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# RESTORATIVE JUSTICE AND NODAL GOVERNANCE<sup>1</sup>

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## ABSTRACT

To date, the principal emphasis within the restorative justice movement has been on the ways in which its values can guide the system of ‘criminal justice’. In this paper we argue that this institutional focus has limited our ability to recognize ways in which such values are being promoted within forms of governance originating outside of state justice systems. Through an examination of one localized governance model in South Africa, we seek to demonstrate that restorative values are being promoted through distinct goals and mechanisms developed to suit micro-political, cultural and economic realities. We suggest that the need to discover, explain and assess such mechanisms is important to the advancement of the security governance literature, especially in a manner that is both intellectually and practically relevant to societies with deficits in state governance. Our empirical focus is on Peace Committees in South African communities that are operating, in Braithwaite’s terms, as forms of ‘responsive nodal governance’ (Braithwaite, 2008). Our depiction of these Committees raises both explanatory and normative questions that warrant further empirical study. We argue in particular for the advancement of research strategies that privilege the experiences and perceptions of those participating in the transformation of governance at the local level.

## INTRODUCTION

The concept of ‘governance’ is increasingly deployed to reference the various processes that shape the conduct of individuals and populations in furtherance of common goods like

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<sup>1</sup> The authors are grateful to John Cartwright for his assistance with this paper.

security and justice (see most recently Hoogenboom, 2010). Many now argue that the governance of security has been, and is changing (Johnston and Shearing, 2003). Central to these changes has been a ‘pluralization’ (Loader, 2000) of ‘auspices’ (sponsors) and ‘providers’ (suppliers) of goods (Bayley and Shearing, 2001). Like governance more generally, security governance has shifted from state-centric to ‘polycentric’ arrangements (McGinnis, 1999).

One way of visualizing this shift is to imagine governance being performed by a variety of ‘nodes’ (Shearing, 2001a). Nodes are entities that apply distinct perspectives, experiences and resources in efforts to solve problems and influence events in a social system (Burriss et al., 2005). Some nodes may share the same values, but may promote them through distinct mechanisms and practices. In this light, we can understand ‘restorative justice’ as referencing a set of values that can be pursued in unique ways within varying nodal contexts.

The established emphasis to date within the restorative justice literature has been on how its values can guide the assemblage of nodes that constitute ‘the criminal justice system’. Described more broadly as a scheme of ‘responsive regulation’ (Ayres and Braithwaite, 1992) the basic process for doing restorative justice is represented in the image of a pyramid of techniques for shaping behavior. The least coercive options (e.g. dialogue and persuasion) are at the base of the pyramid, while the most coercive (e.g. incapacitation) are found at the tip. From this perspective, restorative justice, as realized within a criminal justice context, privileges base-of-the-pyramid strategies, such as dialogue, problem-solving, and re-integration, within an understanding that escalation up the pyramid is always an option when restorative justice fails (Braithwaite, 2002).

This conceptualization has recently broadened. In Braithwaite’s research on peace building in conflict-ridden societies (2006, 2008), he has been examining restorative practices and possibilities within a framework of ‘responsive nodal governance’. While retaining a pyramidal conception, this wider focus depicts nodal actors being able to scan *horizontally* for capacities and resources best suited to addressing a given problem. In some cases, coercion is immediately required as an intervention, and as such those with coercive capacity, like the

police, are immediately mobilized. A coercive intervention may then be quickly followed up by ‘softer’ and innovative regulatory strategies best accomplished by nodes or nodal assemblages with the requisite knowledge and capacity, such as non-governmental organizations or community leaders, working in partnership. For instance, a national guard, having secured an area, may swiftly enroll other nodes, like gang leaders and community elders in both identifying problems which generated the initial conflict, while achieving reconciliation by addressing these problems collaboratively (Braithwaite, 2008: Chapter 4).

In this paper, we describe and explain South African Peace Committees as expressions of localized and responsive nodal governance arrangements designed to pursue restorative values. We draw from our empirical research that examined the experiences of participants as well as the mechanics and outcomes of the ‘Peace Making’ process. Towards the end of the paper we make the case for further empirical research that can help extend our knowledge of both the experiences and outcomes of non-state restorative justice arrangements in practice. Central to this, we suggest, is the advancement of research strategies, like ethnographies, that are appropriate to the community contexts in which these arrangements are being tested and refined.

## BACKGROUND AND RESEARCH DESIGN

Braithwaite (2002) has suggested that in thinking about restorative justice we should distinguish between the values that it promotes and the processes for realizing them. He argues that the long list of values restorative justice promotes can be united by their emphasis on greater community self-direction, inclusion rather than exclusion, a focus on a better future rather than on guilt and retribution and an experience that justice has been done. In discussing these values he argues that they are all consistent with the republican idea of freedom as non-domination (Braithwaite and Pettit, 1990).

Braithwaite argues that given the relative youth of the restorative justice movement, we must at present think in a rather open-ended way about both restorative values and how they

should be directly pursued as well as the expanding horizon of other values around which there is less agreement. He places ‘respectful dialogue’ (2002, p. 11) - a value that resonates with non-domination - at the core, and values such as forgiveness, mercy and remorse as ones that, while not always appropriate for direct pursuit, might be indirectly realized.

By thinking about restorative justice in terms of a core set of values and associated outcomes, one is able to distinguish between how these values are realized within criminal justice settings and how they are, or could be, realized within or across other nodal contexts. With this in mind, we focus our discussion on the case of the South African Community Peace Programme (CPP) established in Cape Town in 1997. Under the previous direction of Clifford Shearing, and now the current leadership of Madeleine Jenneker, the CPP has been devoted to creating micro-institutions of ‘local capacity governance’ (Cartwright, 2002; Shearing, 2001b). The work of the CPP began quite literally by Shearing and a couple of colleagues going to a poor community (Zwelethemba) near Cape Town and holding several general community meetings. At these meetings they proposed the idea of working in an ‘experimental’ trial and error fashion with members of the community to build a method for governing security through local micro-level institutions that mobilize local capacity and local knowledge. This suggestion was accepted, and what has come to be called the ‘Zwelethemba Model’ for local capacity governance was born (Shearing, 2001b; Johnson and Shearing, 2003).

