

The threat of gangs and anti-gangs policy

Policy discussion paper

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Introduction

Gangs in the Western Cape continue to generate a great deal of concern among senior politicians, law enforcement officials and civil society groups. This concern has led to numerous workshops, special meetings and consultations with gang experts from overseas to develop effective anti-gang strategies. The aim of this paper is to describe and critically evaluate the most recent of the anti-gang policies that have been adopted by the authorities in the Western Cape.

In order to understand the strengths and weaknesses of anti-gang policies it is essential to start this paper with a brief overview of the official view on gangs—the accepted narrative on what they are, how they have changed in the last decade and the nature of the threat they pose to society. The paper then goes on to describe the main thrust of recent anti-gang policies, which are then critically evaluated based on results of fieldwork as well as other available gang research in the region. The paper ends with policy recommendations, the most important of which is based on the fundamental question of whether we need an anti-gang policy at all.

The research that informs this paper is based largely on a study spanning 12 months involving interviews with a wide range of people, including police, policy makers, gang experts, community residents in gang areas as well as gang members themselves, based either in prison or in their community. The paper stresses that the research is limited by various methodological factors and what is presented should not be mistaken as a definitive study on gangs.¹ A realistic objective of this paper is therefore to stimulate further discussion.

The official view of gangs after 1994

Through interviews and analysis of official documents and media statements, it is possible to identify a mainstream narrative on gangs in the Western Cape. This narrative explains that although gangs have been prevalent for several decades, dating as far back as the 1940s, they went through a period of profound change with the ending of apartheid. During this transition, gangs on the Cape Flats were transformed by several major changes (as was organised crime throughout the country). First, the breakdown of the oppressive apartheid security system and the necessary restructuring of the South African Police Service (SAPS) presented criminal groups with an extended period in which the state was ineffectual in containing them. This meant their criminal activities went relatively unchecked. Second, during this time South Africa's borders were opened up which resulted in a more fertile transnational criminal environment. New criminal operators and illegal commodities entered into the criminal underworld. In particular, West Africans, the American mafia, Chinese triads and Russian mafias appeared on the scene and drugs such as cocaine and heroin became more influential. What is more, stolen goods originating in South Africa, such as cars, could be exported overseas and used as currency in drug deals.

The opening of South Africa's borders resulted in a more fertile transnational criminal environment

The result of this tumultuous period for gangs was an increase in their power and financial base and a rapid sophistication in, and increased brutality of, their business practices, partly learnt from the foreign syndicates with whom they now came into contact.² The vigilante movement known as People Against Gangsterism and Drugs (Pagad) inadvert-

ently made the situation worse as their attacks on largely independent gangsters in the mid- to late-1990s forced gangs to join forces and organise their operations.

By the late 1990s, official estimates put the number of gangs on the Cape Flats at approximately 130, with a combined membership of about 100,000. Whereas the gangs that existed during the decades prior to the fall apartheid are often recollected as limited in power and ambition, the new breed of gangs are seen as exceptionally dangerous and well armed criminal entities. In his monograph entitled *From Urban Street Gangs to Criminal Empires*, Irvin Kinnes wrote:

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.³

A few of the 130 gangs have become particularly powerful and large, including well-known groups such as the Americans, the Hard Livings, the Sexy Boys, the Junky Funky Kids and the Mongrels. They have been particularly aggressive in recruiting new members and developing their territories. Most areas of the Cape Flats now have cells of these larger gangs. The Americans gang, which is the largest, is believed to have as many as 5,000 members and has a complex internal organisation.

Recently the growth of gang territories has meant gangs have looked beyond their traditional areas and the larger gangs are now believed to have started new operations in rural areas. This process has involved gangs investing in real estate in these rural towns and recruiting local youth.

The bid for territorial expansion is closely related to expanding income from criminal markets, most importantly from drugs including mandrax, *dagga* and cocaine. The desire to expand means gangs are in a constant state of war with each other. When this conflict erupts, it has become common for large numbers of gang members to fight openly on the Cape Flats using a frightening array of weaponry. These gang wars have turned communities into battlegrounds and stray gunshots have claimed the lives of several innocent bystanders.

Although drugs represent the most lucrative economic activity for gangs, they also seek control over a large range of economic and social activities within their domains. Some extract burdensome rents from local businesses and many have invested

in nightclubs, shops and garages. Much of this investment spending is believed to be aimed at laundering money. Other illegal activities include organising prostitution, car hijacking, robberies and the poaching of abalone.

Recruitment involves a cynical targeting of youth and typically, the most vulnerable are singled out, including those whose family situation is unstable. Enticing young people is often achieved with promises of wealth and gifts, such as designer clothing and drugs. Initiation into the gang may involve exceptionally violent rituals, including raping women or killing rival gang members. Once they are members of a gang, youngsters are taught the gang's history and rules, are encouraged to have the gang's tattoos and adopt clothing styles unique to the gang. Young gang members are favoured for carrying out 'hits' on other gangsters as they are believed to be less likely to receive long prison sentences. Leaving the gang is not permissible and those attempting to do so may risk being murdered.

The absolute nature of gang membership is an important characteristic. Once in, members are seen as losing their loyalty to all other social groups and are considered to have become entrenched into the *gang culture*. Gangsters are therefore described as separate from, and antagonistic to, the rest of the community. As a community worker in Bonteheuwel described:

The larger gangs are now believed to have started new operations in rural areas

One of the key issues when working in this area relates to the way gangs see us, the non-gang members. I sat on a presentation by the gang unit and the guy says, 'If you are not a gang member, you are nothing'. So even if you try and do good work with them it doesn't matter, if you get in the way of the gang they will deal with you.⁴

This cultural divide between gangsters and non-gangsters is reinforced by the gang's use of a detailed slang, based heavily on language developed in the country's prisons. Few people outside the gang culture understand it. A police expert explained that one could be "sitting in a room with them and they would talk about how they would kill you and you wouldn't know what was going on".⁵

The threat posed by gangs

The official view of gangs makes it clear that they pose a serious threat to communities on the Cape Flats and that they increasingly have the potential to cause harm beyond their traditional areas. How-

ever, despite numerous efforts by politicians and gang experts to publicly denounce gangs, a detailed analysis of this threat has not been made and concerns have been phrased somewhat broadly. Nonetheless, certain themes are heard frequently.

Perhaps of uppermost concern is the high levels of crime that gangs bring to the area. An estimate that is heard frequently is that gangs cause up to 70% of all crime on the Cape Flats. This includes high levels of violent crime. For example, in May of 2003 local newspapers were filled with stories relating to a flurry of gang conflicts that claimed the lives of 37 people, including an eight year-old girl caught in the crossfire. As a result, several schools closed and the military were deployed to the affected communities.

Gangs are also blamed for the area's major problem with drug consumption and prostitution. Children are, again, many of the most depressing victims as gangs target schools for selling drugs such as mandrax, dagga and recently 'tik', and they are also known to coerce or kidnap young girls for use in the sex trade. Added to this, gangs are also responsible for high levels of burglaries, car hijackings and muggings—crimes that regularly result in violence and murder.

On a community level, gang presence is recognised as causing a constant level of fear and tension. This has transformed several areas into places where few non-gang members venture out at night and outsiders are afraid to visit even in daylight. Community residents are also intimidated into helping gang activities by, for example, stashing gang weapons and contraband. If residents attempt to stand up to gangs or help with police investigations they put themselves in extreme danger. Witness protection by the criminal justice system, while much improved, is believed not to guarantee safety. Several people attempting to testify against gangs have been killed or intimidated into not testifying.

Local businesses are also systematically victimised by gangs, either by regular thefts or by being 'taxed' through bogus protection rackets. Several small businesses are believed to have been forced to relocate or close as a result.

On a cultural level, the ethos and 'world-view' of gangs, being one that promotes violence and crime, is recognised as an undermining influence on social norms and morality as promoted by institutions such as the church and school. Again, youth are the most vulnerable to being influenced by this

way of life. However, observers are also concerned that the infiltration of gangsters into business will lead to a general decline in business ethics as well.

With regards potential future threats there is much apprehension. Gangs are gaining in brutality, sophistication and ambition. Not only does this suggest drug markets will be expanded and levels of crime and violence may increase, but local commentators also worry that the development of gangsterism on the Cape Flats may follow trends observed elsewhere, particularly Russia. Of uppermost concern is the possibility that leading gangsters will successfully infiltrate local government and subsequently undermine democracy.

The fear and trepidation over gangs and their leaders—known recently as high flyers—was summarised by the Provincial Department of Community Safety:

...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.⁶

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The response of the state

Prior to the ANC-led administration in the Western Cape, anti-gang strategies came under sustained criticism for being unstrategic and ineffectual.⁷ In February 2001, the leader of the ANC in province, Ebrahim Rasool (then in opposition), responded to a speech made by the leader of the ruling Democratic Alliance:

Mr Premier, you crafted a speech in which few would argue with the broad vision and priorities. Who would argue, for example,



that the Western Cape must be made safer by tackling gangsterism. Of course, we've been saying this for years. Gangsterism is one of our pathologies which have intrigued psychologists, sociologists and criminologists for decades. And so, a spin-doctor has made you mention the word gangsterism. The connection is made—it's on the agenda. That's not good enough for the Premier of the Western Cape.⁸

In the past two years, in response to these criticisms, there seems to have been a genuine attempt to develop a more concerted approach to the gang issue. It has certainly been made into one of the key priorities by the new Premier, Ebrahim Rasool, and by the MEC for Community Safety in the Western Cape, Leonard Ramatlakane. However, pinpointing what the approach to the gang issue has been during this time is difficult. This is partly because the 'gang issue' is so multifaceted. As a crime issue, gangs are seen in some instances as posing a very specific threat which leads to a very specific response, but equally, dealing with gangs becomes easily integrated into the broader drive to deal with crime, anti-social behaviour and a long list of concerns that are linked to gang related problems.

