

HOW DOES SECURITY LIMIT THE RIGHT TO PROTEST? : A STUDY EXAMINING THE SECURITISED RESPONSE TO PROTEST IN SOUTH AFRICA

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SUPERVISOR: RICHARD PITHOUSE

By

Andrea Leigh Royeppen

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ABSTRACT:

In South Africa, the right to protest is under constant threat as a result of the state response. Increasing cases of forceful policing and sometimes unlawful procedural prohibitions of protest attest to this. This study aims to firstly describe this situation through securitisation theory, essentially arguing that South Africa has become a securitised state. It also aims to understand how this is sustained by the state and why the state needs to use a securitised response to maintain power. Interviews were conducted with members of different communities and organisations. Their responses helped to illustrate the frustration of the right to protest or brutal policing during a protest. This provided primary evidence to support the claims of the study. The research shows that claims to protest are being delegitimised under the guise of security as protestors are being constructed as threats to the state. This is further substantiated by looking at how the reorganisation and remilitarisation of the South African Police perpetuates the criminalisation of protestors which necessitates a forceful response from the state. Furthermore, it shows that there is a distinct relationship between the prohibition of protest and the recent increase in ‘violent’ protests which legitimate forceful policing thereby creating a state sustained cycle of violence. The larger implication of this treatment is that these protestors are treated as non- citizens who are definitively excluded from participating in governance. In understanding why this is taking place, it is clear that a securitised response is an attempt to maintain power by dispelling any threats to power, a response which is seen to have a long history in the African National Congress (ANC) when examining the politics of the ANC during exile. Maintaining power in this way distracts from the larger agenda of the state, which this thesis argues, is to mask the unraveling of the ANC’s hegemony and inability to maintain national unity. In other words, the increasing dissatisfaction of some of the citizenry which has manifested through protest greatly undermines the legitimacy of the government to provide for its people.

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CHAPTER ONE:

INTRODUCTION

1. CONTEXT

In recent years, the South African state has made it increasingly difficult for groups to gather and protest. Several examples, mentioned in this thesis illustrate this difficulty. The frustration of the right to protest has taken place both procedurally and through forceful police response. In this regard, the security sector, specifically the national police service has become increasingly violent in its response to popular protest¹. Infamous examples of this stance have been witnessed with the murder of protestor Andries Tatane in Ficksburg in April 2011 and 34 miners in Marikana in August 2012. While these are particularly important examples, there have been many other documented incidences, a number of which have been fatal, where the police have violently put down peaceful protests. In April 2012, journalist Caroline Southey wrote an article which ran in the *Mail and Guardian* entitled 'Help, the cops are coming!'. This illustrated how the security forces that have the legitimate responsibility to protect the citizenry are sometimes becoming a threat to the safety and security of citizens. In fact it has been widely documented that non-citizens have also been subjected to sustained abuse at the hands of the police (Burger & Botha, 2011:1). Incidences of protests or potential protests often form the context of such an abuse of power.

And so, it is clear that the police are actively preventing citizens from participating equally in the public sphere. Participation in this context refers not only to the procedural aspects of democracy as seen through voting but it extends to holding the government accountable for the failure of policies and

¹ The term 'popular protest' will be used to contextualise all protests so as to avoid reducing protests and gatherings to that of 'service delivery protests', as has often been the case in the media and municipal documents.

provisions that were promised but never materialised. In effect this limits the role of the citizen to one that is defined by the state. Upon further inspection of cases of police brutality it becomes clear that in the South African context poorer citizens who protest are 'othered' and treated as though they are threats to state security and stability. This allows the state to 'legitimise' its violent response to protest. Jenson (2010:25) describes this othering of citizens as "differentiated citizenship" which means that not all citizens enjoy the equality that was emphasised and promised by liberation parties after the end of Apartheid. This idea of a 'differentiated citizenship' is ironic when regarding the rhetoric of the incumbent ruling party. Halisi (1999) in Johnson and Jacobs (2007:78) explains that the fight for a democratic South Africa was conceptualised in the ideas of Black Nationalism. These ideas focused on "sovereignty and self-determination". Therefore, these campaigns for equality and recognition against the Apartheid government can surely be compared to the protests for social inclusion which take place today.

However, this comparison is not acknowledged and can therefore be understood when examining Frantz Fanon's idea that in some cases a period of political transition merely means substituting one group of people with another. In this instance it is the interests of those who wield political power that are maintained as opposed to addressing the concerns of the entire citizenry. He says,

But as soon as independence is declared, far from embodying in concrete form the needs of the people in what touches bread, land and the restoration of the country to the sacred hands of the people, the leader will reveal his inner purpose: to become the general president of that company of profiteers impatient for their returns which constitutes the national bourgeoisie (Fanon, 1963:166).

At first, the post-Apartheid government made concerted efforts to improve the police force through reforms which looked at promoting effective leadership, institutions and training. Cawthra (1997:163) argues that in order to facilitate democracy in the 'new South Africa', the South African police force had to be reinvented. There was indeed progress after improvements were made, however, although the nature of policing changed these former reforms were undermined by the increasingly brutal response of the police force. In fact, new measures such as the 2002 Inception and Monitoring Act resembled the modus operandi of the former Apartheid state (Jenson and Buur, 2007: 25). It was assumed that the current government would be more open to participation by groups which exist on the periphery as the incumbent ruling party could identify with the challenges associated with subordination and socio-economic inequality, they would be more open to participation by groups which existed on the periphery. However, this has not proved to be the case and is not only seen in the treatment of citizens by the state but also sectors of civil society. Some excluded political communities are implicitly defined as 'subjects' rather than citizens and therefore do not enjoy the same rights. This is not untypical of postcolonial regimes

(Chatterjee, 2004:123). It creates the idea that liberation has become ‘socially privatised’ which makes it more difficult for independent activists who attempt to organise collectively (Gibson, 2010:89).

This defines the space within which citizens exist (Jenson, 2010:24). In other words, all citizens do not occupy the same space as some are excluded and exist on the periphery. This spatial aspect confines citizens to a specific space and they are therefore excluded from fully participating in their democracy. Ideally in a democratic state it is understood that the citizenry would have the freedom to express themselves and query certain failures in society that were undermining their quality of life. More importantly, they should be able to freely hold the incumbent government accountable for protecting their constitutional rights as well as providing the basic services that are promised in campaign manifestos. The inability to do so creates the impression that only the procedural aspects of democracy are important.

Before Apartheid ended, the township and informal settlements were seen as the spaces for popular democracy as people who occupied this space were seen to play an active role in the struggle to end Apartheid. However, after Apartheid ended, the informal settlements exemplified everything that was wrong with liberal democracy. As a result it has led to the situation where “there has been very little space for formulating an insurgent citizenship around developmental claims to the state” (Buur, Jenson and Stepputat, 2007:33). This force has been legitimised in the name of state security where, as mentioned earlier, the police use its force to maintain order and security in the state. According to Buzan (1998:67), security is a particular type of politics where citizens in a state are seen as referent objects of security. This gives the state the power to protect itself and *some* citizens from any perceived threats to stability which, in this context, are the protestors. And so those who wield the most political power are strengthened by the “protection” or “securitisation” as a result of their sovereignty in the state. The purpose of securitisation as the primary framework of analysis will be used to deconstruct and make sense of the state response. As a fairly state centric theory it explains that the rationale behind security maintains the interests of those who are in power. They are seen as the obvious protectors or guardians of security. As much as this is seen as the legitimate role of the state, the state also protects itself from the threats which undermine its organisational fabric (Buzan, 1998:71). This thesis will therefore examine this phenomenon by looking at relevant theoretical material and the experiences of groups of people in South Africa who have had difficulty protesting in the past two years (2011-2012). This will focus on the relationship between state security and protest. By situating the response of the state in the theory of securitisation, it will investigate how this response has affected protest in South Africa.

2. GOALS OF THE RESEARCH

A primary goal of this research is to explore and investigate the outlined problem through the use

of empirical evidence generated from interviews of different groups who have either had their protests prohibited unlawfully, or have had their protest put down with the use of force. Such research will contribute to the larger debate taking place regarding the abuse of force by the police and the misinterpretation of the Regulation of Gatherings Act. In addition it will provide theoretical and researched insight into how the problem has emerged. Against this background the research will, from a theoretical point of view, attempt to understand why this is taking place. This study is therefore important because, not only will the primary research add to the body of knowledge on the subject, but it will also provide a holistic understanding of this incongruous situation that presents fairly draconian practices in a formally recognised 'democratic' state.

3. RESEARCH METHODOLOGY

The data generated is based on a mixed approach which examines the relevant literature, theory and articles on the subject. Qualitative data was produced through a process of 22 interviews of activists from different communities and organisations across South Africa which formed part of a larger three month project undertaken by Professor. Jane Duncan, funded by the Dean of Humanities at Rhodes University. The aim of the project was to examine the nature and frequency of prohibited protests and police violence against protestors in South Africa from 2011 to 2012. The Rustenburg Municipality was of particular interest and their response to protest provided an example of increasing prohibitions of protest and unreasonable or unlawful conditions placed on protest in that region. The interviews took place over a period of three months through the use of 'snowballing' as the primary sampling method. This thesis is therefore based on qualitative methodology which is characterised by certain features which make it appropriate. The qualitative method is concerned with observation of 'natural situations' and is not based on artificially created experiments (Woods, 2006:1). Its value therefore lies in its ability to depict real life situations. The nature of the research was such that it aimed to discover and represent the lived experience of people who had encountered difficulty when trying to engage with the state. The responses of which would illustrate if there was indeed a pattern of securitisation emerging in the response to protest and if so, how this impacted on popular participation.

A qualitative approach was therefore useful because it is not limited as it focuses on analysing information in any form (Baxter, Hughes and Tight, 2002:60). As a result I was able to use a mix of scholarly articles and newspaper articles to supplement my findings generated through interviews. Interviews are one of the most common methods used in qualitative research, its value lies in its ability to allow for experiences and opinions to be expressed more easily (King and Horrocks, 2010:3). The sustained engagement and active interaction with the participant fosters a particular kind of relationship

between the interviewer and the interviewee which facilitates a fruitful discussion (Maykut and Morehouse, 1994:81). I was therefore able to engage with the participants in the study which was very helpful because the nature of the project was dependent on an interactive study. The people interviewed in the project were largely based on referrals, formerly known as ‘snowballing’. Snowballing also referred to as ‘chain referral sampling’ operates through access to networks of people linked together by a common cause or relationship and so people within these networks refer people based on specific criteria (Peterson and Valdez, 2005:154). Initially the details of the project were circulated through the activist and writer networks and contacts were obtained from those who had heard about the project. One of the criticisms of snowballing is that it can create a degree of bias because those that are making the referrals may only refer people who have similar opinions or experiences (King and Horrocks, 2010:34). In order to reduce this possibility, specific criteria were developed to ensure that participants could fulfill the objectives of the research.

Snowballing was also useful because of the sensitive nature of the research. The experiences of the people being interviewed spoke of threats to their livelihood and safety and so gaining access to people who were willing to share was only possible by penetrating certain networks. Snowballing is dependent on ‘insider knowledge’ and this helps with gaining entry to topics that may not be as explicitly discussed as others (Biernacki and Waldorf, 1981:141). In addition, snowballing allows for research to be conducted on groups of people that are considered ‘socially marginal’ and who are said to have a ‘low visibility’ (Peterson and Valdez, 2005:154) as was the case with some of the activists I interviewed. Some of these people were never asked of their stories and their experiences did not form part of the larger discussion on the topic when compared to other more well known groups who had been given exposure through the media. These people could therefore only be accessed through this ‘chain referral sampling’.

The nature of the interaction was, as mentioned above, based on semi- structured interviews. The project was first explained to interested participants and those who were willing were either interviewed over telephone or in person. It was established that names would only be used given the consent of the interviewee. Guiding questions² were initially formulated to generate information on specific cases where protests had been prohibited or where unreasonable conditions had been placed on protest or where the police had responded to a protest using force. It was also formulated to investigate the issues informing protest and larger issues of the community or organisations embarking on protest. The structured part of the interview was useful in that it provided clear direction to the participants and allowed for consistency in the interviews. However, there was also space for the participants to discuss issues more widely. Altogether a mix of 22 representatives from different organisations and communities were interviewed for

²See Appendix A – interview schedule

the research project commissioned by Rhodes University. Data from ten of these interviews is used in this thesis. These ten interviews were chosen based on the relevance for this research topic. The data from these interviews was then organised onto a spreadsheet which separated the information into specific areas namely: background to the protest, information on protest if it was prohibited or unreasonable conditions placed on protest, response of the organisation if the protest was prohibited and the response of the police if the organisation chose to march although the protest was prohibited. This allowed me to organise the data according to interviews that described a similar theme and therefore to analyse it within the securitisation framework.

3.1 Potential limitations of the research

The first possible limitation was briefly described above when discussing the weaknesses of snowballing as a sampling method. Snowballing is based on referrals. This meant that a narrow range of experiences within the same networks was discussed and portrayed in the research. Another potential limitation of the research is that it only covers a specific and limited time frame. Due to logistical limitations, the experiences of the ten organisations only reflects events from 2010-2012 excluding any valuable data from events that took place before 2010. Finally there are definite weaknesses exposed in securitisation theory which is used as the primary framework of analysis which will be discussed further. A significant shortcoming which limits the argument and analysis is that securitisation theory is state centric and situates the response of the police to protest as an issue of security and does not elaborate on the institutional issues within the police which limit its ability to police protest.

3.2 Ethical implications of the research

The ethical implications of this research center on how and whether the intended ideas and experiences of the communities who participated in the project were communicated faithfully and effectively. Transcribing an interview may not always capture the sentiment and tone of the interviewee. This may have been further hampered by the fact that nine out of ten of these participants were communicating with me in English as a second or third language. The difficulty of this meant that the expression of events was limited and sometimes not properly conveyed which may have affected the portrayal of events in this research. This also means that answers may not have been as spontaneous as they would have been had they been communicated in a first language. Another possible ethical implication of the research is that the organisations are clearly identifiable even though limited information is given about the person being interviewed. The use of names used in this research has been consented to however this still leaves participants vulnerable to the public.

4. ORGANISATION OF THE THESIS

The second chapter engages with the relevant literature on the topic. It sets up the theoretical component of securitisation and establishes it as the main framework within which the research will be discussed. It will also examine work done on security and popular politics. However, both are very broad topics however so for purposes of the thesis only relevant aspects will be included. This theoretical basis will set up the contextual background and provide a descriptive analysis of the research question. In this chapter, the interaction and relationship between citizens and the state will be more carefully deconstructed by looking at how the state understands citizens and vice versa. The theory will also provide more clarity on the constructed role of the state and the citizen. Altogether it aims to examine and integrate the arguments of other scholars who have also written on this subject.

The third chapter aims to deconstruct and discuss the political culture that is entrenched in South African society. In order to do this, the roots of said culture also warrant a meaningful place in the discussion. This source is traced to the culture established by the ANC during exile. I argue, along with other scholars used in the chapter that, the transition to democracy was not as ‘miraculous’ or ‘peaceful’ as is normally understood. By looking at the role and power dynamics among other liberation movements like the United Democratic Front (UDF), South African Communist Party (SACP) and Black Consciousness Movement (BCM) and their interaction with the African National Congress (ANC), it is clear that there was an actively violent political culture. The ANC sought to maintain power in a way that has been sustained to how they maintain power today. And so, today’s political culture is largely a reflection of that established during exile. The current techniques of securitisation illustrate this and how repression via the party is sustained. The use of theory on clientalism and patronage will help to explain how this repression and power is maintained. Three interviews with The Makause Community Development Forum, Abahlali baseMjondolo and the Confederation of South Africa Workers’ Unions (COSAWU) will provide the empirical evidence to support these claims.

The fourth chapter looks at the institutional implications of this political culture by discussing the militarisation of the police force and its impact on policing protests. I argue that the police and the state are linked in a way that the police represent the agenda of the state. This agenda is shrouded in securitisation and the maintenance of a ‘threat’. This chapter describes the process that constructs protestors as ‘threats’ which legitimises the excessive use of force. I look at the recent militarisation of the police force as a key cause of increased police brutality and track this transition of the police from the end of Apartheid to the incumbent government. As a largely descriptive chapter, this section aims to look at how the police sustain the culture of violence (as discussed in the previous chapter) and how this impacts on popular participation, specifically protests.

The fifth chapter examines securitisation through the procedural prohibition of protests illustrated through the abuse and misinterpretation of the Regulation of Gatherings Act (RGA). It also looks at the increasing number of violent protests and factors contributing to the violence. Interviews with activists from the Right to Know Campaign, Soweto Electricity Crisis Committee, Bafokeng Landbuyers' Association, Landless Peoples' Movement, The Schubart and Kruger Residents' Committee and the communities of Thembelihle and Khayelitsha shared their experiences of the state's attempt to frustrate the right to protest. Such empirical evidence supports the claim that the state is forcing certain citizens out of the 'political realm' in an effort to maintain power and the mirage of a legitimate government that caters for all people. In this chapter I argue that there is a distinct relationship between the prohibition of protests and the increase in violent protests and look at how this anticipates the criminalisation of protestors which ultimately perpetuates the securitised response of the security sector.

CHAPTER TWO:

A REVIEW OF THE LITERATURE

1. INTRODUCTION

This study will be examined through a theoretical framework based on securitisation and popular politics. Both bodies of literature have significant differences and are not usually used together. However both fields are useful to explore this research in greater depth. Securitisation theory is helpful because it allows for a theoretical analysis of state and human security and through this work, the concept of security from the perspective of the state and the individual will be looked at. This will provide an understanding of state policy and instruction to the security sector. The discourse surrounding securitisation is fairly straight forward and is grounded in an overall consensus regarding its meaning and application by various scholars in this field. On the other hand, security politics is more complex because it has different objects of reference and the understanding of it is based on who or what is being threatened. This chapter will make these concepts clearer by exploring the debate regarding security and securitisation and will thus provide a useful basis to analyse the interviews later on.

It will then look at theory which focuses on popular politics. In as much as popular politics differs from security politics, the two are in fact inextricably linked as the theories being used aim to define how the state understands its citizens in terms of how it responds to participation or protest. For purposes of this research, the focus on popular participation examines how the police are actively preventing citizens from participating in the public sphere, in terms of protesting against the state. They have therefore limited the role of the citizen to one that is defined by the state rather than the law. The constructed identity of the citizen therefore needs to be examined because it clearly exists outside the realm of a 'protected citizen' as

will be discussed further. Within the discussion on popular politics there will be a section on protest theory. This is important because ‘protest’ is a general and broad term which has competing definitions based on the context. Therefore the theory that is applicable to this research will be explored as the primary form of political engagement.

The nature of popular participation in South Africa and interaction with the government during and after Apartheid is complicated. The security sector within the state has constructed protest in a manner which deems it a threat, as seen by its securitised response to protest. Protestors or protest movements have an historically entrenched destructive relationship with the police force of the state. More recently this has been seen with the increasing use of force and disrespect of protestors by government. Securitisation theory is therefore helpful in describing how and what the state is doing in relation to popular participation. In order to understand *why* this is happening, this thesis will briefly draw on work done by Gillian Hart and other scholars of Gramsci to discuss the dynamics of the ruling party’s control over the country and why they have resorted to securitised measures to maintain their rule. Before the central concepts of this research question are defined and explored, this abovementioned context will be briefly discussed. This will serve to properly understand how this theoretical framework is applicable to and in support of the South African context.

2. CONTEXTUAL BACKGROUND

It is argued that the democratic state of South Africa is still defined by the security standards similar to those under Apartheid. In other words, it still understands threats and structures of resistance, which were first developed in resistance to Apartheid much in the same way as the Apartheid government did. Security was an issue of great importance in the Apartheid regime and influenced the decisions and actions of the state. Buur (2007:112) writes that in the 1980’s this was the goal of the Apartheid state and ties in with the developmental contestations and the development-security nexus. The threat to security was either formulated as the “white – supremacist Apartheid state” or the protestors that challenged the state. Therefore the South African state was characterised by the constant surveillance and maintenance of the ‘threat’ on either side, a political culture that was not only entrenched in the Apartheid state but that was also nurtured in the dynamics of the ANC during exile. This will be discussed further in the next chapter. In much the same way that potential critics of the ANC were dispelled as threats to the party, the groups that were also identified as threats to the Apartheid state were denied access to certain rights, spaces and opportunities.

The context and purpose of protests under Apartheid are different to those that occur today. However, assertions can be made regarding the link between the response of the Apartheid state and the

current democratic state (Valley, 2003 in Buur, 2007:110). Patel (2011:xiv) argues that everyday approximately 15 protests take place of which “20% are banned by the government”. This response is said to mirror the response of the Apartheid state. Another resemblance is illustrated by the new laws³ that the state has introduced which undermine freedom and civil liberties. These laws allow the state to use legal means to exert their power (Buur, 2007: 110). Patel argues that the legacy of Apartheid has been maintained through to the new democracy. This has largely been illustrated in the entrenched segregation that is represented economically, socially and geographically where poorer people still live in segregated sprawling townships far from the wealthy (still mostly white) suburbs. This is made worse by the neoliberal policies that were instituted in the 1990s which did not improve the standard of living and maintains the poor human development in the country (Patel, 2011: xiv). Such conditions form *part* of the grievances which inform some protests but should not be mistaken as the primary purpose of protest.

3. THEORISING SECURITY

Buzan *et al* (1998:23) argue that security exists separately from politics. This is mainly because security involves extraordinary actions and is rather studied under a different type of politics. In security politics the relationship between security and liberty has always been problematic. In terms of a democratic state, it is ideally the aim of such a regime to create a balance between liberty and security (Shaw, 2007:132). In the dominant discourse surrounding security politics, it is understood that security operates in a way in which security is obtained in exchange for a certain amount of liberty (Watson, 2011:1). The tension between security and liberty is based on the fact that some freedom must be offered in order to be secure. “States like people are insecure in proportion to the extent of their freedom. If freedom is wanted, insecurity must be accepted ” (Buzan, 1983:20). Security is premised on an important question which qualifies it as an issue of security; this is the question of what would happen if the specific security measures are not taken. The study of security is thus usually studied alongside strategic studies because security involves instituting certain processes and plans in order to secure the situation within the state (Bigo & Tsoukala, 2008:13). It is therefore largely performative in nature. This forms a central part of the discourse surrounding state security.

In terms of state politics, it invites the opportunity for the state to ‘legitimately’ limit or undermine the freedom of citizens in order to secure the state. Buzan provides a useful model to help one understand security in terms of state politics by examining maximal and minimal states. He asserts that South Africa fits into the maximal state model where police powers are regarded as largely independent.

³ An example of such legislation is the Inception and Monitoring Act 2002 which allows security agents the authority to access and limit communication among perceived threats to the state which referred to groups and people who questioned government policies (Buur, 2007:3).

However a problematic issue of the maximal state is that it is difficult to ascertain what 'normal policing' is (Buzan, 1998: 23). The maximal state is useful in analysing the link between the nation and the state. Here internal security becomes the central focus and not much thought is given to creating a more peaceful co-existence between the citizens and the state.

In this model, individual and state interests do not complement each other well and the state is regarded as the primary source of security. The state can also be viewed as a threat to individual security as will be discussed later on. State security is divided into different areas all of which have a distinct focus. However, they all share a common factor which is that state security is concerned with 'sovereignty' (Watson, 2011:6). Security has a distinctive nature and is understood in such a way that it anticipates the use of 'extraordinary measures'. It is therefore linked to the concept of legitimate use of forces as it provides the opportunity for the state to exercise its sovereignty in using all necessary means to protect itself and the development of the state (Wæver, 1988, 1995b in Buzan *et al*, 1998:21). 'Protection' has been regarded as an important component in the definition of security. However, this is too ambiguous as protection is ever changing and is not a static concept (Bigo, date not available:1). Nevertheless, this is a state-centric view of security and is largely exclusionary of the citizenry, as here the citizens of the state are merely recognised as referent objects of security. This view of security is entrenched in the Hobbesian idea that the brutal nature of man is so destructive that the security of man needs to be maintained by a 'central power'. This links with the premise discussed above that citizens exchange a degree of freedom for security. In support of this Shaw (2007:134) explains that

The search for security is thus the driving force behind the creation of absolute sovereignty, derived in turn from the supposed absolute liberty of the individual in the state of nature.

