

Chapter 2

TRANSFORMING SECURITY: A SOUTH AFRICAN EXPERIMENT

*Clifford Shearing (on behalf of the members of the Community Peace Programme and
participants in the development of the Zwelethemba Model)*

We have still to begin the task of anatomising the new relations of power brought into play on this new multiple and fragmented territory of government. In doing so, we should not assume that all is for the worst in this ‘post-social’ age. We need not simply to condemn the injustices and disadvantages entailed in the de-socialisation of government, but also to engage inventively with the possibilities opened up by the imperatives of activity and the images of plural affinities. The role of such analyses should not be to praise or to blame, but to diagnose, to identify the points of weakness that might be exploited if we are to maximise the capacity of individuals and collectivities to shape the knowledges, contest the authorities and configure the practices that will govern them in the name of their freedom and commitments. (Rose, 1996:353).

Introduction

In what follows I want to reflect upon work that has been taking place since late 1997 in Zwelethemba¹ (a Xhosa name that means place of hope or renewal), a black suburb on the outskirts of Worcester, a country town about 120 kilometres north of Cape Town.

¹ This model-building project was supported by the Raoul Wallenberg Institute, Lund University, through a grant from the Government of Sweden.

This research is exploring ways in which poor people, in this case poor black South Africans, can and should respond to the global transformations that David Bayley and I (Bayley and Shearing 1996; 1999) have termed the ‘multilateralisation’ of governance. By this we mean changes that have led to the emergence of a variety of auspices for, and providers of, governance other than states – the changes that Rose in the opening quotation terms ‘post-social’.

What relevance one might ask does this have to restorative justice? The answer is that while the processes I will describe have been informed by work within a restorative justice tradition they arise in response to a theoretical framework and normative agenda that differs in significant ways from the thinking that has given rise to restorative justice. Juxtaposing these differences places restorative justice within a wider context of a ‘post-social age’ that, I at least, find helpful in understanding restorative justice and in thinking about its development.

The Zwelethemba Agenda

The contemporary normative literature on governance challenges the previously taken for granted assumption that the business of government is, and should be, monopolised by states. The argument advanced in a variety of programmatic texts is that activities of government should be undertaken outside, as well as within, states.

This idea has achieved widespread acceptance and is shaping the agendas of governments around the world. It is also having a major effect on the way in which international development agencies such as the World Bank and the United Nations Development

Program are going about their business. A good example of this is a February 1999 draft of a 'Tool Kit on Good Urban Governance' developed by Leo Fonseka. Fonseka argues that governance can no longer be left to the state alone but requires the active partnership of the state with what he calls 'civil society' and the 'private sector'. For Fonseka civil society refers to a variety of institutions that include non-governmental organisations, community based organisations, academic and research institutes, religious groups and the media. The private sector includes small, medium and large enterprises, trade and investment associations and chambers of commerce. Fonseka argues that:

All three [the state, civil society and the private sector] are critical for sustaining human development. Since each has got its weaknesses and strengths, a major objective of good governance is to promote the highest possible constructive integration among them in order to minimise individual weaknesses and utilise the strengths optimally. The intricate intercourse between and among these three domains will indicate the direction of the society's economic and social flight path. The more integral, balanced and inter-dependent the three are the better it is for that society (1999:3).

For Fonseka the appropriate balance between these governmental partners is one in which:

- states provide 'the foundation for Equity, Justice and Peace' (thereby 'creating a conducive political and legal environment');
- civil society provides 'the foundation of Liberty, Equality, Responsibility and Self-expression;'

- while the ‘private corporate sector provides the foundation through economic growth and development’ (1999: 4).

This conception of balance between partners reflects what has come to be called neo-liberalism. There is nothing new about this and indeed it is has as Rose and Miller (1992) argue always been central to liberalism in ideas such as Adam Smith’s ‘invisible hand.’ What differentiates the neo-liberal position from classic liberalism is that where the older liberal position simply assumed the existence of non-state institutions capable of engaging in such partnerships neo-liberals argue for a constitutive regulatory environment that ‘makes up’ the civil society and the private sector (Shearing, 1993). Within neo-liberalism this job of creating and sustaining non-state nodes is seen as a defining feature of the state’s role.

In addition to this, many neo-liberals conceive of the state role as one of co-ordinating and providing direction to the network of governance that multilateralisation has produced. This conception of the neo-liberal agenda has been advocated in a variety of normative texts such as Osborne and Gabbler’s *Reinventing Government* (1993) and Eggers’ and O’Leary’s *Revolution at the Roots* (1995). The argument advanced is that the correct balance between state and non-state partnerships is reached when state governments provide the overall direction and control of governance and provide a regulatory environment that will encourage non-state participants to engage in the rowing of governance. Saves spells out the reason for this balance nicely when he writes:

The word government is from a Greek word, which means ‘to steer’. The job of government is to steer, not to row the boat. Delivering services is rowing

and government is not very good at rowing (cited in Osborne and Gabbler, 1993:25)².

Underlying this liberal conception of governance is an argument that the mobilisation of local knowledge and capacity is essential for effective governance. This is a direct challenge to the position associated with welfarism that state governments should monopolise governance and should do so by hiring agents with the knowledge and capacity required to realise their governing agenda. An example is the 'criminal justice system'.

Rose summarises these developments as follows.