This situation means that state authorities can call on a wide range of policies when discussing what they are doing to address the problems associated with gangs—we hear that schools are being strengthened in their ability to tackle gang related truancy and anti-social behaviour, prisons are tackling corruption and prison gangs, communities are being mobilised for neighbourhood watch schemes, police are being deployed in extra numbers over weekends in crime hotspots, urban renewal initiatives are being pursued to address employment and community cohesion, a master plan is being developed to deal with drug consumption, etc.

It is the regular (if somewhat inconsistent) linking of this wide range of policies to the gang problem that makes it difficult to identify precisely what the government is doing to address gangs. Moreover, answering this question becomes increasingly difficult when we realise that announced policies are not always an accurate indication of what is happening in reality. For example, talk of 'zero tolerance' on gangs may not correspond to what is actually being pursued by police in so-called gang infested areas. Likewise, talk of a drug rehabilitation strategy has endured, but evidence of such programmes with a direct link to gang members is hard to find.

Despite the confusion about what the authorities are doing to deal with the gang problem, what does seem clear is that local government has been very vocal during the last two years about implementing a series of specific policies that are intended to deal gangs a direct blow. These policies are regularly championed by senior politicians and are generating a great deal of optimism. In other words, although they are not the only measures to deal with gangs, the impression is given that they are the state's 'trump cards'. In this paper these policies are collectively called 'the new fight' against gangs and are the focus for analysis.

The new fight

The policies that make up the new fight against gangs are based on a clear message of intent. Put simply, gangs and the 'gang culture' that has been pervasive for such a long time will no longer be tolerated by the authorities. This message has been repeated forcefully on a number of occasions and is often dubbed the 'war against gangs'. Leonard Ramatlakane, in the opening speech of an anti-gang workshop, declared that the challenge was to:

replace and destroy the criminal economy and all its manifestations in the gang infested areas...we are going to close down the opportunities for gangs...if you [the gang members] 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.⁹

Likewise, in a newspaper report describing the intensification of anti-gang initiatives, Rasool warned that "it is no longer romantic to associate with gangs".¹⁰ More recently, in his budget speech on the 15th of April 2005, Ramatlakane said:

Speaker, last year I warned that gangsters should stop or be stopped and I want to appeal to our mothers and fathers again this year that they must ensure that their children don't join gangs and those who are members, to leave the gangs and gang activities now, or they too will suffer the same consequences as Shahied Julies and Gregory Vlotman as we implement the laws more vigorously.¹¹

This aggressive commitment by the new administration to destroy gangs is not new and forms part of a wider message about zero tolerance towards crime that has been strongly voiced for several years. In 1998, for example, Bulelani Ngcuka, then

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considered 'SA's gang-buster-in-chief,' said it was time for the "gloves to come off" in the fight against gangs.¹² The following year, Percy Sonn, the then-head of the Investigative Directorate on Organised Crime, declared his war on gangs and promised to arrest the 'Big 5'—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.¹³

Unfortunately, Sonn failed to prosecute any of the 'Big 5' during his tenure of that position.

The message of zero tolerance has been regularly repeated in speeches and in newspaper interviews. However, the new administration has gone further than simply declaring a war on gangs. There has been a recognition that to win this war, the state needs new tactics and legal tools, or, as described on the front pages of the local press, new "weapons in the fight against the scourge of gangsterism".¹⁴

The Prevention of Organised Crime Act

At the forefront of this new fight is the decision to implement section 4 of the 1998 Prevention of Organised Crime Act (POCA), which criminalises membership of street gangs. Despite being passed in 1998, there has only recently been a concerted effort to use POCA against gangs. The reason for the delay seems partly because prosecutors and the courts remained under-trained in the Act's technicalities so cases involving gangs were prosecuted using more traditional methods.

To understand the significance of POCA it is useful to be aware of its historical development. POCA was passed in 1998, when burgeoning organised crime was felt by many people to be one of the major threats to the success of the new democracy. In the Western Cape, these fears were heightened by the conflict created by the increasingly aggressive vigilante movement, Pagad. This conflict, now well documented, was linked to terrorist attacks and several hundred murders.¹⁵ Consequently, there was a profound crisis of confidence in state security and a pressing need for drastic measures.

In this climate, the government looked to set up a new Act to tackle organised crime and gangs. A looming general election put added pressure on the situation and those who were involved in drafting

POCA describe the process as happening at great speed. However, despite this pressure, POCA was widely considered to be a bold and powerful move and was greeted with much optimism. The late Minister of Justice, Dullah Omar, declared POCA "the most drastic law passed by this government".¹⁶

Being relatively new to a field with such a long international history, it was understandable that the architects of POCA looked overseas to identify what could be considered as best practice. Thus, South African experts, including leading gang police, travelled to America and gathered information on relevant strategies and legal tools. As a consequence, POCA was based heavily on two important pieces of American legislation, namely, the American Racketeer Influenced and Corrupt Organisations (RICO) statute, created in 1970, and the California Street Terrorism Enforcement and Prevention (STEP) Act of 1988. Both have been influential in many other countries, besides South Africa, and it was therefore unsurprising that they formed the

inspiration for POCA. Legislation such as RICO and STEP, and therefore POCA, are based on three central ideas on how to combat organised crime and gangs effectively.

First, it is argued that the power, success and appeal of criminal groups are, in part, based on their accumulated assets, which are often invested in legal goods and currency. To hurt organised crime the state must challenge the financial clout of criminal groups and attempt to strip them of their 'ill-gotten gains'. Therefore, POCA contains asset forfeiture measures that allow for the confiscation of the proceeds of crime from convicted members of criminal groups.

Second, because organised crime and gangs have grown considerably in threat and scope, the state is justified in increasing the severity of punishments for members of such groups. The maximum sentence for those found guilty of being involved in a criminal group is life imprisonment or one billion Rand. In addition to this, POCA states that if a court "finds that the accused was a member of a criminal gang...such factor should be regarded as an aggravating factor for sentencing purposes". POCA also requires courts to take into account whether any of the offences occurred near a school or place of learning as this, too, should be regarded as an aggravating factor.

Third, it is argued that members of criminal organisations, and especially the senior members, are difficult to prosecute under traditional criminal law. The main problem lies with the tendency of lead-

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ers in organisations to order others to commit crime on their behalf. Leaders are thus distanced from the substantive criminal act and remain difficult to prosecute, although they are ultimately both the key recipients of the proceeds of crime and the crimes' architects. Group-based criminal laws, such as POCA, attempt to overcome this dilemma by criminalising membership of a criminal group.

The preamble to POCA 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.¹⁷

In developing POCA, the distinction was made between organised crime and gangs. 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".¹⁸ In clarifying what gangs are, POCA states that a criminal gang:

...includes any formal or informal ongoing organisation, association or group of three or more persons, which has 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.¹⁹

The decision to criminalise membership of street gangs is perhaps the most crucial aspect of POCA in the new fight against gangsterism in the Western Cape. It is viewed by the authorities as being both a strong legal tool to prosecute those within gangs for their collective crimes, but it also seen as being a major deterrent for young people who consider joining gangs to be an attractive idea. A supporter for the use of POCA against gangs argued:

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.²⁰

The high flyer project and prosecutor-led investigations

In addition to the decision to implement section 4 of POCA has been the policy to target the so-called high flyers—the gang bosses. Although this policy has a special dimension in the Western Cape, given its problem with street gangs, the high flyer project is part of a national drive to arrest the top 200 criminals in the country.

Little has been written on why the high flyers should be targeted, who they are or how they have been identified. However, interviews with senior officials, as well as press coverage, suggest that the logic behind arresting the gang leaders is that they are the organisers 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 organisation.

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 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 new high flyer initiative is strengthened by the introduction of investigations and prosecutions that involve police and state prosecutors 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. This may reflect a level of public distrust in local police who are often accused of being corrupt and having close connections to gang members.

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The prosecutor-led investigations are also seen to be necessary with the advent of group-based prosecutions, such as those that will use POCA. Traditional police investigations often fail to illustrate a systematic pattern of offending, and it is thought that well trained prosecutors working with police will have more success in generating this information to be used in court.

Gang courts

The idea of dedicated gang courts can be seen as a consequence of the prioritisation of gang cases and the new use of POCA. It is apparently something that certain members of anti-crime forums on the Cape Flats have wanted for several years.²¹

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 1997.²²

The rationale behind these dedicated courts is partly based on the need to fast track priority crimes. Also, dedicated courts can be staffed with specialised prosecutors and magistrates who are knowledgeable about the relevant legislation and underlying problems. This, in turn, may bring about consistency and predictability in the handling of sensitive trials.

In the case of gang courts the authorities have been particularly concerned that their new fight against gangs will clog up the general courts. In addition, it is argued that a worrying consequence of taking too long to prosecute gang members is the likelihood that the 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.²³

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. This was a major incentive behind the decision to adopt section 4 of POCA as, 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. These are as follows:

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.²⁴

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It is the last point that has inspired the idea of the police compiling photographs and dossiers of known gangsters. Ramatlakane has argued that with these gang profiles and photographic evidence it would be extremely difficult for gangsters to deny they were part of a gang.²⁵

To what extent this policy has been implemented is not entirely clear. 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. We can only assume that this project will be developed further in the future.

Summary

Collectively the new fight against gangs is justified on the grounds that the legal tools and police strategies will significantly reduce the scale and scope of gangs. This will be achieved by removing gangs from the street and by deterring people from either associating with gangs or continuing their membership of gangs. The rationale is also based on the idea that previous attempts to arrest and deter gangs were failing, largely due to the technical difficulties in prosecuting them.

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 these gangs would be declared illegal.²⁶ Perhaps the most significant evidence that the fight is being effective 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. The death threats were apparently motivated by the high flyer initiative, the decision to increase police investigations into organised crime in the region and, in particular, the arrest of Quinton 'Mr Big' Marinus. 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.²⁷

Discussion

Before considering some of the critical issues surrounding the policies of the new flight against gangsterism, it is first necessary to reflect on the mainstream understanding of gangs. Herein lies one of the most important, and overlooked, aspects of gang policy. The question needs to be asked: are anti-gang policies based on a sound understanding of gangs and gang culture?