The work that took place at Zwelethemba gave birth to both a set of values that resonate with restorative values as well as a set of processes for realizing them. Following two years of experimentation this set of processes was sufficiently robust and well articulated to be thought of as a model for managing conflict. While some three years later there were many adjustments to this model (as the experimentation continued in Zwelethemba and other similar townships), the essential features remained, and continue to remain intact.

Beginning in 2003, one of the authors (Froestad) led a qualitative study of both the mechanisms of the Peace Committee process as well as the experiences and perceptions of those involved. The first phase of research was conducted in April and May 2003 and consisted

of eight individual interviews as well as two group interviews of Peace Committee members. A follow-up study was conducted in February through to June 2004, consisting of five interviews of ‘experienced members’ and eight interviews of ‘new recruits’, five of whom were interviewed a second time. Two Peace Committee focus group interviews were also completed and observational research was conducted at three Peace Committee Gatherings<sup>2</sup>. An interview with a disputant was also conducted.

From November 2005 to September 2006, 21 Peace Making Gatherings were recorded, transcribed and translated into English by a Xhosa speaking research assistant. A follow-up study of 25 randomly selected cases of Peace Making was conducted in June and July 2006, exploring the extent to which the peace agreements entered into at the Gatherings had been honored by disputants for a period of three to six months. Data for this paper also includes routine quantitative data collected through processes associated with the model – such as analysis of case reports, exit interviews with people present at Gatherings, and surveys within communities in which Peace Making was taking place.

## PEACE COMMITTEES

The first Peace Committee was established in a community called Zwelethemba in 1997. Following a gradual process of diffusion to other poor residential areas, farming communities and schools, at the end of 2009 there were approximately 200 PC’s operating across South Africa (the exact number varies from month to month), mainly in the Western Cape. In the following sections we outline the Peace Committees’ values and mechanisms as well as the regulatory arrangement that structures their actions.

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<sup>2</sup> A ‘Gathering’ is the event during which a conflict or other harm is addressed and resolved in a forum consisting of the disputants, other community members and formal members of the Peace Committees who facilitate and record the process and the agreed resolution.

## VALUES AND MECHANISMS

Peace Committees are regulated by a *Code of Good Practice* which guides and limits what takes place. The Code, along with Peace Making steps that set out how a Gathering is to be organized, structures the actions of Peace Committee members in a way that enables them to ‘act out’ the restorative values they are expressing. The Code requires that force should never be used as a consequence of a Peace Gathering to solve a problem. If the conclusion is reached that a coercive solution is required, this is defined as grounds for referring the matter to the police. Secondly, the Code requires that the members of the Peace Committees should never engage in adjudication. They are only to facilitate the Peace Making process of searching for a Plan of Action that both parties to the conflict will accept. The focus is on discovering what can be done to reduce or eliminate the problem or problems that are identified as the root causes of the conflict. The Code also emphasizes the value of neutrality and fair treatment of both parties and the importance of trust and confidence, including not gossiping about cases and disputants.

Peace Committees are typically formed after general community meetings in which the processes of Peace Making and Peace Building are introduced to a group of residents. In the initial stages, external coaches (typically from neighboring communities) help Committee members to develop facilitative skills. Soon, however, internal coaches are identified within the Committee so as to ensure that learning is both localized and continuous. To ensure transparency, Peace Committees make known, to as many people as possible, what procedures will be used. This is often done by making available the Code of Good Practice and the Peace Making and Peace Building steps. At the outset of each Peace Gatherings the Code is read out and the order of events is made known.

Peace Committees undertake both instrumental and normative ordering in ways that resonate with localized behavioral standards. The goal of Peace Making Gatherings is the establishment of a future-oriented solution to a conflict or harm that most, and ideally all, parties present agree to.

In this regard, the model stresses a deliberative approach that ends in consensus building (Shearing and Wood, 2003). Before a solution is reached, it is regarded as important to reveal the series of events that contributed to and nurtured the conflict at hand. A series of steps guides this deliberative process: interviewing the disputants and organizing the Gathering; at the Gathering, taking statements from the disputants, discussing related problems, discussing the root cause of the dispute, agreeing on an appropriate plan of action, and assigning responsibilities.

Based on Peace Making reports completed by Peace Committee members, the CPP continuously tracks data on the types of issues or ‘cases’ that are dealt with. The internal CPP data covering the period February 2000 to November 2009 (which is available on the CPP’s website – [www.ideaswork.org](http://www.ideaswork.org)) and based on an analysis of over 47 000 Peace Making cases shows that ‘neighborhood disputes’ (conflicts and disagreements, ‘nuisance’ behaviors, and insults and threats) constitute the largest category of problems brought to the Peace Committees. The second most common problem is assaults (without a weapon, with a sharp object, with a blunt object, with a gun and fighting) followed by property offences (damage to property, theft, robbery, breach of contract and misappropriation of funds).

Peace Building works in the same way as Peace Making, except that here the Peace Committee is dealing with broader generic problems rather than with individual disputes. If the Peace Committee comes to the conclusion – either as a result of a pattern they notice in disputes or through regular community surveys – that there is a long-term problem that should be addressed, they arrange for a Solutions Gathering (there may be more than one) to work out what should be tried by way of a solution and whom to engage to carry out the work. The idea is to pay for these services out of the money they have built up in their Peace Building Fund (see below) and to make sure that as much of this money stays in the community as possible, in order to create work. Peace Building projects frequently involve a focused partnership with local government.



This Peace Building process broadens the model from being a conflict management model to a governance model. Individual disputes are regarded as ‘windows’ or starting-points, issues that bring people together and enable the mobilization of the knowledge and experience they bring with them.

