence is at least one year in prison. How these crimes relate to the usual activities of the leaders of organised crime seems difficult to see. Theoretically the Act makes it possible for a judge to sentence someone guilty of several relatively small crimes, committed over a very long period, to life in prison.

The penalties devised for money laundering offences are also extremely punitive and disproportionate. If someone is found guilty of receiving the proceeds of crime or attempting to launder the proceeds of crime, the Act stipulates that they should be sentenced to no more than 30 years in prison or a fine not exceeding R100 million. In effect, dealing with the proceeds of crime is considered a far more heinous crime than most of the activities that generated the criminal proceeds in the first place. Even if one accepts that money laundering is a terrible crime, these penalties seem completely unbalanced. Defenders of the Act may argue that these are merely the upper limits and in reality, judges in South Africa are very unlikely to give out such punishments. But then one wonders why such a punitive and vague piece of legislation was developed. It is not obvious why any country would want a piece of legislation with such harsh penalties, given the chance that they may be used.

Although POCA was justified on the grounds that it would target the ‘kingpins’, there is no mention in the Act that only ‘kingpins’ should be prosecuted using POCA’s extreme penalties. In fact, the Act does not define organised crime at all and neither the government nor law enforcement agencies have ever explained what criteria they would use to identify a leader of a criminal organisation. So, while the Act was justified on the grounds that it will be used against the leaders of organised crime, in reality it reads as an Act applicable to any person guilty of

a very long list of criminal activities. South Africa had the opportunity to obviate this potential corruption of POCA, but no attempts were made to do so. There is therefore the danger that POCA will be used against people and criminal activities that have little to do with the reasons that the Act was deemed necessary. It seems unlikely that POCA's extraordinary penalties would have been welcomed if it had been sold as a piece of legislation geared to combat crime in general. Civil asset forfeiture remains the only part of POCA that has been put into full effect thus far and, as described below, it is interesting to see who and what have been targeted by the AFU.

Chapter Four of POCA is also problematic in the way it encourages harsh sentences for gang members. This part of the Act stipulates that gang membership warrants additional penalties. In other words, a gang member found guilty of a crime should be punished more harshly than another person found guilty of the same crime who is not a member of a gang. It seems that the authorities partly justify the harsher treatment of gang members because collectively gang members are responsible for a large extent of crime and because gang members are criminally prone. Putting aside the arguments which challenge the notion that gangs are responsible for crime, it seems unfair to punish people according to their status as a gang member. This seems to conflict with the notion that all *individuals* are equal in society, as is made clear in South Africa's Bill of Rights.

A second justification for punishing gang members more harshly than others, as well as criminalising gang membership outright, is the notion that this acts as a deterrent. I have argued that this is unlikely to happen but one can also raise concerns that this is not in line with notions of individual justice. In effect, POCA asks for gang members to be punished more harshly in order to ward off other gang members. This interpretation of deterrence in sentencing has been regularly criticised in the international literature on punishment. As Zygmunt Bauman points out:

What is the moral basis for punishing someone, perhaps hard, in order to prevent entirely different people from committing equivalent acts? The question is all the more ethically worrying for the fact that those we punish to a large extent are poor and highly stigmatized people in need of assistance rather than punishment.<sup>37</sup>

POCA is therefore excessively punitive and it stretches the limit of what seems fair in criminal prosecutions. It is explicitly designed to make the work of law enforcement and state prosecutors easier. When deciding on the legislation, concern for adhering to notions of equality and proportionality may have been less important than fighting crime.

### **Civil asset forfeiture**

There is no doubt that Chapters Five and Six of POCA were seen as the Act's most promising elements to help the state win its war against organised crime. Chapter Five allows the a criminal's assets to be forfeited to the state after a successful criminal prosecution, whereas Chapter Six allows them to be forfeited without a criminal trial – so-called civil asset forfeiture (CAF). As with all parts of POCA, CAF was justified on the grounds that the Americans successfully use it to fight organised crime and that drastic measures were needed to counteract the growth of sophisticated criminal groups in the country. Overwhelmingly, evidence used to justify CAF was drawn from American law enforcement agencies and those who support it in theory. Surprisingly little weight was given to counter-arguments which highlighted the inherent risks involved in CAF and the potential abuses of civil rights.

A thorough review of how CAF has developed in South Africa has not been possible for this study. However, the issue remains highly important in evaluating the state's policy thinking in addressing organised crime and therefore requires some comment. A number of concerns are raised here which may help guide a future review process. Such a review is long overdue, given the pace at which CAF has developed alongside the fact that the AFU dominates public debate in this field and thereby it helps promote only a favourable picture.