The creation of a good enemy

The official discourse is based on a strong sense that gangs and their members are easy to define. They have a strong essence that sets them apart from other people and groups in society. The British criminologist, Jock Young, argues that these beliefs are vital for the omnipresent war on crime:

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.²⁸

As has been described above, the official perspective on gangs makes bold statements such as that they are the cause of a large part of crime and violence on the Cape Flats—up to 70% of crime is seen as being 'gang related'. They are also blamed for much of what is seen as bad in the area—lack of investment, corruption, drug dependency, truancy at school, a decline in morality, etc. The

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official perspective also gives the clear impression that gangs are unique organisations as they are, first and foremost, anti-social groups intent on committing systematic criminal activity, typically to earn money and to terrorise civil society, particularly women and children but also businesses, schools and other civil society groups. Moreover, once a person has become a gang member they are qualitatively different from other people—gang members have a strong set of cultural beliefs that are opposed to

mainstream society. This is what people refer to as 'gang culture' or 'gangsterism'. This absolute nature of gang membership is reinforced by the idea that gang members only have an allegiance to their gang—any other person or organisation is outside this 'world' and will be considered either hostile or a legitimate target for victimisation and predation.

The authorities' view of gangs in Cape Town, and those of many local gang experts, can be considered to be very confident. A senior official in the Department for Community Safety (DCS) stated that: "We all know who is a gangster, that is not the problem".²⁹ However, research on the reality of gangs and gang membership in Cape Town has been woefully lacking; there have been very few in-depth studies of gangs and the publications that inform the official perspective show a lack of critical reflection and rigorous methodologies. To point this out is not to suggest that the research that informs this publication provides a clearer idea of what gangs are.

But it is extremely important that we begin to understand some of the ways in which the reality of gangs is complex, ambiguous and potentially far different from what the authorities imagine. In doing so we may start to realise that the war on gangs, as well as the decision to criminalise gangs, is problematic.

To question the reality of gangs is not to question that gangs exist. Rather, it is to consider what gangs are, what gangs mean to different people and in what ways gangs may be contradictory or dissimilar.

Joining gangs

The basic question of why people join gangs is a good starting point to muddy the water. Ramatlakane, alerted us—though only fleetingly—to the complicated subject, but also exposed the way in which this subject is often simplified for the purpose of demonising gangs:

The nature of gangsterism in the Western Cape today has become increasingly ruthless and business orientated. Participation in gang activity is still substantially driven by such elements as group identity, self-protection, pride, boredom and turf. However, the bottom line is money, where highly organised and well-connected gang bosses preside over vast business empires.³⁰

Here the authorities suggest that the 'bottom line' is money, but we also regularly hear that young boys and girls form gangs or join existing ones for a plurality of reasons. The standard list goes further than those mentioned by Ramatlakane and includes friendship, a sense of belonging, a sense of status, as an act of rebellion against parents, or, conversely, because it forms part of some sort of family tradition—a boy becomes an American because his three brothers are Americans and so too is his uncle.

During research for this paper young gang members in prison were asked why they joined their gang.³¹ Perhaps reflecting the researcher's inability to converse with them as well as his status as a white outsider, it was exceptionally difficult to work out their motives and it appeared they, too, were not entirely clear about the answer. Worryingly for the validity of the research, several interviewees seemed to respond with language that sounded remarkably like that used by their social workers, who lecture them regularly on the evils of gangs.³² Despite these methodological flaws, it appeared their reasons for joining gangs were varied: one interviewee was enticed into the gang because

other gang members gave him beers and drugs, another mentioned that he thought girls liked him because he was a gangster and therefore was seen as 'tough', another explained that he joined the gang at school, another joined as a way of protecting himself from his three older brothers and another's reason was to get back at his mother for neglecting him and having an affair (which was also implied through a tattoo reading "My mother does not love me").

These interviews offered only snapshots into the myriad of reasons why people join gangs. A serious attempt to understand why they do so must be informed by in-depth interviews with gang members and these conversations should proceed based on the possibility that their reasons are complex and often even contradictory—people join gangs as an act of rebellion but also to find a sense of belonging; they join for protection but also to enjoy the thrill of fighting and getting access to guns and drugs; they join because they feel their parents or society let them down, but also because they are following a family tradition, etc.

People join gangs
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of belonging

Even the bottom line—that gang members join to make money—is not entirely convincing. We do not have information on the economic activities of gang members. But what seems to be the case is that many gang members are poor and do not earn a regular income from illegal ventures.³³ Most would

probably earn more if they could get a job. Clearly, some people who are members of gangs do make money from illegal ventures and some have become relatively well off. But these are the exception. Perhaps one could argue that although not all gang members do make money it is simply the lure of making money that entices new gang members. However, to imagine that people join gangs for this reason, above all others, seems too simplistic and suggests the gangs are one-dimensional when they may not be.

Gang membership

The reality of gangs becomes more complex when we wonder what the nature of gang membership is. The mainstream perspective, as well as POCA, depend on there being a clear dividing line between those who are in a gang and those who are not. What is more, gang membership is absolute—it requires a life-long commitment that prohibits loyalty to any other institution.

Again, documents generated by the Department of Community Safety should have raised concerns that gang membership is subjective and approached

differently by gangs themselves. In particular, a paper largely copied from an American gang website, by Portia Tsolikile and Ben Haefele, and presented at an anti-gang workshop in Cape Town, describes various levels of gang membership including a leadership core, hard-core members, fringe members and 'wannabes'.³⁴ Although leaders and hard-core members are considered dedicated members of the gangs, the other two levels are made up of those who have not quite made a "commitment to life in the criminal gang culture"³⁵ and therefore drift in and out of the gang and seem to lack direction. The wannabes are described as those who are not actually gang members but youth who emulate gangs by copying their dress, graffiti, hand signs and other cultural symbols. They may associate with known gang members, but they are not accepted into the gang.³⁶

There are, of course, dangers in using an American model of an ideal gang to presume aspects about Cape Town gangs. However, while South African gang structures may not always conform to this model, the model does approximate many of the gang descriptions put forward by police and other gang experts on the Cape Flats. Indeed, the concept of 'wannabes' is reminiscent of Don Pinnock's description of 'corner kids' in his gang study of the mid-1980s.³⁷ These were ubiquitous playgroups on the Cape Flats, formed by young boys who lived close together, often from the same street or apartment block. Pinnock described how these boys idolised the older gangs in their areas and copied their styles of dress and speech and often gave themselves a gang name although, apart from running the odd errand for the older boys, they were not really involved in serious gang activities at all.

What is illustrated by both the concept of the corner kids and the wannabes is that gang membership can be vague and contested. Outside the so-called hard-core of the gang, membership seems to be undecided and negotiated. There are people who exist on the fringe of a gang and aspire to be in the gang but have either not made a full commitment or have not been fully accepted by the leadership. Some may display signs of gang membership, such as wearing gang clothes and using hand signals, but really they are not 'in the gang'. In fact, we should be sensitive to the possibility that people on the fringe may display exaggerated signs of gang membership to compensate for their ambiguous status.

To this we can add that some leading members of gangs also have an ambiguous commitment to the

group. Many successful gang members move away from the Cape Flats and live in wealthier areas. They are also rumoured to collaborate with leading members of other gangs on business deals, even those who are popularly thought to be their enemies. To what extent they remain 'hard-core' members is open to interpretation—their gang membership remains tattooed onto their bodies, but their actions suggest they are anything but loyal members.

This understanding of contested gang membership conforms to a view expressed by Gerald Stone, who has devoted several decades to studying gangs and gang lexicon. Stone hypothesised that gang membership operates on the basis of who you know: it is not simply achieved by performing an initiation ceremony, learning hand signals or by getting a tattoo.³⁸ Gang membership and status develop over time and require constant validation, hence Stone says that "Who do you know?" is a common question among gang members, or it may be pointed out that someone has high status in a gang because they are 'well connected'.

Gang membership can be vague and contested

To argue that there are various types of gang membership and these can be ambiguous, both to the outsider as well as the gang members, is not to suggest that in many gangs membership is not taken seriously. On the contrary, some Cape Town gangs have a ruthless policy on attempts at leaving the gang which suggests that for some gangs, membership is absolute—you are either part of the gang or not and if you are part of it you cannot leave.

In contrast, one can equally find cases of people who drifted away from a gang without severe reprimands from their fellow gang members—despite the popular adage that the only way out of a gang is in a coffin or to the church, many gang members succeed in staying alive and leading a life less dominated by gang politics and activities. There are many examples of so-called x-gangsters on the Cape Flats and they are often the people one is first introduced to as a fieldwork researcher on gangs. For instance, the author of this paper spent some time with a reformed gangster who was developing a community centre in Atlantis. When asked if gangs in the area allowed their members to leave the gang and become involved in his community centre, he replied:

Yes, there is no problem. If a boy wants to get involved at the centre I will speak with the older gang members and his family. It is not a problem, I am good friends with the gangs in this area. Look at me, I left my gang and I am still friends with them.³⁹

In other words, 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. This was documented by Steffen Jensen in his ethnography of the Homeboys—a small gang made up of friends from a football team in Heideveld. Jensen writes:

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.⁴⁰

Gang structure and organisation

The mainstream perspective on gangs gives the impression that they have evolved into complex, well-organised businesses. Yet the evidence for this is lacking. There is, of course, difficulty in knowing how gangs are organised. Many of the larger gangs are believed to have a membership of several thousand and they exist in several areas of the Western Cape, but these groups do not have formal contracts, job descriptions or regular meetings. Despite the idea that organised crime and gangs has benefited from the IT revolution and vast improvements in global communication, these gangs remain low-tech and informal.

To understand how gangs are internally governed would necessitate in-depth research over a prolonged period of time. This research would have to bear in mind that what members of large organisations think is the internal structure of power and organisation may not reflect the reality, as is the case in many organisations.