A new ethical politics has taken shape -- of the environment, of animal rights, of reproduction, of health, of everyday life itself – which refuses the idea that politics is a matter of state, parliament, election and party programme. Anti-political themes are on the rise in right-wing, left-wing and 'no-wing' varieties, stressing the inefficacy, the limits, the inevitable failings of state provision of welfare, crime control, education and much more, and demanding that individuals, families, communities, employer take back to themselves the powers and responsibilities that, since the nineteenth century, have been acquired by states, politicians and legislators (1999:2-3)

² Fonseca (1999:3) spells out this definition as follows: 'The term 'Governance' is derived from the Greek word 'kybernan' and 'kybernetes'. It means 'to steer and to pilot or be at the helm of things'.

While these ‘anti-political’ arguments have only recently begun to take centre stage in political debates, the developments that have shifted the balance of governance away from states have been taking place for much of this century. In the domain of the governance of security one can trace these shifts to the 1940’s and 1950’s (Johnston, 1992). Much of this early development took place as corporations took the initiative in governing new spaces of collective life that were emerging, in particular the spaces that Shearing and Stenning (1992:228-229) have termed ‘mass private property’.

This desire to play a more active role in governance was facilitated by a regulatory structure, particularly contract and property law that accorded corporations with the right to govern these spaces of governance. Central among these new spaces were commercial malls, industrial ‘parks’, recreation areas and residential ‘gated communities’. Corporations who used these spaces as places of business took advantage of the ‘rights’ set out in property and contract law and developed mentalities, institutional arrangements, technologies and practices for governing them. Within the arena of security these developments have operated to shift auspices and provision of governance away from the state into new governing assemblages. This shift in the location of knowledge and capacity was accompanied by a shift to a future or risk based objectives and technologies for realising them that are not as reliant on force of those of state governments (Shearing 1992; Shearing 1997). Developments in private security provide an obvious example.

One of the consequences of the emergence of corporate entities as auspices and providers of governance has been that communities associated with them, have challenged ‘the idea that politics is a matter of state, parliament, elections and party programme’ (Rose 1999). One of the ways in which they have done so is through the creation of ‘contractual communities’

(Shearing 1992) in which arrangements for governance are agreed upon through contract. This happens, for instance, when one buys a home in a gated community and agrees as part of the terms of the contract to particular governing arrangements. These contractual communities create new 'spacio-ethical zones' (Rose, 1999) within which members assume responsibility for some of their own governance.

These developments, while having much in common with neo-liberalism, do not fit easily with its more state-directed forms. With the emergence of these corporate governmental nodes both the rowing and the steering of governance is accepted as a responsibility of non-state nodes. To the extent that this has happened contractual communities have been able to realise the value of self-direction so central to democracy in ways that do not depend on conventional claims that 'politics is a matter of state, parliament, election and party programme[s]' (Rose 1999).

During the early period in the development of this 'new ethical politics' (Rose 1999), while state laws did provide the legal opportunity for the emergence of corporate governance, states did not actively promote it. Nor were they interested in limiting or directing the emergence of corporate governments. This was so even though many state agents, especially the police, became concerned about the implications of these developments and sought to resist them. In sum they took place without the active state involvement that has marked more recent neo-liberal developments (Shearing and Wood, forthcoming).

These mid-century developments are quite different, as I have just suggested, to the situation that exists today. States, and their agents, at present are more actively involved

in promoting and shaping nodal governance. A key feature of much of this shaping has been an active attempt to bring these new governments under state direction. Today, the reigning political rationality is very deliberately promoting forms of nodal governance in which the state is conceived of as a broker or manager of programs of governance for which others must be persuaded to accept responsibility (Garland, 1996). This is nicely illustrated in 'community policing' programs that seek to 'responsibilise' (Burchell 1993; O'Malley and Palmer, 1996) so that others will be willing and able to assist the police by taking on parts of the rowing of policing.

This desire to shape what non-state nodes do is made clear in a recent proposal by Ian Blair (1998), a serving Chief Constable in Britain, who has argued that nodes participating in the governance should be 'police compliant'. With these late-century developments, states have sought to deliberately both encourage and regulate the involvement of local 'partners' in ways are 'state compliant'.

While this concern with state steering and direction has been evident with respect to 'civil society' 'partnerships', states have, despite proposals such as Ian Blair's, tended to adopt a 'hands off' stance with respect to the 'private sector'. This difference in focus has had significant consequences for the relations that have developed between states and these two sectors. Again this is particularly evident with respect to the governance of security where the more well established corporate nodes have far greater autonomy from state direction than do 'civil society' nodes that have developed under the impact of programmes designed to responsibilize local citizens and organisations. This has served to bifurcate developments in the multilateralisation of governance. As a result governmental arrangements developed under the auspices of corporations tend to be more

independent of state direction than the civil society arrangements deliberately promoted by states working within a neo-liberal mentality.

As the collectivities involved in the self-directed forms of governance that have developed within private sector initiatives are more likely to involve the well-to-do, these collectivities have tended to fare better, with respect to enhanced autonomy, than their poorer neighbours (see for example Cruikshank's (1999) discussion of the 'empowerment' of people within neo-liberal programmes). It is this inequality (see Bayley and Shearing 1996, 1999), and how it might be addressed and rectified, that is the principal normative focus of the Zwelethemba project.

In the project we have asked how to create a regulatory environment and institutions, technologies and practices within it that will enhance poor people's ability to take greater control over the steering of their lives. South Africa is a particularly appropriate site in which to be doing this as the 'governance gap' just noted is especially stark. Over the past several decades well-to-do (particularly well-to-do white South Africans) have done much to shift the control over the governance of their lives away from the state into the hands of a variety of corporate governments. This is particularly evident with respect to the governance of security. Here, not only is the ratio of private security personnel to state police agents among the highest in the world, but corporate governments now routinely undertake many of the functions that states have regarded as central to their role -- for example, emergency response (Carrier, forthcoming). This situation has not changed since South Africa's first democratic election.