Therefore, in Hobbesian terms, the citizens enter into a form of social contract with the state so that order, stability and a form of peace can be maintained. The state therefore operates on its ability to maintain a 'Hobbesian harmony'. In other words as long as the state is able to prevent chaos, it has fulfilled its central duty (Buzan, 1998:24). This process does not necessarily have to be a conscious one and it is entrenched in the role of the state. In keeping with this state centric view of security, a Lockean approach looks at the requirements needed to sustain the state. Scholars of this thought argue that the state could be regarded as a sovereign entity which can act at its own discretion (Neocleous, 2007:136). Neocleous (2007:137) explains that states are legitimised when acting in terms of 'necessity' and on behalf of the 'public good'. This could be used as a justification of actions which exist outside the legal

limitations⁴ of the state as long as it is contributing to the state definition of stability.

Buzan (1998:33) also supports this argument and asserts that the state is portrayed as the undeniable purveyor of security upon which people (specifically citizens) can rely to be protected from threats in society. This popular discourse dealing with security has been one that citizens adopt and therefore allow the state to act in accordance with maintaining their interests as citizens. However, it is not as simple as this and forces one to question where human security fits into this statist construction of security. Protection no longer merely refers to the protection of national interests in terms of external threats. In fact it now includes a more social aspect within the nation with a focus on who is to be protected. It now entails making a conscious effort to ensure that diverse groups are all able to have their interests maintained according to a certain kind of democratic socialisation (Bigo, date not available: 1).

Wæver (1998:39) supports this and says that the concept of security needs to be transformed in terms of both its definition and application. It needs to be developed into one that is more applicable. Therefore it needs to be more closely examined especially when identifying threats to the population and not just the state. Threats need to be more clearly defined as the needs of citizens are complex. In fact governments themselves could be seen as ‘threats’ to the well-being and stability of citizens. This is clearly illustrated in the theme of the research question which looks at how the state’s understanding and use of security acts as a threat to popular participation. Buzan (1983:23-24) comes to acknowledge this and claims that the state can indeed also be a threat to the citizens. This concept of a threat exists in relation to security and illustrates how security is an active process and does not refer to a ‘condition’ (Buzan *et al* 1998:25 in Watson, 2011:1). The above discussion all forms part of the burgeoning concept of securitisation.

4. SECURITISATION IN THEORY

The process of securitisation is characterised by a committed approach which convinces the target⁵ to accept this perceived threat in accordance with the context that it is constructed. More importantly, the target inevitably supports the need for an immediate response, usually in the form of policy to deal with the threat (Watson, 2011:1). Bigo (2002:65) in (Watson 2011:8) says that

Securitisation emerges from security professionals and their administrative practices that are designed for the management of fear

⁴ In *From Social to National Security: On the Fabrication of Economic Order*, Neocleous (2006:137) refers to this as *calus populi suprema lex* which means that supreme law should be based on the welfare of the population. Therefore this acts as a justification for the action of the state and security becomes defined in terms of maintaining the interests of the people.

⁵ In this context, the target would refer to the population of a state.

When the sovereignty of the state is threatened through the question of its legitimacy and efficiency of governance, it poses a threat which is a causal factor of securitisation (Buzan *et al*, 1998:23). Securitisation may be initiated by certain actors within the state construct that are in a position of control and that have the legitimate use of violence. However, this control is not permanent and not absolute; in other words, no voice of authority can guarantee that extraordinary action will be allowed in the name of securitisation. In addition, the response (in the form of securitisation) is not a static variable and will depend on who is executing the action.

In theory securitisation is underscored by a specific discourse and political agenda. One has to question the reasoning behind taking extraordinary measures to address a constructed or perceived threat. A clear illustration of successful securitisation can be seen when the rest of the population and security sector become comfortable with breaking the procedural rules and norms. Such acceptance of the situation is either obtained through consent or coercion (Buzan *et al*, 1998:25). Securitisation is thus very much a ‘speech act’ in that it is necessitated by a successful communication which facilitates action and decisions thereby creating the legitimacy for action (Bigo & Tsoukala, 2008:15). If securitisation is partly a grammatical construction before it becomes reality then the constructed discourse around it needs to be analysed. This will be examined in more detail in relation to the South African context later in Chapter Five. In an analysis it was made clear that a ‘threat’ needs to be established in the speech act which is acknowledged by the referent object. This is more likely if it is established as a ‘general threat’ or that is detrimental to a large sector of the population. The creation of the speech act is not always a direct process and is sometimes done indirectly. For example, those that are in control of security do not explicitly say that their actions are in defence of security (Buzan *et al*, 1998:32).

The speech act upon which it is based needs to be ordered in a certain way. For example, a perceived threat first needs to be identified, followed by a plan of action to re-establish order in that society (Theiller, 2003:251). Thus the discourse surrounding securitisation is largely premised on three main areas. As mentioned earlier, there needs to be a threat to the ‘referent object’ (which may be constructed by the state). The ‘threat’ is seen as self-referential and means that the issue of risk may not be a reality but is presented as such. Once the alleged threat has been identified, this is followed by immediate action whilst disregarding rules when dealing with inter-unit interactions (Buzan *et al*, 1998:26). The immediate action is described as efforts which are ‘exceptional’ or outside of the normal bounds of political procedure and is regarded as a “more extreme version of politicisation” (Buzan *et al*, 1998:24 in Watson, 2011:7). This also shows how security takes on sovereign characteristics because it calls for action that is extraordinary and exists outside the legally stipulated boundaries (Buur, 2007: 129). The enforced activities therefore exist outside of ‘regular action’ or ‘everyday politics’. This means that

the security measures taken are different in that they are more urgent and immediate (Abrahamsen, 2005:59 & Hansen & Nissenbaum, 2009:159 in Watson, 2011:7). This can be linked to the South African context in that the increasingly brutal response of the South African police to protest forms part of the immediate response.

The entire securitisation model can be applied to the South African situation quite successfully. It is also evident when examining the increased focus that national security has gained in South Africa. An example of this is illustrated by the introduction of the Protection of Information Bill (2010), which limits access to information regarding security. This was introduced despite public pressure to amend this. Such action feeds into attempts to control the security cluster which is considered as a matter of urgency in the Zuma administration. Duncan (2010:23) suggests that this may be an attempt to ensure stability and preempt the sort of dissent that was seen in the Mbeki presidency. It may also be important in Zuma's second electoral campaign (Kgosana and Malefane 2010 in Duncan 2010:23). The increasing securitisation of the state is also characterised by the rampant militarisation of the police and strict control of the military which undermines the quality of democracy (Duncan, 2010:24). Since the beginning of Apartheid, security has been a vital area of interest. This focus intensified throughout the 1980s when threats were identified according to the different perspectives. On the one hand threats were associated with the oppressive white state and on the other, the activists in the non-white communities that challenged the Apartheid state were viewed as risky. Either way, there was a perpetual threat to security. The threat to the referent object of security of the Apartheid state was therefore excluded from certain political spaces (Buur, 2007:6). However, that being said, securitisation theory is not without its shortcomings and is limited by three factors. Firstly non – state actors are not considered as “objects of security” (Buzan *et al*, 1996:36 and Hausen & Nissenbaum, 2009:160 in Watson, 2011:5). This means that the security framework within which securitisation exists is too narrow and needs to be expanded to include other actors which also have an effect on security. This is particularly important as security is no longer merely about states and citizens as the interaction of non-state actors with the government and the citizenry can also affect security. Secondly, the definition of securitisation is implicitly problematic because there is difficulty in differentiating between what is normal and what is an emergency measure. This has to be specific to the context. Lastly in order for the securitisation to be accurately applied, a democratic form of government is required (Wilkonson 2007; Vuori 2008 in Watson 2011:5).

So far the main theories discussing security have been state-centric in nature. The debate therefore ignores a central component to security studies within the state and much suffering and poor governance is overlooked (Bilgin, 1998:6). This is not fair and is thus problematic when it comes to discussing the people who live in these states. Therefore national security should not be made the central focus because it

could have a detrimental impact on the democratic environment of the state. For instance this focus on the sovereignty of the state will mean that opposition to the state can be more easily undermined. Moreover, those that wield the most power in society will be able to use these threats for their own purposes and act in ways that are not in accordance with the principles of democracy (Buzan *et al*, 1998:30). Traditionally, security has been understood in terms of the state within the concept of national security as it is sometimes more naturally associated with the interests of the state rather than the people (Bilgin, 1998:1-2). However, in the 1980s a shift occurred which introduced a new focus on ‘human security’ where internal threats took precedence over external threats (Wæver, 1998:40). Moreover, more modern approaches to security have focused on sovereignty of states as well as a call for the protection of human rights and this has been more clearly emphasised through the abovementioned concept of human security (Bilgin, 1998:2). However a clearer distinction is needed which introduces the difference between state security and individual security. This is because security and the state exist in relation to the individual but sometimes the security of the individual needs to be conceptualised outside of the state simply because the state can also be a threat to the security of individuals (Buzan, 1983:15).

5. INDIVIDUAL SECURITY VERSUS STATE SECURITY

Buzan (1983:19) identifies individual security as a type of security which focuses on societal threats which have an economic, political and social impact; within these spheres, Buzan categorises four main types of threats which may come directly or indirectly from the state. These are ‘physical threats’ which literally cause harm, death or injury, followed by ‘economic threats’ such as the loss of property, limited resources or limited access to work. ‘Threats to rights’ form the third category whereby civil liberties are denied. Lastly, there is the ‘threat to position or status’ which occurs when public humiliation takes place. Furthermore Buzan also explains that there are threats which emanate from domestic legislation and law enforcement (in this case, the police), political action of the state which affects the citizenry, struggles for control of the state and protection from externally formed threats (Buzan, 1983:25). Internally, threats may also result from policy formation. In other words there comes a time when a certain sector of the population has to sacrifice their standard of living for the benefit of the rest of the population. This relates to the exclusion of a certain sector of the population, which is usually the poorer sector of the citizenry.

When examining these threats it is clear that each threat would not exist in isolation and would most likely overlap at some point. Here it is also clear that security is defined in relation to threats. This model can be used to understand the insecurity faced by the groups in protest and an analysis of each factor illustrates the link between reality and theory. For example, the protestors in both case studies have

faced physical threats from the police who have responded with force to protests. This also ties in with threat to position and status. Furthermore the reason for the protest has been attributed to a number of grievances based on socio-economic inequality. These grievances include the threats to economic stability and various rights, such as the 'right to adequate housing' and the right to freedom of expression which is hindered through the violent response to protest. Kimani (2003) in Buur (2007:3) asserts that the response to the right to protest against the government resembles a familiar sentiment when compared to the response of the Apartheid government to protest. Such a response serves to undermine the whole nationalist project which portrayed the transition from Apartheid to democracy as seemingly peaceful. Within this definition of individual security, it is clear that the concerns that the protestors have regarding their security is legitimate. They face specific threats which differentiate their security from the state-centered perspective. Individual security and state security can never coexist peacefully. The inherent nature of state security is such that it cannot guarantee or provide some kind of security without imposing a risk as was discussed above. In the South African context, the actions of the government are largely influenced by what it considers a threat and in fact "the nature of the Zuma administration's responses are shaped by the nature of the threat to its continued existence" (Duncan, 2010:24). Therefore it is possible that individuals may establish ways of improving their security. For example, by creating organisations which are able to defend them. They do not necessarily have to be militant in nature and can be more political by trying to focus on exerting pressure in areas of policy making. However if such practice is applied to theory, Buzan (1983:32) argues that this will change the structure of security into one which transitions from individual security versus state security to collective security versus state security. Thus the domestic context within which security is defined is changed. This configuration creates implications for national security and could lead to a more securitised society as the organisations now present possible threats to the security of the state. Collective security becomes risky for the state when it is clear that the collective group can operate successfully away from the state and is thus not reliant on the state. This may lead to the purpose of the state being questioned (Buzan *et al*, 1998:23). It also becomes risky when it is clear that the legitimacy of the state is questioned in terms of its ability to provide for the welfare of its citizens. Regan and Henderson (2002:133) in Duncan (2010:24) discuss this, making an example of South Africa where protest and general dissatisfaction among the citizenry have illustrated that the people in the country realise that the state under Zuma has in fact not created a more open political system when compared to that of President Mbeki. This is exemplified by the fact that certain conditions have not improved. Consequently protest increases, which in turn causes the government to respond in a more securitised manner. Therefore developmental issues become entwined with security. They become a security concern when they are perceived as threats because they also expose the weakness of the nation

building project. In other words, when they show that the interests of the state are not all united (Buur, 2007:6).

Furthermore such collective security of individuals can directly affect domestic security (Buzan, 1983:32) if there are interest groups within the state that pose a risk to the state. For example, in France in the 1940s there were a large group of people who were affiliated with the Nazis as they showed great support for them and therefore became a menace to the French state that was at war with Germany. This also illustrates how the lines between domestic and international security may blur at times. Furthermore security threats to the state may also stem from the impact of public opinion on policymaking (Buzan, 1983:32). However, in terms of theory it is not without criticism. Ole Wæver (1998:40) argues that the concept of individual security is inherently problematic because it cannot be clearly defined. The same can be said for national security where the referent of security in a state is not always clear. In other words this begs the question of ‘whose security is being maintained?’ The whole concept is therefore regarded as altogether abstract. Rather Wæver (1998:45) prefers to understand insecurity as describing a situation “with a security problem and no response”. Nonetheless the limitations that Wæver illustrates do not really affect the application of Buzan’s theoretical framework to the case studies that will be examined in this research project. It introduces the important question of identifying whose security is being maintained. However, this is adequately illustrated with the study of securitisation where it is made clear that the citizens are the referent objects of security by the state in their attempt to secure the ‘stability’ of the state. Nevertheless Wæver also discusses this issue of human security under the concept of societal security.

5.1 Societal Security

In this context, society is defined as members of the community who share common ‘ideas and practices’ and is therefore different from political society. Wæver (1998:52) explains that the major difference between state security and societal security is that security of the state is characterised by its sovereignty (as discussed above) whereas societal security is premised on the idea of identity. Societal security can be viewed in two ways. According to Theiller (2003:251), societal security refers to the factors which cause a society to protect or sustain its identity. Normally the state can be viewed as the referent object of security whereby the state may need to be made secure against a society which has proved to be a threat (Wæver, 1998:52). This understanding of societal security links with Buzan’s discussion of securitisation and like securitisation, this theory allows the state the authority to declare what is perceived as a threat and what is not and, therefore, to act accordingly. This is problematic in relation to the citizens of the state because this means that if their actions threaten the state in any way, it can be delegitimised and constructed as a threat. This is exemplified upon closer examination of the states

understanding of and response to popular protest.

In terms of societal security, Booth (1991) in Bilgin (1998:6) argues that individual security should take precedence over state security. In support of this he says that the state should be regarded as the accepted guardian of security because in its attempt to secure itself as the state, its actions might pose a threat to its citizens. Societal security has always had to fit into the traditional conception of security where it became a mere continuation of state security (Theiller, 2003:250). This has proven true when looking at how states do more harm to their citizens in the name of maintaining a secure and stable state. Furthermore he goes on to state that even when states are exercising their legitimate monopoly over violence in order to secure the state, their intention must always be scrutinised as “standing guard over their populace...generally doing so as a means to an end, not as an end in itself” (Bilgin, 1998:16). Against this background it is clear how the state perceives its population and how the population is understood is important because this affects how they are treated. Securitisation studies have shown that the citizens of a state are considered as mere referent objects of security. When the population takes on another role in protest against the government it is subsequently regarded as a threat to the stability of the state. It therefore necessitates a passive citizenship which ties in Foucault’s theory of governmentality which will be explored further.

6. CITIZENSHIP

Foucault describes citizenship in terms of governmentality, biopower and biopolitics where the population is regarded as a type of ‘political problem’ which needs to be dealt with and can therefore be sustained as a “safe and developed citizen” that will maintain the stability of society. Once the stability is maintained, so will the security. Foucault (1991:92) views the ‘art of government’ as one which is concerned with the ‘management’ of people within a state. It is seen as the meeting point between economics and politics.

Foucault’s theory of governmentality provides a useful way of understanding power in terms of what it is determined by and how it is exercised. Foucault (1991:102) describes governmentality as a form of power which is exercised over the population through specific institutions and processes which is maintained by security. Lemke (2002:5) asserts that Foucault’s discussion of power through ‘governmentality’ is interesting because it analyses power outside of ‘consensus’ or ‘violence’ as it is normally understood. More importantly it makes clear the difference between power and domination. Governmentality looks at how a ‘sovereign being’ is able to maintain control in relation to “political rule and economic exploitation” (Lemke, 2002:6). Governments are structured and purposed in a way that they are characterised by certain finalities or objectives. For example, it is the aim of the government to ensure

that the citizens within the state have the necessary means to survive and ‘multiply’. In order to achieve this, the government must exert its sovereignty. In doing so the link between law and sovereignty is explored because in order for sovereignty to be respected, the law of the land needs to be observed (Foucault, 1991:95). In terms of governing people, Foucault had a specific idea of what governance entailed and described it as a process which does not require violence but is rather a balance between coercion and construction of identity (Foucault, 1993:203-204 in Lemke, 2002:7). This kind of power can be discussed alongside Foucault’s notion of Biopolitics.

Biopolitics is defined by a mix of power, knowledge and intervention. It represents certain political actions which exist within the concepts of ‘nature and human life’ (Foucault, 2008:22 in Selmeczi, 2012:31). It is applied to the nation in terms of viewing the population as a political problem and so the purpose of the state is entrenched in this ability to promote life by maintaining the population. By viewing the government in terms of dealing with the population as a problem, it allows the government to be conceptualised beyond the confines of sovereignty. Previously information regarding the government has been primarily based on how sovereignty would function and be administratively maintained. However, now statistical information regarding the government had become more concerned with the processes and activity of the population. In other words, it now examined the natality and mortality rates, rate of labour and exchange of wealth. It therefore illustrated that through the regularities of the population it has certain effects on the economy and governance of the state and this contributes to “quantifying the specific phenomena of the population” (Foucault, 1991:99).

The notion of biopolitics is situated in the eighteenth century concept that rates longevity, birth and morality and is combined with political and economic issues. These factors became ‘targets’ that needed to be controlled. The information obtained from the abovementioned factors is used in demographical studies to understand the population and these studies inform policymaking (Foucault, 1976: 242-243). An essential theme of biopower is therefore interested in the function of the state. Since the focus has shifted from sovereignty (as discussed earlier), the objectives of the government are no longer centered on the aims of the government but on maintaining the ‘welfare’ of the population by addressing the issues which arise from the analysis of the statistical information regarding epidemics, rates of death and births. The response of the government will either take a direct or indirect trajectory where they either directly enforce plans through policy or indirectly where the population is not aware that the government may be influencing the seemingly natural processes and activities of the population (Foucault, 1991:100).

This more passive form of control by the government ensures compliance from the population without them even knowing. The ability to obtain consent without the use of force and overt domination maintains power. Another theory which helps to understand how consent is obtained and sustained is one

put forward by Antonio Gramsci. Gramsci's theory of hegemony is useful here because it creates a structure which explains and understands domination (Hart, 2013:193). Gramsci identified hegemony at two levels: civil society and political society (state level). Here the 'dominant' party would exert hegemony throughout the state. The function of which is to ensure "spontaneous consent" of the people to certain societal standards prescribed by the dominant sector of society (Gramsci in Hoare & Nowell Smith, 1971:12-13). The 'consent' aspect of Gramsci's argument has been a point of contention for some academics. Gramscian scholars like Perry Anderson focus on the 'consent' definition by explaining that this definition of hegemony focused on ideological domination of the bourgeoisie over the poorer classes. Here, the bourgeoisie were able to 'rule by consent' (Anderson, 1976 in Thomas, 2009:63). This definition is said to have been originally situated in the Western context where it referred to a "differential analysis of the structures of bourgeois power in the West" (Anderson, 1976:20 in Thomas, 2009:60). However other Gramscian scholars like Peter Thomas (2009:66) and Gillian Hart (2013:190) argue that Gramsci's explanation of hegemony was not limited to consent, but also included coercion. Thomas (2009) in Hart (2013:192-193) explains that it is widely misunderstood that 'bourgeois hegemony' achieves its ends through 'consent' alone as opposed to 'coercion' or a combination of the two. In fact, Gramsci does explain that hegemony could also be exerted through state coercion and the state may even obtain consent through certain forms of discipline. The state is able to do this by relying on its legal legitimacy and monopoly over violence. However, such an approach is only used during critical periods of crisis and under conditions where voluntary consent has not been obtained (Gramsci in Hoare & Nowell Smith, 1971:12-13). It is against this background that the government (those in control) must institute extraordinary measures to maintain order as described by the theory of securitisation.

This maintenance of order in the state perpetuates a certain understanding of the citizenry. Partha Chatterjee (2004:33) discusses this in terms of the differentiation between citizens and populations. Both people contained in these categories are legal citizens of the state but the latter are not treated as citizens. Citizens are said to exist in the realm of theory and implies some kind of participation in the state whereas the population is viewed as the subject of welfare needs but is concurrently viewed as an object of government policies. They possess a descriptive and statistical value which can be used in data analysis and surveys. The perceived interests of the population are therefore maintained. Whether or not these are the true interests of the population is not of concern. Therefore, they become ideal targets of policy and objects of Foucault's governmentality. This reinforces the legitimacy of the state as it rests on its ability to act on behalf of the 'well-being' of the citizenry. This influences development and politics (Chatterjee, 2004:37). This function is to control the activities of life through the management and compensation which is ultimately aimed to "reduce biological accidents and possibilities (thereof)" (Foucault, 1976:248).

Foucault (1991:100) views this as the transition from the 'art of government' to the mode of political science. Chatterjee's analysis of the state's treatment of populations and citizens acts as a valuable link between the theories of Gramsci and Foucault in understanding how consent is ensured.

Chatterjee supports this idea and asserts that after colonialism there were two ways to relate to power. The first was between civil society and the state based on the popular sovereignty of the state. The second was between populations and the government who provided welfare and policies maintaining the population and each abovementioned relation contained a specific type of politics (Neocosmos, 2008:12). Civil society is seen as more accessible to citizens of the middle class as it is more administrative and technical. In terms of the poorer classes, their issues are rather contained in what Chatterjee describes as 'political society' (Chatterjee, 2004:60). Lipsky in Della Porta and Diani (1999:251) reinforces this argument that there are certain groups of people in the state that exist on the periphery of society who are excluded from the political realm. These groups are from the poorer sector of society who do not enjoy access to many resources and the decision making structures in the state Piven and Cloward (1977: x) reinforce this by saying that an alliance with poorer groups is equated with a denial of the political. In other words, their protest and attempts at participation in governance is not usually included in mainstream political analysis. This has come to be known as a 'denial of history.'

Therefore popular politics and "active citizenship" occur away from the designated sphere of civil society (Neocosmos, 2008:13). However, Neocosmos (2008:14) argues that the idea of this 'political society' is not altogether accurate and applicable because it creates the misconception that politics always takes place in political society. This cannot always be illustrated. Consequently Neocosmos argues that popular politics might be found in different spaces and should not just be limited to one space. This can be seen by examining the definition of popular politics and the role for citizens within the state.

7. POPULAR POLITICS

In popular politics, citizenship is defined as people who actively participate in politics without the title of a politician (Neocosmos, 2008:14). Della Porta and Diani (1999:177) describes popular participation as politics as a power struggle in which participation in civil society is not confined to the act of voting in elections. Civil society is usually seen as the legitimate space in which popular politics occurs. Chatterjee (2004:37) declares that formally, the state regards all of society as civil society. Therefore all are citizens and are defined by equal rights and as such are seen as members of civil society. The political process comes in when the state interacts with civil society and individuals therein (Chatterjee, 2004:38). This is an ideal conception of civil society, empirically this is limited. In the neo-liberal discourse, civil society is understood as the space for citizens to freely express themselves, containing a certain kind of

politics where statist politics is given importance. After Apartheid, the movements which developed in civil society were regarded as the main actors of the 'emancipatory future' (Neocosmos, 2008:2). Civil society was thus acknowledged as the legitimate realm of popular participation.