From a superficial inquiry into the organisation of certain gangs on the Cape Flats what seems to be the case is that many of the smaller gangs are egalitarian in spirit. This means that all members are equal and there is no leader. In contrast, the larger gangs are rumoured to have internal hierarchies of power and privileges. Yet it does not seem to be the case that the larger gangs, such as the Americans, are coherent business organisations. According to one former member of the Americans in Atlantis, the gang's business could be described along the lines of a franchise:

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.⁴¹

What may give the impression that gangs are well organised entities is the strong rituals and symbolism that group members have—they share tattoos, hand signals, slang and a collective identity. However, we may wonder to what extent these outward signs of belonging to the gang may mask the fact that the gang is, in itself, quite vacuous. As Jack Katz and Curtis Jackson-Jacobs argues:

Some of the best gang studies have found that myth making is one of the central activities of males involved in gangs... Fervent rituals professing commitments may be necessary because of the lack of any independent, objective reality of the gang. That the same paradox haunts and inspires religion indicates the need for some imaginative methodological thinking when studying gangs.⁴²

It does not seem that the larger gangs are coherent business organisations

Without a great deal of research we cannot be certain of how organised Cape Town gangs are. However, it is perhaps interesting to note what one of the leading gang experts in America wrote on this subject:

Despite the sophisticated organisational analysis or attributions of gang researchers and law enforcement officials, street gangs must still be regarded as more like 'amoebic' social movements than rational business organisations. The idea of sophisticated gang organisations is still largely the 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.⁴³

Gang culture and gangsterism

We can add further confusion to the reality of gangs by asking what 'gang culture' is. The terms 'gangs', 'gangsterism' and 'gang culture' are often used by the authorities in ways that are not very clear. One of the only mainstream publications to try and tackle this issue was written by Irvin Kinnes and aimed at strengthening anti-gang initiatives of the DCS. He asserts that understanding gang culture is essential in trying to develop anti-gang strategies. This is because the unique aspects of the gang culture explain their type of offending and criminal activities:

It is necessary to understand how gang culture operates and functions in order to design successful business planning processes against it...Gang culture and activities impacts on policing strategies and policing culture, especially if there is no understanding of what this culture is. It becomes an essential component for any designer and planner to take account of what exists in terms of the gang culture. This contributes to the crime profile of the gang. It assists with the types of crime that the gang perpetuates, the *modus operandi* as well as the major economic activities that they become involved in. Though not formal and prevalent in all, some gangs have particular cultural practices with respect to community support; women and their role; philosophy and world views; control, discipline and punishment; attitude and participation in the community they live in; leadership; inter-gang relations and associations; decision making and division of labour; location and geographical space which the gang claims.⁴⁴

Unfortunately, Kinnes does not adequately clarify what he believes to this culture to be. He states that gangs "adhere to values they have learnt in prison" and that they are "amoral but not immoral", "immoral to societal morals and values, but not immoral to their own members" and that their "world-view often states that the world is against them and they have to fend for themselves".⁴⁵

For this research several people were asked to explain what they mean by the 'gang culture', or by the term 'gangsterism'. Typically they described it as a 'way of life'—an anti-social way of life that pitches loyalty to the gang against loyalty to institutions of civilised society, such as the school, the family, the church, the rule of law. It is also a culture of extreme selfishness—of taking from others without thought of their wellbeing, of an unhealthy regard for consumer goods such as cars

and jewellery, and worse, it is a culture that worships the iconography of the gun. It is also a culture of hedonism—taking drugs, getting drunk and living for the moment without thought of future consequences. Furthermore, it is a culture of extreme masculinity and gross disregard for women, which is expressed through the celebration of rape and exploitation of women for the sex industry. Some people feel that this macho culture sadly reflects those social and economic factors that undermine men's sense of worth; men who know that they should be the breadwinners but are in fact made redundant through a lack of education and job status. The gang culture therefore is also a culture of the uneducated and unsophisticated.

Added to these themes, and closely related, many commentators argue that the gang culture is also heavily influenced by a negative American black culture that is expressed through gangsta rap. Benjamine Haefele, when considering the future threat of gangs, urged vigilance with regards the continuing growth of this culture:

Many argue that gang culture is heavily influenced by a negative American black culture expressed through gangsta rap

The popularity of gang culture continues to grow at a rapid rate...fuelled in part by the media through the music, movie and television industry. Rap music, along with its parent hip-hop, became a global phenomenon during the '90s, transcending the inner-city minority community and appealing to all racial, ethnic, geographic, socio-economic and gender groups. The crossover appeal of rap is, in many respects, grounded in the rise of gang culture and the 'gangsta' style

of music, which promotes that lifestyle. It is a lifestyle rooted in the themes of money, women, guns and drugs; the physical posturing in promoting those themes; and the language of the culture and its nonverbal forms of communication such as gang hand signs and graffiti.⁴⁶

Haefelel suggests that one of the main problems with this imported culture is its relationship with crack consumption:

Since crack is such a lucrative drug to sell, it often becomes the product of choice to fund urban gangsterism. The international popularity of 'gangsta rap' and the American sports clothing associated with gangs is only one spin off of the successful crack trade. The power of American-style gangs in the Western Cape makes this area of the country particularly susceptible to crack influx.⁴⁷

All these notions of a gang culture can be seen brilliantly in the tattoos with which gang members cover their bodies. These are perhaps the signs that a true gang culture does exist and is embraced by gang members to such an unhealthy degree that it can then be linked directly to their criminality. Prominent are signs of money, pictures of sex, images of guns and the flags of America and Britain.

However, what is perplexing about the notion of a gang culture, or 'gangsterism' is the extent to which it really is unique to gang members. Feminists will persuasively point out that the dominant male-driven society breeds an astounding tendency to disrespect women in South Africa, as evident by the staggering national rates of rape and domestic abuse. Therefore masculinity is at its most exaggerated in gang culture, but not unique to it. Likewise, the obsession with guns is not just confined to gangs but has been pervasive in the country for many years.⁴⁸ Again, members of gangs may, at best, have an exaggerated love for weapons, and at a very early age, but this is not a unique trait. Likewise, the notion that gang culture is unique because it is based on individualism and consumerism is absurd—these are traits celebrated and encouraged in modern society. Indeed, it is perhaps telling that a common quip among people in the Western Cape is that the real gangsters are not on the Cape Flats but in politics and big business.

The influence of American 'gangsta rap' culture is an interesting subject that needs further study. But here we may tap into a revealing theme on the complex causes of gang phenomena that may expose some of the other facts about gangs as being questionable—if the phenomena of gangs is closely related to imitating an American culture, does this mean that the spread of gangs in the Western Cape is not only a criminal conspiracy, driven by the recruitment of young people into criminal institutions such as the Americans and the Hard Livings, but perhaps also a new form of youth identity that is gaining in popularity among young people who are choosing to imitate glossy media stars from Los Angeles and New York? Consider, for instance, that the most famous piece of gang related graffiti on the Cape Flats is found in Manenberg—the picture of a rap star entitled *West Side*, a reference to the rivalries between the East and West coast music in America that somehow has a resonance on the Cape Flats. Indeed, even in areas such as Atlantis gang residents have picked up on this theme and have divided the town between East-side gangs and West-side gangs.

Furthermore, how do people justify the view that the idolisation of gangsta rap among coloured working

class men and women is a cause of gang violence and crime—even crack dealing? Gangsta rap culture is popular throughout society, not least with rich white boys who wear imitation caps, earrings, baggy trousers (a reference to the oversized trousers given to prison inmates in American jails) and who memorise the violent rap lyrics which degrade women and worship guns etc. Why is it that the culture that these boys idolise is not seen as threatening the fabric and safety of their communities, or leading them into a life of dealing crack cocaine?

Perhaps we may find a more interesting insight into gang culture from the notion of rebellion. Is this something that makes gangs different from other people? Gang members have a 'world view' that excuses killing people, robbing, taking drugs and raping. The culture of respectable people—the non-gangsters—does not encourage these sorts of behaviours, and certainly does not celebrate them as acts worthy of bragging about. To understand if this is really the case we need to conduct in-depth research that allows gang members to express their

own attitudes to society and the justifications for these. In doing so, we must be prepared to find out that gang members have views that are embedded in mainstream society and that the difference between 'them' and 'us' may not be as clear-cut as we would like to believe. We may also find that many gang members do not adhere to one cultural identity and are more complex than this.

The difference
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The reason for gangs

We can further muddy the water on the reality of gangs by asking the simple question: "Why have coloured communities had such a long history with gangs and other communities, such as the white middle class or even the black townships, haven't?"

There are a number of answers to this question that many local commentators agree on. Interviews with local gang experts and the police tend to result in the same list of contributing factors, spelled out as some sort of recipe for the current gang problem. These explanations all start from an assumption that gangs are well defined and understood—it is the independent variable in the equation. The following is a brief overview of some of these causal factors:

1. One of the most accepted reasons for the gang problem lies with the apartheid and colonial past—gangs formed because of forced removals. This was the main argument developed by Don Pinnock in 1985⁴⁹ and repeated by many after him. Consider the following by Benjamin Haeefe:

To understand gangsterism in South Africa, it is important to sketch the impact Apartheid has had on its development. Apartheid legislation greatly contributed to the growth of gangsterism in both the black and brown urban communities. The Group Areas Act, the Pass Laws, the Migrant Labour System and Job Reservation Laws laid the foundation for gangsterism.⁵⁰

So, according to this explanation, the problem with gangsterism is fundamentally due to past marginalisation and racial segregation (although it is not explained why other sections of the population who suffered similarly do not have gangsterism).