This contrasts sharply with the situation of poor people. They too had developed considerable governmental autonomy prior to the election through a range of civic structures within local areas. Since independence, however, the new government has sought to dismantle these processes and replace them with more state-directed programmes. Again what has happened in policing provides an excellent example. The various 'popular policing' initiatives developed in response to apartheid (which were often very violent) have been dismantled and replaced with community policing initiatives that seek to ensure that the steering of policing remains in state hands, and more specifically in police hands. While this is never made explicit, the clear implication is that while corporate governments can be trusted to develop nodal governments that are independent of state steering that comply with the constitution and other state laws, this is not true of poor communities.

It is this context that has established the project's normative agenda. Namely, to develop a model for the nodal governance of security that enhances the autonomy of local 'community' nodes in ways that bears a family resemblance to what is already happening within the private sector. Specifically the project has sought to develop a 'model' for the local governance of security – what we call 'local capacity policing' -- that promotes a mode of self-governance that enhances self-direction and is compliant with state law but which is not necessarily police compliant. Central to this agenda of legal compliance is the insistence that there should be no challenge to the state's claim to monopolise the distribution of physical force.

Although I am using the term 'model', we do not mean this in the sense of a blueprint that sets out and directs a course of action in a closed-ended manner. The procedures the

model endorses are open-ended and encourage discovery and inventiveness, albeit within bounds and according to principles that the model endorses.

The Model

There are two aspects to the model. The first has to do with problem-solving. There are, in turn, two aspects to problem-solving, namely, peacemaking and peacebuilding.

Peacemaking refers in our terminology to problem-solving with respect to ongoing disputes that will establish peace with respect to that particular matter. Peacebuilding refers to problem-solving with respect to more generic issues.

The second aspect of the model is concerned with sustaining the processes of peacemaking and peacebuilding over time.

Problem-Solving: Peacemaking

Self-Direction, Knowledge and Capacity

At the heart of the model is a technology, similar to that used in family group conferencing, for mobilising local knowledge and local capacity to engage in both the rowing and the steering of governance. In adopting this technology the model adopts a stance that is consistent with the general trend in governance noted above that gives priority to local knowledge and capacity (Nils Christie's phrase 'let us have as few experts as we dare' (1977:12)). The aim is to create a problem-solving Forum that will bring together local knowledge and capacity that can be mobilised to provide a solution to a dispute. It is this bringing together of knowledge and capacity to seek a solution, rather than any particular desired form of outcome (for example, 'restoration as a healing

component' for victims, restoration as 'accepting responsibility' for offenders and restoration as 'denouncing wrongful behavior' for communities (Law Commission of Canada, 1999: 27)), that is at the heart of the model. The only restriction it imposes is its insistence that what is done should be legal and conform to the model's Code of Good Practice.

In providing for legality the model takes a conservative stance. It requires first, that force should never be used, as a consequence of a peacemaking Forum, to solve a problem. If the conclusion is reached at a Forum that a coercive solution is required this is defined as grounds for referring the matter to the police, or some other state agent. Second, it requires that the members of the Peace Committees (that is, local groups of Peacemakers) should never engage in adjudication. This stance is encouraged by a practice, that again resonates with family group conferencing, of not blaming persons. The focus is on discovering what can be done to reduce or eliminate the problem (see below for a discussion of the instrumental, future-focused nature of the model and the practices it facilitates).

The non-directive feature of the model just outlined encourages a variety of ways of problem-solving and leaves to the Forum participants the decision as to just what this will be. What gives these 'cases' a family resemblance is not so much what is done but rather the mobilisation of local knowledge and capacity in and through the temporary collectivities created through the process. Each Forum is different and transitory, although its members are drawn from a broader territorial collectivity. During a regular review process (see below) Peacemakers (the community members who facilitate the Forums)

are encouraged both to reflect on what has occurred in particular cases as well as to make comparisons across cases.

The model also includes typical steps that Peacemakers are encouraged to follow.

STEPS IN PEACEMAKING

- 1. Meet separately with the people directly involved in order to find out what happened.**
- 2. Encourage them to come together in a peace circle and to bring with them any other people who they think will help re-establish peace.**
- 3. Meet with all these people together in a peace circle:**
 - make sure that everyone has the opportunity to speak without being interrupted**
 - let all the people affected by what happened tell how they feel about what happened and what it did to their lives.**
- 4. Let the people start thinking and talking about how to make peace.**
- 5. Work out a plan of action:**
 - make clear what everybody's role will be**
 - appoint some suitable person from the circle to monitor the agreement**
 - get everyone to agree to the plan.**
- 6. Let people end the circle in some way that will show that they have made peace: e.g., by shaking hands, embracing, or saying a prayer.**

Again, these steps operate as guidelines rather than as rules. Both the Code of Good Practice and the problem-solving steps were developed through an iterative process. During this process we reflected on how they worked and the extent to which their elements were contributing to our objectives.

In both the peacemaking and peacebuilding Forums the emphasis is not on problems but on the knowledge and capacity available within circles for solving them. The model's technology seeks to 'make people up', to 'hail them out', not as people who have problems -- and certainly not as people who give their problems away (Christie, 1977) to other experts (state or non-state) -- but as people who are capable of developing solutions.