However, Chatterjee explains that politics also takes place outside civil society (Neocosmos, 2008:1). This is clearly illustrated by examining the nature of organisations and the prescribed conditions that allow an organisation to be recognised as a political movement. Some scholars have made the error of placing too much emphasis on the organisation of movements in terms of centralised leadership and programs in order to gain recognition. This analysis of organisations or movements is problematic because it effectively delegitimises the movement and limits them to action that is categorised under 'dissent' and 'deviance' (Piven and Cloward, 1977:5). Therefore it ultimately exists outside of the political and the study and analysis becomes limited, if not non-existent, in civil society. It is argued that protest establishes a collective identity with a common purpose. However, as much as this may be the case there are clear inequalities of power distribution which exist in the community and within social movements. There are some cases where social movements do not possess a centralised leadership and this means that power may be unevenly dispersed over several areas which also undermines the efficiency and organisation of the movement (Della Porta and Diani, 1999:181).

Traditional political theory within which scholars like Hegel operate define civil society as a complete triangular sphere consisting of the family, the state and the market. It describes a society within which organisations participate independently of the state. However Neocosmos (2008:6) argues that such a definition is largely limiting because there are some organisations that do not fit into this mould and are therefore not included in civil society. The activities of organisations which exist outside civil society are therefore delegitimised in comparison to those who exist within the realm of civil society (Neocosmos, 2008:6). It is thus clear that civil society is defined, legitimised and exists in relation to the state. It defines the 'appropriate activity' and qualifies it as being part of civil society. This means that political activity becomes defined by what the government considers a threat or not. For example, a political group termed a 'revolutionary organisation' would potentially undermine the sovereignty of the state and is delegitimised and excluded from civil society. Inclusion into the independently organised sphere of civil society is thought to be a space for organisations that have been acknowledged by the government (Neocosmos, 2008:6).

This is also illustrated by looking at how the ANC treated other organisations involved in the struggle against Apartheid. The ANC claimed legitimacy for being a "genuinely representative organisation" while it claimed that others were not (ANC, 1996 in Neocosmos, 2008). During Apartheid, popular politics was regarded as aggressive and out of control. The crowd was characterised by violence

which was said to mirror the violent nature of the Apartheid regime (Nina 1995, Seekings 2001 in Buur, 2007:5). This is said to typify the nature of protest in South Africa. Lars Buur (2007:7) says that protest in South Africa is characterised by a “politically charged” environment centered on issues of service delivery but protest cannot be contained to one type and needs to be explored in its complexity.

7.1 Protest theory

Protest has generally been conceptualized by elite scholarship in a way that does not acknowledge it as serious political engagement (Piven and Cloward, 1977:18). Other scholars like Della Porta and Diani (1999:70) have a clear definition which encapsulates its participatory value. They assert that protest can be viewed in two ways. First it can be seen as having an impact on society by having their demands met or it can have an adverse effect in which instability is created through protest. Protest is therefore regarded as a ‘political struggle’ and so this section must examine the link between the action of the protestors, the context as well as the reaction of the states. This will be achieved by looking at the different definitions of protest, riot, mass movements and organisations, and the subsequent response of the state. Piven and Cloward (1977:3) explain that a protest movement is created when there is an indication that ‘consciousnesses and ‘behaviour’ have changed. In terms of the transformation of consciousness, this takes place when people identify weaknesses in the ‘system’ they once recognised as sovereign and legitimate. The sovereign power and legitimate monopoly over violence that authorities held is then questioned. The very institutions that people have placed their welfare needs in are no longer trusted. An accusatory attitude is adopted which declares the government ‘unjust’ and there is an unwavering call for change. People are also motivated by a new or fresh political will to stand up and express their concerns and demand change, their agency is thus realised. Some scholars have ascertained that the reason for such protest was that people found a means with which to express grievances and was a tool to address the government (Alexander, 2010:34 in Duncan, 2010:4).

In terms of the protest style in South Africa, there have been some incidences which resemble protest against Apartheid due to the sometimes ‘violent’ nature. Duncan (2010:10) explains that protestors have become somewhat comfortable using violence as a means to communicate grievances. She talks of a ‘mob mentality’ where dissatisfied groups of people channel this collective anger into plans of action which allow them to gain attention and be heard. This kind of strategy is said to be similar to that under Apartheid. However there is a common misconception that all protests of the poor are characterised by violence and general deviance. While protestors can become violent in expressing their demands, it is their militancy that is often mistaken for violence. A purely violently conducted protest would be too risky because of the legal repercussions. It is risky in the sense that the state clearly wields more force and military strength than protestors. A confrontational conflict between the protestors and the police or

military is bound to be detrimental, even fatally so, to the protestors (Della Porta 1995 in Della Porta and Diani, 1999:178).

In fact protest becomes violent when state forces with more power use forceful means to put down the protest. Protestors are likely to experience a brutal police response if they are regarded as more of a disturbance (Piven and Cloward, 1977:18, 32). This is discussed in the findings of the interviews later on. Duncan (2010:2) explains that when South Africa became more democratic, the police response to protest was seen as more 'civil.' However, former President of South Africa Thabo Mbeki was considered as having a less democratic way of dealing with political opponents. It was in this period that the police response to gatherings and protests became more violent than before. The justification of the police actions is usually based on the potential damage and instability that will be caused by protestors. It is therefore viewed as a threat to order (Tarrow, 1994:103 in Della Porta and Diani, 1999:177). There were also implications for the relationship between protestors and the police when incumbent President Jacob Zuma came into power in 2009. The police have now been changed from the South African Police Services (SAPS) to the South African Police Force (SAPS) thereby promoting a more militant stance. Duncan (2010:23) asserts that the SAPS have played a damaging role in protest to the extent that it has undermined the role of municipalities.

Conversely there is also the argument that the state does not always respond to popular protest using violence. They may also adopt measures which aim to appease the protestors (Duncan, 2010:4). In other words, incentives may be put on offer for less defiant behaviour. The government may also respond by acting to undermine any support that the protest may attain from the public (Piven and Cloward, 1977:30). This is achieved by instituting plans which appear to meet the 'demands' of the protestors. A complicated situation is created for protestors who need to find a balance between creating enough disorder to draw attention to their cause while adhering to the law ensuring the support of the public to their cause (Della Porta and Diani, 1999:178). This behavioural aspect is most clearly illustrated during strikes and riots. It is characterised by increasing dissent and willingness to disregard the law. This attitude defines the collective action which follows in the form of strikes and riots (Cloward and Piven, 1977:4).

Badiou (2012:26) explains that riots form a component of protest and are defined by two factors. The first factor is that they are purposed to mobilise certain groups in society. The second factor is that they are initiated by the actions of the government, the police, the army or the experiences of people with the government. Both factors are based on a central theme that time has come to speak out against what is 'unacceptable'. Badiou identifies three types of riot: the immediate riot, latent riot and historical riot. The immediate riot describes general dissent among a specific portion of the population. It is usually in response to an incident of 'state coercion'. An example of this is the riot in Tunisia in response to the self

immolation of street vendor, Mohamed Bouazizi who was beaten by a police woman (Badiou, 2012:27). Immediate riots are confined to a specific site and are usually a residential limitation. In its purpose it may even 'destroy symbols of the state' and thus contains an element of physical destruction. This allows non-participants to lay claim to the territory and opt for a defensive stance which effectively delegitimises the protest and legitimises the actions of the police which are based on the defense of property and the state's citizens. This breeds criticism of the protestors and takes away from the shortcomings of the state by shifting focus onto the protestor's potential for destruction rather than the faults of the state. An historical riot is an extended version of an immediate riot. In other words it refers to a riot which is characterised by the peaceful placement of people who will endure the protest conditions until their demands are met. It may even continue over a prolonged period of time stretching into weeks or months. It is also defined by the people who participate in the rebellion as these people represent all spheres of society who have a clear and united demand (Badiou, 2012:40). This definition of a riot provides a useful framework within which to analyse the organisations in this study as they closely resemble the abovementioned characteristics.

Duncan (2010:24) explains that protest is prevalent within a repressive political society because the people do not have any other means to express their issues yet the extent of repression still allows grievances to be heard. However protest is still structured according to a certain kind of political passivity that is perpetuated by institutions in society which allows for protest to be "structurally precluded most of the time" and only sometimes are the poorer excluded parts of society able to challenge these limitations and act out in defiance. Moreover, it is argued that it is only under extraordinary circumstances that the poorer sector in society is able to demand change and express their interests (Piven and Cloward, 1977:7). Protests also occur when citizens feel that they have the platform to voice their demands in a political structure where change is about to occur (Eisinger, 1973:28 in Duncan, 2010:24) or when the stability of the political system is at risk (Piven and Cloward, 1977:28). Different theorists argue that protest needs to be preceded by specific societal conditions which fuels the dissatisfaction and anger of the protestors and will eventually culminate in 'collective defiance' (Piven and Cloward, 1977:8). This ties in with one definition of protest provided by Joseph Gusfield in Piven and Cloward (1977:5) who explains that protests are socially shared activities and beliefs that are directed toward the demand for change in social order.

The need for change in the social order may have arisen from specific unsatisfactory societal conditions which are associated with a kind of 'pressure' on society which creates dissatisfaction. Piven and Cloward (1977:8) identify three influential factors that may perpetuate such conditions. The first factor is that society may be affected by an economic change whereby people now have greater financial

expectations and expect a higher standard of living. However, such expectation may exceed the actual economic growth rate. In a more Marxist analysis, the dissatisfaction may be caused by 'hardships' and inequality in society created by disparities between the classes. Such theory is based on the idea that when people feel that their expectations have been disregarded, the general reaction is disappointment. However there are clear weaknesses in such an argument as 'pressure scholars' (as they have been come to be known) place too much emphasis on economic instability as something which is 'extraordinary.' This is not a true representation of reality (Piven and Cloward, 1977:9). Instead Barrington Moore in Piven and Cloward (1977:12) argues that the main factors which create a revolutionary mass are a sudden increase in hardship as a result of serious deprivation coupled with the breakdown of the routine of daily life, in other words, the habitual actions that tie people to a prevailing order. Therefore, economic instability is not the only causal factor of protest and riots.

The situation can also be exacerbated by structural instability. In support of this, Lefebvre in Piven and Cloward (1977:12) asserts that when life is disrupted in society to the point where people cannot function, revolution will occur. This affects the regulated existence of the citizenry. For example, if conditions are changed through unemployment and people lose their jobs, this will impact negatively on living standards and may cause people to express their hardship through protest. Thus one can assume that the level of distress encourages protest. Wilson (1973:227) in Della Porta and Diani (1999:168) provides a useful definition of protest which says that protest movements participate in governance through unconventional means. Such means may include 'persuasion' or 'coercion'. These actions reaffirm the governing principles of a representative democracy as the citizenry is able to place pressure on the government through protest. Initially, pressure on a government would manifest in the form of sanctions or opposition parties but now pressure is being exerted in the form of protest. Another characteristic of protest is the fact that it approaches the government indirectly. Michael Lipsky (1965) provides a similar definition and, if such a model is used, then protest can be viewed as an indirect interaction with decision makers that is facilitated by the media and non-governmental organisations, academics or analysts. This culminates in the fact that protest is able to mobilise different kinds of action.

There are different kinds of protest, some of which are more effective than others depending on the context. For example, protest is likely to have a greater impact than mass defiance because it is more likely to cause a larger institutional disruption in terms of protestors no longer fulfilling their duties in certain institutions which may be places of employment (Piven and Cloward, 1977:24). These kinds of protests are slightly different from social movements. The term 'social movements' can be used to describe those who participate in the type of protest that this research focuses on. The factor which characterises a social movement as a particular kind of agent of change is its quality as an articulated and

organised group. Such a definition is echoed by John Wilson who asserts that, “A social movement allows for organised, collective action which may effect some kind of change through non-institutionalised means” (Piven and Cloward, 1977:5). However, a difference must be made between ‘mass movements’ and ‘formal organisations’ as both represent two different phenomena. Formally constructed organisations have a clearer set of objectives which articulate their demand for change whereas mass uprisings may not be as organised in terms of united demands and vision.

As much as these definitions can be applied to protest ‘on the ground’, within the context of this research protest is largely defined by the legislation which authorises it according to a certain definition. This is laid out in the Regulation of Gatherings Act 205 of 1993 which stipulates the legalities of protest and what kind of action is permitted. The act calls for a designated ‘responsible officer’ who would liaise with the police authorities regarding the course of the protest. If the need arises, this officer will convene a meeting with the SAPS and concerned members of the community that may be affected by the protest. If the findings of the meeting show that the protest could cause damage, disrupt traffic or cause injury, then prohibition is permitted (Duncan, 2010:13). The police obviously also play a more active role in intervening to prohibit a gathering if it becomes violent or if there is a clear threat to people and damage to property. However, the act also stipulates that there are specific guidelines that the police need to follow in order to prohibit the gathering. Police are permitted to use force ‘within reason’ to disperse the crowd.

Therefore it is clear that there are certain regulations codified in South African legislation which define how protest should occur. This definition makes clear the mandate of the police and any action that is not in compliance with this conceptualisation of protest and the state response would be illegal. An emphasis on this fact would then greatly limit the action of the police who may only act in a supreme capacity to ban a gathering in a state of emergency. Nevertheless, the Zuma administration still imposed blanket bans on demonstrations during the 2010 World Cup even though there are clear conditions under which protest can be banned (Duncan, 2010:20).

8. CONCLUSION

Against this background the relevant literature surrounding security politics, securitisation, citizenship and popular politics has been discussed. This has developed the conceptual framework of the research and has outlined the basic theory and concepts which provides a solid foundation for the empirical research. This literature also provides a useful basis with which to compare the responses of the former Apartheid regime and the democratic government to protest and illustrate the similarities that exist. In the section on securitisation and security politics, the sometimes ambiguous concept of state security was defined to present both individual and state security which often exist in contrast to each other. This is

because of the differing referent objects and threats to perceived security. This fed into the section on citizenship which elaborated further on how the state views citizens within the state and how it can sometimes claim its legitimacy from a scientific, Foucauldian treatment of the population. The remaining literature used in the rest of the section on popular participation also made clearer the inequalities which exist in the state and in civil society. The last section focuses on protest theory which explored the different definitions of protest and social movements and its applicability in the South African context. It also forms a useful link to the earlier discussion on security because protest can be viewed as a justifiable reaction to a threat to individual security. This theoretical framework has therefore provided the basis of which to analyse the South African context.

CHAPTER THREE:

ESTABLISHING A POLITICAL CULTURE: AN ANALYSIS OF THE AFRICAN NATIONAL CONGRESS DURING EXILE AND POST APARTHEID

1. INTRODUCTION

This chapter focuses on the context which discusses the shift in political culture that has been revealed in the securitised measures in South African society. It aims to interrogate why the relation between the state and ‘the people’ has weakened and how this degradation is linked to the increase in dissent and dissatisfaction with the African National Congress led government. The relative increase in protest and breakdown of the link between security and development in South Africa has deeper roots. It is not only an issue of service delivery and the prohibition of protest. The inherent political culture of the state and the ruling party needs to be examined in order to identify how and where the political shift took place that influenced the way citizens are viewed by the state. The state has long been thought of as a neutral tool within which politics occurs. However, this chapter will argue that the state can no longer be classified as apolitical. In support of this Heller (2001:132) says that in a democracy states have a somewhat institutional nature. He states that before a democratic government comes into power, there was

most likely an authoritarian regime in place. This means that an historical bureaucratic legacy from said authoritarian regime could still exist.

These remnants affect the degree to which power is centralised. Scott (1998:7) supports this by saying that the state is the point at which liberty is controlled. States adopt a specific nature which either promotes a kind of utopia or completely undermines the well-being of people within the state. This in turn affects how the state facilitates the participation of 'subordinate groups'. As was discussed in the previous chapter, the treatment of the citizens and non-citizens by the security sector and the ANC suggests that holding the state accountable is now considered a threat to the state. This political shift will be examined on the premise that what is taking place today is really a reflection of the power dynamics of the ANC during the liberation struggle. There was a certain political culture that was established then that has been sustained till today. This political culture disqualifies the myth that was created about the nature of the liberation struggle. This myth specifically refers to the exile period and the notion that the ANC was the principle democratic leader of the liberation movement.

This chapter will look at the political shift which took place within the ANC, a shift that established networks of clientelism and patronage. It could be argued that this feeds into a vicious cycle whereby these networks keep the ANC in power which in turn maintains their one party state. This ends up perpetuating patronage and clientelism even further. This chapter aims to describe the history of the ANC and how it defined struggle. It will also look at how the ANC has sustained this political culture even up to today and how this acts as one of the main factors that has contributed to the breakdown between the citizens and the state. This breakdown has manifested through the securitisation of South African society particularly when citizens attempt to engage with the state through protest or by holding them accountable. As the previous chapter discussed, this securitisation has taken the form of a forceful response to put down protest. However, more procedural means are also being used so it is not just the security sector that plays an expected role in securitising society but also other state institutions such as municipalities and traffic offices that are also active in preventing political engagement with the state by manipulating and deliberately misinterpreting the legislation. These claims will be substantiated by interviews conducted with three organisations: The Makause Community Development Forum, Abahlali baseMjondolo and the Confederation of South Africa Workers' Unions (COSAWU). All three are organisations that have had their right to protest undermined by both the state and the party.

2. DEFINING PATRONAGE

The definition of patronage is obviously dependent upon the context and perspective, for purposes of this chapter, patronage will be understood as the phenomenon which directs the process of producing

goods and services and ensures that this is maintained at the discretion of the ‘sponsors’. Therefore, the norms and rules that have been established for ‘public business’ need not apply. Patronage in this context, results in public institutions and services being developed for ‘supporters’ and not for those for whom it is intended. It also creates conditions for nepotism or a situation whereby positions and jobs are offered as a form of repayment to settle a debt (Root and Nellis, 2000:89). Patronage describes another manner in which power can be accessed through appointment or through access to benefits. “Patronage has for long maintained a tail tied to the kite of the party; once its importance to the party was conceded, its fortunes rose with those of the party” (Sorauf, 1959:117). Patronage has therefore been understood as an integral part of party politics and is clearly seen within the ranks of the ANC. Party patronage is one of the key ways in which political parties are able to take advantage of the state (Kopecký, 2011:713), which in turn undermines the quality of democracy within its borders. There are certain factors that are visible in a state affected by patronage. It may emerge when both the governing party and opposition parties are ‘fragmented’ and differ ideologically. It is also prevalent when there is a single dominant party which allows for one government to completely monopolise state resources. In the South African context the latter is the most important because of the dominance of the ANC in government for the past 18 years. This control is reinforced by the fact that not only has the ANC enjoyed consecutive electoral victories but has also obtained parliamentary dominance by controlling 60% of the seats in parliament since the end of Apartheid (Kopecký, 2011:719).

The pressure to maintain the provision of goods upon which the patron-client relationship is based means that the government has to promote policies that will facilitate this (Root and Nellis, 2000:89). Roy (2003:141) discusses patronage as a relational dynamic which illustrates a distinct field of power (Bourdieu 1987). This refers to the culmination of social interaction and political exchange which allows for a regime to consolidate its power. According to a study conducted by Kopecký (2011:723), evidence of patronage can be seen in specific policy areas in South Africa. These ‘areas’ are largely situated in the security sector, specifically with the military and police. The other areas discussed looked at foreign affairs and the media. However, the security sector (military and the national police force) is regarded as the “most politicised” sector. Patronage is therefore an important factor in maintaining the nature of the security sector. A potential link could be made between patronage and securitisation of society by arguing that, to a certain extent, patronage perpetuates securitisation. As will be discussed in the forthcoming chapter, the reorganisation of the police force has contributed to the increasing levels of securitisation which in fact determines the amount of force used by the police in fulfilling their mandate. Kopecký (2011:724) links reorganisation to high politicisation. When the ANC came into power in 1994, the National Integration Process oversaw the inclusion of ANC soldiers into the military. Mbeki’s presidency

depicted a security agenda with a “high turnover of personnel in managerial positions”. Such a situation acts as a perfect opportunity for patronage to influence those who occupied these positions. Patronage also refers to the appointment of governmental officials to a greater extent than that which is legally permissible. This has certainly been the case with the ANC as a clear affiliation or connection to this party has always been regarded as a requirement to ‘get the job’ (Kopecký 2011:725).

This unequal treatment is also extended to policy making as ANC leaders are said to be largely divided between the interests of the rich and the poor. The interests of the poorer sector are not as seriously considered by high ranking leaders. The serious planning takes place at a higher level where competing interests (for power and resources) are most visible (Qolone in De Waal, 2012a:1). This leads to an important and harmful effect of the patron-client network in that the benefits are concentrated ‘at the top’ and those at the lower end do not enjoy the benefits of such an exchange (Van de Walle, 2003:312). This affects the quality of life that people are forced to accept in comparison to those that enjoy a higher standard of living as a result of the benefits of patronage. Patronage therefore entrenches inequality in a society. This kind of behaviour is also illustrated through clientelism, which is another descriptive term which exposes the patron-client relationship that takes place within the state

3. DEFINING CLIENTELISM

Clientelism can simply be understood as the use of government or state resources to consolidate power and maintain self-interest of a few (Güneş- Ayata, 1994:19). In other words, political clientelism is defined as a mutually beneficial exchange where individuals receive certain benefits for their political allegiance. It is often set up in the context of electoral support. It may not necessarily be in the form of votes but through also other assistance such as campaigning or campaign funding. Much like patronage, in order for a pattern of clientelism to be established, the power dynamics need to establish a ‘dominant’ and ‘subordinate’ group, the latter of which will submit their political allegiance (Hopkin, 2006:2). Hopkin (2006:2) tracks its historical context to feudal society whereby clients (at the lower end of the unequal socio-economic hierarchy), were bound by obligation to these interactions. The pressure to maintain the provision of goods upon which the patron-client relationship is based means that the government has to promote policies that will facilitate this (Root and Nellis, 2000:89). Such a typically economic exchange is not always guaranteed. If the exchange is solely based on maintaining economic interests then a problem arises if there are no longer economic benefits coming from the party. This is because there is no guarantee that the support will be sustained through loyalty or an ideological affiliation.

There are clear and obvious implications of clientelism on the quality of democracy which essentially defeats the overall purpose of it mainly because a narrow group of interests are being

maintained. One of the clearest critiques of clientelism ties in with ‘participationist theory’. Participationist theory reinforces opportunities and participatory politics, as suggested by the title. Participation could be understood in terms of the procedural aspect of democracy whereby voting is regarded as the primary democratic form of participation. However, if votes are only cast in return for benefits then the government is able to disregard ‘popular opinion’ and only maintain the interests of a few. This is seen in the development of policy which does not directly correlate to a trade for votes. Hopkin (2006:13) likens a clientelist state to an authoritarian one where only narrow interests are maintained. This represents one of the most significant hindrances on democracy caused by clientelism, in that it undermines participation of the citizen and affects the degree to which policies are effective (Lernachand and Legg (1971, Zuckerman (1977), Barnes and Saru (1974) and Schneider *et al* (1972) in Güneş- Ayata, 1994:19). If the interests of a few are maintained then the benefits of the exchange between the elite and the government do not trickle down to the rest of the population who cannot afford to be a part of the patron-client network. Against this background the distribution of goods is unequal and the national interest becomes determined by a few. Clientelistic relations can be seen as a manner in which dominion is exerted by political elites to use resources for their own private gain (Li Causi 1981, Mouzelis 1985 in Güneş- Ayata, 1994:21).

Another definition of clientelism by Roniger (1994:9) reinforces this by arguing that the model of democracy changes under clientelism to one that is ‘less representative’. The organisation of representation, according to Roniger, is controlled by those that have been strategically placed based on the connection with the government. This severely undermines public accountability and the politics of governance that was once based on protecting and upholding civil liberties. The accumulation of power and wealth is seen as central to ‘clientelism’, Rongier (1994:10) expresses this by claiming that “patrons and clients are not interested in the generality of equality and legal rules; they are interested in resources”. The reliance on resources does, have some limitations. Hopkin (2006:5) asserts that such a purely economic exchange limits the endurance of the exchange. If the exchange is solely based on maintaining economic interests then if economic benefits coming from the party cease, there is no guarantee that the support will be sustained through loyalty or an ideological affiliation. Therefore it is based on a sense of security that it provides where a relationship of ‘dependence’ on the patron is developed. One could even go so far as to say that it is based on a certain level of trust and assurance that there will be a continued supply of services and goods (Güneş- Ayata, 1994:19). The question arises as to the basis of the patron-client exchange as it may not necessarily be an ideological affiliation and but rather purely economic.