2. Gangs have been exacerbated by the transition to democracy as there has been resentment at the way coloured people have suffered economically and politically. According to this argument, the coloured working class lost some of the few privileges the apartheid system gave them over black South Africans. Indeed, there is some evidence to suggest that welfare grants for coloured people diminished after 1994 and social spending was also reduced as more money was made available for the development of black townships. In other words, the shift to democracy caused gangsterism because it created poverty, marginalisation and a sense of injustice.
3. Added to this is the argument that gangs are caused by the feminisation of the labour market—women get preferential treatment in many jobs and are also the main recipients of welfare grants. This means many men feel redundant and cannot fulfil their role as ‘breadwinners’. They then take out their frustration by joining gangs and victimising women.
4. It is also argued that gangs became what they are today because of the immense criminal opportunities provided by the transition to democracy, as well as the inability of the police to respond to this new situation. Thus gangs were caused by the flood of new drugs and the influence of new foreign crime syndicates. Ramatlakane and others argue that:

The growth of the gang culture is part of the globalisation of international crime. It is inextricably linked to illicit markets and the criminal economy.⁵¹
5. Also regularly lamented is the problem of a lack of identity—coloured people have been alienated between two dominant ruling races—first the whites and then the blacks. As one com-

Gangs have only been able to survive due to corrupt links to the police

mentator put it, “If you want to know why we coloureds have gangs...the problem is that we coloureds wish we were white...we don’t know who we are or where we came from”.⁵²

6. As mentioned already this problem is also linked to an unhealthy appetite for American culture, particularly that which is portrayed in violent films and through ‘gangsta rap’. Indeed, the birth of gang culture on the Cape Flats is often directly linked to the ‘bioscopes’ of the 1950s and 1960s, when young coloured men started imitating kung-fu and gangster movies after leaving the cinemas—this explains some of the names and symbols that gangs adopted which have their origin on the big screen, such as the Godfathers, the Sicilians, etc.
7. The Professor of Criminology at the University of Cape Town, Wilfred Scharf, points out that gangs have only been able to survive due to corrupt links to the police; corruption is a major cause of gangsterism.⁵³ Indeed, in an interview with two police gang experts they argued that without corruption gangs would have been removed years ago.
 8. It is also argued that the problem of gangs rests with families not controlling their children and enforcing a sense of morality at home, hence Ramatlakane urges that tackling the problem must involve “mothers and fathers taking responsibility for what their children are doing”.⁵⁴
9. Similarly, it is lamented, gangsterism flourishes because of a lack of role models—the only people young coloured men can look up to are successful gangsters or foreign film heroes.
10. It is argued that the prison gangs heavily influence gangs and gangsterism—ex-prisoners have exported the culture of gangsterism onto the streets.
11. Gangs are a response to the lack of economic possibilities on the Cape Flats. Young men join gangs in order to make money and afford consumer goods.
12. Don Pinnock, in a later publication of his work on gangs, suggested that due to a breakdown in extended family, gangs fulfilled “a right of passage” for young people who were denied traditional means to become adults.⁵⁵
13. Social workers dealing with gangs in a reformatory explained that young gang members on the Cape Flats are delinquent because they are exposed to violence at home and on the streets so they internalise this and become

wretched, dysfunctional human beings. Tellingly, as the gang members relax in prison they start to play for the first time and rediscover their 'lost childhood'. The most stark example of this was a boy aged 15—awaiting trial for multiple murder and rape—who became infatuated with Lego bricks. On his stomach he had tattooed: WHO WILL BURY MY DEAD BODY.

So again, we hear an accepted wisdom that is not very coherent—gangs are caused by poverty but also by opportunities, gangs are caused by a lack of identity but also from an over-identification with imported, Americanised culture.

Gangs result from the strain inherent in society but also from the failure of education. Apartheid caused gangsterism but the transition to democracy caused gangsterism. Gangs are caused by the globalisation of crime but also because parents don't know how to look after their children. Gangs are the result of people being ruthlessly entrepreneurial, but also because young men are dysfunctional and mentally unstable. Gangs are caused by prison, but also because police can't control the streets.

There is no doubt that many of these factors are important issues for the coloured community, as well as explaining the behaviours of various individuals involved with gangs. However, we may wonder which of these arguments are more persuasive than the others when it comes to explaining why the coloured areas of the Cape Flats are believed to have such a longstanding problem with gangs and gangsterism.

Perhaps there is some mega-theory that can include these popular ideas into one coherent whole. Perhaps it is the case that some are wrong and some are right and that the most convincing theoretical explanation of gangsterism will be a mix of some and not others? Perhaps there are other theories that we have not become aware of because the empirical research has yet to be done and the academics have not yet developed new theories? Yet another theory—one that this author regards as more persuasive—is that the difficulty in developing causal theories about gangs is not simply because of a lack of empirical research or underdeveloped explanations, but is caused by confusion over what it is that is being explained. At least, when people talk of the causes of gangs and gangsterism they may be trying to explain many different things under one clumsy banner—delinquency, organised crime, violence against women, drug dependency, school truancy, cultural identities and so on.

Gangs-cause-crime⁵⁶

By now it should be evident that the concept of the gang is a contested one, suggesting that the mainstream discourse is based on confident assumptions about the reality of gangs that may not be entirely valid. However, one key assumption requires special consideration—that gangs cause crime. Part of the reason is that it is rarely considered problematic—that gangs cause crime is obvious and does not require proof. It is then used as one of the main justifications for anti-gang policies. However, while it would be ludicrous to doubt that members of gangs are frequently *involved* in crime, and often sickeningly violent crime, there are a number of issues that confuse the taken-for-granted causal connection between gangs and crime.

First, there is some confusion as to what is, in fact, gang related crime and what is not. In order for us to accept that gangs cause crime we need to identify those criminal activities that are intrinsically linked to the gang—i.e. those crimes that occur because of the gang's objectives or peculiarities, and we have to distinguish these from crimes that are carried out by members of gangs but have little to do with the gang as a whole or its stated objectives. In practice this is very difficult to do.

Examples of crimes that we may think are directly linked to the gang could include initiation ceremonies that involve raping a woman or killing a rival gang member, or orchestrated gang fights over drug dealing territories. Without gangs these activities would not happen, or at least not in the way that they occur when committed by gangs.

However, there are many criminal acts carried out by gang members that may have little to do with their gang membership or some sort of planned agenda. For example, violent conflict involving members of gangs may not have any direct relationship to gang objectives and may be sparked spontaneously by relatively trivial events, such as fighting over a girl, reacting to an insult etc. It should be remembered that groups of men fighting over such issues are unfortunately common occurrences throughout the world, irrespective of gang membership. Similarly, there is contradictory evidence about income generating crimes, such as drug dealing or thefts, being orchestrated by the gang leadership—many gang members seem to act with a great deal of autonomy. Those criminal acts carried out by members of gangs that have little to do with the rest of the gang or the gang's objec-

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tives therefore may not really be 'gang related'; they may simply be crimes committed by gang members.

Second, the idea that gangs cause crime is strongly asserted when referring to market-based crimes, such as drug dealing. However, according to some sources many of the prominent players in certain illegal markets on the Cape Flats have tenuous links with gangs, although this does not stop people referring to them as 'gangsters'.⁵⁷ What is more, several police have speculated that those members of gangs who become successful drug merchants may decide to move away from gangs because gangs are socially stigmatising or because their mindless acts of violence gain increased police scrutiny. In other words, gangs may be bad for (illegal) business. This hypothesis contrasts with the often-heard statement that gangs have become well-organised criminal businesses.

Third, there may be confusion with the chronological relationship between gang membership and crime. If gangs cause crime, then we would expect that people who join gangs would become more criminal after they join the group. However, further exploration is needed on whether youth who are more 'criminally prone' join gangs as a consequence of their criminal activities and subsequent exposure to the criminal justice system. In other words, many people may become involved in gangs because of their criminality. This may mean that high crime rates may cause increases in gang numbers.

Fourth, and following on, the gangs-cause-crime theory is also less straightforward when we consider whether there is a positive correlation between gangs and crime rates. If gangs cause crime and crime is a central feature of the gang's existence, then more gangs would mean more crime, and a reduction in the number of gangs would mean a fall in crime rates. Is this happening? Longitudinal data on the number of gang members and the rates of their crimes would be impossible to generate. However, we know that the number of gang members has been estimated to be substantial for several decades. However, officials and some local criminologists argue that crime during this time has gone through a profound increase, especially after 1994, and then recently seems to have been reduced. If, as may be the case, gang numbers have stayed relatively static during the past decades but crime rates have fluctuated wildly, then does this suggest that the relationship between gangs and crime rates is not nearly as simple as we may think? Are there various factors that influence the rate of offending other than the number of gangs and gang members?

We may find that a lot of gangs are not, in fact, involved in criminal activities

Fifth, the belief that gangs-cause-crime is also muddled when we consider 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 difficult to explain why drug dealing or violence occurs in areas where there are no gangs—or obvious gang culture. Gangs may do crime, but then so do lots of other people. Does this suggest that crime is not a very good defining characteristic of gangs?

Sixth, instead of being a cause of crime, we may wonder if gangs form partly as a response to crime. On the Cape Flats it is often lamented that young people feel vulnerable to attack by gangs, particularly when they have to walk home from school and negotiate several different gang turfs. In response to this unbearable situation, some youth join gangs to protect themselves—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, if not many, people join gangs as a mechanism to defend themselves against crime and victimisation. Again, 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. This is very different from the typical argument that we must remove gangs to make society safer. We could argue the converse: make society safer and a major incentive for gangs may dissolve.

Seventh, the link between gangs and crime can be considered tautological. The popular concept of a gang is of a group that is involved in crime. One therefore hears about groups of young boys that 'become gangs' or start 'acting like gangsters,' such as taking drugs or fighting, as they get involved in crime. Peer groups who are deemed dangerous or threatening are therefore labelled as a gang whereas before they were simply another group of young people. If we refer to groups of youth as gangs irrespective of criminal activities then we may find that a lot of gangs are not, in fact, involved in criminal activities. In other words, it becomes difficult to argue that gangs cause crime if one uses crime as a key, defining trait of gangs.

And finally, eighth, the link between gangs and crime may be influenced by what criminologists

refer to as the self-fulfilling prophecy. 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 co-ordinators for the Safer Schools initiative said that it is "often easy for teachers to know which learners are going to be the gangsters".⁵⁸ The process of labelling someone in this way can lead to them responding to other people's expectations or being 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 a 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.

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. But it does suggest that the relationship between gangs and crime is not a simple one.

Do gangs cause 70% of crime?