To return briefly to our introductory analysis, the argument implicit in the model is that the difficulty with state-directed versions of the neo-liberal political rationality is not its insistence that local capacities and knowledges be deployed in governance but the mechanisms promoted for accomplishing this. What the model distances itself from is forms of 'empowerment' that seek to mobilise local knowledge and capacity in order to enhance the capacity of state agencies to realise their own aims (c.f. Drucker 1994, see also Osborne and Gaebler, 1993).

The model views disputes as occasions around which to demonstrate to people that they have the capacity and knowledge required to self-govern. These resources are assembled by inviting neighbours, friends and relatives to join the problem-solving Forums. This procedure brings together what may be thought about as not simply as what John Braithwaite calls a 'community of care' but a 'community of life' -- that is, a community drawn from the collectivity within which one lives one's daily life. Once the group is

assembled, the Peacemakers use the steps described above as guidelines for setting in place a process that mobilises local resources.

These procedures work to encourage members of the Forum to engage in problem-solving. However, in this ‘responsibilisation’, the consequences are different from those advocated by the likes of Drucker and Osborne and Gaebler. This difference is a direct result of the difference in agenda. The processes encouraged by the model are not designed to engage the participants as role players in programmes constructed by others. In contrast, the model works to promote innovation and self-direction. In doing so it promotes practices that are similar to developments in corporate governance that enable corporate collectivities to promote agendas that, while legal, are not simply expressions of state agendas. The effect is thus quite different from programmes – for example, much that takes place under the sign of community policing -- that seek to make up people as implementers of state agency programmes. None of this, of course, should be taken as implying that the practices that are promoted are unregulated. In part this regulation arises from state law but the Peacemakers, as I have noted, also work within a self-imposed regulatory framework that interprets and goes beyond this.

Nature of the Problem

One of the consequences of the fact that many restorative justice programmes are set up as diversion schemes is that a considerable amount of definitional work is done before the issue arrives at the dispute resolution Forum. This means that by the time the issue reaches the Forum it has already been defined as a legal infraction and parties to the infraction have been identified as offenders and victims. It is this ‘problem’ that is returned to the ‘community’ to be resolved. The definitional work that has been done

provides the framework within which a resolution is to be found. This directs the whole resolution process. There is nothing new about this observation. It is nonetheless an important one. A recent restatement of it is provided by the Canadian Law Commission's discussion of how 'many of our most important issues are only imperfectly forced into {an adjudicative] model' (1999: iii, 49).

Where problematic events are identified before a state-driven definitional process takes place, two things happen. First, events that would pass through the state net may be and often are identified as deserving attention. This feature of pre-state engagement has been discredited by Stan Cohen (1985), among others, as net-widening. However, this critique is premised on state involvement and state action. It assumes that issues that would not have been dealt with through state processes and would not have been settled through the imposition of state sanctions would now get caught in a state net. This is not what this model promotes. Yes, what occurs is net-widening in the sense that problems that would not otherwise be addressed, and would very likely escalate into 'state-attention-problems', are identified and attended to through a peacemaking process. But this is not the net widening Cohen had in mind. Indeed the process avoids precisely the problems that Cohen was concerned about, by reducing the state 'catch'.

Secondly, what our cases indicate -- over 100 in the first seven months -- is that whatever the nature of the issue, it gets 'problematized' or 'made up' in ways that typically do not parallel the definitional practices of state agents. Two features are particularly noteworthy. One is that events are firmly embedded in a wider and deeper terrain. Thus, for instance, a stabbing is not 'pulled out' of the context of daily life as an 'assault' that has an offender and a victim. Rather it is located within a wider context of often ongoing

and long established patterns of action that include groupings such as families, neighbours and so on. Within this broader context, who is the ‘offender’ and who the ‘victim’ very often oscillates depending on just when a snap shot of events is taken – a ‘victim’ today may well have been an ‘offender’ yesterday. This is particularly important in light of the model’s concern with ‘hailing out’ Forum participants as people who resolve problems rather than as disputants who create them.

The central issues that have emerged as providing the context for many of the specific events that have been dealt with through peacemaking Forums are ‘sex’, ‘money’ and ‘nuisance’. It is precisely these broader issues that states, as state agents constantly remind us (Wood and Shearing, 1998), typically do not have the capacity or the right to resolve.

Governing the Future

While the model is neutral on just what constitutes a resolution of a problem, a pervasive practice has emerged whereby Forums shift attention away from the past to the future. What tends to happen is that the event ‘arrives’ at a Forum as a problem defined by the disputants in a way that focuses attention on the past -- the focus is on what has happened and the harms claimed to have been caused by the event. This takes place in most cases because the person who initially claims the status of ‘victim’ has set up or established the initial problematisation. If the ‘victim’ had taken the problem to the police this construction would be supported and formalised. It is this construction that is typically brought to non-state dispute resolution Forums as a result of diversion.

This tends not to happen within the Zwelethemba process, for four principal reasons. The first, as I have noted, is that the discussion typically to place the event that precipitated the Forum within a wider context. Within this context the objective of repairing the past through either restorative or more conventional means becomes less self-evident. As this happens, the conception of what is a solution tends to become bringing-an-end-to-the-cycle-that-has-produced-the-dispute, rather than with sorting out the complex details of conflict and allocating responsibility and blame. What the discussion reveals to participants is that the focus on remedying the past is not as 'natural' as it appeared to be initially. This process mirrors what tends to happen in corporate governance. This process contributes to the 're-hailing' of disputants (see above).