The first issue that needs to be raised relates the scope of CAF. As with POCA in general, the controversial aspects of the Act were championed because they were addressing a critical problem. Yet it is now clear that the expressed aim of tackling organised crime has been reinterpreted. The AFU has not kept its focus largely on matters relating to organised crime, but has rather targeted a very broad range of people and criminal activities. Alongside drug dealers, the AFU now targets the assets of corrupt politicians, paedophiles,<sup>38</sup> brothel owners and even drunk drivers, who are now liable to have their cars forfeited to the state. There is a good argument to open up the definition of organised crime and apply it to those illicit activities of corporations and politicians. But the AFU has gone beyond its initial remit of tackling organised crime, no matter how broadly one defines it. The danger is that there are no limits in place so that virtually any criminal activity can be vulnerable to CAF, as has become the case in America. This is dishonest as POCA states clearly in its preamble that it was only concerned with organised crime and criminal gang activities. By broadening its scope, the logic on which CAF was justified becomes unclear – it was designed to combat those criminal organisations that rely on considerable assets to perpetrate organised crime. The justification for taking the assets of paedophiles, brothel owners or drunk drivers has not been stated.

A second area of concern relates to the consequences of, and justification for, reducing the burden of proof. CAF can be understood as a means for law enforcement to lower the standards of evidence needed to combat an organised crime group. The initial argument was that leaders of organised crime are particularly difficult to find guilty and therefore the state was justified in lowering the standard of proof for these specific cases. The logic is that the attributes of leading members of organised crime make it necessary for the state to reassess the rules of the game.

The problem, again, is that CAF is predominantly being used against people who do not fit this image. CAF is therefore used against citizens who do not have recourse to special powers to evade arrest and prosecution. Why this should be a matter of concern is that the criminal justice system of most democratic nations is based on the principle that people should be presumed innocent until found guilty and that they have the right to a fair trial. Moreover, lowering the burden of proof to the level of a civil dispute is deemed unfair when the state is prosecuting an individual, because the state has such enormous power and resources. In the name of fighting organised crime, the AFU relies on a weak interpretation of due process to penalise those who do not lead criminal organisations.

The problem here is multi-faceted. The process of CAF involves the AFU receiving permission from a judge or magistrate, based on evidence that does not have to be as stringent as that which would be accepted in a criminal trial, to have the assets of an accused frozen if those assets are shown to be either instrumental to the crime or if they are the proceeds of criminal activities. Once the assets are frozen, the accused is invited to defend the action. The defendant then has to explain his defence to the AFU in advance of any court hearing, which seems to favour the AFU as it has the time and resources to mount its own case, having knowledge in advance of what the defence will be. If this move by the person who has had his assets frozen is unsuccessful then the AFU can move to have the assets forfeited to its own coffers. Once someone's assets are frozen, their ability to afford good legal counsel may be reduced and the detrimental implications can be serious. The defendant now has to prove his/her innocence, often with his/her bank accounts frozen.

What makes it easier for the AFU to rely on a reduced burden of proof is the supposition that seizing those assets that are instrumental to crime is not deemed a punishment. For example, if a drug dealer uses a house to sell drugs from, then the state is taking the house in order to disrupt his ability to sell drugs. It is not taking his house to punish him, so it is argued. Likewise, seizing the proceeds of crime is deemed to be a means to reduce the incentive for crime and is not meant to be conceptualised as a punishment. This was made clear by the Constitutional Court in 2003 in a judgement that the AFU published in its annual report of that year:

It is common cause that conventional criminal penalties are inadequate as a measure of deterrence when organised crime leaders are able to retain the considerable gains derived from organised crime, even on those occasions when they are brought to justice. The above problems make a severe impact on the young South African democracy, where resources are strained to meet urgent and extensive human needs. Various international instruments deal with the problem of international crime in this regard and it is now widely accepted in the international community that criminals should be stripped of the proceeds of their crimes, the purpose being to remove the incentive for crime, not to punish them.<sup>39</sup>

Here again we see that CAF is justified with reference to the leaders of organised crime and there is also the assumption that the international community is in agreement with this policy. An argument that could be raised against this judgement is that CAF does work to punish people and at times this punishment may seem disproportionate. Because CAF is not considered a punishment, there seems no need for greater respect for due process and justice.

By reducing the quality of evidence needed to secure a successful CAF case, police errors, corruption and miscarriages of justice may increase. Whether South Africa's criminal justice system is in a sufficiently healthy state to afford this reduction in standards of evidence and due process is moot. Yet, the case of American CAF stands as a stark warning to South Africa, rather than simply being a model of best practice. It is well documented that federal law enforcement agencies have been responsible for many gross abuses of human rights through using CAF against innocent people or those guilty of only trivial offences.<sup>40</sup>

Supporters of CAF in South Africa may argue that there is a reduced possibility for miscarriages of justice here because, unlike in America, CAF remains the sole power of the AFU. According to this reasoning, the AFU is robust because it has a strong leader who is ultimately accountable for its mistakes. This makes it unlikely that the AFU will become vulnerable to corruption or shoddy practices. In America CAF has been far more decentralised and the number of police agencies who are able to use and abuse it is vastly expanded as a result. However, the AFU in South Africa is expanding at a rapid rate and it is an expressed aim of its Head to decentralise the organisation and give more autonomy to regional offices.<sup>41</sup> There are AFU offices now in most of South Africa's large and medium-sized cities. It seems possible that as the AFU becomes larger and more decentralised, the accountability of its staff will be reduced and the possibility of increasingly sub-standard operations targeted occasionally at petty offences may increase. Just how large and fragmented the AFU will become is therefore another matter that requires scrutiny.