The importance of strictly committing to exploring ‘root causes’ was expressed by a Peace Committee member:

‘...It is important to follow the steps. It can be very dangerous to go too quickly for a solution. You must first see what the cause is. For instance, if one of the disputants cries, show regret, that is not enough, you must ask and tell, try to locate the cause. If not, people will do it again. Before the solution, you must find the underlying cause. You must not jump at a solution. That can be very dangerous...’<sup>3</sup>

According to the CPP, 346 Peace Building activities, involving the participation of over 42, 000 people took place between the period February 2000 and November 2009. Common ‘root cause’ issues include lack of safe recreational spaces, environmental problems (e.g. adequacy of abolition facilities), lack of opportunities for income, and nutritional problems.

During a Peace Making Gathering, or at its termination, it may be the case that considerable affect (anger, sadness, remorse etc.) is displayed, but emotional transformation is not a goal of the process. The goal is instrumental, one focused on ensuring that parties can co-exist into the future without a similar conflict repeating itself. This goal is consistent with the life experience of poor people who are required daily to get on with the business of living. Co-existing in peace may simply involve an agreement between parties to ensure that a particular conflict will not happen again, or at the very least, to ensure that participants at the Gathering will abide by the particular plan of action established.

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<sup>3</sup> Member of the Nkqubela Peace Committee, interview no. 1, May 2003.

Consider an example from Zwelethemba, drawn from the Peace Making case reports of the CPP. One of the conflicts brought to the Peace Committee was by neighbors of a family who were worried that the ongoing conflict between a daughter-in-law and her husband's mother would escalate into serious violence. A Gathering was convened of the persons regarded as most likely able to contribute to a resolution of the conflict. The invitation to the Gathering was to persons who were seen as in a position to be helpful in an instrumental sense, not simply to be there as 'supporters' of the conflicting parties. The Gathering quickly concluded that the chance of restoring a 'happy family,' if there ever was one, was minimal. The plan of action focused on moving the son and daughter-in-law's informal house to another part of the township far from the mother-in-law.

In contrast to criminal justice-based restorative approaches, which provide for 'outside' professionals (such as police) to facilitate a dialogue between parties, the Peace Committee approach requires that the 'expertise' of community members drives and structures the deliberative process. The knowledge and capacity utilized by experienced Peace Makers when facilitating Peace Gatherings represents, on the one hand, a combination of accumulated knowledge of a variety of local conflicts gathered through the practice of Peace Making and, on the other hand, an intuitive and implicit understanding of life in their local communities. A Peace Committee member made this point as follows:

'...What I can do is to use earlier examples, similar cases, as tools. We try to store ideas, points, to use in later cases. It is also important to know the community, the culture, the style of life. If you don't, you might think you do the right thing, but people might think you are rude. We know our people...'<sup>4</sup>

The capacity of Peace Makers to facilitate and guide Peace Gatherings toward a resolution is based on analogical knowledge rather than abstract theory, using experience from past cases as

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<sup>4</sup> Member of the Nkqubela Peace Committee, interview no. 3, April 2003

tools and examples when they confront new cases. Experience, however, is not only, or primarily, accumulated on an individual basis. An essential principle of the model is to ensure that each Peace Committee engages in frequent assessments and evaluations of their own practice. Central to this self-assessment exercise is a concern with ensuring that facilitators create a space of non-domination:

‘We usually sit down and evaluate a case, if we got a good decision. We do an assessment, talk through the case. This is to keep the good things and to get rid of the bads. A bad approach would for instance be that you are not listening, that you are stopping people. Good ones; may be the way we try to work together. It is important to help each other. If somebody is a slow thinker, to encourage, not embarrass him or her in front of the disputants’<sup>5</sup>

The importance of non-domination was revealed in a case about a conflict between a husband and wife, where she accused him of domestic abuse. This case initially came to the attention of the police and then a local magistrate, who then referred the matter on to the Peace Committee. Here we see the Peace Committee existing within a nodal assemblage of state and non-state institutions that enlist one another depending on the knowledge and capacity required to address a particular issue.

In this case, normative standards of behavior came into play while participants engaged in an analysis of what had transpired. The Peace Committee engaged in normative ordering; it ultimately reproduced localized standards of behavior. This was accomplished through a process that allowed competing normative framings of the problem to be considered and reconciled.

At the start of the Peace Making process, while the wife waited outside, the husband was asked to give an account of what had been happening. He argued that the cause of the conflict

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<sup>5</sup> Member of the Mbekweni Peace Committee (Lonwabo), group-interview May 2003

was the oldest son in the family, who had been disrespectful and had ‘chased him out’ of his own house. In response he had told the child that he was not his biological son. The husband explained that he still loved his wife, but that he could not stay in the house with her any longer because of the child. He wanted the son to leave their home. Community norms were now introduced. A Committee member commented that he should never let a child separate him from his wife or chase him out of the house, and that while perhaps the father needed to discipline his son, he should not have rejected him:

‘A child is not a child just because you slept with a woman and made a child. A child needs to be taken care of and nurtured. You raised this child and nurtured him so he is your child. You sent him to school and to the initiation school; no matter if the blood that runs through his veins is not yours, he is your child. He feels very hurt when you say to him he is not your child.’<sup>6</sup>

The framing of the problem then shifted once the wife was invited in and the husband was asked to wait outside. She was very upset because she had recently experienced a terrible fight in the house between her oldest son and one of his brothers. She painted a picture of her husband as not working for his family and frequently sleeping away from home. She argued that the conflict within the family had escalated one morning when the husband returned to the house and took the food the children were eating and gave it to his dogs. When she asked him what he was doing he kicked her in the mouth. She then left with her mother to report the incident to the police and this is how the matter came to court. The oldest son had confronted his father with his behavior and chased him out.