A second and related reason for the move to a future-focus has to do with the existence of a wider group of people than the disputants at the circle, in particular, a group of people that extends beyond the participants directly associated with the principal disputants. While the persons initially identified as victims and offenders frequently initiate a discussion that is past-focused and backward-looking, as others enter into it there is very often a shift in focus to the future. While this can be, and sometimes is, initiated through persons identified with the particular disputants, it is most likely to be initiated and pursued by participants who are affected but not directly associated with the disputants, for example, neighbours who are concerned about the trading of insults and fighting between disputants. What these others tend to do is argue that the matter is not simply a dispute between a limited number of people that requires resolution but one that has had an affect on a wider 'community of life'. The dispute has, it is argued, disrupted the peace of the wider community. The objective that they bring to the circle is one that

promotes a different future. Again this echoes what happens within the corporate governance of security.

A third related reason is the choice made during the early development of the model to think of the process as one designed to bring peace to Zwelethemba. This was partially a matter of the way in which we, as facilitators of the processes, thought about matters. More importantly, however, was the way in which our construction resonated with people who had been living with high levels of disorder for decades. One expression of this was the choice made by members of Peace Committees to describe themselves as Peacemakers and to call the association that was formed the Zwelethemba Peacemakers Association. This is similar to the explanation provided by those who argue that the risk focus -- that is so prevalent today -- can be explained, at least in part, in terms of people's responses to relatively high levels of disorder (Garland, 1996; see also Beck's (1992) more general discussion of what he refers to as the 'risk society'; Ericson and Haggerty, 1997).

Finally, a fourth feature that discourages a focus on the past is the model's insistence that solutions not involve the use of punishment or force. While, as is clear from restorative Forums that this alone need not shift the focus to the future, in conjunction with the other features just noted it tends to do so.

This focus on the governance of the future does not, of course, eliminate a discussion of, or a concern for, the past. What happens is that the past tends to be addressed to ensure that the future is different. That is, to the extent that dealing with the past becomes a focus, this tends to happen because it is believed that the past must be addressed in order

to enable the participants to move forward in ways that will lead to peace in the future. This focus on dealing with the past as a way of enabling participants to move on into a new and different future is of course a feature of many restorative processes that view restoration as a basis for settling the past in ways that release persons from its grip.

While this certainly has been a feature of the processes the model has facilitated -- as is evident for example in the relatively large proportion of circles that conclude with some gesture of reconciliation (see below) – the emphasis has tended to be more instrumental and utilitarian. This emphasis parallels the focus within ‘corporate policing’ (Shearing and Stenning, 1981). This tendency is one that Braithwaite (1999) has noted in corporate dispute resolution and something that he believes that analysts have tended to neglect as they have examined the practices within restorative forums. An example of this is the emphasis in many restorative forums on contractual agreements that are intended to bind disputants in the future.

This greater focus on the future is used by participants to assess the success of peacemaking Forums. While they regard restoration and reconciliation as important, and perhaps even necessary, they are believed to be insufficient in themselves. Peace Forums are assessed on the basis of the extent to which they govern the future rather than on the extent to which they restore a balance that has been upset in the past. Thus, while symbolic expressions of restoration, like the holding of hands, are encouraged and valued, they are not regarded as essential. Much more important are those features of the process, such as contracts, that seek to bind participants to a future course of action. It is in this context that gestures such as handholding tend to be given meaning. For this reason these tend to involve not simply the disputants but all those present. What is symbolised through them is a joint commitment to contribute to a different future.

While none of this means that the past is not given any weight, it does mean that a concern with the past tends not to trump efforts to 'colonise the future' (Giddens, 1991).

Authority and Participation

A feature of this process that is closely akin to restorative justice processes is the reliance it places on sources of authority that are brought together in the course of the peacemaking. The model insists that Peacemakers should define themselves as having no authority to resolve the dispute or to insist that agreements made in the course of the resolution process are kept. Initially we were concerned that this might mean that the Peacemakers, and their Forums, would not be taken as seriously as they would be if the facilitator had been a state agent, such as a police officer or a someone with status within the community (what people in Zwelethemba sometimes refer to as a 'grey hair'). This concern proved groundless, as sources of authority were almost always located within the Forum itself.

This definition of Peacemakers as simply facilitators has meant that there are few, if any, bars to participation based on status. Peacemakers vary enormously in background, include both men and women and several young people in their late teens and early 20s. Although they do not bring any special authority to the Forums, they do participate actively in the discussion. They do this by drawing people in and summarising what has been said and acting as members of the community of life who can make suggestions.

The number of Peacemakers who decide to attend a Forum varies from two people to about ten. The principle that has emerged is that as many Peacemakers as possible will

attend. This ensures considerable opportunity for them to learn and observe variations in the way in which facilitation is accomplished.

In setting up Forums disputants are encouraged to bring along anyone they wish.

However, other persons not specifically invited by the principal disputants may and do attend. As we have suggested, this extends participation in the Forums beyond the disputants' 'community of care'.

The emphasis on inclusion not only draws on ties within collectivities, it also strengthens and creates them. Typically a Forum will operate to build new ties between members as well as strengthen existing ones. Links that perhaps had not previously been recognised will be identified and new sources of cohesion will be established. Similarly new links often develop as a consequence of post-forum agreements that require people to co-ordinate their activities in some way.

In response to our concerns that there may be problems that require adjudication by an 'outside' authority, such as 'grey hairs', the project has worked with the South African Law Commission (which has recently published a discussion paper setting out the model I am describing) to develop an idea of a Community Forum. This would be different from the Peace Committees in that it would involve adjudication by either by a single person or a panel. We have envisaged this as following an arbitration logic where disputants whose dispute has not been settled within a Peace Committee could opt to take their case to the Community Forum for settlement. To date, with well over a hundred disputes considered at the Peace Committee level, we have not had an instance where this option has seemed attractive.