The South African context illustrates both an ideological and financial basis. Economically, resources are made more easily available to those who support the government financially. On an

ideological level this may be seen through rewarding those who have remained loyal to the party in government. Clientelism and patronage have been rampant in South Africa and there are several examples with illustrate this.

4. CLIENTELISM AND PATRONAGE IN SOUTH AFRICA

South African politics has become riddled with cases exposing patron-client relationships that it is no longer met with the accepted levels of disapproval. According to Mashele in De Waal (2012b:1), the rampant corruption in South Africa is a direct result of the patronage and reward system which exists within the ANC. The ANC bureaucracy ‘functioned as a state’ and a source of patronage. Its members were dependent, reliant upon it for financial provision, welfare and employment (Butler, 2005:731). One of the members within the ANC, Kholisile Samuel Qolone, says that the political culture within the ANC perpetuates patronage and clientelism as membership is more likely to be based on what one can obtain by supporting selected candidates instead of the party as a whole (De Waal, 2012a:1).

Parker (2011:1) argues that even political analysts are not sure of what to make of such information anymore because claims have become so common, bordering on banal. It has reached the point where patronage is viewed as a requirement for employment. A clear example of patronage is seen in the Department of International Relations and Cooperation (DIRCO) where more than 70% of South Africa’s diplomatic missions are conducted by politicians and not specifically trained ‘career diplomats’ (Mashele in De Waal, 2012b:1). Some governmental positions are therefore illustrations of patronage and clientelism and perpetuate the fact that some positions are now occupied by those with the incorrect skills which in turn could affect the efficiency of the person and the nature of the results within an institution or municipality. Furthermore, De Waal (2012b:1) discusses how the ANC has power at the “local, provincial and national level” and therefore supporters and members of the ANC have a greater chance of occupying a high powered position within the state if one operates within their pervasive structures. In fact there seems to be a correlation between success within the party and success within government institutions which has perpetuated corruption at every institutional level (Mashele in De Waal, 2012b:1). Business men who are not in support of the ANC are said to face greater difficulty in obtaining tenders in specific municipalities. In reality, upon closer examination it is clear that those who obtain tenders are members of a larger “reward system’ which operates within the ANC (Mashele in De Waal, 2012b:1).

Support for the ANC has been established as an important requirement for success in the political and business world. As was seen in the harsh conditions to ensure loyalty during exile, support is sometimes maintained at a high cost. Maintaining discipline and loyalty to the party have been important tools of the ANC to use when support and endorsement of certain policies are needed. This was seen with

the implementation or support for GEAR. Such techniques are not unfamiliar and, as mentioned above, this kind of control over decision making within the ANC has increased throughout their rule (Beall *et al*, 2005:273). A discussion document was released by the ANC which spoke of their response to ‘forces opposed to transformation’. Naturally these forces represented issues or people that would potentially undermine the ANC. According to the ANC these forces were defined as those that perpetuated problems in society which, in turn, sabotaged external investment. The ANC’s solution to this was to ensure that it was involved at every institutional level, meaning “public service, military, intelligence services, parastatals and regulatory bodies” (Butler, 2005:720). The politics within the ANC undermines the ability of the ANC officials to maintain their roles adequately and effectively. This is due to the fact that the nature of politics is based on “secrecy, hierarchy and closed system of debate and organisation” (Butler, 2005:723). This kind of control has definite historical roots and was clearly visible in the politics that took place during exile.

5. ANC IN EXILE

The history of the ANC in exile has a very important place in South African politics and cannot be merely understood as a means to an end. Butler (2005:730) explains that the politics of exile is one of the most important influences which led to the weakening of our democracy. Broadly speaking, the nature of the exile movement has been defined by a centralisation of power and intimidation which is reflected today in a ‘marginalisation’ and suppression of opinions and contributions that has resulted in a more securitised society. The phenomenon of using violence to silence those who speak out against the ruling party is not new and can be seen within the party itself. The examination of the ANC in exile allows one to understand the beginnings of this political shift defined by patronage, clientelism and elitism.

The sense of elitism was established quite early on by the ANC. Here a clear link can be illustrated between a securitised agenda and battle for political dominance achieved through patronage and clientalist networks which provides access to resources. This is supported by Steven Friedman who says that in South Africa, political violence is closely linked to economics and that entering a position in politics becomes based on using economic resources to obtain support (Friedman in De Waal, 2012a:1). This is seen most clearly with the structure of *Umkhonto weSizwe* (MK)⁶, more specifically with the division between leadership and ‘the troops’ who were subjected to a lower standard of living for prolonged periods of time. This was a strong comparison to the leaders who were sent to fulfill their mandate in more glamorous places like London (Ellis, 2012:51) This represents a recognisable rift between the people on the ground and those that led the movement. An examination of ANC MK operations shows that the

⁶ Meaning ‘Spear of the nation’, this was the military wing of the ANC and largely the SACP in their armed struggle against the Apartheid government.

organisation endorsed a seemingly violent struggle both within the organisation and against the state. There was no talk of compromise or a moderate stance when thinking of overthrowing the Apartheid regime (Good, 2011:321) and the same stance was visible when dealing with dissent within the organisation.

This period was a very hostile one with the ANC and MK. However, the extent of torture and violence that formed part of the struggle against Apartheid is often not widely discussed. According to Gavin Evans in Ellis (2012:235), “...far from being a unified movement, the exile-based ANC was riddled with divisions and awash with spy rumours”. The failure to openly discuss these experiences creates the impression that there was a fairly ‘peaceful’ transition to democracy. If violence is discussed then it is done so in relation to the state. In other words, it either talks of violent resistance against the state or the use of violence by the state against liberation movements. In reality, the use of violence was more widespread and complex. For example, the use of torture and violence was a systematic tool used by the ANC to ensure loyalty and expel traitors from the organisation. Testimonies to this were relayed at the Truth and Reconciliation Commission (TRC) later on and specific incidents such as the spy scare in 1981 showed how MK members who were accused of collaborating with the Apartheid state were tortured and, in some cases, killed. (Good, 2011:331). This violent culture that existed was said to be characteristic of Stalinism and repressive communism taking place in East Germany and Eastern Europe at the time. Ramphela (2008:112) draws a parallel here arguing that just like the suppression taking place in those environments; the same kind of intolerance of opposing views was seen within the exiled ANC. The ANC was said to have operated on the premise of ‘strategic deception’ whereby it masked the severity of factionalism and suppression that took place within the movement. This fostered a culture of fear and silence where death and detention were the penalties for those considered agents of dissent. However, if one had the right connections it was possible to escape unscathed.

This authoritarian sentiment was not, exclusive to the ANC and could also be seen within other liberation movements like the UDF. In much of the literature regarding the organisations involved in the struggle, the UDF is often projected as the movement which existed in the shadow of the ANC. The media played an important part in how these liberation movements were portrayed and the UDF was often portrayed in a sympathetic light in comparison to the ANC, reinforcing claims made by UDF leadership that it was a peaceful movement (Ellis, 2012:209). While this is not untrue, it has wider implications regarding their responsibility for the violence which occurred during this period. Against this background, the violent nature of the UDF was often contested and denied (Malan, 1990:268). As will be discussed, the strength of the UDF was its ability to focus on a participatory democratic model in obtaining liberation. However, this was undermined by the undeniable violence which was seen sometimes in the form of

kangaroo courts and forms of intimidation (Suttner, 2004:6). Intolerance formed a major theme in the violent acts committed by the UDF, examples of such are seen with attacks on members of the BCM who were often intimidated and physically assaulted. The act of 'burning witches' also became an all too familiar practice within the UDF (Suttner, 2004:11). The democratic values that were being called for against the Apartheid regime were undermined by the continual emphasis on solidarity and loyalty to the struggle and any suspected traitors were not spared (Ramphela, 2008:112). Violence was also used to sustain support for leadership, in support of this argument Matshiqi in De Waal (2012a:1) says:

It is not obvious to too many in the ANC, but as a democratic entity people will have preferences at leadership and other levels that are at variance with their own. Difference is not tolerated in the ANC and that is another one of the drivers of violence

This was allowed to continue because, even though the evidence 'spoke for itself', nobody was held responsible for the violations of human rights at the camps. As a more viable approach the ANC used secrecy instead of 'accountability' (Good, 2011:335-337). This reflects on one of the larger consequences affecting democratic values which were that party leaders could not be held accountable in cases of corruption especially with the MK who was particularly infamous for its corruption (Ellis, 2012:289). When the ANC members came out of exile, the political transition was said to be relatively quick and hasty. The period of 'obtaining liberation' was such a celebrated one that there was no space for a reflection of the entire project. After the first victory of the ANC, the number of members grew, bureaucracy became more important and so there was a greater focus on party organisation. Power became centralised and was contained within the sphere of the elites (Butler, 2005:28). Power was therefore consolidated in a way which did not address the inherently violent nature of the liberation struggle and even though there was the TRC which addressed a specific type of violence, Qolone in De Waal (2012a:1) points out that "comrades still need psychological help". The denial of this part of exile history allows the struggle against Apartheid to be remembered in a certain way, more importantly the untainted image of the ANC as the legitimate democratic national liberation movement is sustained. This version of events perpetuates the stronghold of support that the ANC enjoys. The roots of elitism which were maintained by clientelism and patronage here are not always entirely visible and the implicit political culture that has been nurtured over the years has not changed much.

As mentioned above, the ANC has managed to surround its power in a discourse which legitimates the organisation as the primary national liberation movement. And so it is also associated with certain democratic values by virtue of this constructed discourse. In fact, the victory of the ANC was characterised by a very distinct kind of power that was maintained. In 1994, the ANC managed to effectively establish itself as the purveyor of liberation and democracy for all. It was understood in

relation to the oppressive Apartheid regime that they aimed to replace. In other words, their claim to legitimate rule was their ability to single handily abolish the Apartheid government. According to Good (2011:312), the rest of the world attributed the transition to democracy to Nelson Mandela and the armed struggle campaign, conducted by the ANC. There is no denying that the ANC played a very important part in successful negotiations in the transition to democracy as well as the organisation of resistance campaigns. In particular, Nelson Mandela exercised admirable leadership which contributed to creating a desirable political environment leading up to the negotiated settlement (Ramphela, 2008:33). However, over-emphasising him as the ultimate icon of the liberation movement incorrectly glorifies him and associates him with the status of a deity and it is impossible to hold a deity accountable.

As the oldest liberation organisation, the prominence of the ANC was not always something that was 'unjustly prescribed'. The organisation was indeed a force to be reckoned with largely due to their external support from the Soviet Union and their military component. It was well recognised as the most effective threat to the Apartheid government (Malan, 1990:249). The extent of this was seen with some members of the BCM becoming members of the ANC after being imprisoned on Robben Island. According to Ellis (2012:207), this is largely attributed to Nelson Mandela's ability to act as a 'statesman'. Other organisations eventually subscribed to this homogeneity at some point. Malan (1990:249) says that organisations like the UDF declared their allegiance to the ANC and supported Mandela's leadership. The legacy was thus seen as a 'franchise' which allowed other groups to strategically ally with the ANC (Ellis, 2012:211). It is important to acknowledge this link between the ANC and other organisations like the UDF because much of the literature only ever discusses the two organisations in opposition to each other. The dominance of the ANC was nevertheless consolidated at the later part of the 1990s when the events of the armed struggle had been constructed into a neat, effective and popular myth which established certain figures as 'heroes.' This rhetoric allowed the ANC to hold on to the black vote and establish their one party dominance. The use of the titles such as 'freedom fighter' and 'struggle hero' created a subconscious attachment to the icon and, therefore, to the party (Ferim, 2010:7). This was coupled with the emphasis on the events of the struggle being conducted through a 'democratic' process (Good, 2011:356).

5.2 South Africa's miracle transition

South Africa's transition from Apartheid to democracy has been likened to a 'miracle,' in that the transition was fairly smooth in contrast to the violence and abuse of power which occurred during the struggle. Mandela first used this comparison when the ANC won the 1994 elections (Beall *et al*, 2005:682). The miracle rhetoric was even said to have been extended into post 1994 'scholarly analyses,' creating the idea that the transition was unique and existed outside the norm of regime change (Beall *et al*, 2005:685). The abuse of this metaphor has been so deeply entrenched in the rhetoric surrounding our

history that many have come to regard it as fact (Ramphela, 2008:28). The association with a miracle implies a certain kind of divinity and as a result, those that were acknowledged to be at the forefront of the transition were not properly scrutinised. Ramphela (2008:32) highlights the important implication of this when she says,

There is also a risk of promoting fatalism in political affairs through interpretations of historical events in the language of miracles. If radical political change comes from divine intervention, what motivation would there be for governments to negotiate settlements, or for citizens to take the risks of shaping their own destinies by challenging unjust authority and holding public officials accountable?

This indicates that there is a sense of entitlement that develops whereby the authority of the ANC becomes unquestionable and untouchable. The combination of these characteristics gave the ANC its new found sense of omnipotence that would triumph over criticism and controversy. Gilomee *et al* (2001:169) goes so far as to say that in the process the ANC effectively managed to “sap the will of civil society”, seen when the ANC led government tried to establish their authority when they came into power. Their interaction with civil society demonstrated this as non-governmental organisations (NGOs) were no longer supported financially and were replaced by the National Development Agency, which did not prove to be very effective (Ramphela, 2008:118). Furthermore they aimed to consolidate their power under the guise of transformation. There was an obvious focus on racial integration in terms of the direction of transformation. However, according to an ANC document, this transformation was to be coupled with the extension of the ANC’s power over the security sector (army, police and intelligence agencies), the judicial sector as well as regulatory agencies and the national broadcaster. The logic was that in order for transformation to be successful the ANC needed to maximise its power (Gilomee *et al*, 2001:169).

5.3 The ANC as the primary liberation movement

The ANC managed to maintain their ‘messiah status’ by successfully silencing non-supporters and delegitimising any potential criticism. Those who dared argue or challenged the ANC were called ‘racist’ and had their credibility undermined (Gilomee *et al*, 2001:169). Any opposition to the ANC was portrayed as ‘weak’ and ineffective in comparison. Two methods were used by the ANC when interacting with opposition groups – ‘co-option’ or ‘being silenced’. Good (2011:354) says that,

Almost any political party, civic group or institution which opposed or acted independently of the ANC was, by that fact, racist, committed to preserving the legacies of Apartheid and against social transformation.

The effective use of such rhetoric kept the other participants in the struggle at bay. In the early 1970s, the BCM started to emerge as a serious organised movement which appealed to young men and women. Instead of regarding this as potential support in the struggle, ANC leaders like Thabo Mbeki

viewed this development as a threat to the ANC's predominance (Good, 2011:314). The primacy of the ANC's role in the fight against Apartheid has led to a denial of the role of other organisations not only in terms of ideology but also in terms of their role in armed resistance against the Apartheid state. One can argue that our transition to democracy has therefore been a misguided one. This is seen clearly with the formation of MK where the important and influential role of the SACP has not been given much credit. Instead, MK was merely seen as the military extension of the ANC (Ellis, 2012:26-27). This was also seen with the other organisations like the UDF, who formed a credible threat to the maintenance of ANC support as they were seen to have had a broader, more inclusive understanding of democracy which promoted participation at all levels and moved away from elitist and exclusive politics which was initially closely associated with the ANC (Good, 2011:320). According to Ellis (2012:290), the ANC failed to take hold of the struggles on the street and with the workers, a task that was seen to be successfully undertaken by the UDF and the Azanian People's Organisation (AZAPO).

In this regard, the UDF was seen as "the most inclusive social project" in the struggle for liberation during Apartheid. Even though it may have gained inspiration from the ANC, it was its own political movement. However this independence was short-lived. Once the ANC returned from exile many UDF members joined it, leaving the latter non-existent. This may have been why there was such an emphasis placed on support and loyalty and therefore dissidents may not only have been defined in terms of those who collaborated with the state but also those who collaborated with competing political parties like the UDF. As mentioned, this was not always the case and the ANC and UDF did enjoy some kind of amiability. However, there was an eventual decay in this relationship which saw a shift from 'brothers-in-arms' to rivals. This rivalry among the liberation movements was not immediately brutal and was largely based on ideological differences. For example, the BCM felt that it was committed to a more authentic socialist model and should not be influenced by liberal whites and, as a result, was largely exclusionary (Malan, 1990:250-252). It turned into a violent competition for support and by 1983 the UDF and BCM were competing for support of young radicals. Later as this rivalry grew and became more dangerous, calls were made over Radio Freedom (the mouthpiece of the ANC) to get rid of 'The Third Force'.

The term, 'Third Force' was first used by Oliver Tambo to describe people or groups that were not associated with the ANC (Ellis, 2012:210). According to Malan (1990:251), this Third Force was defined as anyone who did not explicitly support the ANC or Mandela, and were regarded as supporters of Apartheid or informants. This idea of 'The Third Force' according to Ellis (1998:293) could also refer to the force that existed between the ANC and the National Party (NP). Essentially, it was used by the media to describe those who were responsible for attacks against the ANC. This period was marked by systematic violence and paranoia, Malan (1990:268) says that, "one thing led to another and by mid 1986

the relationship between rival movements had degenerated into war”. The violence used to deter dissidents and also punish them fits into the securitised response to threats that is also witnessed today with the increasing use of force to quell popular participation in the form of protest.

An important link to be made with the politics of the period of exile and today’s securitised society is the idea of a ‘People’s War’. During exile this was adopted as a slogan and strategy and was basically used as a rallying call to the masses to take a more militant stance in their fight against Apartheid. Such an approach could be justified in the context of its use by liberation movement against an oppressive regime. However, this rhetoric surrounding the use of the ‘Peoples War’ has been carried into South Africa’s political transition and has manifested in the current approach to fighting crime. Bruce (2013:2) argues that this invokes the calls to use violence as a means to an end. In this sense protestors have become criminalised and part of the ‘war rhetoric’ which is currently promoted by the police leadership. This will be discussed in more detail in the following chapter. This securitisation also maintains the cycle of patronage and clientelism. The link between protest and dissatisfaction with the state is situated here. South African society has become defined by patron-client relationships which promote a more unequal society where services and goods are not equally distributed. This is an important concern for poorer communities who then sometimes call on the government to provide these goods and services through protest, this is seen as the primary means used to communicate the grievances.

6. HOW DO PATRONAGE AND CLIENTELISM WEAKEN DEMOCRACY?

When the ANC officially came into power in 1994, it carried through its understanding of exercising and maintaining power. The patterns of elitism, which were maintained by patronage and clientelism appeared once again. When a transition from one form of government to another takes place, consolidation is always difficult to achieve. In particular, there is always the lingering threat that democracy might be undermined by attempts made to re-establish the former authoritarian regime. Against this background, Beall *et al* (2005:686) argues that in order to make a smoother transition, there needs to be some kind of compromise between the ruling power and the former ruling power. This might dispel the threat and ease the process of consolidation. This explanation has been extended to expound on the compromise made between black and white elites where the state was based on ‘liberal democratic principles’ which would maintain elitist interests. This was seen when the Government of National Unity (GNU) was introduced in the early 1990s. It was assumed that this was a way in which the former Apartheid ruling party, the National Party (NP), could hold on to power. However, the NP was not able to maintain their interests because they did not have the control that they thought they would have over white civil servants. The ANC however, was able to secure the economic interests of these civil servants by

giving them severance packages and pensions. The ANC led government also adopted more favourable economic policies (Gilomee *et al*, 2001:165). This maintained both the interests of the ANC and the white political and economic elite.

The victory obtained in 1994 by the ANC was not the end of their aim and 'interest'. Political power was coupled with economic gain. Essentially the two are interlinked as political authority is often accompanied by financial gain (Matshiqi in De Waal, 2012a:12). It is ironic that with the victory of a more 'democratic' form of government, the minority of the population still enjoy the most privileges and a better standard of living while a larger sector of the population's interests are not met. The increasing number of popular protests that are seen today show that the political shift that took place after Apartheid has maintained the inequality between the rich and the poor. The difference between the Apartheid regime and the ANC led governments was ideological however, the treatment of the poor and response of the security sector has largely remained the same. Inequality is now no longer based on race, but on class (Nattrass in Seekings, 2007:9). Patronage and clientelism further perpetuate inequality because it promotes mostly middle class and elitist interests.

There have been policies introduced after Apartheid that have attempted to bring about some kind of transformation such as the Black Economic Empowerment (BEE) policy. This however, this has not been beneficial for everyone. This policy affects the 'economic elite class' and has provided another opportunity for those within these client networks to make more money. It also perpetuates the status of South Africa as one of the states with the highest rate of inequality (Ferrin, 2010:11) as it contributes to widening the gap between classes and further entrenching inequality (Beall *et al*, 2005:231). It is this increasing inequality in South African society that has allowed it to be likened to an authoritarian state (Mashele in De Waal, 2012b:1). The comparison to the authoritarian state could be due to the fact that clientelism and patronage could lead to a certain degree of centralised power by an elite group of beneficiaries. The members of this group are kept satisfied through a series of rewards and placements in strategic positions within government. This in turn protects the loyalty of the elite group, who are at the forefront of economic development and politics (Ferrin, 2010:9).

This centralisation of power is made worse by the one party state that effectively exists in South Africa. This is maintained by patronage and clientalist networks and, as a result, there is no visible difference between the state and the party in government (Gilomee *et al*, 2001:161). The longer a dominant party stays in power, the more entrenched their negative impact will be. It not only undermines effective accountability but also makes the 'state' and 'the party' indistinguishable (Butler, 2005:735). The ANC victory has become inevitable to the point that it is no longer a question of whether they will win but rather what margin they will win by (Gilomee *et al*, 2001:162). The assurance of the ANC's

victory also creates the certainty that the interests of the party will be maintained. The party is therefore focused on maintaining its economic interests which is achieved by electing a leader that can maintain these interests. This guarantees loyalty as clientalism and patronage necessitate a degree of loyalty which is directed toward the party and not the state or citizenry. This results in the civic duty responsibility being ignored (Ramphela, 2008:116).

This not only perpetuates inequality within the party but also undermines the ability to hold the government accountable, not only in terms of service delivery but in order to address corruption. Corruption is an obvious consequence of clientalism and patronage as state resources are used to maintain loyalty, as a result accountability and transparency are undermined. For example, in the area of housing, service delivery has been immensely undermined by corruption (Heller, 2001:147). When corruption infiltrates the 'body politic', it can have power over the entire state as the state capacity to fulfil its civic duties is weakened. This is illustrated through the misuse of public service office which then affects the effectiveness of service delivery and could result in cases where people do not receive services at all (Ramphela, 2008: 162-163). This ultimately allows for the abuse of power and has contributed to the breakdown between the state and its citizens as

After two elections it can be said with a fair degree of confidence that the ruling party suffers none of that 'uncertainty of condition' which would lead it to respect the rights of minorities (Gilomee *et al*, 2001:163).

Centralisation of power creates a blur between the ruling party and the state. The ruling party uses the mandate of the state to provide for the people as a means of gaining support for the ruling party. This in itself can be seen as a form of patronage (Roy, 2003:149). Clientalism and patronage thus affects the citizenry more directly in that it can be used to describe the relationship between the ruling party and the citizenry. This is primarily seen with local government through municipalities where the role of citizens there becomes "reduced to clients" (Heller, 2001:145), a rather passive role, which will be discussed more theoretically in the Chapter Five.