Those attending the Gathering were convinced by the account provided by the wife. Once the husband was invited back in an account of the wife’s statement was provided to him. Attention then shifted towards the husband and what was regarded as his inappropriate

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<sup>6</sup> PeaceGathering organized by the Lwandle Peace Committee 10th of February, 2006

behavior. In seeking a solution the husband continued to insist that nothing could be done to resolve the issue while the son remained at home. The Gathering attempted, in various ways, to encourage him to be more conciliatory so that a consensual solution could be reached. Given his refusal a member drew attention to the set of institutions (police and local court) to which the Peace Committee was linked and the possibility that the matter could be directed to the police. This 'shadow of the law' (Galanter 1981) and pyramidal escalation encouraged the father to admit that there was indeed a problem in his family that involved him as a causal element and which needed to be resolved. However, he continued to insist that he could not live with the son.

The focus now turned to a consideration of the effects of the father's statement that the boy was not his son. In the discussion a member invited him to empathize with his son.

How would you have felt if you were the oldest child at home, your father arrives in the morning, takes your siblings' food and gives it to the dogs, after that comes back inside and kicks your mother with you watching, how would you feel, just put yourself in your son's shoes, your mother's mouth is swollen, beaten up by your father ... how would you feel?

The father agreed that he would not have been happy and acknowledged that he had acted inappropriately. The Gathering concluded with the spouses shaking hands as a symbol of the peace that had been produced. Committee members agreed to visit the family in the afternoon the same day to talk with the children. Before they arrived the father had already taken steps to restore peace. He had apologized to his oldest son for having told him he was not his child. The son, on his part, had apologized for disrespecting his father. The Committee members promised to monitor the peace.

This case is clearly not an instance of a neutral or value-free facilitation. Indeed, Committee members, and others at the Gathering, clearly distanced themselves from the behavior of the father, which was seen to contradict community norms on how to behave towards a spouse and one's children. Yet, throughout the process the husband was treated with

considerable respect and his right to be respected by family members was acknowledged. The Gathering sought to establish an agreed understanding of the facts and their meaning. Members encouraged and facilitated a discussion that brought local cultural norms to bear while remaining constrained by the procedures and principles of the model. Rather than simply 'blaming' the father the members sought to restore peace within the family. A change of attitude on the father's part was seen as vital to accomplish this outcome. Violence was not used or threatened as part of this reconciliatory process. If no resolution had been achieved, and a more coercive intervention was deemed necessary, the Peace Committee would have referred the case back to the police and/or the local magistrate. Here we see a responsive nodal governance arrangement operating in the Zwelethemba community.

#### REGULATING PEACE COMMITTEES

The procedures the model endorses are supported by a regulatory structure designed to ensure that Peace Committees operate within the law. The underlying principle of this structure is that collectives have a right to undertake Peace Making and Peace Building as long as what they do is within the law and is undertaken in a transparent manner so that the legality and normative appropriateness of their actions can be assessed.

During the early days of experimenting to construct a model, the issue of sustainability proved to be both a crucial and a difficult one – this continues to be the case. Participants in Peace Gatherings, during the pilot phase, often raised the 'free rider' problem, saying, 'we do all of this work which benefits the community, but we get no compensation and the members of our households would prefer us to spend the time earning some money instead'. However, the project team, and community members involved in the Zwelethemba 'experiment' were very aware that the 'obvious' solution to the problem - paying participants for their work on a salaried basis – was likely to replicate the failures of previous reform programs undertaken by governmental and non-governmental organizations in South Africa. It was thought, for example, that turning the work into paid jobs was likely to give rise to another layer of 'experts', divorced

from community knowledge and capacity that might create divisive status distinctions while undermining the localized character of this governance arrangement in the long term.

The arrangement designed to address this problem aims to recognize the material value of the Committees' work to its members and to the community while covering the administrative costs associated with carrying out the work. This largely output-based system is meant to avoid the creation of a sluggish and out-of-touch bureaucracy.

Central to this system is a payment structure whereby Committee members earn a monetary payment for every Peace Gathering facilitated according to the agreed upon Peace Making Steps and the Code of Good Practice. This is not a salary for a job, but a fee for a service. Part of this money goes directly to each Peace Committee member as recognition of their knowledge and capacity and the value they add to their communities. Members generally earn from one to several hundred Rands a month, depending on the number of Peace Gatherings they participate in, and while not a sufficient income to raise a family, typically amounts to a valuable contribution to a household's economy.

A second fund is earmarked for local development projects that are initiated in response to the generic problems identified at Peace Building Gatherings. These monies may support projects directly linked to the governance of security narrowly understood, but they also support projects concerned with such goods as public health, education, child support, and the environment. The strong preference in dispersing these funds is that they should be used to support local entrepreneurs. Together, these two sets of monies are thought of as contributing to poverty reduction, work creation and community development.

It is an essential principle that members of local Peace Committees, 'Organizers' (who help arrange the Gatherings) and 'Coordinators' (who have a wider mandate that includes review and data gathering) are also paid strictly on an outcome basis, and their work is also subject to audit. The remedial actions taken when it is discovered that individual members or a whole Peace Committee are not complying with the basic rules of the model begin with supportive coaching, but have on occasions led to the formal, and public, decertification of a

Committee or a Committee member. This enforcement system operates according to a responsive regulatory logic, where coaching and learning are seen as first-order remedial measures when non-compliance comes to light. De-certification, as a last-resort punitive measure, is always held in reserve when capacity building is ineffective. Typically this process employs the Gathering logic and technology outlined above.