Problem-Solving: Peacebuilding

To this point our focus has been on the resolution of current disputes. While peacemaking Forums typically tend to shift attention to the future, they seldom take this discussion beyond the immediate issue. That is, the participants typically consider how the repetition of a particular set of events is to be avoided but do not take the next step and consider more generic issues. For example, they might consider how it is that future thefts by a particular person, or from a particular home, can be avoided but they are unlikely to consider how burglary can be reduced more generally. Shifting to peacebuilding in a generic sense, we have found, requires Forums dedicated to this. Like the peacemaking Forums, they are designed to mobilise local capacity and knowledge and to hail people and collectivities as having the knowledge and capacity to accomplish this. Unlike peacemaking Forums, these Forums require many meetings as people work through the issues and experiment with different solutions. This long-term commitment is more difficult to establish and sustain. In our experience to date, these Forums are most likely to succeed if they bring together established corporate entities that have an interest in developing longer-term solutions to problems.

In identifying generic issues as candidates for successful resolution, Peacemakers look back over the sorts of problems that face the community and identify matters that come up regularly. This is done in two ways. First, by considering the problems that have been brought to peacemaking Forums. This is done both through memory by Peace Committees and on a formal basis as part of an audit process (see below). Second, the model promotes the use of two forms of surveys. One is a victim survey that we have undertaken on a regular basis, both to ascertain residents' perceptions of the sorts of

security issues they face and to keep track of the levels of awareness regarding the work of Peacemakers. The other is an exit interview that we have recently initiated that asks questions of the principal participants at Peacemaking Forums. We have been assisted in the development of both these survey instruments by Tony Doob.

On the basis of the list of peacebuilding possibilities, which shifts as experience changes, the next step the model proposes is to discover a match between an issue on the list and a group of participants who are likely to be willing to tackle the issue in the longer term.

One example of an issue that has been addressed is the disorder that results from the existence of illegal drinking establishments called 'shebeens', that exist throughout South Africa. Although these businesses are not legally sanctioned, state agents typically take a tolerant attitude towards them. They constitute the principal settings in Zwelethemba for adult recreation. In the case of the 'shebeen problem', the Peace Committees have worked to create a self-regulatory schema whereby shebeen owners agree to a Code of Conduct and seek collectively to promote it.

The guiding steps that have been developed for peacebuilding are as follows:

STEPS IN PEACEBUILDING

- 1. Identify the issue**
- 2. Build ideas about why it happened**
- 3. Choose one or two ideas to try out**
- 4. Build a programme, based on the ideas, to resolve the issue**
- 5. See what happens after the programme has been tried**

6. Improve the programme

7. Share what you have learned

These steps, incidentally, were initiated at a discussion in Zwelethemba attended by David Bayley, John Braithwaite and Enrique Font, a colleague who is working with us in Argentina.

We have found that peacebuilding, outside of the peacemaking Forums, is the most difficult part of the process to develop and sustain. While the peacebuilding steps work well, we need to think more about how to set up and sustain peacebuilding Forums. Our most successful Forums at present, as I have indicated, are ones that involve local entities that have some existence apart from our Forums. An example would be the Peacebuilding Forum made up primarily of shebeen owners.

Another difficult issue has been finding satisfactory ways of enabling peacebuilding resources to relate to state agencies. Relevant to our thinking has been a recent development in South Africa, taken from developments in Europe and North America, namely the establishment of partnership Forums that operate to bring state agencies together to engage in precisely the sort of peacebuilding I have just outlined. These Forums, called Community Safety Forums, are just being established. We intend to use these Forums as institutions whose resources our Peacebuilding Forums can seek to mobilise. Given the agenda set out at the start of the chapter, it is critical to the model that this engagement take place only once a strategic plan for mobilising resources has been established at a Peacebuilding Forum level.

This discussion brings me to the second part of the model I mentioned at the outset, namely, the mechanisms we have set in place for sustaining peacemaking and peacebuilding.

Sustainability

A question often raised during the course of the model's development was the following question put to us by Peacemakers: what do we get out of all of this work? In raising this they were broaching the classic 'free rider problem.' They were saying, 'we are doing this work to provide a communal good from which everyone in the collectivity benefits but we are getting no special compensation for this'. They raised this issue most often in the context of family pressures that they were facing to contribute to the collective income of the household. Other household members, they noted, were critical of the way they were spending their time and wanted them to 'get out there' and make some money. This concern led to much discussion. Much of this was around experience with past responses to this issue in other settings within the South African context. Of particular concern was the experience with the practice by governments and non-governmental organisations of formalising roles such as these as either full-time or part-time occupations for which people were paid. This response, it was felt by many people, both within and outside the project, has been profoundly problem-ridden. Among these problems one that was frequently raised was the way in which this response served to set people who were paid apart from their fellow residents as people with jobs and as new relatively affluent members of the collectivity. A related concern was that the monies paid to contributors was not 'spread around' within the collectivity and served to create undesirable status distinctions. Perhaps most importantly, from the point of view of our

agenda, was that this response simply created another level of experts who deprecated local knowledge and capacity.

The procedure we developed, and the one our model endorses, is one in which monies are paid to the Peace Committee for the work they do. Payment is made in terms of outcomes, not time spent working as Peacemakers. While this principle applies to both peacemaking and peacebuilding, as peacemaking efforts are more discrete we are clearer about how to reward outcomes associated with peacemaking than we are with those associated with peacebuilding.