Good (2011:356) explains that this dynamic has been exposed through the ruling structure of the ANC who viewed citizens as objects and recipients of services. This results in a normalised apolitical citizenry that has difficulty holding the government accountable. It also prevents them from being agents of change in the political system. According to Ramphela (2008:126) citizens have certain rights and responsibilities which take the form of socio-economic and political rights which mainly centres on participation and inclusion in the way the country is governed. In effect patronage and clientelism work to deny these rights and those who are entitled to enjoy these rights are able to do so through their exploitation of state resources. In turn, those that do not enjoy this kind of exchange have their rights

undermined. Neocosmos (2009:13) describes this inclusion of the poor in clientelist exchanges as participation by default, not as beneficiaries but as the necessary human element needed for exploitation. Against this background a larger issue is highlighted which speaks to the issue of repression via the party. The clear and pervasive political hegemony of the ANC has had a definite influence on social movements, in fact popular participation has now become overshadowed by a more “bureaucratic and commandist logic of local government reform” (Heller, 2001:134). Furthermore, this pattern of violence that has formed both the response of the party and the state is largely viewed as a means to protect patronage and clientalist networks (Chance, 2010:33). There are three cases in the research which will be used to illustrate both direct repression from the party and the role of the party in frustrating the right to protest. This will help to demonstrate the authoritarian culture of the party that has been described and how it affects popular participation, specifically protest as a form of engagement with the state.

As discussed above, the party and the state are closely linked if not indistinguishable; the repression from the state is often executed through the party that controls it. This control and abuse of power is maintained through patronage and clientelist networks. This is not only seen in theory but also with the experience of the Makause Community Development Forum, Abahlali baseMjondolo, and COSAWU. These three organisations that have had their engagement with the state, in the form of protest prohibited or disrupted by the ANC either directly or indirectly through the government’s use of the ANC to thwart protest.

6.1 Party interference in the right to protest

Makause is a settlement on the East Rand which is home to almost 13 000 people. The conditions here are marked by a lack of proper sanitation or access to electricity and water (De Waal, 2012c:1). When a group from the community raises these concerns or any other concerns regarding crime and violence, they often go unheard. They are ignored not only in terms of the development of their community but also when they attempt to exercise their rights as South African citizens. An interview regarding these issues and their attempt to protest against these conditions was conducted with a member of the non-party political Makause Community Development Forum, ‘General’ Alfred Moyo (hereafter referred to as General Moyo). The organisation was established in 2007 to address these issues and other concerns of eviction and removals. Not only does this organisation struggle to communicate with local government regarding these issues but are also faced with difficulties from the ANC affiliated group within the community. These tensions are said to be manipulated by the municipality and police in efforts to prohibit protest and intimidate the group thereby deterring any protest. This was clearly illustrated in a particular case which occurred in September and October 2012. The Makause Community Development Forum had planned to stage a protest against police brutality on the 5th of September 2012. The legal

processes were entered into three weeks before the march and a letter was submitted to the local police station conveying the intention to protest. However, this notification to protest was denied by the Primrose police station. The reason provided was that another group from Makause would also be protesting on the same day that the Makause Community Development Forum had planned for. As a result, it was not logistically possible for two groups to march on the same day.

According to General Moyo, this was clearly a strategy used by the Primrose police to sabotage the Makause Community Development Forum. He argued that the municipality and police were aware of the factionalism within Makause between the ANC affiliated group and the Makause Community Development Forum and used this group as a cover to prevent General Moyo and the organisation from protesting. This was probable because the rival group has been known to work together with the police or the municipality on a regular basis. According to General Moyo, he found it strange that they would choose to protest against the police or municipality. All these factors convinced General Moyo that the police and municipality were taking advantage of this problematic dynamic that exists within Makause. This strategy was used again when the Makause Community Development Forum reapplied to protest a month later on 8th October 2012. This protest was initially approved. However when the Makause Community Development Forum was called to a late⁷ mandatory section four meeting at the Primrose police station, it was cancelled. The issue of contention at the meeting was the presence of the formerly discussed rival group, who had attended even though they had no part in the march. The unexpected presence of this group led to an argument between the station commander and the representatives of the Makause Community Development Forum. The station commander argued that members of the other group were not applicants, nor would the protest affect them. Therefore there was no need for them to be part of the section four meeting. General Moyo explained that the situation then turned into a crass demonstration of the station commander's authority and the concerns of the Makause Community Development Forum were ignored. An argument persisted and the protest, for which people had already been mobilised, was eventually cancelled by a metro police officer who was said to be misinformed and unaware of the details of the protest. This caused General Moyo to believe that the metro officer had been sent in to prevent the protest from taking place. The reason given for the prohibition of the protest was that General Moyo was too aggressive in his interaction with the other group. This created the chance that the protest could turn violent. In this case the collaboration between the party and the government is clear.

This reinforces this idea that the state and the party are interlinked and that governmental institutions can sometimes be used as tools of the party and vice versa. In this way the mode of repression

⁷ The Regulation of Gatherings Act stipulates that this section four meeting be called seven days before the date of the protest.

has shifted slightly so that it no longer only comes through the state but also through the party. The party also now plays an important role in maintaining a securitised society and suppressing any kind of resistance, the roots of which were discussed when looking at how the ANC dealt with resistance within and against the party during exile. This can also be seen more directly with the case of Palmiet Road branch of Abahlali baseMjondolo (AbM) whereby the same dynamic exists in the community between this non political movement and ANC supporters. Abahlali baseMjondolo is the largest popular movement in post- apartheid South Africa and was established in 2005. The movement has become a credible voice for the poor masses in Durban and has organised successful protests regarding access to education, housing and have also challenged the lack of service delivery with a specific focus on “land and housing in the city...” (AbahlalibaseMjondolo, 2006).

In an interview with Chairperson of the movement, Mr. Sibusiso (S’bu) Zikode, explained that, “There are lessons to be learnt. The lesson we are getting is that the law abiding citizen is becoming the victim. Those who want to abide by the law are under attack for their lawful compliance. The message is then that is you want to march you must burn the property of the state”.

In a clear case explaining repression from the party Mr. Zikode explained how the Palmiet Road branch of the AbM had proposed to protest against their ward councilor who was ineffective in engaging with his ward and creating any kind of change to improve living standards. This councilor is a member of the ANC. In a press statement released by the AbM regarding this incident, it was explained that the election of this councilor is a ploy of the ANC to infiltrate and control AbM. The councilor is thus viewed as a puppet of the party, positioned to implement the decisions of the ANC and municipality (Abahlali baseMjondolo, 2012). The organisation had followed the due processes in terms of organising the march. However, they faced difficulty in the section four meeting from the SAPS who argued that AbM could not march past the shopping centre without permission – a request which has nothing to do with the stipulations in the Regulation of Gatherings Act. However, the real difficulty arose from the party itself as community members were being threatened and intimidated before the march. According to Mr. Zikode, the evening before the march could take place, the ANC mobilised a group (which included the councilor in question) telling people not to march. This intimidation was intensified by heavy police presence in the community. In a statement about the incident, the shack dwellers movement confirmed this by saying that,

In light of the fact that it was the police that unlawfully banned the march and their history of violence against our movement – and their support of violence against us from the ruling party- their presence there may also have been a form of intimidation (Abahlali baseMjondolo, 2012b).

Mr. Zikode explained that the march was eventually allowed to proceed the following day however, numbers were poor due to the intimidation. The march proceeded to the office of the councilor

to deliver the memorandum. When they got to the office there was already a group of ANC members gathered, chanting slogans and preventing AbM from delivering the memorandum and accusing the AbM of wanting to burn down the office of the councilor. The police response was one sided and clearly depicted the link between the party and the state security forces. The police responded to the AbM crowd instead of also trying to disperse the ANC group, it was clear that the police were trying to protect and support the unlawful protest. This depiction of the police affects the ability to see them as a neutral security force which protects the entire citizenry. The repression from the party is sustained by the inconsistency of the police. This one –sided response immediately criminalises the protestors and nullifies their claims and cause. The end result, Mr. Zikode explains is that, “the intimidation and ban of our marches is increasing. It is an attack on our democracy and constitution”.

Other governmental structures like municipalities also work with the party to maintain this repression of popular participation. This was seen with the Confederation of South Africa Workers’ Unions (COSAWU) in Durban in October 2012. The union had planned to protest against disparities in salaries and was calling for an improvement of general working conditions. Mr. Mtetha, a representative from COSAWU, explained that after drafting the memorandum the traffic department was approached. However, before the notification of protest could be made the union was told that they would not be able to protest because of the upcoming ANC centenary celebrations. This incident indicates the party’s ability to prevent popular participation and any challenge to the government. According to Chance (2010:32), the violence from the party is often targeted at specific movements that are heralded as “models of civic participation and democratic citizenship”. The examples from the Makause Community Development Forum and AbM as targets of political violence clearly illustrate this.

The securitisation of South African society therefore has its roots in the party and clientelism and patronage thus function as the means which permit and sustain this power. The performative power of the party almost overshadows the responsibilities of the state towards its citizenry and its engagement with the citizens is based on what will sustain the hegemony of the party and its supporters. This has a socio-economic and political impact on citizens. As discussed above, it leads to unequal development in the form of poor service delivery and the neglect of certain sectors of the poorer population. Basic second generation rights like housing, health care and employment are undermined and protest is regarded as an effective means with which to bring attention to these issues. However, repression from the party and security sector makes this increasingly difficult which introduces the political impact. The political consequences do not merely relate to the prohibition of protest and hindrance on popular participation, it also affects the overall political will of the protestors. As mentioned with the case of the Palmiet Road branch of Abahlali baseMjondolo as well as other cases that will be discussed the turn out at protests is

affected as individuals no longer want to risk their lives in protest. When a right becomes associated with a risk, there is something fundamentally wrong with the democracy.

The reasoning behind the actions of the party is clear. Upon examining the responses of the ANC to other liberation parties in exile, it is clear that the same kind of sentiment exists today toward social movements and communities attempting to hold the government accountable. This link illustrates the nature of the party which is to maintain their stronghold at all costs, even if this undermines the same liberties that they fought for in the struggle against the Apartheid government.

7. Conclusion

By examining the ANC during exile three conclusions can be drawn. Firstly, the rhetoric surrounding the liberation movement and the struggle against Apartheid has been portrayed in a narrow sense with a specific focus on the romanticised role of the ANC, or the UDF in opposition to the ANC. The violence and largely securitised society which existed in exile has not been widely discussed in the record of our history. Secondly, this brutal and authoritarian sentiment was sustained by clientelism and patronage which perpetuated inequality during exile. Lastly, repression does not necessarily only come via the state but the party also has an important role to play in suppressing forces that are a threat to its hegemony. These three points reflect on both the past and current political culture in South Africa.

The three interviews done with the Makause Community Development forum, Abahlali baseMjondolo and COSAWU illustrate how this political culture has impacted popular participation. Citizens can no longer freely communicate their needs to the state without having this right turned into a risk. This response of both the state and the party has been sustained because it is the most viable method of maintaining both political and economic power. The criminalisation of those attempting to hold the government accountable becomes the easiest way to silence the voice of the poor. The police, as representatives of the state, have played an active role in silencing the poor.

CHAPTER FOUR:

THE SOUTH AFRICAN POLICE FORCE: MILITARISATION VERSUS TRANSFORMATION

“The police are the most public face of the state”

Marenin 1996 in Marks 2000:2

1. INTRODUCTION

The security sector is a vital component of any society. As the above mentioned quote so aptly captures, the police are often the first point of contact between the state and people within its borders. Any kind of transformation that takes place here will have a definite direct and visible impact on the citizenry, more so than any other institutional reform in government. This chapter looks at the transformation of the South African Police Services into the South African Police Force in 2009 and how it has impacted on the nature of policing in the state. More importantly, it traces the possible links between police brutality and the abovementioned transition. Defining police brutality is sometimes problematic because the use of

force by police is seen as necessary in their line of duty. Therefore for purposes of this paper a definition will be established that looks at how force becomes excessive and brutal. Simply put, force translates into police brutality when it is consciously used in a manner that is not in accordance with the law and also includes criminal acts of force (Bruce, 2002:2). Within the context of this chapter, police brutality will be examined in terms of the abuse of force in response to protest.

This is important because it will help to make sense of the increasingly forceful response of the police to popular protest. It is fair to say that the response and organisation of the current police force bears resemblance to the police force under Apartheid. In order to adequately comment on the police structure as it stands today, a contextual understanding of the police structure in South Africa is necessary because this provides a useful comparison. The police are an important and complicated presence in any society, the tension between their relative monopoly of the legitimate use of force and the responsibility to protect citizens creates a problematic mandate. This will be explored further by evaluating the empirical and theoretical role of the police force in society and for purposes of this research, the role played in protest. In discussing the trajectory of police brutality, this chapter will be chronologically divided into three periods. The first period looks at the paramilitary police force during Apartheid, the second period looks at the transition of the police force into a more community based police service after the fall of Apartheid. The third and final period focuses on the current remilitarisation of the police that occurred around 2009.

2. THE ROLE OF THE POLICE

Ideally the police are meant to represent the visibility of order in a state (Foucault, 2007:314). The police have always been understood as the embodiment of state authority and it is an important representation of the legal system (Reiss and Burdua, 1967:27 in Marks *et al*, 2009:8). Foucault defines the role of the police as “the art of managing life and the well-being of populations”, which ties in with the police being seen as a ‘technology’ of the concept of ‘governmentality’⁸. In other words the police are ideally meant to provide for the safety and protection of the population and in this way they represent the state as maintaining the interests of the population. It is an exhibition of the government’s legitimate monopoly over the use of violence and against this background is mandated to protect the public and maintain order and stability. Entrenched in police culture is the idea that the police are the ‘thin blue line’ between stability and disorder. It is this responsibility of the police to provide a safe environment for the

⁸ Governmentality is a concept developed by Michel Foucault (1991:92) which views the population of a state as an entity which needs to be administered to and managed in order to develop a stable society. In doing so it legitimises the role of the state.

citizenry to exercise their rights within the dictates of law (Nsereko, 1993:466). The basis of police control is coercion (Marks, 2002:14). In other words, citizens give up some of their freedom in order to adhere to laws and respond to the police who enforce them, thereby submitting to their authority. The citizenry therefore plays an important role in legitimising the power of the police. This is mainly because the citizenry equate the police with providing protection from instability that arises from crime. In support of this Foucault (2007:311) says that the fear of crime gives the police their power.

The maintenance of a constant state of fear allows the police to increasingly abuse their power. This is due to the fact that politics links closely with crime in that politicians will appeal to the electorate based on their ability to adequately address crime. It is this fear of the ‘unpresent danger’ that unites the electorate and causes them to support more stringent ways of addressing crime through particular ways of policing (Bruce, 2012:6). The police have come to represent power, particularly the state’s ability to legitimately exercise power over its citizens. As an institution, it is considered to be completely central to the development of a civilised society. However, Nsereko (1993:468) argues that this does not limit its inability to maintain this responsibility. This is situated in the irony that the police may actually pose a threat to the very security that it is there to maintain. In fact the police “rank high among the violators of these rights” (Nsereko, 1993:247) . There is always the possibility that the police will oppress citizens and threaten their safety. This research will exemplify and discuss this in further detail. In turn this affects the credibility of the police and how they are perceived by society at large, and how their authority is affected. Oppressive policing may be caused by either an ‘over-zealous’ or inadequate understanding of the situation, lack of political will or mere abuse of power. Furthermore, the ability of the police to carry out these responsibilities effectively and lawfully is dependent upon the influences and independence of the police force. The police are not a static institution; they are affected by the changes in demographics, governments and the economy (Marks, 2002:14). The abuse of rights by the police often differs for each country however, this is largely determined by the democratic spirit of the state. If the state has fostered a certain democratic culture then the nature of the police force will reflect this (Nsereko, 1993:247). South Africa’s democracy cannot be fairly and completely evaluated here however, there are certain factors such as the Deadly Force Act (which will be discussed further) and Protection of Information Bill⁹ which significantly undermine democracy in South Africa and suggests that it has in fact been weakened.

In order to avoid the abuse of force, Nsereko (1993:472) suggests that there should be oversight bodies that are neutral to deal with the discipline and recruitment of the police. Furthermore, the police should be remunerated according to the high-risk and dangerous nature of the job. This will serve to

⁹ Officially passed in November 2011, this bill limits access to information and in particular information regarding security.

attract professional workers who will be committed to the responsibility to protect or it will provide an incentive to be committed and maintain a high degree of professionalism. Ideally the abuse of power by the police should be curbed by the constitution and limitations that lie therein, the aim of which would be to ensure that the rights of the citizen are protected (Nsereko, 1993:470). However, a problem arises when the actual legislation gives the police increased power to use a more forceful and brutal approach to 'maintaining order' which is not actually consistent with the rights that are entrenched in the constitution. Current theory explaining the use of excessive force states that the actions permitted through the use of force would normally be deemed criminal however, while the law of the land makes it criminal for citizens, it makes it legal for police officers (Klockars, 1996:2). In South Africa this is most clearly understood with the use of deadly force¹⁰. Unless the abuse of this act is blatant, it will be difficult to criticise the police on the abuse of force simply because their authority is entrenched in their lawful ability to use force. In order to address police use of excessive force, Klockars (1996:17-19) suggests that certain standards and procedures need to be put in place. For example, police officers need to be taught and trained in a way that minimises the need to use excessive force. This necessitates skilled and professional supervisors who are committed to the safety and protection of citizens and who are not quick to reprimand the use of unnecessary force. In order for this to be successful, limitation on the use of force needs to be supported by legislation. Therefore the fact that police men and women are not exempt from criminal charges based on their 'legitimate use of force' adds some credibility to the promotion of these standards.

In theory the police enjoy this power to use coercion to ensure that order and stability are maintained. This uncoded right to use coercive force provides the incontestable means which gives the police a different status from the citizenry (Klockers, 1996:2). This force can be described as sovereign because ideally it is justified in the name of defence. Citizens have acknowledged it by submitting to it and the government protects it by entrenching its legitimacy in the laws. In other words, they have used the vested authority to curb the rights of citizens in order to protect other citizens (Nsereko, 1993:482). The police are viewed in a way in which the state can build up its forces under the guise of maintaining security (Foucault, 2007:314). However, in this process it is difficult to ascertain whose security needs to be compromised in order to maintain some kind of general welfare. Police force cannot be resisted until it becomes a clear violation of human rights. Klockars (1996:2) argues that it is this unquestionable sovereignty and authority that is at the root of the problematic definition and question of excessive force.

¹⁰ This is contained in an amendment to section 49 of the Criminal Procedures Act passed in May 2011. It basically provides more opportunities for the use of force. The nature of the crime for which the use of deadly force is permitted need not be 'serious'. Therefore this means that the context could include a mere routine investigation. Furthermore, the description of the threat of bodily harm has moved from grievous to serious. Therefore the risk that a suspect should pose to a police officer is minimal (Ballard, 2012:1).

This term 'excessive force' is very broad and its danger lies in the fact that it is so general. This leaves it open to interpretation by those who are mandated to use it and lends itself to possible abuse. Naturally the definition of excessive force will differ according to its context, there are so many contributing factors and differing experiences of force. Klockers (1996:8) defines it as "the use of more force than a highly skilled police officer would find it necessary to use in that particular situation". He supports this definition by maintaining that it has ontological value as it focuses on the necessity of the force. Secondly it also emphasises it as a profession in which skill is required.

As mentioned, the use of excessive force by the police in South Africa is not a new development and was an important means used by the Apartheid government to ensure compliance with the state. In order to track the security trajectory of South Africa, the police under Apartheid will first be examined.

3. THE SOUTH AFRICAN POLICE DURING APARTHEID

The first period being discussed which began in the 1990s represented a highly securitised environment whereby a central threat to stability and order was defined by group activities of people who opposed the Apartheid government. At this time the South Africa Police was heralded as the "arch – villain in the struggle against Apartheid" (Cawthra, 1993:1). In response to any demonstration or perceived threat to internal security, the South African Police embarked on a relentless and brutal patrol and control of political demonstrations (Brewer, Geulke, Hume, MoxonBrowne & Wilford, 1998; Cawthra 1993; Brogden & Shearing, 1993 in Marks, 2000:149). Policing under Apartheid was therefore equated with violence. Brogen and Shearing 1993 called it "policing through violence" (Mark, 2000:149), such a vicious response was especially directed at perceived threats and dissidents which basically included all those who were against the Apartheid regime and so demonstrations were often put down by the brute force of the police. There was violence from the protestors as well however some scholars argue that it was the violent response of the police that provoked protestors to act out with violence (Van Holdt, 2011:30). The role of the police was therefore linked to the Apartheid state's highly securitised agenda. The police force was used as one of the main tools to maintain coercion, compliance and general terror. Mogapi (2011:128) writes that, the "brutal police machinery" was purposed to handle and deal with perceived perpetrators of the law who were mainly activists that were now labelled as criminals. It is against this background that a securitised, political culture developed. This is often referred to as a "collective trauma" that emerges and re-emerges in highly charged political atmospheres during protest.

This was illustrated by key events during Apartheid where the police demonstrated their capacity for brutality and violence. These were events such as the Sharpeville shootings which took place in 1960, the Soweto uprisings 1976-7 where mainly school children were killed by police gunfire. There were also

shootings in townships like Langa in the Eastern Cape as well as in Johannesburg in the 1980s. Thereafter the state maintained a State of Emergency which allowed the police supreme control of the state and reinforced the abuse of force and power. It also exonerated the police from any criminal charges or unlawful acts (Cawthra, 1993:3). The SAPS also played an important role in forced removals and enforcing oppressive laws like the pass laws. There was also another section that dealt specifically with political crimes known as the Security Branch. The role of the Security Branch was to oppress perceived political opponents. Many suspects were imprisoned, sent into exile or even tortured (Cawthra, 1993:2). This brief discussion highlights the very important role of the police in maintaining terror. The police helped maintain successful segregation and perpetuated the Apartheid machine (Cawthra, 1993:1-2) and fulfilled their duties in a manner which sought to intimidate those who formed a potential threat to the order it was there to uphold (Brogden and Shearing, 1993:42). This attitude and response was facilitated by the structure of the police force and was organised according to a paramilitary order and training (Brewer *et al*, 1998 in Marks, 2000:149). It was regarded as more specialised and gave rise to a whole new unit known as the Riot Unit, which played a significant role in the 1976 Soweto Uprising. The riot unit was characterised by undue force and was largely seen as ‘problematic’ (Marks, 2002:6). For this reason, it was eventually turned into the Internal Stability Division (ISD) in an attempt to conduct a less aggressive operation (Cilliers, 1995 in Marks, 2000:149). The ISD was formally established in 1992. Its purpose was to control any political unrest and was a paramilitary unit where military uniforms and vehicles were used. Like the former Riot Unit, it was also problematic as it was regarded as incompetent with no clear control and leadership. It also required more organised intelligence (Dawson, 2009:105). The ISD proved to be more of a liability and when the ANC came into power, it got rid of the ISD after it was used in the 1994 elections to help maintain order during the first democratic elections. After this, the ANC led government established the ‘public order unit’ which was basically the ISD under a different name. This unit was part of the SAPS but operated slightly differently, it was made more efficient through certain operational changes. Such a transformation facilitated a more civil relationship with the citizenry (Marks, 2000:150). This change introduces an important development in the history of the South African police, one which took place when the country moved from Apartheid into a democratic state.

2.2 The transition of the South African police from Apartheid to democracy

The institution of the police is central to any regime change or transition. The police are vital in facilitating that process and ensuring that order and stability are maintained. They also empirically represent the new discourse on security that the new regime wants to institute. When the ANC came into power in 1994, their democratic agenda was transferred to all sectors of society including the police. The control of the police was based on the ability of the police to maintain stability during the democratic

transition (Cawthra, 1993:166). The transformation of the police is always a complicated process in which success does not come easily. Marks (2000:159) says that genuine change within the police is only possible when transformation occurs from the leadership down to lower ranking officers. Naturally this is a process that is extended over a certain period of time and needs to be supervised and monitored closely. The transformation of the police is therefore important in any political transition as it illustrates a government's "commitment to democratisation" (Gillian 1999, Huggins 1998 in Marks, 2000:2). This transition is made even more difficult when moving from a formerly authoritarian government to a democratic one (Pustinev 2000 in Marks 2002:11). This is exemplified by looking at police transition in other states with a regime change. For example, in Hungary where the police force actually became more militarised and brutal which undermined the entire political transition (Marks, 2002:2).