#### RESPONSIVE NODAL GOVERNANCE

As noted above it is always a possibility that in certain cases, a Peace Committee might determine that a coercive intervention is required, either immediately or after the Peace Making process has failed. In such cases the standard procedure is to enlist the police. Domestic violence is one such scenario where this nodal brokering occurs. Domestic disputes and violence are among the cases that, according to the Peace Makers, are often complicated and difficult to resolve. There is a widespread understanding in the communities in which our research has been undertaken that in terms of cultural norms in Xhosa communities, conflicts among spouses ought first to be addressed within the family sphere. Accordingly, where such disputes are brought to Peace Committees, Peace Makers generally check to see if this has been done: 'We tell them; you must try to use the family. If that does not work, the dispute will often come back to us'<sup>7</sup>. If the Peace Committee process is not effective, the case will be referred on. As one Peace Committee member put it, '[i]f the man keeps on doing this, he keeps beating his wife ... then we have to put him to court, and then we assist. It is our role to see to it that those things do not happen again, that there is no more of this cruel beating' ...<sup>8</sup>

A theme that occurs across our research is wariness on the part of Peace Committees of becoming a 'tool' of more powerful actors such as the police who wish simply to deploy their resources. Peace Committees see themselves as providing a nodal voice. They see this voice as

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<sup>7</sup> Member of the Mbekweni Peace Committee (Pola-Park), group-interview May 2003

<sup>8</sup> Member of the Mbekweni Peace Committee, interview March 4<sup>th</sup> 2004



enabling communities to develop independent agendas. This issue becomes particularly acute where they wish to engage others in either Peace Making or Peace Building.

An occasion when this issue of independence arises is where a Peace Committee concludes that a coercive intervention is required, for example, by the police. The critical issue here is authority and how it can be established, and specifically the question is whether non-domination can be maintained in relationships with others (like police, or employers) who have historically been dominating.

The following example arose in the case of a Peace Committee that operated in a farming area close to the small agricultural town of McGregor in the Western Cape. One of the issues that farm workers brought to the attention of the Peace Committee – whose members included farm workers -- were conflicts that had arisen with their employers. Often these had to do with services they expected, for example, toilet facilities in the homes they lived in on farms.

A key issue that emerged in this Peace Committee was how to invite farmers to Peace Gatherings, especially where these farmers had a reputation for having ‘no manners’. As one Peace Committee member described in a discussion where a farmer’s attitude was being considered, ‘we can’t talk to him, it is no point; he has no respect’. In the discussion the Peace Committee debated how they might go about dealing with this person and in the process establishing a relationship of non-domination. In the debate that took place a member said: ‘What we have been thinking is that we should all go to the farmer and talk to him, as a PC.’ Another member responded, ‘maybe one of us should go to him first and ask for a meeting. If that does not work, maybe the coordinator should go; if that does not work, the Development Worker [in the area].’<sup>9</sup>

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<sup>9</sup> Member of a McGregor Peace Committee, interviewed November, 2005.

It was agreed that one of the members of the Committee, who had a job as a painter in the town and was generally held to be courageous, would approach the farmer on behalf of the whole group. He would tell the farmer that they would all come to meet him, as a group. The importance of a calm and strategic orientation to the farmer was emphasized: 'If he says no, ok, be polite. Then, next step.'<sup>10</sup> In this case a Gathering with the farmer was held and a resolution was developed.

For our purposes here, what is notable about the discussion was not simply the Peace Committee's search for a resolution to a conflict but rather its emphasis on establishing a responsive strategy that helped establish itself, and the community it represented, as an independent and respected voice. What this Committee sought to realize was a process of enrolment and negotiation. They saw their local knowledge, capacity and authority as something that they could use as bargaining chips for use in negotiations with strong actors.

An illustration of such a bargaining process is found in 'Project iThemba' (iThemba means "hope"), an initiative launched in a township called Nkqubela in October 2002. This initiative involved a partnership between the CPP, the Boland District Municipality, the Boland Region of the South African Police Service (SAP) and the Nkqubela Peace Committee. The experiment was precipitated by a request from a poorly serviced residential area for a local police station. This station had been closed for several years, and residents were requesting that it be re-opened. Negotiations between the SAP, Boland Region, and the CPP resulted in a plan to re-open the building, not as a police station but as a 'Community Peace Centre' that would involve both the Police and the local Peace Committee.

Through this project the police gained increased access to, and respect from, communities who for historical reasons tended to be hostile, skeptical and uncooperative with the police. The SAPS also experienced relief from dealing with matters for which they felt they

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<sup>10</sup> Member of a McGregor Peace Committee, interviewed December, 2005.

were less suited, thus saving time, money and unnecessary frustration. The partnership with the police was based on a model of role-differentiation at the level of service delivery, with the assumption that the majority of cases would be taken up by the Peace Committee. Within this arrangement, the police were conceived as having a ‘minimalist’ role that would enable them to focus their resources on issues requiring their specialized skills and authority (see Marks and Wood, in press). What the CPP sought to achieve here was a non-dominating partnership arrangement where their knowledge and capacity was recognized as an important and independent feature of this nodal mix.

Similar developments have occurred in McGregor where Peace Committees have sought to locate themselves within a broader nodal assemblage of resources that are leveraged in pursuit of Peace Building initiatives. They have built partnerships that include Adult Basic Educational Training (ABET), the South African Police Service (SAPS), the Community Police Forum, the Farmers Union, schools, religious organizations, guest houses, the municipality and community leaders. A particularly important community issue is alcoholism, so the Peace Committees in McGregor organized a series of Peace Building Gatherings to develop Plans of Action. One of these plans involved developing a partnership with an NGO, ‘Dopstop’ (‘dop’ refers to drinking), an organization that focuses on rural alcoholism and its causes. As part of these developments links have also been established with local churches and with farmers in an attempt to develop a more coordinated plan for reducing the consumption of alcohol on the farms.

These plans were based on the assumption that an effective approach to alcohol consumption must consist of a package of different elements. The challenge was to identify mechanisms that would create synergies between different kinds of interventions carried out by different nodes. Traditionally, organizations operating in the area approached the problem from different angles, with little co-ordination or coherence. As a response, a new strategy, formulated by the PCs in the area, assisted by the CPP area coordinator, approached the

problem of alcohol and drug abuse around four elements: the provision of factual information, constructing incentive systems, support for victims, and a search for new work opportunities.

As the Peace Committees around McGregor became a voice of the farm workers by providing a channel for speaking and acting collectively they learnt that a condition for being heard was to broaden their circle of influence by involving other nodes in identifying problems and implementing possible solutions. In both Peace Building and Peace Making, the processes that Peace Committees follow recognize that networking either simply through those invited to a Gathering or through the building of nodal partnerships is an important feature of attempts to create peace. Thus a definitive feature of Peace Committees is the work they do to create governance assemblages that help strengthen the influence and self-directedness of poor communities.