Having sketched some of the reasons why we should question the belief that gangs cause crime, it is important to focus on the statistic that gangs cause up to 70% of crime, or even simply the majority of crime.

Because there is no information on how gang statistics are compiled, it should be asked how this figure has been generated or if it is even possible to develop gang crime statistics. Consider, for instance, the difficulties in distinguishing gang related crime from crimes that are committed by gang members. Consider also how difficult it is to talk about an aggregate number of crimes—there is not 'a number' of crimes that occur each year. There are some things that can be quantified, such as the number of arrests, prosecutions, the number of murders or the number of reported instances of rape, burglaries, car hijackings and so on. But there is no method to arrive at an aggregate number of crimes so that we can blame these on one group of people.

In addition to these problems with the statistic that gangs cause 70% of crime, even the official statis-

tics show that gangs are probably related to far less crime than this. Murder rates are a good example. Irvin Kinnes asserted 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 1999.⁵⁹ There were 358 murders at that time that he classified as '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 to the annual murder rate in the province which has been roughly 3,000 for the last few years. This suggests that, during the most intense period of conflict involving gangs, gangs were in fact responsible for a minority of murders. With the ending of the Pagad conflict, the proportion of murders involving gang members, we may presume, has become even less.

What is remarkable is that even some police who work in so-called gang hotspots argue that gangs are not the major crime problem. They confirm that this is something of a myth and that far more

problematic are instances of domestic abuse and violence that occurs at shebeens. Again, proving this point becomes difficult without reliable means of quantifying gang related crime, but the small amount of evidence we have suggests gangs cannot be blamed for the majority of crimes in the region. Indeed, a member of the police's crime intelligence division guessed that less than 4% of violent crimes can be attributed to

gangs.⁶⁰ What this suggests is that the idea that gangs cause 70% of crime (or even simply a large proportion) has been invented for political reasons and was never based on any particular evidence.⁶¹

Even some police working in gang hotspots argue that gangs are not the major crime problem

Summary: Who are these people?

Our country, particularly here in Cape Town, is ravaged by gang activity and these members are unscrupulous people who do not care for the rights of other people, [they are] actually a bunch of cowards, all of them. Intimidating people, demarcating areas for themselves, making it impossible for law-abiding people to make a living in some of those areas, to live there in peace.

Magistrate A.P. Kotze, sentencing Shahied Julies as a member of the Corner Boys, December 2004, Wynberg regional court.

The purpose of this paper is not to argue that gangs do not exist, nor that they are not intrinsically linked to many bad things in society. However, it has tried to briefly illustrate that gangs and



'gang culture' is a complex subject that may be far more ambiguous than the authorities presume. Much more research is needed before we can be confident on what gangs are, how they are structured, how they relate to crime, what the terms 'gangs' and 'gangsterism' mean to different people and what factors cause young people to join gangs or form new gangs.

Without this research, the authorities have based their anti-gang policies on a taken-for-granted notion that gangs are something unique and evil. In doing so the authorities have created a 'good enemy'. This is crucial component in the war against gangs, for it not only demonises gangs and helps focus public hatred, but it also allows for a set of anti-gang policies, including legislation that criminalises gang membership and lists factors that can identify a gang member in court.

The assumptions and generalisations about gangs should raise concern. In particular, it is too rarely considered how our concept of gangs and gangsterism hides or encourages worrying stereotypes and myths. Gangsterism in the Western Cape has become synonymous with coloured working class areas (or 'those areas' as magistrate Kotze called them), and thus there is a real danger that many people outside of coloured communities have merged assumptions about gangs into their ideas about coloured working class men. To deny that this has happened already would be naive. To illustrate how readily gangs and coloured men are stereotyped in matters relating to crime consider the following four cases:

- In January 2003 nine men in a massage parlour in Cape Town were tied up and executed. Initial reports from the police claimed that the murders were the work of the 28s gang. Later it was revealed the murders were carried out by two men who had no gang affiliation.
- In June 2002 five petrol station attendants in Grassy Park were murdered late at night. Each was shot at point blank range in the back of their head and dragged into the staff office. Initial police reports were that this was the work of a well-organised gang. Speculation was rife that the killings could have been part of a gang initiation ceremony. Later it was found out that the murders were committed by a policeman from the neighbouring police station, who had suffered a nervous breakdown.

- Moubin, a 19-year-old from Heideveld, said in an interview with Steffen Jensen:

They keep it against you if they hear you're from Heideveld: "Oh, that place is violent! You must be a gangster!" At first they will [say], "Wow, he is from Heideveld. I wonder what kind of gangster he is now? Does he have a gun on him? Does he carry a long thin pointed knife? Is he going to rob me, is he going to kill me? Is he going to steal from my house?" – such things man. I mean, people always look at you other ways, man. I don't know man. I can't explain. You have to be from Heideveld and you have to be brown to experience that.⁶²

- In April 2003, Alan Gietzman, a white mechanic, approached Isaac Landsberg, a homeless coloured man, and asked him if he would organise the gang rape and murder of his girlfriend. Gietzman offered Isaac Landsberg a CD and a cell phone as payment.

The close working arrangement between police and prosecutors overcomes many problems that hampered investigations and prosecutions

Policy critique

Before considering some of the critical issues of the 'new fight against gangs' it is important to make clear certain positive aspects. First of all, from a purely technical perspective, the authorities seem to be making progress in strengthening the process by which certain individuals involved in organised crime are investigated and prosecuted. In particular, the close working arrangement between police and prosecutors clearly overcomes many fundamental problems that have hampered investigations and prosecutions in the past.

Second, if, as it seems will be the case, the new fight leads to the arrest and prosecution of people for acts such as murder, rape and the exploitation of young people for the sex industry, then the authorities will provide a sense of justice that has been lacking for many years. Few people will disagree that it is a positive step to send out a message that these activities are repugnant and intolerable, and the authorities should clearly be championed when they succeed in prosecuting some of the men who are well known to engage in extreme violence and cruelty and who have, in some instances, indeed terrorised their communities.

However, despite this important function of recent policy against gangs and organised crime, this section of the paper discusses several reasons to be less optimistic. Many of these issues have been



raised in other countries whose governments and law enforcement authorities have followed similar policies. Each of the criticisms raised will be used to suggest policy recommendations.

The criminalisation of gangs

In order to criminalise membership of a gang, to have a gang court and to justify punitive measures against gang members, it is imperative that gangs and gang membership are well defined and understood. It is also essential to illustrate that gangs cause a unique criminal threat to society, one that warrants such special measures. However, as argued above, the concept of gangs and gangsterism are ambiguous and they may be subject to several false assumptions. In particular, while the authorities understand gangs to be coherent criminal entities, there is some evidence to suggest that gangs may be not only this, but also complex social and cultural phenomena. Moreover, the belief that gangs cause a great deal of harm in society, including high levels of crime, needs careful consideration, and certainly needs further proof.

It is important to acknowledge that the authorities have criminalised a phenomenon based on very little research. The popular assumptions about gangs are generated through taken-for-granted beliefs, media reports and academic publications based on very little hard data or rigorous methods. Given the difficulties of doing research into gangs, weaknesses in the literature are to be expected. However, to take the decision to wage a war against gangs and to criminalise them without questioning the reality of the underlying threat seems highly problematic. The question needs to be asked: what is it that the authorities have waged a war against?

Recommendation

While the terms 'gangs' and 'gangsterism' are worthy of further study by social scientists and cultural theorists, for the time being they seem inappropriate to be used in courts or laws. In order to criminalise gangs and gang membership there needs to be substantial research that shows conclusively what gangs are, how gang membership can be defined and what the negative impact of gangs and gangsterism is.

Is the criminalisation of gangs fair?

Irrespective of the difficulties in defining gangs and gang membership, there needs to be additional clarity on why people should be punished for being part of a gang and why gang membership should be seen as an aggravating factor in sentencing.

It seems that the authorities partly justify the harsher treatment of gang members because of the assumption that they are more criminally prone. If this is the case, then certain people have been targeted by the law due to their status and not simply because of their criminal actions. Is this fair? Should a person who is a member of a gang receive longer prison sentences than a person who commits the same crime but is not a member of a gang?

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. In effect, gang members are being punished more harshly to ward off other gang members. Again, we may question the justice in this policy. 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 high[ly] stigmatized people in need of assistance rather than punishment.⁶³

Gangs are probably less organised than is popularly assumed

What also seems to be used as justification for treating gang members differently is the concern with group dynamics. Because gang members order other members to commit crimes on their behalf, there needs to be a law that criminalises any involvement in the gang. This theory needs to be challenged on two grounds. First, it is not clear how many crimes committed by gang members are in fact well orchestrated and are based on instructions from senior gang members. As argued above, gangs are probably less organised than is popularly assumed. Second, if there is evidence that a person, or group of people, have been orchestrating criminal activities by using other people, then prosecutors could either proceed by using conspiracy laws or by prosecuting the group as an organised crime group under POCA.

Indeed, the decision to distinguish between gangs and organised crime groups in POCA seems unwarranted as their definitions are remarkably similar. We may speculate that the criminalisation of gangs served a political purpose—it was to show that something is being done to tackle *those* people and *that* culture in *those* areas. If POCA was merely a legal tool to help prosecutors deal with group-based crime, then there would be no need to have a separate section for gangs—criminal gangs could simply be prosecuted as organised crime groups.

Recommendation

The authorities and courts should carefully consider whether gang membership is an appropriate aggravating factor in sentencing. In addition, where the state wishes to prosecute any individual for being part of a criminal organisation, they should do so by defining the group as an organised crime group or syndicate. There is no need to have a separate section within POCA for criminal gangs. Indeed, based on this argument, the authorities should carefully consider scrapping Section 4 of POCA altogether.

The dangers of discretion and gang profiling

Recent policy decisions have been based on a belief that gang members can be easily distinguished from non-gang members. POCA lists various factors that can be used in a court of law to make this decision, and the authorities are planning a gang database that includes photographic material.