The reformation of the police during Apartheid is a vast topic, there are many aspects that need to be discussed in order to attain a holistic understanding. There are issues of how it became more representative through trade unions, self defence and the transformation of personnel and human resources. However, for purposes of this chapter the focus will be centred on the change in the response to crowd control and the use of violence. The transformation and rebranding of the police was introduced as a topic for discussion during South Africa's negotiated settlement. The main objective was to usher in a more democratic means to ensure stability in the 'new South Africa'. The creation SAPS included "10 additional police organisations" which were known for their brutality. Therefore policing in South Africa had an inherent brutal nature and so when this transformation of the police took place, it needed to demonstrate the ability of the police to operate without using violence (Bruce, 2002:27). In 1991, the SAPS was introduced in an effort to display an improved police force that was committed to serving the community and upholding the rights and values of the democracy. This was reinforced by the Safety and Security Green Paper 1994 which placed special emphasis on 'democratic' control over the police service as well as accountability, demilitarisation and improvement of quality (Marks, 2002:5). The simplest way of understanding the ANC plans for the police is that it aimed to create a 'service' as oppose to a force as evident when examining the police guidelines of the ANC. In this paper, the ANC called for policing which was supported by and accountable to the community and held in check by a police code of conduct which outlined the expected standards.

Furthermore, non-violence was emphasised and any reports of abuse of misconduct would be directed to an 'independent complaints and investigation' committee (Cawthra, 1993:166), otherwise known as the Independent Complaints Directorate (ICD) which was responsible for investigating police - related murders and abuse in police custody as well as to monitor revisions of Section 49 of the Criminal Procedure Act which deals with the use of deadly force during the arrest of a suspect (Bruce, 2010:5).

After Apartheid there was a definite change in the nature of policing. However the process of police transformation in South Africa had been complex from the beginning. The transition from the oppressive Apartheid state to a democracy 'for all' had to also be represented in the security sector, specifically in the police. It all fitted into the larger nation building project and the actions and response of the police force had to reflect this.

Marks (2000:1) explains that a shift in focus was required from a militarised, oppressive force to a fair, service - based force based on upholding human rights. Therefore the transformation of the police was not just structural but was also accompanied by a change in the discourse surrounding the police. It was now understood in a different way as it was marketed and described using different emotive language. For example the SAPS fell under the jurisdiction of the Minister of Safety and Security and no longer the Minister of Law and Order. Furthermore, their mandate also changed as seen with the move from 'crowd control' to 'crowd management' and lastly, protests replaced the term 'riots' (Dawson, 2009:105). This attitude was reflected in the closer adherence to certain standards of policing (Meyer 1999; Omar 2006:8; Omar 2007 in Duncan, 2010:32). As stipulated in the Policy Document on Crowd management, SAPS had to carry out crowd management in a manner that complied with international standards while upholding democracy as stipulated in the Policy Document on Crowd Management. In addition there was the Regulations of Gatherings Act (205 of 1993) (which is still in use today) which clearly explained the legal course of protest. It said that the police department must be in communication with the protest organiser and organise a section four meeting. Notice of the protest needs to be given to the police department or relevant state department regarding the details of the protest seven days before the protest. An officer will then be put in charge and will chair a meeting with the leader of the protest. The officer will then discuss any issues with the demonstrations (For example, to discuss whether the protest has been banned.) At this time, the leader of the protest will then be able to appeal against the banning of the magistrate's court (Dawson, 2009:120).

The role of the police during protest is thus to ensure that their mandate and actions are in accordance with both the constitution and the Regulations of Gatherings Act (205 of 1993). In doing so they will ensure that the rights of the people affected by the protest are upheld. It therefore becomes a legal imperative and responsibility. It also illustrates transformation in the mandate of the police from one where brutality is used to put down protest to one that oversees and manages protest and demonstrations (Marks, 2000:150). It prescribed the use of minimal force, adherence to the constitution and appropriate methods to ensure that public order is upheld (Marks, 2000:152). Thus legislation such as this shows how the connotations of the terms used regarding the SAPS became more positive and reinforced the idea that the police unit was transformed into a more 'civilian-friendly' service purposed to maintain the safety and

security of the citizenry. One of the first important decisions made by the ANC was to establish a centralised political structure (a decision that was not in keeping with the political trend in the rest of the world). The reasoning behind this would have been to incorporate local governments which were excluded under Apartheid (Dawson, 2009:102).

This transformation is said to be based on the British police structure which called for a more community based approach to policing which was premised on 'goodwill' and 'support'. In the South African context, this was reinforced by the rights based constitution in the hope of establishing a non-violent and closer interaction between the police and the citizenry (Burger & Botha, 2011:1). The police therefore demilitarised in 1995 into a civilian police service (Defence Web, 2010:1). The transformation required a whole psychological shift where the police services had to redefine their relationship and conceptualisation of the citizenry. Principles were now based on respect and service to the nation. There was also a change in the nature of public policing. Initially such policing was characterised by force, no structured plans of action and was not governed by a specific policy. An important aspect in the restructuring of the police was the emphasis on the minimum use of force.

The excessive force used to maintain Apartheid called for a desperately needed new approach to the use of force. In terms of crowd control, the police were instructed to use 'minimum force' as the situation required and to act according to clearly defined protocol. After Apartheid, there was also a change in the nature of public policing. Initially under Apartheid such policing was characterised by force, no structured plans of action were in place and it was not governed by a specific policy. However, this changed after Apartheid (Marks, 2000:152). For example, police had the duty to give the crowd time to disperse in the case of an illegal gathering (Cawthra, 1993:186). The control of protests was left to three principle actors: the organisers, the police and the authorities of the state. These three would co-ordinate the event to avoid any unnecessary conflict and illegal gatherings. This is much like the Regulations of Gatherings Act that is in place today. In terms of weaponry, new instructions for the use of rubber bullets and teargas were established. Furthermore, police were only to be armed with handguns during demonstrations and if the situation escalated then heavily armed forces would be dispatched but only on the grounds that they exercise extreme caution and discretion (Cawthra, 1993:190). There was still a force which existed as part of the SAP that dealt with riot control. This unit was useful because it was a legitimately militarised force that was specifically trained in riot control and so could relieve pressure from both the army and the police. Essentially, past experience of such anti-riot units did not instil immediate confidence however, the potential existed for harmony between anti-riot units and community policing (Cawthra, 1993:199). As discussed there was a clear emphasis on community policing as it was regarded as necessary for a successful transition to democracy as well as to address the formerly 'diseased

police organisation' (Singh, 2008 in Marks & Wood, 2010:312).

These principles were all entrenched in the 'National Peace Accord' (NPA)¹¹ which stipulated how the police should operate. It asserts that the service of SAPS would be based on service that exercises restraint and uses minimum force. The NPA also contained a 'code of conduct' which directed the police toward behaviour that was aimed to "preserve the fundamental and constitutional rights of each individual in South Africa to secure the favour and approval of the public", the penalty of not adhering to this was dismissal. In terms of the change in legislature, employees within the police force were seen as more protected through certain labour relations acts, procedures and institutionalised unions. However, while a more democratic structure is presented here, the abuse of force and cases of corruption still existed (Marks, 2000:144). Such abuse of force and disciplinary issues therefore still occurred even though there are sufficient bodies in place to oversee police conduct and deal with complaints (Marks, 2000:144). Structurally the transformation of the SAPS also became more representative of the population with the first black Police Commissioner in 1999. In the early 90s, the majority of SAPS was white but by 1998, this had changed and the majority was now black (Marks, 2000:150).

Naturally organisational change is not a simple process and is motivated by a number of internal and external influences. It must have been difficult to institute change in an organisation that became accustomed to certain control and operational behaviour (Rippy, 1990 in Marks, 2000:2). The transformation of the police has been hindered by various factors. The first issue being that the police are more comfortable following a system that has been in operation for a while than having to become accustomed to a new order. Secondly the nature of 'cop culture' is based on a reliance on the existing order of society rather than disturbing it (Marks, 2010:14). The greatest difficulty in transforming the SAPS lay in addressing the entrenched police culture and trying to change it. This meant that issues of training, interaction with civilians, leadership and implementation of democratic principles and institutional and cultural reform were needed. The complex process of police transformation was also hindered by corruption, increasing levels of crime, poor relations between the public and police and the need for more resources and support (Marks, 2002:4). This obviously impacted negatively on the political will of the police in terms of being motivated to comply with the changes.

The end of Apartheid and the beginning of the ANC led government presented a very difficult period for the South African Police. The former liberation movement which they once understood as the enemy of the state now dished out the commands. In addition the police were now reporting to a new

¹¹ The National Peace Accord was agreed upon in September 2001 by different political parties. This accord recognised and established measures which would curb political violence ahead of the first democratic elections. In particular it focused on new directives of the police (United States Institute of Peace special report, 1993).

government. However, this was done without a new and crucial approach to training and reorientation. Therefore, the relationship between the police and the citizenry may have improved in terms of its new service-based approach but success was hindered by these shortcomings. This forms the background to 'democratic policing' that was the result of the development of policing after Apartheid. However as the democratic state progressed, these values and structural reformations in the police came undone by the promotion of a new policing culture and the transformation of the SAPS into the SAPS. Under the presidency of Mbeki, power was said to be more centralised and the reaction to political opposition was deemed harsh. In terms of the response to protest, independent social movements were suppressed and the use of excessive force to put down protest by the police became increasingly common (Duncan, 2010:2). Therefore the increasingly securitised response under Mbeki was evidence that a transformation of SAPS was possible.

3. THE REORGANISATION OF SAPS

By the time the incumbent President Zuma came into power, it was clear that there were new plans for the purpose and structure of the police. The period in which Zuma became president represented a time when police murders were the highest since Apartheid (Bruce, 2012b:8). This was exacerbated by a formal announcement at a meeting of police commissioners when Zuma said "SAPS is a police force and not a police service" (Burger, 2010 in Duncan, 2010:20). The formal remilitarisation of the police did happen quite hastily however, there were telling signs under the Mbeki administration that suggested a more heavy handed approach to policing protest. This response was echoed in the Zuma era when protest started to increase (Alexander, 2010:28). The actual increase in protest was first noticed from July 2004 with an increase in community and labour protests. Within this time frame, a link can certainly be made between the increase in protests and the increasingly common securitised response. The nature of protests (especially service delivery protests) is that while it aims to communicate with the government it also often succeeds in exposing the inadequacies of the state. Therefore by holding the state accountable in this manner, it undermines the legitimacy of the government in its ability to maintain the welfare of the citizenry and maintain some kind of unity within the state. With increasing cases of service and wage protests during the Mbeki era and more so in the Zuma era (Duncan, 2010), it is clear that force was recognised as the only way to prevent the citizenry from speaking out and undermining the sovereignty of the state.

Initially the response was diplomatic and efforts were made to engage with the protestors and address their grievances. However, after 2009, there was a more urgent response to the escalating protests as well as a more severe approach to addressing crime. This led to the introduction of the Tactical

Response Teams who were mandated to address crime and maintain public order (Bruce, 2012b:10). Duncan (2010:4) calls this the 'law and order' response where security becomes based on maintaining stability and ensuring that the law is upheld. One press article referred to the new conceptualisation of the police as the reintroduction of 'the fear factor' (Bruce, 2012b:10). The more publicised reason for the transformation of SAPS was the fact that a new approach to crime fighting was needed. Previously, crime was supposedly dealt with using a 'soft approach' that was altogether ineffective and therefore called for a more aggressive approach. However, structural transformation without addressing the root causes of the crime is not a solid approach to the problem and does not guarantee that the aims of the transformation will be met. Democratic Alliance (DA) Spokesperson, Dianne Kohler compared the latest transformation of the police to that of the police under Apartheid. In actual fact, this development would not help to alleviate crime levels because of the rise in cases of police brutality and civilian abuse (Defence Web, 2010:2). Former deputy Minister of Policing, Fikile Mbalula asserted that the aim of the transformation was to turn the police service into a "paramilitary force" which included the implementation of military ranks and the inclusion of forms of discipline (Defence Web, 2010:1). The remilitarisation of the police and focus on discipline has also been seen as an effort to curb corruption and incompetence (McMichael, 2012a:1). Furthermore, Mbalula also explained that the ranking of 'inspector' and 'superintendent' undermined the credibility of the police services (Defence Web, 2010:1). In favour of reverting to a paramilitary police force, Nathi Mthethwa argued that this structure would usher in 'military discipline' which would help to control the police in a manner that was last witnessed during Apartheid. This necessitated the change of rank to resemble a more paramilitary scheme.

In all fairness, there are some lessons of efficiency and discipline that can be adopted from Apartheid in terms of military discipline. As discussed above, the reason that the Apartheid government was able to suppress opposition so well was because it had the support of a disciplined security sector. From a state centric view, the remilitarisation of the police shows how stability and security can be protected. Unfortunately, this is done at the expense of freedom to protest and the ability to hold the government accountable for the services and welfare that it so promises. It also introduces a paradox in the way security is understood because, on the one hand, increased militarisation facilitates a more controlled society but on the other, it facilitates police brutality. So, when President Zuma came to power in 2009, there were changes in legislation which influenced the development of this more securitised society. The increasing securitisation of society reveals the importance of the security cluster to incumbent President Zuma, Duncan (2010:23) suggests that the reason for this may be to pre-empt any instability that undermined Mbeki's government. For example, he endorsed changes to Section 49 of the Criminal Procedure Act. Such amendments allowed the police greater power to use firearms, which is otherwise

unofficially known as the ‘Shoot-to-kill policy’. Ballard (2012:1) explains that a mere “physical tussle” between law enforcement officials and a suspect that occurs long after the crime would be the basis for the use of deadly force.

The abovementioned policy is premised on two principles: the principle of self- defence and the Section 49 of the Criminal Procedures Act (Bruce, 2010:8). In order for self- defence to be used as a justification, there must have been a clear and illegal attack on a person that could not be prevented. However, any defensive actions must be within reason and justification. However, this is not made clear in Section 49 of the Criminal Procedures Act and needs to be more detailed or explicit. Section 49 does not just define the extent of force to be used as ‘deadly’ but also includes ‘non- deadly force’. If a suspect is fleeing a crime scene, the necessary force should be used to prevent the suspect from escaping. In a report from the Institute for Security Studies on Policing 2011, Major General (Dr) Tertius Geldenhuys of the SAPS legal division said that the force used should be “necessary and proportional in the circumstances to overcome resistance” (Newham and Dissel, 2011:9).

This definition is problematic because it gives the police the power to fire shots at a suspect trying to flee the scene or at someone threatening the police or an officer trying to make an arrest (Geldenhuys, 2010 in Newham and Disell, 2010:9). More importantly it means that the policemen could shoot immediately *without* a warning shot (Marks *et al*, 2009:3). There has been widespread concern regarding this legislation because it allows the police to take the life of another on mere *suspicion* of a suspect (Farrell, 2011:1). The most urgent concern is the fact that the threat need not be immediate for force to be abused. Such legislation will only perpetuate the inappropriate and brutal behaviour of the police force. The reasoning behind this change was said to be part of the effort to tackle crime more seriously (Dawson, 2009:107). Such a policy has been perceived as ‘a return to Apartheid era brutality’ (Dawson, 2009:108) because as described above, Section 49 of the Criminal Procedure Act allows for the use of deadly force to affect an arrest. This explanation for the increasingly brutal behaviour of the SAPS was linked to the violent society within which they operate. In May 2011 (former National Commissioner of the SAPS) Bheki Cele asserted that “police officials are only a reflection of the violent society from which they (the police) come” (Cele, 2011 in Burger and Botha, 2011:1). Such a statement or such reasoning is expected to justify the actions of the police and legitimise violence or brutality as the only viable option. This achieves a problematic understanding of the role of the police in society as citizens within the country start to buy into this rhetoric. Questioning such brutality as inappropriate becomes unthinkable (Burger and Botha, 2011:1).

Solely attributing the response of the police as reactionary to the society within which it exists is not good enough. It falls short of acknowledging the ultimate role of the police which is to enforce and

uphold the law no matter what kind of society they operate in. They cannot merely reflect society. The police have an important influence in facilitating crime in society. Burger and Botha (2011:1) argue that once the SAPS identify and exemplify efficient and professional leadership then professionalism from the police can be expected. It calls for the police to lead by example and once the police force is able to demonstrate their adherence to the law, it will become normalised in society. Furthermore this could improve the credibility of the police force while improving the understanding and attitude that the public have toward the police. As they restructure themselves, the police narrative will also be transformed.

The reasoning behind the transition was explained as a response to the violent nature of crime. The language and discourse surrounding the police became more “aggressive” and representative of the securitised agenda. Marks *et al* (2009:4) calls this a “remilitarisation of police discourse”. This discourse now emphasises the need for authority to be asserted through force and brutality which are regarded as the most logical responses. This discourse is even perpetuated through the instructions given to police officers from high ranking officials. Former deputy minister Susan Shabangu went so far as to call for the police to “kill the bastards” if they formed a threat or danger to the community (Hosken, 2008:1). Furthermore, Mthethwa openly waged a ‘war’ on criminals in a press statement. This was made worse by a statement from firebrand politician Julius Malema whose response to the use of brute force was, “That’s very perfect. Shoot to kill - that’s what we need”. (Malema in Bruce, 2012b:11). As this demonstrates the dominant police narrative in South Africa now resounds with statements about police needing to assert their authority (Marks *et al*, 2009:4). It is further perpetuated by non-police actors like the media who make claims or who publicise or sensationalise South Africa’s high crime rates. This kind of discourse is embedded in political manifestos and the media which influences the citizenry to a certain extent. When the citizenry is bombarded with these quotes from officials in high positions, they also buy into the constructed threat and need for a more brutal police response to address instability and crime.

The discourse that defined Apartheid has been sustained by SAPS. During Apartheid, the discussion of policing showed that their purpose was to maintain the agenda of the dominant white power even if this condoned the use of force (Brogden and Shearing, 1993: 41). More recently, this discourse has reappeared in terms of how the militarised police force is still not protecting the welfare of the citizenry, but is instead maintaining the interests of the government. This was regarded as an important characteristic of the Zuma administration because this discourse was increasingly perpetuated by Mthethwa and Cele and other political leaders affiliated with Zuma (Bruce, 2012b:11). As was discussed in the previous chapter, this securitised culture is further maintained by the nature of political culture in South Africa. Mogapi (2011:121) refers to this as a ‘collective trauma’ from the brutal response to protest during Apartheid that constantly reemerges in highly charged political atmospheres seen during a protest.

This is further intensified by the conceptualisation of violence in South Africa as a means to ensure control and maintain order. Van Holdt (2011:12) says that, “In South Africa, it seems violence is a taken-for-granted social fact, rather than a phenomenon to be problematised”.

For example SAPS use the same training and response to managing crowds and mass movements which has been illustrated in the brutal response to protest in the past (Dawson, 2009:108). Therefore the issue of concern does not lie so much in the new amendment to the Criminal Procedure Act than it does with the standardised response to crime and protest. Against this background one cannot help but make a comparison to the response to protest under the Apartheid government or question the legitimacy of the response given the fact that protest was an important means which was used to communicate with the Apartheid government. In fact the opposition party to the ANC, the DA has referred to the transition as reverting to “Apartheid era ranks” (Defence Web, 2010:1). This undermines the democratic endeavours of the state as well as the historical legacy of fighting for equality and rights which characterised the ‘struggle movement’. To attest to this, a former anti- Apartheid activist even said “we spent days and days in 1991 to get away from the idea of a militarised police force...” (Asmal quoted in Defence Web, 2010:1). Even though efforts have been made at transforming SAPS, it is clear that the highly politicised nature of the police force still remains (Burger and Botha, 2011:1). The most glaring example of this is the fact that the relationship between the public and the police resembles that of the relationship between the police and those that opposed Apartheid before 1994.

3.1 The relationship between the police and citizens in post Apartheid South Africa

During the transition to democracy, a new relationship was established between citizens and the police, the aim of which was to restore faith in the police force so that their authority became based on cooperation of citizens and not the coercion of the police (Cawthra, 1993:16). As was discussed above, this was somewhat achieved with the transformation of the police force after Apartheid into a more community based police service. This power dynamic changed once the police force reverted back to its paramilitary scheme. The view of the police by the citizenry is largely based on its evaluation or understanding of the citizenry. Ideally it is more favourable in a democracy where policing takes on democratic values and standards which then facilitate a more community or civilian based approach (Cawthra, 1993:162). However the call for more aggressive policing has blurred the relationship between the police and the citizenry. The ideal mandate of the police to uphold order and maintain the security of the citizens is becoming more and more invisible. It might even be possible to suggest that the role of the police has changed completely with unclear referent objects of security because the police have proven to be a threat. Since the restructuring of the police force in 2009 the complaints to the Independent Complaints Directorate against police brutality have increased from 255 to 920 (Southey, 2012:12). This

will be discussed further in more detail.

Thus the question arises as to who the actual guardians of security are. Security here is not defined in terms of state security but in terms of the security of the citizens or human security. However, in light of the militarised police operating under a securitised agenda, this *raison d'être* of the state becomes problematised which calls for a rethinking of the South African state. It is ironic that the state effectively delegitimises its own power through its lack of control over its security sector as normally the police are viewed as a way in which the state can build up its forces under the guise of maintaining the order and stability of the state (Foucault, 2007:314). This is relevant because it ties in with the securitisation taking place in South Africa. Securitisation of society allows the state to take extra-ordinary measures to dispel a threat to the stability and security of the state (Buzan *et al*, 1998:23). However, this allows the state absolute power to define threats according to what may potentially undermine its legitimacy. Once the threat has been defined it calls for immediate action which in the South African context, resulted in a highly securitised atmosphere where a more brutal manner of policing was seen as necessary. As mentioned, there needs to be a state-centric definition of a threat which in this case was the 'protestors'. Protestors are often criminalised in what Mogapi (2011:128) calls 'splitting'. This phenomenon refers to the divide that is created between 'perpetrators' and 'victims', whereby perpetrators are treated as criminals and face police brutality. The protestors are immediately labelled as perpetrators even though they are not different from victims. This would be apparent if their cause was interrogated because it would then be made clear that generally protestors come from a poorer socio-economic class (Bruce, 2009 in Mogapi, 2011:128). This idea of delegitimising protestors to the point that they have to exist within the realm of 'perpetrators' illustrates that the relationship between the police and citizens is one that is characterised by violence (Burger & Botha, 2011:1).

Klockars (1996:6) explains that citizens define police brutality as different from excessive force in that it refers to treatment which directly infringes on the rights and democratic liberties afforded to citizens to the extent that such behaviour is construed as abuse. Such a definition is important as it allows the actions of the police to be acknowledged as illegal. Chris McMichael (2012a:1) explains that since 2010, the treatment of the public by the police has been characterised by a kind of "war on the public". The use of lethal force has been legitimised in the name of security and therefore dangerous criminals are seen as the main targets. However, it is also clear that victims of deadly force are mainly those that are "politically and socially marginal" (Bruce, 2010:5). This is seen in the response to protest where those that are protesting are from poorer sectors of society, exist outside the realm of a protected citizen and, as a result the security afforded to legitimate citizens is not extended to them. Bruce (2010:7) argues that this reintroduces the classification of 'first and second class citizens' as was seen during Apartheid where

excluded citizens are regarded as 'second class citizen'. If such police brutality was directed at the upper echelons of society, it would certainly be met with more urgent prevention and investigation. Police brutality is not an isolated social problem but reveals another important issue, that of the entrenched class and economic inequality in South Africa. This inequality feeds into a vicious cycle where poorer citizens protest in demand of promised or improved goods and services. This leads to their protest being crushed with a violent police response which, in turn, perpetuates their unequal treatment in society. This is also made visible by the response of the citizenry who mostly buy into the protective mandate of the police and see their actions as legitimate. When they are confronted with the reality of the results of excessive force used by the police, Gilmore (2013:7) argues that "mass amnesia" is the only way the rest of the citizenry can cope. In other words, a brief moment of horror and ridicule is followed by a more sustained period of indifference.