A related issue concerns the consequences of mixing state criminal justice with money making. The AFU is not a profit-making organisation in the strict sense of the concept, but ultimately the prestige and growth of the organisation and its individual staff members will rely on how much money it, collectively, and they, individually, are able to generate. In its annual reports the AFU celebrates this aspect and its primary measures of success relate to the value of assets it has managed to seize for that year. What makes this a matter of interest is whether decisions on whom to target, and by what means, become influenced by a profit-maximising principle. On the surface this may not seem problematic. Indeed, it may be a good thing – the AFU might channel most of its energies towards those who are the wealthiest, which may include some of the country's biggest crooks. If this is the case then unlike many other areas of the criminal justice system, the AFU will not target those criminals who are vulnerable and least able to protect themselves.

Evidence so far suggests that of the biggest trials the AFU has been involved in, almost all have involved criminal asset forfeiture. In other words, the AFU has moved to acquire assets once the accused have been found guilty. A slight majority of the AFU's cases involve CAF, but interestingly the accused in these cases tend to be less well off than the accused in the criminal trials. In 2003, for instance, 53% of the AFU's cases were through CAF and 47% involved a criminal trial first. However, less than 20% of the total assets frozen by the AFU during this year came through their CAF cases. This suggests that there is a tendency to use CAF against those with less power and wealth, while those who may be in a better position to fight CAF cases are pursued through more conventional criminal trials. This may indicate that using a diminished burden of proof is favoured against those with less means to protect themselves. If correct, this represents a weakness in the original thinking behind POCA, as it was argued that CAF was needed to tackle those who are really powerful for it is they who can draw on considerable resources to evade criminal prosecutions. Moreover, if CAF is successful for the bigger cases, then we may question why it is still required, other than making it easier and quicker for the AFU to seize people's property and assets.

The financial element of the AFU becomes increasingly controversial as it generates more profit. There have been cases when the AFU has successfully taken money from criminals and returned it to their victims, which include businesses or insurance companies. It seems possible that recovering stolen assets through CAF administered by the AFU may become a service in some demand in both the public and private sectors. Without due care, those with the most voice may be able to influence where the AFU applies its focus. Where there is no obvious victim of crime – which is the case relating to much organised crime as it is

involved in the consensual exchange of goods and services, i.e. selling drugs – the AFU accumulates seized assets in a central fund which is overseen by a government committee. Where and how this money will be spent has not been openly discussed and it is therefore a matter of public interest. It is not beyond the realm of possibility that spending these funds will become tarnished by political considerations. Nor is it entirely fanciful to imagine that those who receive the funds will play some role in assisting in the accumulation of funds. All this becomes of increasing concern as the AFU decentralises and its separate offices become closer to both the AFU's targets and benefactors.

Ultimately CAF was justified on the grounds that it would reduce organised crime in South Africa. The AFU claims that it has made a significant impact already, as evident in the large amounts of assets it has taken. I have already argued that comparative evidence suggests asset forfeiture is not effective in reducing organised crime and there is no reason to equate total sums being confiscated with a reduction in harmful activities. Moreover, because of its wide scope, the relationship between asset forfeiture and reducing criminal activities has become increasingly muddled. It seems unlikely, for example, the AFU would argue they have reduced paedophilia through seizing the assets of sex offenders.

### **The criminalisation of gangs**

Chapter Four represents another potentially controversial aspect of POCA, although for most gang experts in Cape Town it also represents, alongside CAF, the key to significantly reducing gangs and organised crime on the Cape Flats.

Whether gangs should be criminalised or not depends partly on the extent to which they are criminal phenomena. I have already covered in some detail those arguments which suggest gangs are in fact ambiguous social groups and that the relationship between them and crime is not straightforward. Criminalising gangs is therefore based on assumptions about the nature of gangs, which are open to criticism.

I am not alone in making such arguments in Cape Town. When the authorities took the decision to incorporate the STEP Act into POCA, the most in-depth research on gangs remained that provided by Don Pinnock. Pinnock was still active in the field of criminology during the late 1990s. At the time that POCA was being debated, a Danish PhD student, Steffen Jensen, was halfway through an in-depth study on violence on the Cape Flats and he was one of the only people who had conducted serious primary research on crime in this region during that era. It is noteworthy that both Pinnock and Jensen argued that the authorities had relied on a grossly simplistic understanding of gangs. They were outspoken critics of Chapter Four of POCA and argued that it was a mistake to criminalise gang membership, but their views were virtually ignored. Instead, the authorities chose to copy legislation from America on the advice of local law enforcement.