However, the factors listed by POCA that can be used to identify a person in court as a gang member are weak and based on an absurd tautology. None describe what membership of a criminal gang entails. Consider for instance, that a gang member can be identified if someone says he is a gang member, be it a parent, a policeman or even the accused himself. Likewise, a gang member can be identified as such if he resides in a known gang area and associates with gang members, although there is no criteria laid down to identify a gang area and how it can be established that his associates are gang members. Consider that a gang member can be identified if he has been arrested before for 'usual criminal gang activity,' although 'usual' gang activity is not described, presumably it is what gang members 'usually' do. Consider that a gang member can be identified because he wears gang-style clothes, has gang tattoos, uses gang language and hand signs, although a description of these clothes, tattoos, hand signs and language is not provided. Consider also that a person can be identified as a gang member if a policeman produces photographs of him 'being' a gang member, although what factors the police used to decide on his gang membership when taking the photograph is not stipulated, nor is it described how a photograph can be used to prove someone's involvement in a gang.

These lists of factors should be considered farcical. They are tantamount to saying that a person is a gang member if he looks and acts like a gang

member. Objectively deciding on a person's commitment and level of membership in a gang would require in-depth longitudinal study by people who are close to the gang itself. Police, as well as most social scientists, are rarely able to do this.

The vague and unsatisfactory way in which gang membership is defined raises a further concern. Not only is the notion of a gangster precariously based on racial, gender and class stereotypes, but also gang membership is ambiguous, transient and often contested, even by people who are involved in gangs. There is therefore a real danger that the criminalisation of gangs could lead to discrimination, where 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 recent policies seem to exaggerate both the likelihood of this happening as well as the negative consequences.

Beth Bjerregaard writes on the same situation in America:

The flexibility provided by such broad definition gives law enforcement officers a fair amount of discretion in enforcing these [anti-gang] statutes. In fact, a certain amount of discretion is necessary for officers to do their jobs efficiently and effectively. However, discretion also opens the door to the possibility of abuse. Racism in the criminal justice system has frequently hidden behind the cloak of discretion.⁶⁴

A gang database involving photographs needs to be carefully considered from a civil liberties perspective

In this regard, a gang database involving photographs needs to be carefully considered from a civil liberties perspective. It does not seem that the details of how this database will be developed have been fully explored. However, a number of concerns need to be raised before this initiative is developed further:

- On what grounds will police decide to photograph a gang suspect and enter them onto a database? Will this involve similar criteria to those that are listed in POCA or will it be purely up to police discretion?
- Will fringe members of gangs be included in this database or is it only reserved for hard-core members? How will this distinction be made in practice?
- Will people know if they have been entered onto the database and that their photograph has been taken? Will there be compensation for

people who are wrongly entered into the database?

- For how long will people be listed on the database? If it is possible for a person to be a gang member for a short while, can their record on a gang database be considered as proof that they are still a member of a gang?
- For what purposes will the database be used? Will it become available to other institutions such as employees, landlords, universities, prisons, etc?
- Will a person being stopped for 'routine purposes' be cross checked on the gang database by the police and dealt with accordingly?

The authorities in Cape Town have given assurances that the punitive measures for dealing with gangs (such as the gang courts, the use of POCA and the gang database) will not be used against all of the 100,000 gang members that are believed to exist in the Western Cape, but these policies will rather be used selectively.⁶⁵ However, this is weak compensation for what seems controversial policies. It is worth bearing in mind that South Africans have copied these strategies from California. 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.⁶⁶ Several human rights organisations have argued that the database and the process of identifying gang suspects is unconstitutional and racially discriminatory.⁶⁷

The parallels with anti-terrorism laws may be worth considering here. It has been popular in South Africa and abroad to argue that anti-terrorism laws can lead to discrimination and abuse against Muslim people based on populist stereotypes about terrorists. Are similar arguments relevant with anti-gang laws? Is it not also possible that poorly conceptualised laws against gang members will lead to many negative consequences for people who seem to match the 'pictures in our heads' when we think of gangsters?

Recommendation

The weak list of factors for identifying a gang member in POCA should add further weight to the call for reviewing Section 4 of the Act. In addition, the planned gang database needs a careful review based on the potential for such a system to infringe on the civil liberties of citizens.

The dangers of declaring war

The authorities have repeatedly declared war on gangsterism and gang members. This has been justified on the grounds that gangs are responsible for a large part of what is wrong in certain areas.

Negative implications of the war rhetoric can be contemplated on several different levels. None of these seem to be of concern to the authorities. First, talk of a 'war against gangs' has occurred only a short time after the ending of a bloody period of vigilantism associated with Pagad. Pagad also simplified the causes of crime and drug abuse and championed solutions that would quickly, and violently, end the problem. We may speculate whether a mainstream discourse of 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, too, argue that gangs are to blame for much of what is wrong in society and must be stopped through aggressive and non-sense tactics.

The more the
police target
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of purpose

What makes this situation all the more relevant is the increasing importance of community policing and private security in the region. 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 sensation-

alist 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.⁶⁸

Second, the rhetoric of war may also have a negative influence on gangs themselves. Several studies of gangs have argued that gang members come together when confronted by an outside threat.⁶⁹ Indeed, without an external threat it is theorised that many gangs tend to be short-lived and incoherent. The police—or 'the state'—are often considered the main cause of this combative response by gangs. The more the police target gangs, the more their members bond and the more gang generates a sense of purpose and perhaps of excitement. We therefore may wonder what the impact is for gang members when they hear that the state has waged war against them. Will this lead to gang members thinking that they must arm themselves and be prepared to fight their oppressors?

Third, by declaring a war on gangs and advocating a policy of zero-tolerance among public officials towards gang members, theoretically the space is closed for other gang policies. It becomes very difficult in this environment for those working in gang hotspots to form working relationships with members of gangs in order to help them find work or contribute to urban renewal initiatives. This point was raised succinctly by a community worker in Manenberg:

They talk about a war on gangs which makes my life very difficult. How can I do my job in this area if my department has declared war against them? What they don't understand is that you can't work in these areas without working with the gangsters, the gang members are the community, you can't just remove them from here like that.⁷⁰

Fourth, conceptualising anti-gang initiatives in terms of war may also have a negative impact on police culture. 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 imbedded in the country's violent past, as well as the extremely high levels of violent crime that the SAPS confronts on a daily basis.⁷¹ Yet we may 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.⁷² 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 an 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 President Ricardo Maduro'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.⁷³ 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.

Recommendation

The authorities should consider using less combative language when discussing anti-gang policies. The war analogy seems highly inappropriate and potentially irresponsible.

Will criminalisation of gangs and gangsterism work?

The criminalisation of gangs and the rhetoric of a war against gangsters can be questioned on ethical grounds. But it can also be questioned on its utility. Supporters argue that the criminalisation of gangs will act as a strong deterrent for people considering getting involved with gangs. There is a strong message attached to POCA and the gang court that the authorities will no longer tolerate gangs and gang culture—not only are these 'no longer romantic', but they are also the target of well-organised policing and prosecution.

However, the notion that gangs and the gang culture can be destroyed by new laws and dedicated courts seems highly unlikely. There is little reason to believe that because the authorities strongly disapprove of gangs, people will stop forming gangs or joining existing ones. One should bear in mind that police and politicians may not be well supported among those people who are considered gang members or at risk of becoming gang members. Indeed, as many gang experts have argued, increased denunciation of gangs by authorities may lead to a defiant response.

Recommendation

The authorities and supporters of punitive measures to deal with gangs, such as the gang court and Section 4 of POCA, should not pursue these strategies based on the idea that they will act as strong deterrents. Indeed, the notion that we can address the 'gang culture' through such methods must be re-considered.

Conceptualising anti-gang initiatives in terms of war may have a negative impact on police culture

Is prison the answer?

The new fight against gangs—if successful—should result in more people being arrested and longer prison sentences being served on gang members. This is one of the key justifications for punitive measures against gangs—the threat of incarceration will make gang members ‘think twice’ about what they are doing, and gang related crime can be reduced by taking gangsters off the street.

In areas considered to be gang hotspots there are no statistics on how many young men go to prison. Yet it is widely recognised that rates of imprisonment among young working class males from these areas is very high. Indeed, it does not seem to be beyond the realms of possibility to suggest that young working class 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 while coloured people make up approximately 9% of the population.⁷⁴

High levels of incarceration within those areas considered to be gang hotspots should alert us to the possibility that prison is not an effective deterrent for potential offenders, nor an effective mechanism to reduce levels of gangsterism. The coloured community has long been subject to both more incarceration and higher crime rates than any other section of the population.

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.⁷⁵ 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 live in severely overcrowded prison cells and have little access to education or exercise. As 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”.⁷⁶ Reports of prison life strongly suggest that inmates are routinely subject to violence and sexual abuse (often spreading STDs, including HIV/Aids),⁷⁷ while there are also high levels of drug consumption.

Having served prison sentences, people 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 only places in which ex-prisoners are not pre-judged for their past sins. Thus, recidivism is highly likely, especially for those returning to poor, marginalised communities.

There is also some evidence to suggest that prison for young unemployed men in coloured communities functions as a right of passage. Serving time may be viewed as an important way to gain status and respect. Several interviews with police and gang members within prison have revealed instances where young boys have wanted to go to prison in order to obtain a rank in the prison gangs.

This would suggest 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.

What is further cause for concern is that South Africa is failing to cope with severe prison over-crowding. 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 181,000.⁷⁸ South Africa’s prisons were thus approximately 70% overcrowded. For some prisons, such as Pollsmoor in the Western Cape, this figure is much higher and prison populations have reached twice their allotted capacity.⁷⁹

The authorities believe that sending more gang members to prison for longer periods of time is an effective component of an anti-gang strategy. However, this line of thinking seems seriously flawed and will only add to the crisis of overcrowding in the country’s prisons. Indeed, when viewed systematically, it may be more persuasive to argue that prison is a major contributing factor to high crimes rates rather than being an answer to them.

Recommendation

A fundamental mind shift is needed. Instead of understanding prison as a cure for both gangsterism specifically and crime in general, the authorities should view most prison sentences as an indication of societal failure. Justification of punitive measures

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to address gangs may be based on the belief that South Africa's prison system is being improved and will soon be successful at rehabilitating offenders.