#### MONITORING AND INTERNAL DATA COLLECTION

As mentioned above, the CPP collects data on the Peace Making and Peace Building activities of the Committees which it makes available on its website. This data collection is made possible through the completion of Peace Making and Peace Building reports on the part of Committee members. This routine process serves as a key monitoring mechanism for the CPP; it provides transparency into what is happening and who is involved. Peace Making reports are routinely audited by the CPP to ensure compliance with the model's processes and Code of Practice. The CPP generates statistics on issues such as types of cases handled as well as the general characteristics of participants (adults, young people, males, females).<sup>11</sup>

In addition to monitoring the work of the Committees, the CPP conducts regular community surveys that ask questions about levels of safety and who community members turn to for help. These surveys are used by CPP to provide feedback to Peace Committees on the

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<sup>11</sup> We would note that while this data is made publicly available, we are not able to verify its validity or reliability. We therefore make reference to CPP's data in a limited way, and mostly in relation to the findings of our own research.

nodal arrangements within communities that residents deploy and their perceptions of their effectiveness. This information is used by Peace Committees to reflect on both the effectiveness of the work they are doing as well as their acceptance with residents.

The CPP also conducts exit interviews at the close of Gatherings with community members and the disputants. One or two people present at the Gathering are selected for an interview. This process is used to gauge the opinions of people who attended the Gatherings and to assess the extent to which the Code of Good Practice and the Peace Making Steps were followed.

Peace Committee members and/or participants are required as part of the Gathering process to monitor the implementation of Action Plans. The exact nature and length of the monitoring process varies across cases depending on the circumstances. One or several of the participants at a Gathering - frequently, but not always, a member of the Peace Committee - is selected by the Gathering to make sure that those who have committed themselves to the Action Plan fulfill their promises.

A small study was conducted by Froestad, in 2005, in relation to three Peace Committees to evaluate the extent to which Plans entered into had been kept by the disputants for a period of three to six months after the Gathering. This research was also designed to assess whether participants experienced a sense of justice from the process (see Shearing and Johnston 2005). Twenty-five cases were randomly selected for study. In sixteen of seventeen cases in which the interviewer was able to get hold of one or both of the disputants the peace contracts were acknowledged to have been honored. No disagreement of opinions was registered in those cases when both parties to the dispute were interviewed. Only in one case was the status of the agreement more ambiguous. This is consistent with the CPP's claim that in over 96% of the 47 340 Peace Making Gatherings that had been convened between February 2000 and November 2009, simple Plans of Action to reduce the likelihood of the dispute in question were developed.

Twenty-two of the disputants were overwhelmingly supportive of the Peace Gathering process, confirmed that they would use the model again, and stated many reasons for why they preferred the Zwelethemba Model to other forms of public or private justice. Besides being satisfied with the process and the outcome, disputants frequently reported that they preferred the Peace Committee due to its capacity for solving conflicts ‘in a rational way’, ‘just sitting down and talking’, with ‘no violence involved’. Many also emphasized how the model made it possible to solve conflicts before ‘things go too far’ and without people getting arrested and being put in jail. Four disputants had more mixed feelings about the process, two of whom were quite negative because they did not get the outcome they wanted from the Gathering.

This is also consistent with claims made by the CPP on the data it has gathered and analyzed. According to the CPP, exit interviews conducted on 31, 696 cases after Gatherings between February 2000 and November 2009 indicated that 99% of the community members who attended Gatherings thought that the process had been fair. Similarly 99% of the people interviewed reported that the Peace Making process had improved matters.

The data from the community surveys conducted by CPP in areas where Peace Committees operate tell a broadly similar story. During the nine year period of the data collection, 25, 852 community members had been interviewed as part of this process. The demographic data indicated that these were communities within which 56% of the respondents reported that they were unemployed while 29% reported that they were in full-time employment. Fifty four percent of the respondents were female and 46% male. Fifty five percent of persons interviewed were classified as adults rather than as children, youth or seniors.

## IMPLICATIONS FOR FUTURE RESEARCH

The example of Peace Committees represents one among numerous illustrations of non-state security and justice systems that are now operating in South Africa. Recently, several studies depicting plural or nodal governance arrangements have been published (see for example Steinberg, 2008; Baker, 2010; Marks and Wood, in press). Marks in particular, along

with her colleagues, have argued for the importance of acknowledging that the face of security governance in this post-colonial context has been one of profound contestation and transformation across a range of micro-settings (Marks et al., 2009). She adds that a top-down, state-centric narrative of security transformation would not sufficiently illuminate the ways in which local actors, ranging from everyday people in impoverished townships to wealthy business owners in rich areas, have responded to perceived security deficits in the context of a public policing system with limited capacity, resources and legitimacy (Marks and Wood, 2007).

It should be noted however, that manifestations of plural or nodal governance arrangements, including the use of paid private security actors are increasingly being identified and studied by scholars outside of the South African context. Examples include Mark Button's research on the United Kingdom (2009), Zhong and Grabosky's work on China (2009) and van Steden's work on the Netherlands (2007). All of these studies point to the importance of 'mapping' out the landscapes in which the identities and roles of state and non-state actors are being re-configured to deliver security goods across sub-groups.

Having more and better explanatory maps can provide a stronger empirical basis on which normative debates can be explored. One such debate centers on the role of the public police, and by implication, the wider criminal justice system, for the future. Who should the police be and what should they do? Can we realistically support the view that police take on a 'maximal' role, being charged with both preventing crime and improving quality of life when we know that their capacity to do either is limited (Bayley, 1994)? Or should we take a more 'honest' approach, as Bayley characterized some time ago, where the police focus on "what they are already doing well and to give up the pretense of preventing crime" (Ibid., 128). An honest approach would see the police as responsible for "authoritative intervention and symbolic justice" (Ibid), or perhaps in David Thacher's terms, an "or else" institution (2009). If one adopts this minimalist view of the police role, is it normatively desirable to promote the idea of non-state nodes, at the most micro of levels, playing active roles in crime prevention and peace building?