One must deduce that the authorities believed gangs on the Cape Flats are essentially the same as gangs in Los Angeles. There was no evidence provided to show this. Nor was there reference made to the considerable literature stemming from America that challenges the stereotypes held by US law enforcement agencies regarding American street gangs.<sup>42</sup> This lack of 'homework' seems remarkable. Claims that such pieces of legislation are widely supported abroad lack credibility when based on a limited review of the international literature.

On the surface, having an additional section on gangs in POCA is an anomaly. The definition of a pattern of racketeering is so broad that a criminal gang could be charged with this offence. A prosecution against members of a criminal gang could proceed on the basis that such a group is a form of organised crime, which would by-pass the contentious debate over whether all gangs are or are not criminal organisations. But POCA must be put in historical context to explain why this option was not taken.

In 1998 the violence between PAGAD and certain leading drug merchants on the Cape Flats was one of the key issues concerning the local government in Cape Town. The pressure was mounting on the authorities to show that something drastic would be done to solve the problem. To a certain extent POCA fulfilled this role. It was a symbolic piece of legislation and its architects were regularly quoted in the press explaining how Chapter Four would lead to the swift arrest of scores of gang leaders and would ultimately destroy the entire gang structure. There should be no doubt that Chapter Four of POCA was political. Unlike the rest of the Act, Chapter Four was not trying to address an abstract and countrywide phenomenon of organised crime but was rather intended to illustrate that something was being done to tackle specific people in specific areas.

Although it was justified as a drastic measure to tackle the gang leaders, as with POCA in general, there is no attempt in the Act to exclude the average members of gangs. These are the most vulnerable to arrest and prosecution, so there is reason to suspect that they will be disproportionately targeted. Moreover, the political pressure to show the public that Chapter Four of POCA is useful may encourage the police to go after easier targets first.

Chapter Four is worded in such a way that the authorities can use it to combat an entire gang structure. In this way, culpability for the crimes of individuals in the group can be shared among other members. The logic here seems understandable if one believes that gangs are tightly knit organisations where individuals work closely together to commit crime. However, as I have suggested, gangs may not operate in this way and the individual members may have a degree of autonomy.

Chapter Four was also presented as a legal tool to tackle the long-standing gangs of the Cape Flats, the Americans and the Hard Livings for instance. But it

is possible that once Chapter Four becomes more widely used, the targets of the Act will be lesser-known gangs. Moreover, the process of criminalisation may have unintended consequences. Let us imagine a hypothetical scenario. The Nike boys are a group of 15 former school friends on the Cape Flats who hang out together and play football. They wear fake Nike clothing and idolise certain famous football stars. They also, much like many other young people, take drugs and engage in acts of petty delinquency. One Saturday night, two of the Nike boys get involved in a fight with members of a street gang from a neighbouring community. This is their first major fight and they are unlucky to get arrested by the local police. The police are aware of the Nike Boys and they now say that because of the recent fighting, the Nike Boys are a criminal gang, because they are a gang and they commit crime. Members of the Nike Boys are now eligible to be prosecuted through Chapter Four of POCA. The police now have an added weapon in their arsenal to intimidate members of the Nike Boys and as a result, they are able to demand information on other career criminals in their neighbourhood. It may not occur to the police to label members of a rugby club in an affluent suburb as a criminal gang when two members of the club are arrested for fighting at a nightclub in the city centre. Members of this rugby club may also take drugs regularly, wear uniform clothing, have an identifying name and symbol and come from the same neighbourhood.

It may be argued that such a scenario is far-fetched and in reality the police would never abuse the powers of this Act. But an uncomfortable question for the authorities is whether they do in fact have absolute confidence in the police in these areas. Unfortunately SAPS here are widely criticised for being corrupt and inefficient. Those who are not corrupt but are nevertheless frustrated through their inability to control crime may see any harsh legislation as a godsend and will therefore test it to its limit. Chapter Four of POCA has no guidelines to limit its potential abuses.

I raised this argument in a newspaper article. In response, local gang experts who were at that time working as consultants for the DCS claimed I had been irresponsible and that Chapter Four will not be used against all gang members.<sup>43</sup> Yet it is not clear who makes the decision on which gangs and gang members will be targeted, nor is it clear how extensively this piece of legislation will be used in the future. Moreover, to defend a harsh piece of legislation by dismissing the idea that it will be put into full effect seems odd. The concern with the potential impact of the Act therefore remains valid.

Having criminalised the gang, the authorities have also diminished the scope for a wide range of other interactions with gang members. It is hard to see how Chapter Four will help social workers, the police, NGOs and religious groups in exploring less confrontational methods of working with gang members in the

future. It is not clear how the state can claim its commitment to fund programmes to help rehabilitate gang members when they have chosen to criminalise them.

### **Gang court and gang profiling**

Talk of a gang court and a photographic gang database is an adjunct to Chapter Four of POCA. These are policies that depend on Chapter Four because this legislation defines gang membership and stipulates that photographic documentation can be used in a court of law to prove membership of a criminal gang. Neither the gang court nor the gang photographic database have been put into practice yet. However, both are expected to happen shortly, with the gang court scheduled to be running in 2006. As with POCA in general, such policies are vulnerable to several fundamental criticisms.