So payments are now made to Peace Committees for both peacemaking and peacebuilding work according to a schedule. Payments are made after a review of cases by the fieldworkers of the Community Peace Programme. The review considers whether or not the procedures followed conformed with the principles of the model, particularly as these are set out in the Code of Good Practice. Payments are made irrespective of whether the process was successful in promoting peace – the outcome is a peacemaking or peacebuilding activity that takes place in accord with the Code. In making these payments the Community Peace Programme, during the model-building phase, took the role of local governments which, in terms of the model, should be responsible for providing the funds for these payments. These payments are paid into two funds. First, an Administrative Fund that is used to support the work of the Peace Committee by providing for refreshments, stationery and so on. The second, and larger share of the payment, goes to a Chumani Fund (or Growth Fund) that is to be used for two purposes: first, to create income generating opportunities within the collectivity served by the Peace Committee, and second, to support that collectivity through ‘poverty relief’

(interpreted to date as supporting services to disadvantaged members of the collectivity, for example supporting an old age home).

In dispensing the monies in the Chumani Fund, the Peace Committee acts as an investment co-operative. To promote income generation, the Chumani Fund is being used to develop micro-enterprises within the collectivity. While participation within these small businesses is not limited to Committee members, the model, in its present form, gives priority to them. The Chumani Fund provides support for developing micro-enterprise in the form of assistance in business planning and the management of the businesses once they are established. The model also provides for a Revolving Fund that provides loans to business ventures. It also includes templates for record-keeping that the payments for peacemaking and peacebuilding require and the records that poverty relief payments and micro-enterprise entail.

These procedures have worked to sustain the willingness of Peacemakers to volunteer their time to peacemaking and peacebuilding activities. They have done so by providing answers to the question, 'why should we be doing this?', that are persuasive within the context within which we are working. There are several reasons for this. One is the widespread assumption that contributing to the wider collective through contributing to peace and the economic wellbeing of communities is self-evidently worthwhile. In addition, the opportunities to directly participate in micro-enterprise are seen as providing an acceptable response to the free rider problem noted above. We interpret the willingness to continue to engage in peacemaking and peacebuilding under these arrangements as evidence that the contribution Peacemakers feel they make to communal

interests, along with the opportunity to directly benefit, provide a workable recipe for sustainability.

In addition to the arguments just presented as grounds for this arrangement, an additional argument that influenced our choice of this approach has to do with the issue of 'empowerment' and the problems attached to conventional programmes raised by Cruikshank (1999) and others. One of the features of programmes of empowerment that have developed under the neo-liberal approach to reinventing government has been a tendency to pass on the work of governance without a corresponding shift of resources. Carol LaPrairie (1999) has discussed the problem of 'responsibilisation without resources', while Pat O'Malley has defined the issue in these terms:

... there is nothing necessarily wrong with making people responsible, but in order to do so you have to provide the real conditions for responsibility. Most neo-liberal governance thinks it can do this by provision of attitudinal resources and knowledge - empowerment - but most often there is a need to provide infrastructure and material support (cried down of course because of its associations with welfare). (Personal communication).

Bayley and I (1996) responded to this need to provide resources with an argument for block grants to communities that would create a policing budget as opposed to a police budget (see also the recommendations of the Independent Commission on Northern Ireland (Independent Commission, 1999) on the creation of policing budgets). In the Zwelethemba model this idea of a block grant is given concrete expression through the processes I have just outlined.

Accountability and Transparency

There are obvious dangers that the practices that take place will not remain within legal or ethical bounds as the process develops over time and the number of Peacemakers expands. This is particularly worrying in South Africa, where there has been a history of such problems. Indeed it was not long before these problems emerged in Zwelithemba. The most problematic occurred when a well established ‘problem-solver’, who many people in the community turned to for assistance, joined the Peacemakers and started to practice his brand of problem-solving (which violated the Code of Good Practice) under their sign. In response to this, and the general concern just raised, a set of procedures have been established as part of the model to guard against abuse.

The procedures the model endorses include some safeguarding features. The overriding principle is that people in collectivities have a right to undertake peacemaking and peacebuilding so long as what they do is within the law and is undertaken in a transparent manner so that the legality of their actions can be assessed. A similar principle is applied at a political level: the position the model takes is that no political approvals are necessary or required so long as the process is legal. This is true for governments, political parties and for the ‘community’. Political support is, however, regarded as desirable. We have taken a similar position with respect to criminal justice agencies. Again, support is regarded as very desirable. While these arguments are based on principle, there are also practical grounds for endorsing them. In particular, that one should be careful of unnecessarily setting up gatekeepers by asking for approvals that are not required.

Peace Committees are typically formed after general community meetings in which the peacemaking and peacebuilding is introduced to a group of residents (as we have moved the model into areas outside of Zwelethemba, this is done by both Peacemakers and members of the Community Peace Programme). To ensure transparency we attempt to make known, to as many people as possible within the collectivity, what procedures will be used, for example, by publicising widely the Code of Good Practice and the peacemaking and peacebuilding steps. This is also done at the outset of Forums.

As there is no adjudication by the Peacemakers, responsibility for decisions rests with the participants at the Forum. The Peacemakers' role is to facilitate this and to ensure that the agreements arrived at conform to the Code of Good Practice and the ethical and legal framework it embodies. The procedures and the agreements reached at all Forums are reviewed by members of the Community Peace Programme as part of the assessment process for allocating resources to the administrative and the growth funds. As the project expands and as monies for these funds are made available by governments this process will be formally authorised by them. We keep audited accounts of payments and expenditures.