These normative questions are far from being resolved, despite numerous illustrations of nodal governance on the ground. Drawing inspiration from left realist thinking (Kinsey et al., 1986) Marks and Wood do support a ‘minimal’ and ‘minimalist’ conception of the police role, but argue for the importance of building security governance structures at the local or municipal level that can oversee and coordinate the efforts of community based groupings and their policing allies (Marks and Wood, in press). While the Community Peace Programme is unique in its ethos of non-violence, and in the ways it promotes this ethos through steps and procedures, there remain grave concerns about the rise of some non-state groupings (Ibid) in relation to their potential for exercising illegal force in the resolution of disputes and the maintenance of order.

There is much to be discovered about the dynamics, outcomes, and normative implications of Peace Committees and other arrangements that both co-exist with and link to state institutions of security and justice. In this regard, we offer some brief comments here regarding the need to advance research designs that privilege the experiences and perceptions of those participating in the transformation of governance at micro levels.

Some fifteen years after its transition to a democratic government, South Africa continues to suffer huge disparities in wealth and experiences frighteningly high levels of crime. While the wealthy can enjoy the beauty and adventure of the country, it is a ‘terrain of struggle and hardship’ for the poor (Marks and Shearing, in press). Doing research in this context therefore requires an especially high level of sensitivity to the varied meanings and experiences of those living with the effects of inequality, and of those devising strategies for coping with the inadequacy and distrust associated with government institutions.

As seen in our previous discussions, the Community Peace Programme collects data on such things as the types of cases that are handled, the demographic breakdown of Peace Committee participants and whether participants viewed the Peace Making process as having improved matters. While this data has not been rigorously validated and cross-checked by



independent researchers, it nonetheless paints a general picture of the activities of the Peace Committees, what they are accomplishing and who is involved.

While quantitative data collection, such as that assembled by CPP, is vital to describing the nature and outcomes of the Peace Committees, we suggest that a further depth of knowledge of community members' meanings and experiences of the Peace Committee process would be well served through sustained and prolonged forms of qualitative inquiry. We argue that it is vital for researchers to immerse themselves in the 'life-worlds and everyday experiences' (Emerson et al., 1995: 35) of Peace Committee participants as well as families and communities within which they are embedded. Key ways of doing this include ethnographic or Participatory Action Research (PAR) (see Foote Whyte, (ed) 1991). These are both approaches that can serve to deepen our understanding of the values, craft knowledge and agendas of participants, while gaining insight into the struggles and challenges associated with such micro-level governance initiatives.

As discussed above, Peace Committees seek to promote security and justice using the knowledge and resources available to them while, in optimal conditions, brokering to other nodal actors that can assist them, such as the police or local magistrates. We noted that Peace Committees promote restorative justice values through their Peace Making and Peace Building activities. Yet, there is still much we don't know about the ways in which these activities serve to transform the meanings and experiences that participants have of 'security' and 'justice' in their community. Do participants internalize values of non-violence? Do they come to 'see' and act upon their problems and struggles differently? Does the work of Peace Committees serve to 'bubble up' a culture of non-violence in their broader community, and does such a culture spread to the local police? How do feelings of retributive justice co-exist with a restorative justice system? Would community members prefer to have their disputes settled by police if the police were better resourced and responsive? What do community members perceive as the optimum system of security and justice, and what nodal actors would constitute this system? In exploring these types of questions and others, an ethnographic approach would home in on

worldviews, meanings and values of those doing the work of peace on the ground, thus generating deeper insight into the lived experiences of those delivering security and justice in often neglected parts of the world (at least on the part of researchers). As Punch reminds, the intellectual richness of early policing scholarship can be traced to a series of ground-breaking ethnographies (Punch, 2003). It is now time to re-imagine the utility of ethnographic approaches to understand the nodal world of security and justice.

As a slightly different approach to qualitative inquiry, a PAR strategy involves researchers and practitioners working together to link knowledge and capacities in identifying problems, re-thinking or re-framing problems, and developing initiatives or solutions. With researchers working closely, and on a personal level with community members, a 'slow burn' process can emerge, where each develops an understanding of the others' worldview, challenges and struggles. Ideally, and over time, a shared language can emerge, which frames issues at hand. Out of this framing, policies, plans or concrete actions can be developed that make optimal use of the strengths of all partners in the relationship. This research strategy disavows the kind of elitism that has tended to dominate 'inside-outside' research, especially within the positivist tradition. As Foote Whyte and colleagues point out, '[s]cience is not achieved by distancing oneself from the world.... [I]t is possible to pursue both the truth and solutions to concrete problems simultaneously. Indeed, we are led to wonder about the mystification that permits some of our colleagues to believe that research and action are incompatible' (1991: 21).

The origins of the Community Peace Programme can be traced to a PAR orientation. From the outset, Shearing worked collaboratively with members of the Zwelethemba community to develop and refine this model for 'local capacity governance' (Shearing, 2001b) over a period of several years. Over time, however, the Community Peace Programme has developed into an administrative and oversight body devoted to replicating the model across South Africa. Given that Peace Committees have diffused, the program as a whole can be seen as a 'laboratory' of nodal governance initiatives along with other laboratories that others have

discovered in different parts of the world. It is now an opportune time for researchers of security governance to ‘get a nuanced grip on the divergent complex arrangements that exist to govern crime and restore justice’ (Shearing and Marks, in press). This requires researchers to go into the field and situate themselves ‘close....to the perpetrators of crime and deviance, to the victims, to the agents of legal control’ (Hamm and Ferrell 1998 cited in Goldsmith, 2003: 124). In so doing, researchers and their partners in the field of practice can collaboratively build evidence that can inform debates around such innovations for the future.