Unlike other specialised courts, such as the hijacking court, the environmental crimes court and the commercial crimes court, the gang court is designed to target certain types of people, rather than certain types of crime. The decision to have a dedicated gang court cannot be based on arguments that the relevant criminal law is particularly complicated, nor that the special court requires a high degree of expertise. Chapter Four of POCA cannot be considered complex or overly technical.

As Chapter Four punishes someone for being part of a criminal gang and stipulates the criteria that can be used in a court of law to decide if someone is guilty of this offence, setting up a dedicated gang court seems to undermine the notion of a fair trial – the accused is already labelled a gang member before the trial and it is assumed that the defendant is a gang member and therefore guilty of an offence before the trial begins.

What is also a matter of concern is that the notion of a gang and that of 'gangsterism' has become synonymous with coloured working-class communities. It is not an issue related to affluent white areas, nor is it a matter seen as problematic in black townships, the largest of which have the highest rates of violent crime in Cape Town. Chapter Four can be viewed as a special measure to be used against working-class coloured men, and so, too, is the gang court and the gang photographic database. Likewise, all suspects labelled as 'high flyers' so far seem to be coloured men. The uncomfortable question is whether it is justified to have special measures to deal with a particular racial group. It may well be that street gangs are unique to coloured areas and policies need to be tailored to meet the requirement of local problems. But adopting such a punitive and well-publicised approach seems destined to exacerbate the racial divisions in the city.

Both the gang court and the idea of gang profiling are policies that depend on the ability of the authorities to distinguish gang members from non-gang members. POCA lists various factors that can be used in a court of law to make

this decision. These are based on an absurd tautology. None of the factors listed describe what membership of a criminal gang entails. Consider, for instance, that a gang member can be identified if someone else says he is a gang member, be it a parent, a policeman or the accused himself. Likewise, a person can be identified as a member of a gang if he resides in a known gang area and associates with gang members, although there are no criteria laid down to identify a gang area and how it can be established that his associates are gang members. A gang member can also be identified if he has been arrested before for “usual criminal gang activity”, although such activity is not described. Presumably, it is what gangs’ members usually do. A pattern of criminal activity is defined. This is two or more offences from the same list of crimes that is used for defining a pattern of racketeering – essentially, all crimes that are remotely serious and some that are not.

In the Act, it also stipulates that a gang member can be identified because he wears gang-style clothes, has gang tattoos and uses gang language and hand signs. A description of these clothes, tattoos, hand signs and language is not provided. A person can also be identified as a gang member if a policeman produces photographs of him ‘being’ a gang member, although what factors the police may use to decide on his gang membership when taking the photograph are not elaborated on, nor is it described how a photograph can be used to prove someone’s involvement in a gang.

These lists of factors are farcical. They are tantamount to saying that ‘a person is a gang member if he looks and acts like a gang member’. In effect, one must know a gang before one can use this definition to confirm a gang. The definition of a gang in POCA, and the list of criteria that can be used to identify a gang member, do not explain the essence of gangs or gang membership.

These lists of factors are discriminatory and they open the way for an abuse of police discretion. Because it is so vague, the Act merely allows for the validation of stereotypes: gangs are found on the Cape Flats and gangsters are working-class coloured men. People who look like gang members and live in known ‘gang hotspots’ are treated differently by the police and criminal justice system. This no doubt already happens to a certain extent, but these policies seem to exaggerate both the likelihood of this happening as well as the negative consequences.

Research for this study, as well as much ethnographic research from elsewhere, shows that gang membership is contested and at times transitory.<sup>44</sup> Moreover, it may be the case that those on the fringe of gangs tend to exaggerate their commitment to the gang and overdo gang paraphernalia, hand signs and argot. Then we must not forget that the ‘gangster culture’, and its distinguishing clothing, signs and language, has become widespread and commercialised and is continually being reinvented, copied, bastardised and made outdated. The idea that police can offer a reliable photo or other evidence to say who is in a gang and

who is not, seems dubious. In this regard, talk of a gang database involving photographs needs to be carefully considered from a civil liberties perspective. The danger lies in how police decide who is appropriate for this database, how this information will be used and shared and whether it will be transparent.

We have been told that America is the inspiration for much of the policies developed against gangs and organised crime. American law enforcement agencies provide South African law enforcement agencies with training and advice. The US government is keen to help fund crime-fighting policies in South Africa. Bearing in mind this close relationship, it is useful to be aware that the Californian gang database, known as CalGang, contains over 200,000 suspected gang members. A report by the Los Angeles District Attorney's Office revealed that 46.8% of African American men between the ages of 21 and 24 in Los Angeles County are entered on this database.<sup>45</sup> Several human rights organisations have argued that this database and the process of identifying gang suspects are unconstitutional in the US and racially discriminatory.<sup>46</sup> It remains unclear why an ANC government would want to pursue such a policy.