However, this sense of optimism should not obscure the reality that prison does not work for many—if not the majority—of South African citizens. That South Africa's prison system will be transformed into successful institutions of rehabilitation and reform is highly unlikely in the short to medium term. Indeed, the international evidence strongly suggests that 'prison doesn't work'.

In this regard, imprisonment cannot be viewed as an integral part of an anti-gang strategy. Therefore, the authorities need to carefully consider ways in which arrested gang members can either be kept from entering the prison system at all, or how prison sentences can be reduced to a minimum. Section 4 of POCA is a major hindrance here as it stipulates gang membership should be seen as an aggravating factor in sentencing. Again, this should add further weight to a thorough review of Section 4 of the Act.

In addition to curbing the use of prison sentencing, another important consideration for the authorities relates to reintegration strategies and prison after-care. Those labelled as gangsters currently receive minimal assistance in finding work and stability when leaving prison. It may be deemed wishful thinking, but the authorities should therefore consider developing programmes to counter this situation. Unfortunately, in areas where unemployment is very high, finding meaningful work for ex-prisoners may be very difficult and there may be little community support for giving offenders assistance in finding work when other people are similarly structurally unemployed.

The fallacy of head hunting

The high flyer project has been championed on the grounds that removing key figures in gangs and criminal markets will lead to a systematic reduction in related crimes, such as drug dealing and prostitution. Hoosain Kagee and Irvin Kinnes state this theory clearly when they responded to an article in the Cape Times which suggested otherwise:

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.⁸⁰

It is important to stress that punishing individuals who have been found guilty of serious crimes can be strongly justified on the grounds that justice has been served. However, the argument that "all evidence" points to the fact that head hunting will lead to a reduction in organised crime is controversial. A recurring theme in the international literature on both gangs and organised crime has been the exact opposite—head hunting, it has been argued, is not an effective way of combating organised crime or illegal markets.⁸¹ 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.

However, this is not to suggest that head-hunting 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. Without any state intervention it is possible that a small number of operators would monopolise large areas of business, as is the case in the legal economy.⁸²

Likewise, it is possible that the process of removing key operators may lead to greater competition in illegal markets. This, in turn, may lead to violent clashes between competing organisations or individuals. 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 gangsterism and drug markets continue to exist, but there was also evidence of increased violence between people competing for new market opportunities. It is perhaps perplexing that the head of the Department of Community Safety has argued this himself:

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

Removing key operators may lead to greater competition in illegal markets and thus to violent clashes between competing organisations or individuals

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.⁸³

Having recognised this, it is difficult to understand why the authorities are convinced that the high flyer project will succeed. Arguably Pagad was far more efficient in removing leading gang members and drug merchants than the state can hope to be. Pagad failed to 'win the war' and it certainly did not seem to act as a deterrent for those considering gangs or drug dealing.

Recommendation

Although head hunting may not lead to a reduction in the scope of illegal markets, it is nevertheless a policy that can be justified on other grounds. However, a fundamental mind shift is needed by the authorities in addressing markets in illegal goods and services, involving a move away from seeing head hunting as a viable method in all cases and towards a more systematic approach. This alternative approach should be based on several critical issues:

- there needs to be a realisation by policy makers that illegal markets are systems of production and consumption;
- policy should seek to reduce the harm caused by illegal markets; and
- policy makers need to identify practical means to measure this harm in order to evaluate whether policy is successful.

In developing this alternative approach, policy makers need to be guided by a practical agenda rather than by moral absolutism. Drugs may be bad, but a zero-tolerance approach may not be the most effective way of reducing the harms associated with them, although it may be a useful approach to win votes. In this respect, policy makers need to be able to explore all possible approaches, including the possibility of decriminalisation.

So, for example, the harms associated with the trade in mandrax may be identified as: the number

of addicts; economic expenditure by users (cost of the drug); number of people receiving sentences for selling mandrax or using mandrax; prevalence of mandrax use among learners, and so on. Methods of measuring these harms could include surveys, price data and information from authorities such as hospitals, prisons and schools. Armed with this information policy makers may be able to experiment with different policies (such as drug rehabilitation, prevention, policing, decriminalisation) and will be able to evaluate whether these policies have been successful.

It is worth pointing out that seizure data and numbers of arrests are traditionally considered good indicators of success in dealing with organised crime and illegal markets.⁸⁴ However, neither reveals whether harms associated with these markets have been reduced. Thus, the authorities may be successful in seizing twice as much dagga as they did last year, but this information can not be used to deduce ongoing levels of dagga consumption.

Conclusion and further considerations: Is an anti-gang policy needed?

The thrust of this paper has been to criticise the punitive response to gangs, referred to as the 'new fight'. The authorities have chosen an anti-gang approach based on criminalising gangs, making the criminal justice system more efficient in removing gangsters from the street and creating an environment which is so threatening that it will deter people from joining

gangs or even associating with them. The paper has argued that these policies are problematic. They seem unlikely to be successful on their own terms (reducing gangsterism and gang related crime) and they are also problematic from an ethical point of view.

At the heart of the anti-gang policy is the assumption that gangs need to be removed in order for society to be improved. In other words, if we can develop and implement policies that will remove gangs from the street then communities will be transformed into better places. In this respect the new fight shares a basic logic with many other gang polices that have been discussed widely but have yet been implemented to any great extent. For example, a popular local alternative to punitive measures to deal with gangs is the idea that gangs can be removed by working directly with vulnerable youth to improve their social skills and self-development. These approaches tend to provide gang members and vulnerable youth an environ-

The assumption that gangs need to be removed in order for society to be improved needs careful consideration

ment away from the Cape Flats and may involve teaching them about their denied cultural roots in a bid to give them a sense of self-worth and community respect.

However, the assumption that gangs need to be removed in order for society to be a better place needs careful consideration. This perspective assumes that gangs are the cause of much harm in 'gang infested areas', when the link may in fact be a more complex one. Jock Young calls this simplistic understanding of crime as a "cosmetic fallacy":

The cosmetic fallacy conceives of crime as a superficial problem of society, skin deep, which can be dealt with using the appropriate ointment, rather than as any chronic ailment of society as a whole. It engenders a cosmetic criminology which views crime 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.⁸⁵

Much of the thinking on gangs and anti-gang policy conforms to this cosmetic fallacy. We may therefore argue that what is needed are policies that change the environment where gangs exist, for this is the best way to tackle the gang issue permanently.

This is a very tempting conclusion on a gang policy and one that was in mind when the research for this paper began: Many of the people involved in gangs *should* be provided with better housing, better job prospects, better recreational facilities, better health care, better education and better mobility and so on. Indeed, few people would argue that these policies should not be made into a priority for citizens living in those areas which have become labelled as gang infested. They are policies that are preferable over those that attempt to solve problems associated with gangsterism through policing and dedicated gang courts. They also seem preferable to those programmes that seek to solve the problem by taking gang members out of their real life environment—by trying to teach them that their gang culture is not acceptable and that they should 're-discover' their forgotten cultural identity. That such projects may work on an individual basis should only give further weight to the argument that coloured people are normal people living in intolerable conditions—of course young people re-

moved from their destructive environment will start to behave like 'normal citizens'.

However, to conclude that an anti-gang policy should involve a wide range of social and economic policies risks falling into the same trap that undermines the present policy favoured by the authorities. The gang is a 'good enemy' because it is easily made into a scapegoat for many problems in society that in fact may be spuriously linked to gangs and gang members. Likewise, we should be cautious in making gangs into a 'good ally': gangs can also be used as a convenient vehicle for a wide range of social and economic policies. Undermining both perspectives is the fact that the gang is an ambiguous concept which has been subject to several false assumptions and stereotypes. The gang is taken for granted as the independent variable in whichever equation suits the underlying agenda. Just as it is difficult to argue that gangs cause crime, it is also difficult to argue that unemployment or poverty or lack of education cause gangs.

And thus, it is also difficult to find reason in choosing gangs to be the basis of a campaign about important social and economic policy. These should be addressed in their own right and not confused by being linked to the 'gang issue'.

By questioning the reality and the confusion behind the concepts of gangs and gangsterism, we may wonder to what extent we need an anti-gang policy at all. What is it that people are against when they think of gangsterism? Is it organised crime and drug taking? Is it poverty? Is it violence against

women? Is it the legacy of forced removals? Is it the adoration of an American consumerism expressed through rap music? Is it groups of bored unemployed men? Is it school truancy and disrespect for teachers? Is it a form of primitive political protest? It is probably all of these things and more. Gangs have developed into a special interest in South Africa. Yet this obsession with gangs has not been backed up with a detailed description of what gangs are and what they mean to different people. The little research that has been done on gangs reveals only that the term has developed a special ambiguity and that in the South African context, the notion of gangs is plagued with stereotypes, false assumptions and half-truths.

Again, there are many people who feel they are part of a gang and are gangsters, just as there are many people who may be part of gangs and act like gangsters but are not labelled as such by society or by themselves.

The best way to tackle the gang issue permanently is to change the environment where gangs exist

The gang is an interesting concept worthy of much more discussion and research. Yet it does not seem to be a concept that should be criminalised or dealt with through dedicated courts, specialised

laws and a photographic database. To do so may only exacerbate many of the problems facing *those* communities that have become infamous for gangsterism.

Endnotes

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About this paper

For the past two years the South African government has pursued new tactics to fight gangs in the Western Cape. They include the promulgation of the Prevention of Organised Crime Act, which criminalises gang membership, the creation of a dedicated gang court and the creation of a gang database to aid investigations and prosecutions. This paper provides a critical discussion of the conceptualisation of gangs that informs these new policies. It also raises concerns that the policies may not lead to a reduction in gang-related problems in the way that the authorities hope. The paper concludes by asking the fundamental question: do we need an anti-gang policy at all?

About the author

Andre Standing has been involved in the study of gangs and organised crime in South Africa for five years. He is currently writing a book on gangs and organised crime in the Western Cape, which will be published by the ISS.

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