It is therefore clear that a division exists within the citizenry that is perpetuated by the government's unequal treatment which is contradictory to a democracy because *ideally* "democracy requires that policing embody the principle that all are citizens" (Bruce, 2010:43). The treatment of the police of a particular sector of the citizenry illustrates that not all citizens have an equal status and do not enjoy the same rights. In support of this Lipsky in Della Porta and Diani (1999:251) argues that there are certain sectors of the population in a state that exist on the outskirts and are thus left out of the political realm. In fact, Bruce (2012b:8) states that the majority of the perpetrators targeted by the police are marginalised young working class men. This ties in with Chatterjee's distinction between civil society and political society, the latter of which is reserved for the poorer sector of society. Chatterjee (2004:37) identified two ways in which states interacted with people in the country. The first connection is through civil society and the other is known as political society and it is here that people are connected to the state in terms of its ability to provide welfare and security. Instead civil society is regarded as an administrative and technical space more accessible to the middle class (Chatterjee, 2004:60). However, political society contains those groups of the citizenry that do not legally enjoy the rights of those that exist in civil society. The legality is problematic because these poorer sections of society violate the law in order to survive in a state where their interests are clearly neglected and are thus delegitimised. This may explain why this excluded section of the citizenry needs to express their grievances through other means such as independent protest and not through another channel situated within what is formally recognised as civil society. Furthermore since they do not enjoy the rights of citizens, they are not privy to the protection of the state and are subject to the blatant abuse from the police.

3.2 Statistics and cases which illustrate police brutality

According to Mzwandile Petros, Gauteng's police commissioner, there have been one thousand

policemen arrested over the last three years (Mzwandile in Sapa, 2013:1). This abuse is demonstrated by looking at the recent statistics from the Independent Police Investigations Directorate (IPID) and the Independent Complaints Directorate (ICD) which reports on the number of deaths caused by the police directly or in custody and provides empirical examples which support these statistics. The ICD has also evaluated cases and complaints in which criminal offences have been committed by the police. While the ICD has sufficient data which illustrates misdemeanours of the police and cases of police brutality, there may be other incidents which have never been recorded (Bruce, 2002:6). Possible reasons for this may be police intimidation or the inconvenient and laborious process of laying a complaint. Therefore there is no complete source of information which accurately represents the cases of police brutality and the ICD data should rather be seen as ‘indicators’. Nevertheless the ICD is regarded as the most reliable source (Bruce, 2002:7).

In 2009/2010, the ICD report showed a 285% increase in the complaints regarding criminal acts of the police (Burger and Botha, 2011:1). The following statistics portray a total number of deaths in police custody and deaths as a result of police action. In 2009/2010, 860 deaths had occurred in police custody and as a result of police action (ICD Report 2009/2010 , 2011:45) In 2010/2011, there were 797 deaths in police custody and a result of police action (ICD Report 2010/2011, 2011:45). In the report which looked at 2012/2013, the IPID showed that there were 706 deaths in police custody and a result of police action. This report did not include the death of the Marikana miners (IPID Report 2012/2013, 2013:33).

In support of the abovementioned statistics there is also empirical evidence such as footage which shows the police brutally abusing people. These attacks do not suggest that it is self-defence. According to Teboho Mosikili, the director of litigation at the Socio-Economic Rights Institute of South Africa (Seri), a clear pattern has emerged regarding activists where “police first shot and asked questions later” (Mosikili in Evans, 2013b:1). There is also a definite correlation between service delivery protests and increased police brutality. The spokesperson for the ICD, Moses Dlamini supported this by saying that police brutality “were influenced by factors such as increased encounters between police and suspects and service delivery protests” (Hosken, 2011:1). This is seen with several recent incidents of brutal police response to protest. An example of this is seen with the response of the police to the protest by the Gugulethu Anti-Eviction Campaign. In October 2009, police shot at residents (comprising mainly women and children) without warning which resulted in many injuries and arrests and even attempts to illegally ban the protest (Gugulethu AEC Press Alert, 2009:1). This clearly illustrates the police’s complete disregard for the law that they are meant to uphold and also demonstrates the implications of critiquing the government.

Another incident which attests to this police brutality against both protestors and members of the

media took place during a service delivery protest in Khayelitsha in 2009. Here, policemen fired rubber bullets at both peaceful protestors and members of the Cape Argus (after having identified themselves as part of the press), again without any warning (Solomons, 2009:1). This case presents yet another where the police's attack was said to be unprovoked and is thus difficult to prove that these actions were in self-defence (which legitimises the actions in accordance with the amendment to Section 49 of the Criminal Procedures Act). While every case of police brutality is unique in its experience and grievance, they are not all given equal attention. Some particularly brutal actions of the police gain extensive coverage in the media and command the appropriate brief uproar from the public but are soon forgotten until the next incident. Such an iconic case was that of Andries Tatane who was beaten to death by policemen in public during a service delivery protest in Ficksburg on April 13, 2011 (Bruce, 2012a:1). This case was particularly important because it clearly illustrated the sheer and undeniable brutality of police action on record and showed the world how Tatane was not armed yet he was bludgeoned to death. The 'self defence' argument is therefore incompatible with the proceedings because the force used to kill Tatane could not be compared to the force that Tatane used (Bruce, 2012b: 18).

By reviewing these statistics and cases it becomes difficult to justify the remilitarisation of the police according to the reasoning that was provided. If anything, it presupposes the justification of an increase in the death toll of civilians in order to decrease the crime rate. This not only contradicts the role of the police but also delegitimises the state as the purveyor of welfare and security in society. Such figures and statistics reflect the fact that these are not 'isolated incidents' as may be suggested by public officials when explaining these acts of brutality. Such behaviour by the police brings the law of the land into disrepute. "Police who consciously abuse their power become criminals in the process (Southey, 2012:12). This repression can clearly be seen in the brutal response of the police when putting down protests. It can also be seen through the police repression which acts as a deterrent against popular participation. It fosters a culture of fear and undermines the democratic liberties that are entrenched in our constitution. Inadequate policing can actually facilitate the transition from a peaceful protest into a violent protest (Mogapi, 2011:136). Naturally if people know that there is a risk that they might be beaten or arrested, they might refrain from protest. This sentiment is supported by the chairperson of the Landless People's Movement who said that "...some people are scared of prison...when they think of the repression of the police they just decide to stay at home with their poverty..." (Minisi, 2009 in Dawson, 2009:119).

There are various examples in South Africa of police brutality against protestors, each one demanding its own respect, value and purpose. In a study of community protest conducted by the Centre for the Study of Violence and Reconciliation, it was shown that the police response to protest was characterised by force and the use of rubber bullets, tear gas as well as physical assault (Von Holdt,

2011:31). At the time of writing this chapter, the incident gaining the most publicity occurred at the Lonmin Mines in August 2012 otherwise known as the 'Marikana Massacre'. Here 34 miners were gunned down by the police who used violence to disperse the crowds and end the gathering. An unfortunate and common consequence of such incidents is that the protestors are delegitimised during the protest which necessitates the brutal response of the police. Their story or 'struggle' also becomes depoliticised and ultimately delegitimised. This is achieved by the media and the government who end up distracting from the main issue of concern. In this case it was the fact that the police killed strikers that 'did not want to disperse', thereby making a sadistic case for 'self-defence'. McMichael (2012a:1) argues that such a sentiment immediately presupposes that the state is justified in choosing defence over the lives of its own citizens.

The brutal response to this protest was not unthinkable or unimaginable. In fact one could go so far as to suggest that it was premeditated or rather that it was expected when taking note of the weaponry amassed by the police. According to McMichael (2012a:1), there were not only helicopters and horses but also water cannons, body armour, barbed wire, rubber bullets, teargas and R5 rifles. The miners did not stand a chance. With such militarised and extraordinary measures, it immediately established a highly securitised environment where the police are given free reign to establish order and stability at any cost. Because of the existing form of response to protest, this type of action from police was hardly unpredictable. In other words it simply illustrated the 'shoot-to-kill' concept introduced by the securitised agenda of the government. This idea was made explicit and, as a result, the government normalises its concept. The actions of the police illustrate that public order has become synonymous with securitisation. It has just been embedded in the discourse of securitisation which, in turn, legitimises these actions by explaining that it maintains the welfare of the citizenry.

However, this is problematic because clearly the police are forming a threat to the security that they are supposed to be protecting. In an article entitled, *Help the cops are coming!*, journalist Caroline Southey (2012:12) explained that the behaviour of the police can be likened to that of "violent criminals" which further magnifies the incongruity surrounding the purpose for the remilitarisation of the police which was to address violent crime. This is made worse by other misdemeanours of the police such as the corruption of crime statistics, the murder of suspects by the police before arrests are made and the rape or molestation of women (Southey, 2012:12). Another way in which the actions of the police are understood is by looking at how their authority could be seen to be undermined by protest. When protestors challenge the authority of the state, the police (who are inextricably linked to the state) view this as a threat to their command. This idea is supported by the view police have that protestors are "the third force". This creates the impression that the police need to therefore secure their power by asserting their authority through the

use of excessive force (Von Holdt, 2011:31).

During Apartheid, protest was understood or situated within a specific discourse which viewed protest movements against the state as a threat to stability, order and ultimately security. Marks (2000:149) describes how protest was dealt with in a paramilitary nature with heavy arms and the extensive use of force. It has even been suggested that clear discrepancies exist between the way the police respond to protest from the tripartite alliance groups and protestors which exist outside of this group. Such actions dispel any legitimising myths that the police act as an apolitical institution. This is illustrated by looking at the lax response to the strike by the Metro Police in Durban, where threats were made to “burn down the city hall” and where clear potential violations of the law were taking place. The response was a mere “warning of disciplinary action” (McMichael, 2012a:2). The right to demonstrate is as fundamental a right of democratic citizenship as the right to participate in political campaign is. The purpose of the a demonstration is at the core of free expression in a democracy. One of the central responsibilities of the police is to facilitate the right to demonstrate (Heymann, 1992: ix in Marks, 2000:150). The mandate of the police during protest should be determined by the Regulations of Gatherings Act (205 of 1993) as well as the rights stipulated in the Constitution which highlight freedom of expression as well as to engage in peaceful protest and demonstrations. However while guidelines on how to police protest are made clear in this legislation, SAPS have been accused of not adhering to this and dealing with protest inappropriately. For example, there have been cases where essentially illegal blanket bans have been imposed on protests. This undermines the authority of the municipalities and their role in facilitating and authorising protests as (Duncan, 2010:23). This will be discussed further in the chapter.

As a result different approaches, training and equipment are needed. The incident at Lonmin has shown that there is a deep rooted problem with lack of training. Security analysts have called this: “a poor training regime” where the preoccupation with the use of maximum force has become the focus of public order policing. Negotiation and calls for cooperation have now been replaced by a more aggressive and brutal response (McMichael, 2012a:2). Bruce in Southey (2012:12) says that lethal force can be controlled if the leadership of the police ensure that their fellow officers commit to acceptable standards of policing. However, such quality leadership is absent within SAPS. This was seen by the response of former Police Commissioner Bheki Cele to the use of force. ‘General’ Cele issued commands to use “maximum force” and “fight fire with fire”, not only does this weaken the trust of the public but it also undermines the entire democratic project of the state and contradicts the rights entrenched in the constitution (Farrell, 2011:1).

Against this background it is clear that there is inadequate leadership and that the police culture has developed into a raucous mercenary type of policing that manages to evade accountability and

responsibility (Southey, 2012:12). It is clear that the current policy of the police is in desperate need of change as it no longer addresses the real threats to the stability of the state. In support of this Marks *et al* (2009:7) say that the police have no direction and the relationship between the police and citizens is getting worse. Therefore even though efforts have been made at transforming SAPS, it is clear that the highly politicised nature of the police force still remains (Burger & Botha, 2011:1). The most glaring example of this is the fact that the relationship between the protestors and the police resembles that of the relationship between the police and those that opposed Apartheid. The response of the Apartheid state was based on the unapologetically authoritarian white state attempting to put down potential mutiny. In today's context, it is a 'democratic' state using a similar kind of violence to put down dissent (McMichael, 2012d: 4). It is clear that the current policy of the police is in desperate need of change as its ability to address the real security needs in the state is undermined. In support of this, Marks *et al* (2009:7) says that the police have no direction and the relationship between the police and citizens is growing worse. In terms of the response to protest, it is clear that the securitised approach of the police illustrates how protest is made apolitical because it is treated as just another 'security issue'. This magnifies a larger problem where the government focuses on a policy of containment rather than addressing the underlying causes of protest (McMichael, 2012c:2).

The restructuring of the police services into a police force has the potential to undermine the value of its former role as a community based institution. Their newly defined paramilitary role would stand in contrast to the former which served its community (Faull and Newham 2010; Burger 2010 in Duncan, 2010:21). This concern is echoed by the Police and Prisons Civil Rights Union (POPCRU) who explained that they were not aware of the change. Therefore POPCRU refused to support the restructuring on the grounds that the change creates the idea that the police are merely viewed as an extension of the military. Quite aptly, the union foresaw the brutal police culture that would manifest because the officers were no longer serving the interest and welfare of the community (POPCRU 2010 in Duncan, 2010:21). This change in culture and attitude of the police force is captured in a statement in Jane Duncan's paper which read that, "if the militarisation of the police fuels alienation from communities, then it could be anticipated that police brutality against activists may intensify too" (2010:21). The brutality against activists or social movements is not merely about how it hinders popular participation by deterring people or criminalising protest but it also takes away from the other crucial issue at hand which is contained in the initial reason for the protest. In other words, the brutality of the police also becomes a problem because it detracts from the urgent socio-economic issues (McMichael, 2012b:2).

Unfortunately the concept of excessive use of force by the police is not just sold by the government but there is also widespread support within the citizenry who have clearly had no experience

of police brutality. Many citizens have unconditionally and automatically surrendered their trust in the legitimacy of the police based on their role as enforcers of the law and an extension of the state. This explains why not enough pressure has been placed on government to redress the amendment to Section 49 of the Criminals Procedures Act, in particular the use of deadly force. A significant section of the public has thus bought into the securitisation of society. McMichael (2012b:1) talks about this when he discusses the now disbanded organised crime unit in Cato Manor, Durban otherwise known as the 'Cato Manor death squad'. The thirty accused policemen from Durban have been supported publically both financially and through social networking sites like Facebook. Although the abovementioned unit was suspected of being responsible for 51 deaths and faced 116 charges of racketeering, housebreaking, illegal possession of firearms and theft (to name a few), they were still referred to as "heroic officers" and are believed to be being punished for upholding justice (iolnews, 2012:1).

4. CONCLUSION

State security in South Africa is becoming deadly and is illustrated by far too many examples. This section has discussed how militarisation has taken place under the guise of transformation. Transformation implies that there has been some change or improvement in the style of policing however, this is not the case and it should in fact be described as regression. By examining the police under Apartheid in the first section of the paper, it is clear that South Africa has come full circle in its response to protest. This serves to undermine the quality of democracy within the South African state if the police force poses a risk to the maintenance of democratic values. As discussed above, the impact that police brutality has on popular participation not only deters citizens from exercising their freedom to protest and hold the government accountable but it also makes protests apolitical. The focus becomes the action of the police and not the underlying issues which have caused people to take to the streets. Furthermore it contributes to a culture of violence whereby the security sector which is charged with curbing violence has lost its credibility to do so. It requires urgent attention, and not just as part of political campaigns by the incumbent administration and its rival parties. The current government is familiar with protest as a means to communicate grievances because protest was an important tool used in the struggle against Apartheid, therefore it is both ironic and perplexing that it is dismissed with such brutality by the police today.

An equally distressing point is how this police brutality is becoming normalised in society. This is because the actions of the police are legitimised by the citizenry who identify with this common threat that is constructed by the state and trade their compliance for protection in a social contract that only exists for a certain section of the population. As mentioned at the beginning of the chapter, the police are indeed "the most public face of the state". In the South African context, the militarised police are therefore a

manifestation of the inherently oppressive government that exists. The securitised measures taken by the government are executed and enforced by the police, the institution of the police acts as the vehicle to institute the policies which are ultimately in place to maintain the status quo which is shrouded in the farce of a unified democratic nation. As will be discussed in the next chapter, it is here that the increasing discontent conveyed through protest, unravels the farce.

CHAPTER FIVE:

UNDERSTANDING SECURITISATION IN THE CRISIS OF NATION BUILDING

1. INTRODUCTION

The Minister of State Security recently made a statement regarding plans to deal with protest in South Africa. Minister Siyabonga Cwele warned that,

The whole security cluster is increasing its capacity to focus on this scourge. We now have a plan and are ready to deploy the full capacity of the democratic state to identify, prevent or arrest and swiftly prosecute those who undermine our Bill of Rights by engaging in acts of violence (Cwele in Patel, 2013:1).

One could therefore see that protest, a Constitutional right, has become a matter of state security and protestors, while also citizens, are thus becoming defined as a threat to the state. It is clear that the response of the state to protest is becoming increasingly ‘securitised’; this is seen in both the physical response of the police to protest as well as procedural means of frustrating the right to protest. The physical aspect has been looked at in the previous chapter which discussed the impact of the restructuring of the police force and this chapter will build on that analysis by looking at how the use of force by the police perpetuates violence during protests and gatherings. The procedural aspect will examine the Regulations of Gatherings Act (1993) and how the misinterpretation and incorrect application of the Act frustrates the right to protest. The data from interviews conducted provides the evidence which highlights the different ways in which prohibition or violent police response has taken place in different South

African communities. This chapter will first discuss interviews with activists in Thembelihle in Johannesburg, and Khayelitsha in Cape Town. These interviews also illustrate the link that exists between prohibition of protest and violent protests. The experiences of The Right to Know campaign, the Soweto Electricity Crisis Committee, the Bafokeng Landbuyers' Association, the Landless People's Movement (Johannesburg), The Schubart and Kruger Residents' Committee in Pretoria and the community of Rooigrond just outside of Mafikeng will also be used to provide examples of how legislation has been fabricated or misused to prohibit protest.

The framework provided by critical security studies and securitisation provides an understanding of what the government is doing, why it is doing this and how it is able to legitimate its actions. It provides the lens through which these events can be assessed. This securitisation of society also has an effect on the nature of protest. This chapter concludes that evidence indicates that there is a link between the prohibition of protest and increasingly violent protests within communities which results in a more securitised response of the security sector. A cycle of violence is therefore created and sustained by the government.

2. SECURITISATION IN THEORY

Security is a subjective construct. This means that it is based on the well-being and safety of the referent object of security. When looking at security from a statist perspective, it is in the interest of the state to construct security in a manner that will ensure its own stability and that of its citizens. This is a more active process as an issue becomes one of security through a 'speech act'. In other words when someone or something is described as a threat to security (Wæver, 2004:13 in Taureck, 2006:54). Language is therefore very important as securitisation relies on a spoken or written context (McDonald, 2008:11). However, securitisation does not solely rely on speech acts, the context is also very important. Contexts provide the 'facilitating condition' which refers to any developments or events that enable the securitisation of society. Along with contexts McDonald (2008:3) argues that there are other sensory triggers needed to establish a threat. For example, this may take the form of the media and, in the South African context, we see this in the form of legislation which will be discussed further.

Once the potential threat has been established, the state organ or actor that has made the claim is able to legitimise any extraordinary measures by relating to the protection of the object of security. This results in a high politicisation of events contained within the sphere of 'emergency politics'. In this realm the action taken exists outside the norms established by policies (Taureck, 2006:54). Securitisation therefore calls for extraordinary measures. The deviation from democratically instituted policies allows the constitution to be undermined. Furthermore, since it takes place outside of 'everyday politics', it

presumes that these protests are not part of the political. The political realm then becomes a construct which does not include popular participation.

Effective securitisation takes place in three steps: first, as discussed above, the threat needs to be identified and acknowledged as such. In order for securitisation to come into practice it needs to be convincingly sold to a target. This audience needs to be convinced that the constructed threat is detrimental to their interests and that the only solution to maintain stability and order is to institute urgent policies (Balzacq, 2005:73 in Watson, 2011:3). However, as will be discussed, this target does not include the entire citizenry. In other words it only protects the interests of a few who can afford to have their interests maintained. The state therefore plays an active role in convincing the citizenry of the threat. There is a spatial time element in that the moment a situation is securitised, certain problems *immediately* turn into threats (McDonald, 2008:23). Next, urgent action is taken followed by an urgent response which often does not comply with the norms and rules that have already been established and practiced within society (Buzan *et al*, 1998:6). While the effects of securitisation are often marketed as positive and beneficial, it essentially contradicts the values and norms established in a democratic system. As Wæver (1998) argues ‘security’ is a hindrance to democracies because it operates under the guise of ‘defence’ which essentially undermines the principles and practices of democracy. For example, within the securitised state, the police are given a great deal of authority to both address crime and prevent instability (Duncan, 2013:2).

As mentioned earlier, in the study of security it is important to consider the context carefully and how it affects how security is articulated. Different communities might define security differently since it has mainly been associated with a ‘speech act’. According to McDonald (2008:5), those who are marginalized who do not have their security issues taken seriously. Along the same line of argument, Wæver (1995:57) in McDonald (2008:6) argues that security is only seriously established by elites and that those ‘lower down’ in society are excluded. This sometimes reduces them to ‘an audience’ whose main task is to consent; they are therefore regarded as “passive recipients of elite discourses”. Securitisation is state centric as political theory and international relations theory usually establish the state as the legitimate organ to provide answers to problems within its borders. Therefore citizens are meant to entrust the state with their safety and well- being. If this is not done then their security is said to have been undermined (Soyak, 1999:11; Nyers, 2006: xi in Watson, 2011:10). Furthermore, the nature of security is said to work easily as a power tool for the elites to maintain their own interests, they are able to do this because they have access to the resources needed to define security (Wæver, 1995:4-5 in McDonald, 2008: 7).

According to Buzan (1998:123) those that wield the most power in government are strengthened

by the ‘protection’ or ‘securitisation’ of sovereignty and the state. Therefore securitisation makes clearer and reinscribes the inequality in society whereby some are entitled to the benefits of emergency security measures and some are not. Duncan (2013:1) argues that the negative impact of securitisation is that nothing is really achieved because it allows the government to criminalize a sector of the population as soon as they are successfully established as threats. This is the phenomenon witnessed in South Africa where the state has managed to criminalize protestors and delegitimize their cause. Buur identifies a connection between “developmental contestations and criminalisation” (2007:25) whereby the maintenance of order in a state is left to the police in cases where the state has complete control of the ‘political’ (Preuss, 1999:161 in Buur, Jensen and Stepputat (2007: 25). Therefore ‘criminals’ are identified and become threats in the realm of securitisation via bureaucratic authority that has the power to legitimize and disqualify certain actions. This will be demonstrated in the South African context. The South African example has demonstrated a government that is trying to stabilize the country through securitisation which has established a network of ‘securocrats’ who are becoming increasingly repressive (Duncan, 2012:3)

3. SECURITISATION IN SOUTH AFRICA

Zibechi (2010) argues that the state response to social movements can either take two forms, the first and more viable option is repression and the second, supposedly unsuccessful one, is to encourage voluntary submission. Both are clearly seen in the South African context. Repression is seen in the direct means used by the police, extending up to the excessive use of deadly force, to put down protest. Attempts to encourage voluntary submission can be identified in the procedural efforts of South African state organs to frustrate the right to protest through procedural limitations. There has been an increasing trend for municipalities to abuse the Regulations of Gatherings Act to prohibit protests and presume that people that are protesting are unaware of their rights. Sometimes both these techniques are used together in a greater attempt to criminalise the protestors and prevent them from marching. In a report which tracked the prohibition of protest in 2011 and 2012, Dale McKinley of the Right to Know campaign attested to this and also identified a specific geographical pattern claiming that communities not operating within the cities and concentrated in the areas away from the city were more likely to face police brutality. The general conclusion was that communities such as, Thembelihle which is an urban shack settlement but seen as outside of elite space, is more likely to face police brutality than those in the cities. This may be because there is greater access to the media and legal counsel to report cases of police brutality. This idea of citizens being confined to a specific excluded space will be discussed further on in the chapter.