### **Declaring war**

Perhaps annoyed at their lack of success, the authorities have repeatedly declared war on gangsterism and gang members. This increasingly seems the result of frustration. Negative implications of the war rhetoric can be contemplated on several different levels. None seem to be of concern to the authorities, who are perhaps more concerned with maintaining an image of being tough on crime than they are with the potential harmful consequences.

The talk of a 'war against gangs' began only a short time after the ending of a bloody period of vigilantism associated with PAGAD. Authorities simplified the causes of crime and drug abuse and championed solutions that would quickly and violently end the problem. We may speculate whether elected leaders declaring war against people associated, sometimes spuriously and inaccurately, with crime, may inflame further vigilantism. The authorities may have a difficult task in denouncing such acts of vigilantism when they also argue that gangs are to blame for much of what is wrong in society and must be stopped through aggressive and no-nonsense tactics.

What makes this situation all the more relevant is the increasing importance in the region of community policing and private security. The authorities are promoting a massive drive to get people to volunteer for schemes such as neighbourhood watches. In this context we may question whether it is sensible to conceptualise the most visible criminal elements within society as enemies in a war. It may sound sensationalist to warn, but there is a possibility that volunteers will overstep their remit to win this war. Already we hear that neighbourhood

watch groups are demanding greater powers of arrest and protection against criminals and also some volunteers are using guns.<sup>47</sup>

The authorities who championed POCA often quoted Mandela's demand that the state must fight fire with fire. We may wonder whether this is a sound approach. In his classic analysis of the causes of violence and political rebellion, Ted Gurr cites Gordon Allport:

Aggression merely breeds aggression. One comes to expect aggression to be a way of solving all problems... Thus aggression is pretty much of a habit; the more you express it the more you have of it.<sup>48</sup>

It has been speculated that the prison Numbers became so brutal because they reflected the brutal environment within which they existed. So, too, we may feel that levels of interpersonal violence on the Cape Flats cannot be seen in isolation from the brutality many young men experienced under apartheid institutions. We can then add to this the influence civil conflict may have had on the psyche of people in this area and conclude that violence has become ingrained, partly due to institutionalised aggression.

Conceptualising anti-gang initiatives in terms of war may also have a negative impact on police culture, which further adds to the escalation of aggression. It is well documented that South Africa has a serious problem with instances of police brutality, although accurate statistics on the extent of this problem are impossible to generate. A study into this issue by David Bruce led him to argue that South Africa's problem with police brutality is partly embedded in the country's violent past, as well as the extremely high levels of violent crime that the SAPS confronts on a daily basis.<sup>49</sup> Yet we must speculate to what extent the war on crime, and more specifically the war on gangs, may encourage extreme combative responses by a minority of SAPS officers. It is revealing to note that many of the worst instances of police brutality have been against those sections of the population who are used as easy scapegoats for crime – illegal immigrants and foreigners.<sup>50</sup> Police brutality therefore might respond to the simplistic stereotypes that circulate in society. It would seem that gang members fit these criteria well and are vulnerable to receiving brutal treatment by some police officers.

Police brutality in gang hotspots in South Africa does not occur to the same extent as in many other countries pursuing a similar war on gangs, although many people on the Cape Flats accuse the SAPS of using heavy-handed tactics with gang suspects. However, this is a matter of increasing concern in countries such as America, Brazil, Panama and Honduras. Consider, for instance, the strong evidence of police brutality against street children in Honduras that has been interpreted by local NGOs as being a direct consequence of the government's

zero-tolerance policy against street gangs. Similarly, police racism and undue aggression have been linked to the Los Angeles riots in 1992. It is worth noting here that the Department for Community Safety in the Western Cape has been considering anti-gang policies in places such as Bogotá and Los Angeles as instances of best practice.<sup>51</sup> It can only be hoped that the authorities in Cape Town are aware of the potential collateral damage linked with aggressive anti-gang policies in these cities.

#### CONCLUSION

This study has been concerned with the conceptualisation of organised crime and gangs on the Cape Flats and has necessitated a broader discussion on these terms in South Africa as well as internationally. It was argued that a parasitic model is preferred among policy makers and many leading independent commentators. This parasitic model originated in the US and has increasingly become popular globally since the mid 1980s.

A critique of the parasitic model has examined several underlying assumptions. A key issue related to the organisation of crime and it was suggested that there is a tendency to understand organised crime as distinct criminal entities that exist outside mainstream society. Not only was it argued that the organisation of crime is more complex than this, but also that organised crime is not simply conducted by those on the margins of society: it is also an increasing feature of those with more power and formal status. A consequence of this argument is to recommend that those interested in organised crime must begin to study the powerful in society, as much as, if not more than, those on the peripheries. This is not to suggest areas such as the Cape Flats should not be the subject of further study, but there needs to be recognition that many aspects of criminal activities here are not unique and if we are serious about the threat crimes poses to democracy and the functioning of the economy, then we cannot keep our gaze directed towards the ghetto or, for that matter, towards criminal organisations supposedly containing ethnic minorities.