In short, it is time to take full advantage of the ‘labs’ of social experimentation that have emerged in different parts of the globe. The delivery of security and justice involves a tapestry of activity and intellectual energy that have for some time existed at the margins of scholarly inquiry. It is time to probe deeply, using a mix of qualitative and quantitative techniques, into the micro-level processes that are quietly transforming the craft of governance.

## CONCLUSION

In this paper we have sought to demonstrate the nodal character of restorative justice as expressed in a model of ‘local capacity governance’ for peace building in South Africa. Using data from a qualitative study, we argued that the work of Peace Committees can be understood, drawing from Braithwaite, as a system of ‘responsive nodal governance’. In the face of security deficits exacerbated by poverty and exclusion, Peace Committees have grown and diffused as nodal structures with independent agendas. They work to enlist other nodes, like the police, in partnerships of non-domination to deliver security and justice in ways that resonate with local normative orders. We have attempted to describe the Committee structure and processes which are designed to give concrete effect to an ethos of non-violence.

We have argued that it is important to conduct further inquiries into the changing face of governance at micro-levels across the globe. There is now a groundswell of global intellectual energy devoted to mapping nodal governance, explaining how and why it has developed, and assessing its normative implications. Only by opening our eyes to such developments can a shared discourse emerge about how to theorize governance and how to plan for better

governance in the future. Robust forms of qualitative and quantitative inquiry are required in this effort. We have focused our attention on the importance of sustained programs of qualitative inquiry that could be located in ‘social labs’ around the world. Early sociological scholarship on the nature of policing was transformed by rich and textured studies of what police do. It is time to pay more attention to what other nodes do, both alone, and in partnership with police and criminal justice, to deliver security and justice.

REFERENCES

- Baker, B. (2010). *Security in Post-Conflict Africa: The Role of Nonstate Policing*. Boca Raton: CRC Press.
- Bayley, D. (1994). *Police for the Future*. New York: Oxford University Press.
- Bayley, D., & Shearing, C. (2001). *The New Structure of Policing: Description, Conceptualization and Agenda*. Washington: National Institute of Justice.
- Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford: Oxford University Press.
- Braithwaite, J. (2006). Peacemaking networks and restorative justice. In J. Fleming and J. Wood, (Eds.), *Fighting crime together: The challenges of policing and security networks*. Sydney: University of New South Wales Press.
- Braithwaite, J. (2008). *Regulatory Capitalism: How it Works, Ideas for Making it Work Better*. Cheltenham: Edward Elgar.
- Braithwaite, J. & Pettit, P. (1990) *Not Just Deserts: A Republican Theory of Criminal Justice*. Oxford University Press: Oxford.
- Burris, S., Drahos, P., & Shearing, C. Nodal governance. *Australian Journal of Legal Philosophy*, 30, 30-58.
- Button, M. (2008). *Doing Security: Critical Reflections and an Agenda for Change*. Houndmills: Palgrave Macmillan.
- Cartwright, J. (2002). *Local capacity governance: Building community, building democracy*. Unpublished manuscript.

- Emerson, R. M., Fretz, R. I., & Shaw, L. L. (1995). *Writing Ethnographic Fieldnotes*. Chicago: University of Chicago Press.
- Foote Whyte, W. (Ed.). (1991). *Participatory Action Research*. Newbury Park: Sage.
- Foote Whyte, W., Greenwood, D. J., & Lazes, P. (1991). Participation action research: Thorough practice to science in social research. In W. Foote Whyte (Ed.), *Participatory action research*.
- Galanter, M. (1981). Justice in many rooms: Courts, private ordering and indigenous law. *Journal of Legal Pluralism*, 19, 1-48.
- Hoogenboom, B. (2010). *The Governance of Policing and Security: Ironies, Myths and Paradoxes*. Houndmills: Palgrave MacMillan.
- Johnson, L., & Shearing, C. *Governing Security: Explorations in Policing and Justice*. London: Routledge.
- Kinsey, R., Lea, J., & Young, J. L. (1986). *Losing the Fight Against Crime*. Oxford: Basil Blackwell.
- Loader, I. (2000). Plural policing and democratic governance. *Social and Legal Studies*, 93(3), 323-345.
- Marks, M., & Shearing, C. (in press). Criminology's disney world: The ethnographer's ride of South African criminal justice. In M. Bosworth, & C. Hoyle (Eds.), *What is Criminology?* Oxford: Oxford University Press.
- Marks, M., Shearing, C., & Wood, J. (2009). Who should the police be: Finding a new narrative for community policing in south africa. *Police Practice and Research*, 10(2), 145-155.
- Marks, M., & Wood, J. South African policing as a crossroads: The case for a 'minimal' and 'minimalist' public police. *Theoretical Criminology*, 14(3), 1-20.

Marks, M., & Wood, J. The south african policing 'nexus': Charting the policing landscape in durban. *South African Review of Sociology*, 38(2), 134-160.

Punch, M. (2003). *Summary remarks of the international police conference at kentucky university*. Unpublished manuscript.

Shearing, C. A nodal conception of governance: Thoughts on a policing commission. *2001*, 11, 259-272.

Shearing, C., & Johnson, L. (2005). Justice in the risk society. *Australian and New Zealand Journal of Criminology*, 38(1), 25-38.

Shearing, C., & Wood, J. Nodal governance, democracy and the new "denizens". *Journal of Law 1. Between Law and Society*

*Paralegals and the Provision of Primary Justice Services in Sierra Leone*

*Open Society Justice Initiative click here to download and Society*, 30(3), 400-419.

Steinberg, J. (2008). *Thin Blue: The Unwritten Rules of Policing in South Africa*. Cape Town: Johathan Ball Publishers.

van Steden, R. (2007). *Privatizing Policing: Describing and Explaining the Growth of Private Security*. Den Haag: Bju Publishers.

Wood, J., & Shearing, C. (2007). *Imagining security*. Cullompton: Willan.

Zhong, L., & Grabosky, P. (2009). The pluralization of policing and the rise of private policing in china. *Crime, Law and Social Change*, 52(5), 433-455.