Regular meetings are held with 'stakeholders'. In particular, in the sites in which we are working at present Peacemakers and members of the Community Peace Programme meet regularly with the local police and the local Community Police Forum. Community Police Forums are statutory bodies established to provide liaison between the community and the police. Regular meetings are also held with local magistrates.

Membership in Peace Committees requires that persons be familiar with the procedures and formally agree to abide by them. Membership in a Peace Committee is for four-month renewable terms. Renewal decisions are made on the basis of the members history and, in particular, the standards set by the Code of Good Practice.

Conclusion

In developing the Zwelethemba model we have sought to take up Nikolas Rose's (1996) challenge to do more than engage in a simple dismissal of governmental developments taking place under the sign of 'neo-liberalism'. Instead we have explored how they might be responded to, and shaped, so as 'to maximise the capacity of individuals and collectivities to shape the knowledges, contest the authorities and configure the practices that will govern them in the name of their freedom and commitments.' The model argues that for this to happen it is necessary not only to develop mentalities and procedures that make up problem-solving Forums and 'disputants' differently, but that this must be done in ways that, in Pat O'Malley's words, will 'provide the real conditions for responsibility'. We are continuing to explore how the procedures advocated by the Zwelethemba model might be extended, and further developed, elsewhere in South Africa and further afield. As part of this we intend to promote a variety of exchanges (both 'real' and 'virtual'), at a variety of levels, to explore how both the objectives set out in this paper, and the technologies developed for their accomplishment, might be advanced.

REFERENCES

Bayley, David and Clifford Shearing (1996) 'The Future of Policing' *Law and Society Review* 30(3):585-606.

Bayley, David and Clifford Shearing (1999) 'Policing's New Paradigm,' *Report to the United States National Institute of Justice*, Washington DC.

Beck, Ulrich (1992) *Risk Society: Towards a New Modernity*. London: Sage.

Blair, Ian (1998) 'The governance of security: where do the police fit in policing?'
Mimeo.

Braithwaite, John (1999) 'Restorative justice: assessing optimistic and pessimistic accounts' in Michael Tonry (ed) *Crime and Justice: A Review of Research*. Chicago: University of Chicago Press.

Burchell, Graham (1993) 'Liberal government and techniques of the self,' in Andrew Barry, Thomas Osborne and Nikolas Rose (eds.) *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*. Chicago: University of Chicago Press.

Carrier, Ryan. (forthcoming) 'The dissolving boundaries between private and public: private security and policing in South Africa.', *African Security Review*.

Christie, Nils (1977) 'Conflict as property.' *British Journal of Criminology* 17(1):1-15.

Cohen Stanley (1985) *Visions of Social Control: Crime, Punishment and Classification*, New York: Polity Press.

Cruikshank, Barbara (1999) *The Will to Empower: Democratic Citizens and Other Subjects*. Ithica, NY: Cornell University Press.

Drucker, Peter (1994) 'The Age of Social Transformation'. *The Atlantic Monthly*. 274: 53-80.

Eggers, William D., and John O'Leary (1995) *Revolution at the Roots: Making Government Smaller, Better, and Closer to Home*. New York: The Free Press.

Ericson, Richard and Kevin D. Haggerty (1997) *Policing the Risk Society*. Toronto: University of Toronto Press.

Fonseka, Leo (1999) *Good Urban Governance: A toolkit of Indicators and Positive References*. (Draft Document: 1st August), mimeo.

Garland, David (1996) 'The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society.' *British Journal of Criminology*, 36(4):445-471.

Giddens, Anthony (1991) *Modernity and Self-Identity in the Late Modern Age*. Oxford: Polity Press.

Independent Commission (1999) *A New Beginning: Policing in Northern Ireland* (The Report of the Independent Commission on Policing for Northern Ireland).

Johnston, Les (1992) *The Rebirth of Private Policing*. London: Routledge.

Law Commission of Canada (1999) *From Restorative Justice to Transformative Justice: A Discussion Paper*. Canada.

LaPrairie C (1999) 'Some Reflections on New Criminal Justice Policies in Canada: Restorative Justice, Alternative Measures and Conditional Sentences.' *Australian and New Zealand Journal of Criminology*, 32(2): 139-152

Osborne, David and Ted Gaebler (1993) *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*. New York: Plume.

Rose, Nikolas (1996) 'The Death of the Social: Refiguring the Territory of Government', *Economy and Society* 25(3):327-356.

Rose, Nikolas (1999) *Powers of Freedom*. Cambridge: University of Cambridge Press.

Rose, Nikolas, and Peter Miller (1992) Political power beyond the state: Problematics of government. *British Journal of Sociology* 43(2):173-205.

Shearing, Clifford (1992) 'The relation between public and private policing' in M Tonry and N Morris (eds) *Modern Policing*. Chicago: University of Chicago Press.

Shearing, Clifford (1993) 'A constitutive conception of regulation' in John Braithwaite and Peter Grabosky (eds.) *Business Regulation and Australia's Future*. Canberra: Australian Institute of Criminology.

Shearing, Clifford (1997) 'The unrecognized origins of the new policing: linkages between public and private policing', in Marcus Felson and Ronald Clarke (eds.) *Business and Crime Prevention*. Monsey, NY: Criminal Justice Press.

Shearing, Clifford and Jennifer Wood (forthcoming) 'Reflections on the governance of security: A normative enquiry.' *Police Research and Practice: An International Journal*.

Wood, Jennifer and Clifford Shearing (1998) 'Inclusions and Exclusions in Governance: An Examination of Campus Security.' *Canadian Journal of Criminology*, 40:81-95.