The tendency to externalise organised crime leads to the tendency to simplify threats and harms. Gangs and other criminal groups are seen as the cause of social problems, when our more persuasive account suggests harms are an embedded feature of society, not something that will simply vanish if such criminal groups are successfully removed by law enforcement. Thus, the policy thinking which accompanies the parasitic model is problematic and offers no realistic solutions. Worse, it has been suggested that the direction in which policy making is headed risks perpetuating harms and undermining civil rights. As noted in chapter two, a senior ANC politician who has been at the forefront of these measures argued

that it was preferable to lose some human rights in order to improve law enforcement efforts, otherwise escalating crime may provide the platform for a reactionary right-wing government to reappear that would threaten civil rights more fundamentally. This was an unattractive argument. The ANC has remained very well supported in South Africa and its political hegemony looks secure for a long time. However frustrating due process and human rights are for law enforcement agencies, they should remain sacred. It is for this reason that POCA, the gang court and the gang photographic database need to be reviewed.

Those adhering to the parasitic model seem mesmerised by the notion that society can be organised crime- and gang-free if sufficient resources are deployed to law enforcement. Spurious indicators of success, including arrest and seizure data, are used to consolidate this belief. There is, however, no data showing conclusively that the actual harms associated with organised crime and gangs are being reduced by this approach and we may argue that there is sufficient evidence to suggest these harms are at a high level, or may even be increasing. The parasitic model therefore engenders what Jock Young refers to as the “cosmetic fallacy”, where crime is viewed superficially:

...as a blemish which suitable treatment can remove from a body which is, itself, otherwise healthy and in little need of reconstruction. Such criminology distances itself from the core institutions and proffers technical, piecemeal solutions. It thus reverses causality: crime causes problems for society rather than society causes the problem of crime.<sup>52</sup>

Organised crime therefore appears as characteristic of society, not simply a problem that has an easy solution. Yet, what is the way forward from this understanding? How can those who study organised crime and gangs make a valuable contribution to policy making – a contribution that not only points to the flaws of existing policy, but seeks to advance better policies and to create a better society?

#### THE CRIMINOLOGIST'S PREDICAMENT

As expected, a natural conclusion to this study is to end with a list of firm policy recommendations, based on comparative studies from elsewhere, as well as perhaps some new ideas. It is not possible to do justice to the debate on policy in these final pages and this will therefore be left for another time. Yet, in paving the way for a more detailed discussion on ‘what shall be done’, it is important to be aware of the predicament facing those who hope to *solve* the problem of crime, or gangs. This is a predicament created by two key dilemmas.

The first dilemma stems from appreciating the gravity of the crisis. It is clear that the people living on the Cape Flats have suffered tremendous social injustice

for decades. The Cape Flats was never built as a decent home for coloured working-class people, rather it emerged as a solution to inner-city crowding and racist paranoia/elitism. The regional labour market has been regulated in ways that exclude large numbers of people and basic social services and recreation facilities have always been inadequate. As argued in chapter one, although the glaring problems of the Cape Flats can be blamed on the colonial and then apartheid governments, the dynamics of post-apartheid society seem to exacerbate the negative characteristics of the past – Cape Town continues to be a remarkably stratified city, not only economically, but also socially. This stratification is most obvious between the wealthy and the poor and between so-called racial groups: the ‘blacks’, ‘coloureds’ and ‘whites’. But the divisions in the city are also found in the ghettos, where parochialism appears driven by fear and mistrust.

The causal links between crime, gangs and social problems such as unemployment, lack of mobility and relative deprivation are not straightforward. However, it seems uncontroversial to assume that violence, substance abuse and victimisation on the Cape Flats are an embedded feature of these communities, which have become intrinsic to the social and economic environment. This is not simply a problem of the present for the legacy of apartheid permeates South Africa in disturbing ways, which are difficult to measure or articulate, particularly for a foreigner who did not live in South Africa during those times. We therefore also assume that until there is dramatic change in the way Cape Town exists as a city, problems associated with gangs and organised crime will persist.

Given this context, policy recommendations, which seem seductive to some criminologists, can appear, at best, as measures that will only chip away at certain ills. Worse, they appear as nothing more than distractions from a more profound issue. Whether punitive or based on a more caring agenda, individual policy recommendations (such as police reform, ‘community policing’, prisoner rehabilitation, therapy for drug addicts, etc.) are all vulnerable to being labelled as ‘cosmetic’, particularly given the realities of resources and public spending.

This is a matter that haunts many of the alternative strategies to deal with gangs in inner-city ghettos, which have been pursued throughout American cities for decades. Despite vast amounts of spending and experimentation by social workers, academics and the authorities, the most comprehensive review of the evidence, that offered by Irvin Spergel, strongly suggests that *nothing works*, which is a similar conclusion reached by many who have reviewed the impact of prison and correctional services in high-crime societies. Spergel writes:

Because the youth or street-gang problem is related in complex ways to other basic social policy issues, it may not be effectively addressed unless concerns about poverty, racism, gun control or elimination, quality education, training,

and jobs for minority youths in disorganised inner-city communities are also dealt with.<sup>53</sup>

Similarly, Philippe Bourgois concluded his penetrating study on crack-dealing and related crime in Harlem with a reluctance to list policy recommendations due to his sense that:

Solutions to inner-city poverty and substance abuse framed in terms of public policy often appear naïve or hopelessly idealistic. Given the dimensions of structural oppression in the United States, it is atheoretical to expect isolated policy initiatives, or even short-term political reforms, to remedy the plight of the poor in U.S. urban centres in the short or medium term. Racism and class segregation in the United States are shaped in too complex a mesh of political-economic structural forces, historical legacies, cultural imperatives, and individual actions to be susceptible to simple solutions. There are also the inevitable limits of political feasibility. For a number of complicated historical and ideological reasons the United States simply lacks the political will to address poverty in any concerted manner.<sup>54</sup>

Others may not concur with this depressing view,<sup>55</sup> and those who do may be accused of defeatism. However, if one does agree with Bourgois, then an alternative approach may be seductive, although herein lies the second problem facing the criminologist.

Realising that specific policy recommendations appear hopeless in isolation, it may be preferable to argue that crime must be tackled through measures tantamount to a complete restructuring of society. This is often what we find at the end of many texts on crime, both in South Africa and internationally: crime (or gangs) must be tackled through comprehensive social and economic policies that redistribute wealth, increase mobility, provide a meaningful environment to raise families and pursue careers, and so on.

On the surface this appears as a progressive and compassionate response, one far more appealing than the punitive and aggressive policy making that has been emphasised recently by the authorities. What is more, few serious commentators would disagree that marginalised populations, such as those living on the Cape Flats deserve better employment, education and community infrastructure. However, those who share this view risk being accused of 'criminalising social policy'.<sup>56</sup> Elevating crime as the most important criterion in motivating and evaluating government policy in high crime areas such as the Cape Flats threatens to distract from a fundamental point, namely that social policies, such as housing, transport, security, employment, access to good health care and recreational facilities, should be pursued as basic human rights, not as means to win the war

against crime. We assume that when these social rights are addressed, gangs and organised crime may gradually cease to be so important. It is moot when, or whether, the conditions will prevail for us to test this hypothesis in Cape Town.

## NOTES

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- 20 Spergel, op cit, chapter three.
- 21 J Young, *The exclusive society*, Sage, London, 1999, p 116.
- 22 J Lea, *Crime & modernity*, Sage, London, 2002.
- 23 T Farer, *Transnational crime in the Americas*, Routledge, London, 1999, p 261.
- 24 See <www.unodc.org>.
- 25 S Mastrofski & G Potter, Controlling organized crime: A critique of law enforcement policy, *Criminal Justice Policy Review*, 2(3), 1987, pp 269–301.
- 26 M Levi, Criminal asset stripping: confiscating the proceeds of crime in England and Wales, in Edwards & Gill (eds), op cit, p 220.
- 27 Cited in N Boister, Transnational penal norm transfer: The transfer of civil forfeiture from the United States to South Africa as a case in point, *South African Journal of Criminal Justice*, 16, 2003, pp 271–294.
- 28 See, for example, Edwards & Gill, op cit; Woodiwiss, op cit; and T Naylor, *Wages of crime: Black markets, illegal finance, and the underworld economy*, McGill-Queens University Press, Montreal, 2002a.
- 29 See Spergel, op cit, and L Siegel, Gangs and the law, in L Kontos, D Brotherton & L Barrios (eds), *Gangs and society: Alternative perspectives*, Columbia University Press, New York, 2003.
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- 40 See Woodiwiss, op cit, chapter 7, for examples of this.
- 41 NPA, op cit, p 14.
- 42 See, for example, Spergel, op cit; M Klein, *The American street gang: Its nature, prevalence and control*, Oxford University Press, Oxford, 1995; M Klein, *Gang cop: The words and ways of officer Paco Domingo*, Altamira Press, Oxford, 2004; and L Kontos, D Brotherton & L Barrios (eds), *Gangs and society: Alternative perspectives*, Columbia University Press, New York, 2003.
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- 44 For example, Klein, 2004.
- 45 Siegel, op cit, p 225.
- 46 Ibid, p 226.
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- 48 Cited in T Gurr, *Why men rebel*, Princeton University Press, Princeton, 1970, p 155.
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- 51 This was described in the Provincial Anti-Gang Strategy, 2003, p 4, and has also been repeatedly relayed to me during interviews with members of the DCS in Cape Town.
- 52 Young, op cit, p 130.
- 53 Spergel, op cit, p 347.
- 54 P Bourgois, *In search of respect: Selling crack in El Barrio*, Cambridge University Press, Cambridge, 2003, p 318.
- 55 Some may argue that there are key policy decisions that could have a dramatic impact, most notably the decriminalisation of drugs. However, again, simply decriminalising drug consumption holds no guarantees that the social problems of drug consumption will not continue after they are sold legally.
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