The experiences of activists from the community in Thembelihle which is located in the South of

Johannesburg, clearly exemplify such repression both in the form of violence and procedural prohibitions. In an interview Bhayiza Maya, the leader of the Thembelihle Crisis Committee, explained the events of one of the more ‘iconic’ protests in Thembelihle, which resulted in the arrest of fourteen committee members who became known as the ‘Thembelihle 14’. The protest, held in 2012, was one of the larger protests and numbered around 10 000 members of the community who were dissatisfied with issues of service delivery and housing. Following procedure, this group took their memorandum of grievances to the Ward Councilor. Initially these members of the community were assured that their concerns would be addressed by February. However, by August nothing had been addressed and there was no communication from the municipality. They re-visited the issues with the municipality but there was still no response after seven days. With no answer from the municipality they decided to go ahead with what would be an illegal march. Maya says that the frustrated community members decided to use “the only language understood by the state – protest”. During the protest some members of the community, including Maya, were arrested. Thapelo Tselapedi, a researcher from the Socio-Economic Research Institute (Seri), attested to the violent response of the police stating that people were shot in their shacks. In an interview with Tselapedi, he said that people were also handcuffed and made to lie on the ground, some were shot in the back and threats of arrest were made if another such protest was to reoccur.

On the other hand, Tselapedi says, the protest was described as uncontrollable. In response to this Maya says that some of the community members were extremely frustrated with the situation. The experience of the community of Thembelihle forms part of a larger trend in increasingly violent protests. Between the period of 1 April to 10 May in 2013, 560 protests have taken place in Gauteng alone, 40 of the 560 were classified as violent (Patel, 2013:1). There is an obvious cause and effect relationship that exists between the procedural prohibition of protest and increasingly violent protests. The frustration of the right to protest once communities have followed protocol pre-empts the criminalisation of protestors and gives police the legitimacy to put down protests once they reach boiling point.

Mncedisi Twalo of the Anti-Eviction Campaign (AEC) in Cape Town said that, “Communities that are protesting lose patience when they are not allowed to protest. There is no way for them to voice their grievances and that is when protests are becoming violent”. The AEC in Cape Town is familiar with this situation seen when community members of Khayelitsha in Cape Town attempted to meet with the mayor over issues regarding the increasing numbers of fires which destroyed shacks. However, fifteen minutes before the start of the meeting, the mayor postponed (after members of other communities had also mobilized). A notification of gathering was then made to the city of Cape Town as community members wanted to make their grievances heard. However, this was rejected and the march disallowed. No reason was given as to why it had been prohibited. The people then chose to march within

their community which defeated the purpose of gaining attention to their cause. Such tactics fuel the frustration of protesting communities which eventually manifests in violent protests which, in turn calls for police intervention.

Recent statements by government officials do not seem to recognise this aspect of the problem at all, and instead call for an even harsher approach to dealing with the problem while taking no notice of its inherent cause. The Presidency has voiced its concern regarding ‘violent protests’ and is working toward placing more emphasis on ‘intelligence gathering’ in order to anticipate violent protests (Cwele in Makinana, 2013:1). Such a securitised response of the state was formerly called for in the 2009 State of the Nation address when President Zuma urged the security sector to “restore the authority of the state” (Cwele in Patel, 2013:1). In this context, the protestors have been referred to as ‘perpetrators’ thereby surrounding them in a discourse which immediately criminalises them. The discussion of the protests as ‘violent’ is also problematic because it puts forward a destructive description which adds to the idea that there is a threat that calls for extraordinary measures.

Sometimes legislation has even become a tool of securitisation in South Africa. Such a response becomes normalised and accepted as part of the responsibilities of the state (Watson, 2011:8). Buur (2007:24) writes that

Social movements and campaigns contesting the ANC government’s social and economic policies have had to adapt to the new democratic dispensation, in which a new set of acts and regulations aimed at reforming repressive apartheid legislation on public gatherings soon demonstrated that even the most comprehensive, human rights sensitive Constitution provides the state with potentially powerful tools for curbing public dissent.

As a result, officials begin to abuse their power by interpreting the act in a manner that completely disregards the protestors. In an interview with Bongani Xezwi from Seri said that, “It is a common practice for officials to prohibit marches at the last minute”. This was specifically seen with a branch of the Landless Peoples’ Movement (LPM) in Johannesburg who at the beginning of 2012, had planned to march to the mayor’s office regarding a vote of no confidence against a local councilor who the community felt was not capable of representing their interest. The LPM followed procedure according to the RGA and the notification of the march was initially approved. However, a day before the march could take place the organisers were verbally informed by officials that the march was no longer permitted. This despite the fact that notice of this kind can only be given seven days before the march. Bongani described this as a highly frustrating experience as by this stage, communities had already mobilised people and made arrangements for people to meet and march. However, they were unable to embark on a protected and legal march. There have also been cases where the Regulation of Gatherings Act has been severely misinterpreted to ensure the interests of the government or powerful elites. According to Duncan

(2010b:112), the misuse of the Regulation of Gatherings Act became more visible when former President Mbeki was in power. Perhaps this can be explained by the fact that during Mbeki's presidency, political dissidence was largely suppressed and subject to 'centralised power'. Protests were indeed prohibited and put down through the use of force (Duncan, 2010a:2). The abuse of the Regulation of Gatherings Act has been extended to illegally banning marches over a period of time or in a specific place, an act which is in total contravention of the actual content of the RGA.

Since 2010, SAPS and municipalities have worked to place blanket bans on protest. However, this should not be legally permitted as each protest that is prohibited needs a specific reason and should be treated as a separate case (Duncan, 2010a:13). In March 2011, a memorandum was sent from the Community Safety Department in Tshwane to all regional directors to issue a directive to prohibit all marching in Tshwane, under the Regulation of Gatherings Act. The reason for the ban was "due to the numerous 'problems' occurring during marches" (NJJaca-Deputy Chief Pro-Active policing, 2011). According to Duncan (2010a:13), a blanket ban on marches is only permitted during a 'state of emergency'¹². However, blanket bans have occurred outside of this context. In Pretoria in 2012, a year after the abovementioned, a command was issued to prohibit marches again. According to Mashao Chauke a member of the Schubart and Kruger Park Residents' Committee in Pretoria, the organisation was unhappy with evictions that had left people without homes. Only two cases of evictions had been dealt with and the community wanted answers from the mayor. They presented him with a memorandum of grievances. However, permission was not granted and the city of Tshwane explained that no march was permitted for that period because there were already too many marches taking place in the capital city. No specific reason pertaining to the Schubart and Kruger Park Residents Committee was given and the community eventually went ahead with what was now termed an illegal march. In his interview Chauke explained that the denial of permission to march was common for the Schubart and Kruger Park Residents' Committee. He said that:

The predicament is that most of our marches have been about service delivery and then you march against that particular municipality and they don't issue permission. In the section four meeting the Metro Police also don't support the march. You don't get permission to march, you have to march on your own and then obviously the march is illegal.

Some communities and organisations have even had to deal with bogus by-laws which make it more difficult for protests to be organised. One such case took place in Rooigrond, a community situated

¹² A state of emergency exists when there is an imminent threat of "war, invasion, general insurrection, disorder, natural disaster" or an event defined as a public emergency and declaring a state of emergency is the only measure to maintain stability within the state (Section 37 Constitution of the Republic of South Africa, 1996).

just outside of Mafikeng. According to Koketso Moeti, one of the organising community members they have been resisting eviction by the Mafikeng Municipality for the past six years. Another one of the community members, Tsietsi Mothupi said that, “The government was trying to force people off the land by refusing to provide basic services. So the community still lacks basic services like water, health services and housing”. In one particular attempt to protest against these conditions, the community was unlawfully asked to pay a fee in order to protest however, their knowledge of the correct procedure prompted the community members to refuse payment. The matter was then taken up by the Ward Councilor and the community was indeed not liable to pay a fee to protest. The request for payment was done verbally. The Ward Councilor did make several requests for the traffic department (who requested the payment) to present a written request or supporting documentation. This was never provided. Therefore there is no trace of the illegal request for which the Mafikeng municipality could be held accountable.

This was not an isolated incident. Two other organisations in Johannesburg, the Soweto Electricity Crisis Committee (SECC) and the Right to Know Campaign, had the same experience. In an interview with Dr. Dale McKinley of the Right to Know Campaign, he explained that the organisation had planned to hold a vigil. When the organisation made the Johannesburg Metro Police Department (JMPD) aware of this, the JMPD claimed that a new ‘by law’, not visible in legislation, called for a fee of R124.39 to process notifications of gatherings or protests. The JMPD would not consider processing a notification until payment was made. Bongani Xezwi another member of the Right to Know campaign paid the fee in order to obtain proof of the fabricated by-law. On the same day that the Right to Know campaign was asked to pay this fee, the SECC was also subjected to the same treatment. In an interview regarding this matter, Fox¹³, a member of the SECC, said that it came as a surprise. He said,

They never told anyone about it, they just put it on the wall and that is the first time you saw it.

I paid it after Bongani¹⁴ paid it. We wanted things to be done so that’s why we paid it. You cannot continue without their approval.

He also explained that it was difficult to expect poor communities to waste money on such a fee. He said that, “If they are going to introduce money to the marches, the price will just go up until eventually we pay a lot of money and us being a self- funded organisation, it will be hard. That’s one way of silencing people”. The commodification of the right to protest is an effective way of frustrating the right to protest because poorer communities will have no choice but to cancel their protest when they cannot afford to pay the fee.

¹³ Real name not provided.

¹⁴ The abovementioned Bongani Xezwi from the Right to Know campaign.

Along with misinterpretation there are also unlawful additions to the Act, as seen in Rustenburg with the Bafokeng Landbuyers' Association. In an interview with one of its members, Thusi Rapoo, he explained that the organisation always faced difficulty when notifying officials about protests as particular stipulations of the Rustenburg traffic department were problematic. For example, a group of people from the Lefaragatlhe Community in Rustenburg once wanted to protest about a new agreement which allowed the mines easy access to the community which made them subject to the implementation of different projects and plans that may not necessarily acknowledge the interests of the community. When the community tried to notify the Rustenburg traffic department of their protest, they were turned down. Rapoo explained that, "The Lefaragatlhe Community did not have permission from the Royal Bafokeng Family or the Chief as stipulated on the checklist. This is another bureaucratic layer which is totally unlawful". This requirement is one of many which appear on the abovementioned checklist which needs to be completed before protest can take place. It was obvious that the community would not get permission from the very organisation against which they were protesting. Such a requirement as well as others that appear on the checklist¹⁵ are not contained in the Regulation of Gatherings Act and so this is another way to illegally prohibit protests. When the Lefaragatlhe Community did not obtain permission their protest notification was denied. Rapoo says that, "As a community they tried to march without a permit but they were stopped by the police".

The Regulation of Gatherings Act only calls for prohibition of a gathering or protest when reliable information is given to the responsible officer¹⁶ who then confirms that the protest or gathering will cause the disruption of traffic, cause deliberate injury or will result in the destruction of property. When it is established that the police are unable to deal with the possibility of the abovementioned scenarios, a convener along with the police will discuss if it is indeed necessary to prohibit the protest or gathering (Duncan, 2010b:111). The state's inability to correctly interpret and enforce the practice of the Regulation of Gatherings Act undermines the entire right to protest (Buur, 2007:122) as the act describes pickets, demonstrations and gatherings as a constitutional right (Duncan, 2010b:125). The act was initially established by "the Commission of Enquiry into the Prevention of Public Violence and Intimidation" in response to the violence which occurred during the protests of the time. The act aimed to 'regulate' gatherings and protests as a right during the period that marked the end of Apartheid (Duncan,

¹⁵ Other requirements on the checklist include: A permit to use a public road, authorisation letter for the venue, permission letter from the tribal council and an acknowledgment letter from the person receiving the memorandum of demands indicating his/her availability to receive the memorandum.

¹⁶ According to the RGA, a responsible officer has the authority to prohibit a gathering or protest if the notice for either is handed in less than 48 hours before the event. After the municipality or traffic office has been informed of the intention to march, the responsible officer may also call in 3 'role players' to a 'section four meeting' to discuss the details of the gathering or protest which may refer to the route, the number of protestors and number of marshals (Duncan, 2010b:111).

2010b:110).

The securitised response to protest is problematic because it not only undermines the platform of communication used by communities to address the government thereby violating the constitutional right to protest but it also brings social issues into the realm of security (Duncan, 2013:2). Moreover, real developmental challenges to the state have become intertwined with violence (Buur, 2007:111). This is substantiated by Duffield (2001a), cited in Buur, Jensen and Stepputat (2007: 9), who argues that issues of development are becoming increasingly connected to security problems to the extent that it may even be referred to as the “securitisation of development”. This is clearly seen in the South African context where some protests that are calls for improved development become situated in the realm of securitisation.

Following the logic that development has become securitised, it then means that the government has come to think of development differently as when an issue becomes securitised, it takes on completely different properties (Wæver 1997, Kappeler and Potter 2000 in Buur, Jensen and Stepputat, 2007:9). Peter Alexander (2009: 25) has tracked the increased rate of protest after 2004 and has termed it a ‘rebellion of the poor’. This can surely be linked to the increasing prohibition of protests whereby members of communities and organisations are forced to go back to the streets when their protests or gatherings have been declared illegal or are put down by the police. This is one of the factors which link to the frequency of protests. There are indeed other factors, the most obvious of which points to the dissatisfaction with the ANC’s hegemonic project and ability to ensure its legitimate rule. This explanation may aid in understanding the move to a securitised society.

3.1 Why the need to securitise?

As explained under ‘Securitisation theory’, a viable threat to the order and stability of the state needs to be established in order for governments to institute extraordinary securitised measures. In South Africa, protestors are viewed as threats. The question then, is why are these protestors treated as non-citizens situated outside the protective realm of security and what is it about the inherent nature of our society that facilitates this? In the South African context, this order and stability is measured according to maintenance of the rule of the ANC. The sustained rule of the ANC has been based on its ability to create an initial seemingly successful hegemonic project in which its legitimacy was based on ideas of independence and the creation of a ‘democratic’ and more inclusive society after the oppressive Apartheid regime. Hegemony here is referred to in the context used by Hart (2013:19) in her book, *Rethinking the South African Crisis*. Here she relies on a classical Gramscian notion of the concept. It refers to the power and control of the state. The definition provided by Laclau (1977:61) in Hart (2013:161) is also useful as it looks at hegemony as the ability to convey different understandings of concepts and society without any

opposition. In a more Gramscian sense, it will also be used to refer to ‘coercion and domination’. Most importantly, hegemony is dependent on undermining and silencing other ideas (Fanon, 1963 in Gibson, 2011:107). The hegemony of the ANC has been established around the past struggle for liberation and freedom and is portrayed as an ‘ongoing struggle’ (Hart, 2013:180). This struggle rhetoric is invoked every now and then to reinforce legitimacy and re-establish political support. While he does not explicitly use the term ‘hegemony’, Fanon’s discussion of the postcolony closely relates to Gramscian ideas on hegemony. As he states,

Every time he speaks to the people he calls to his mind his often heroic life, the struggles he has led in the name of the people and the victories that in their name he has achieved, thereby intimating clearly to the masses that they ought to go on putting their confidence in him (1963:163).

The ANC is therefore reliant upon these official and popular articulations of the nation and liberation (Hart, 2013:193). However, as much as this has been the basis of the ANC’s support it has also been identified as their weakest spot as they are then prone to accusations of betrayal when their actions are contrary to the promises that accompanied the transition from Apartheid to democracy. The politics which took place after Apartheid has said to be reduced to an “an elitist project” to gain control over the state and government. This reality is held in contrast to the idealised picture of democracy which encompassed popular participation (Gibson, 2011:2). Heller (2001:148) says that,

The vast majority of South Africans have until recently never enjoyed the fruits of representative democracy, most citizens have yet to develop the basic competencies especially those of interfacing with representatives and state bureaucracies that allow for effective participation

The poorer sector of the citizenry is becoming the first to acknowledge and internalise this truth. This is evident in the more radical emergence of popular politics which may be viewed as counter-hegemonic (Hart, 2013:89). The theory of hegemony creates a structure which explains and understands domination. This is done to the point where dominance does not necessarily result in consent but is often associated with ‘acceptance and discontent’. Hart (2013:193) calls this a ‘common discursive framework’. Here, protest and dissidence must fit into the same framework of domination in order to express their interests. The ANC’s reliance on struggle rhetoric only works to invoke the past as ‘inspiration’ and does not offer a space for any critical engagement (Nash, 1999:75 in Hart, 2013:236). Since the ANC has thus far enjoyed a two thirds majority in the past two elections with no effective competition, Heller (2001:150) sees no need for the ANC to consider ‘bottom up’ politics. As discussed in the previous chapter, some members that were in exile make up the leadership of the party and are more likely to support top down politics.

Popular participation attempts to open up these spaces and overcome the limitations set up by the government. After Apartheid the space to accommodate popular politics other than that of the ANC was severely limited. This was particularly evident by the end of the 1990s. Popular movements once thrived in South Africa, but the political culture created by the ANC has severely undermined this. Instead a more prescribed 'top down' approach to governance has been fostered (Heller, 2001:134). Neocosmos (1996:1) explains that after the ANC had been elected into power, South Africa resembled a similar kind of attitude to popular politics that was evident in other post-colonial African states. And so, in a typical case of what Neocosmos refers to as 'statism'¹⁷, popular movements that were instrumental in the fight against Apartheid became 'de-politicised' even though the fight to end Apartheid saw the robust activity of movements in comparison to other liberation movements (Heller, 2001:143).

Political exclusion was identified as common practice when dealing with 'critics' of the new ruling party to the extent that political threats were silenced. The inability to deal with 'popular participation' at this early stage illustrates a deeper source of internal conflict. Gibson (2011:105) argues that it goes beyond the fact that social movements might be seen as a threat to the existing power structure. Instead, it threatens the very fabric of social organisation and social power. When Apartheid ended and the ANC came into power, they failed to adequately deal with the problems of the past and realistically conceptualise the society that they wanted to create. The nature of the transition from Apartheid to a democracy was therefore based on ensuring consent to certain 'socio economic policies'. In Gramscian terms this is referred to as "ethical, political and economic hegemony" (Gibson, 2011:105).

The hegemonic project was developed to maintain specific interests within its borders but also to establish some kind of unity within the state. However, this did not work and the current lived experience of the excluded citizenry does not reflect any national unity. If anything it illustrates the division which exists between the poorer masses and the elite. In the Bolivian context, Zibechi (2012:260) identifies the division that exists between the poorer masses living on the peripheries and the elite. However, he argues that the elite and richer classes have now become surrounded by the poorer classes who exist in the urban peripheries in their own world in which they are their own political subjects. Chatterjee (2003:34) also describes this concept of political subjects in terms of the dynamics that exist between those who govern and those who are governed where those that live in the peripheries fall under "politics of the governed" (Chatterjee, 2003:19). This distinction provides a way to think about citizenship in that states identify formal citizens and real citizens. Chatterjee (2003:34) explains that at the turn of the twentieth century, a conceptual difference was created between what it meant to be a citizen and what it meant to be part of a

¹⁷ Statism here refers to the "coercive practices" sustained from the colonial period. Mamdani (1990) explains that it is established in crushing the activity of popular movements after independence (Neocosmos, 1996:1).

population. The difference is situated in the fact that citizens are understood as ‘theoretical’ components whereas populations fit into the practical aspects of governance, such as policy making. Populations are thus able to be defined and described through data and statistics. Populations therefore aid the state in functioning as objects of their policies, legislation and political mobilization.

On the other hand, a citizen is said to carry a more ‘ethical’ association in terms of its role within the state (Chatterjee, 2003:34). Those that exist on the peripheries can be included under the term, ‘populations’ as their exclusion from ‘serious political spaces’ illustrates their perceived value within a state which lies in the fact that they only exist to be defined as subjects of the government and its policies. Popular sovereignty is articulated through the technical aspects of citizenship. This meant that populations are merely reduced to ‘targets’ of social policy (Chatterjee, 2003:35). Foucault identifies this as the ‘governmentalisation of the state which, works to legitimise the state’s role as the primary provider of social welfare. This is conducted through ensuring that the population is understood through information and what Chatterjee (2003:34) refers to as a ‘network of surveillance’. This kind of treatment and understanding of citizens means that they are seen as ‘subjects’ instead of actual ‘citizens’. Chatterjee identifies such a characterisation as being reminiscent of a colonial state.

Fanon (1963) situates these issues in the inherent problem of the post-colonial state. He says that the new role of the party after independence is one that does not focus on the needs and expectations of the people, but rather ‘instructs’ people from the top (Fanon, 1963:170). This explains the treatment of citizens as ‘subjects’ who are merely affected by the decisions of the post-colonial government and the maintenance of their interests. In this vein, Fanon (1963:155) considers the new bourgeoisie’s mission as inherently problematic because they are mainly out to maintain their own interests. This affects their ability to create a unified national project and affects the stability of a nationalist project. The failure of this ability to create a unified national project is highlighted through the difficulty that the ruling party will have to maintain its stronghold on the country. As a result, the hegemonic nature of the government is questioned, and questioned through acts of popular participation through which ‘populations’ (in the sense used by Chatterjee) attempt to move out of this realm and into one where their efforts to engage with the government are taken seriously. Such popular participation is said to quicken the unraveling of the state’s legitimacy which was not well established in the first place. This affects the ability to create a unified national consciousness.

Therefore it makes sense that the government’s primary task is to “control the urban poor” (Zibechi, 2007:190) and disregard their actual status in the act of protest. Hart (2013:234) supports this by saying that the action of the subaltern classes is often met with a “reactionary movement of the right-wing of the dominant class”. There are therefore specific strategies of the government to discredit social

movements and prevent them from engaging in any serious political engagement that undermines the authority of the state. The difficulty in acknowledging this political status of the poor has developed from the fact that the ‘marginalised’ are deliberately not equated with political agency. Buur (2007:112) acknowledges this by saying that only some are considered citizens while others that are poorer, without access to the same resources are excluded and are still ‘aspiring’ to the definition of a recognised citizen. Clearly this is achieved by frustrating their right to protest against and engage with the government as citizens of a democratic state while also maintaining the security of the elite as “laws and government are ultimately instituted for the defence of the rich against the poor, or of those who have property against those who have none at all” (Neocleous, 2000:42). The law, which is ideally purposed to protect the rights of all citizens within the country, ends up protecting a select few. Gibson (2011:116) attests to this by saying that once the dominant interests within a state are threatened, the rights of the people are worthless.

The inherent bias of the law is extended to social movements in particular. Zibechi (2010:65) argues that social movements explicitly exist as “non-state powers”. The implication is that they are considered outside the state and as a result are not entitled to the same treatment as those within the state. The activity of social movements may even reinforce the omnipotence of the state as they are defined in terms of the nation (Zibechi, 2010:66) which then gives the state the power to exclude them. Mike Davis in Zibechi (2007) claims the exclusion mainly occurs around the urban peripheries as these have become the location of serious emancipatory politics and a challenge to state power. In the South African context, history and experience of popular participation has indicated that townships are sometimes regarded as “ungovernable spaces” (Michael Watts, 2003 in Hart, 2013:98) and as a result poses a challenge to the state. Zibechi (2012:198) argues that an analysis of the urban peripheries in Latin America illustrates a similar understanding of protest in the urban peripheries whereby the slums are largely regarded as problematic and the “emancipatory potential” of these spaces is not recognised. As a result, this space has become a security priority to governments. Zibechi (2007:1) describes it as a fear experienced by those who wield power who are then forced to develop a strategy which prevents these groups from operating. This reaction of the state to these peripheral areas means that the state has identified it as a viable threat. It is at this point that the need for securitised measures becomes necessary to the maintenance of order in the state.

3.2 Securitisation in practice

In an attempt to restore order to society, securitisation has in actual fact perpetuated the socio-economic problems that inform protest because the issues are dealt with in terms of threats to the status quo (Duncan, 2013:2). The main challenges to the state are being lost in the act of protest, as the

prohibition and forceful response to both illegal and legal protests, both being acts of securitisation take away from the real issues at hand and de-politicize the protests. Furthermore, once something has become securitised it exists outside of the political. This is because securitisation relies on urgent and extraordinary action. Therefore the political agency of the protestors is weakened and the legitimacy of their causes is questioned. This is perpetuated or made worse by the distinction that is made within the citizenry. Since securitised action taken by the state exists outside of what is considered 'normal politics', Buur (2007:129) argues that it takes on "sovereign properties" because it requires action outside of the legal boundaries. Following the trajectory outlined by securitisation theory, it is clear that before the abovementioned action can be taken the protestors need to be defined as threats to the order and stability of society. This calls for extraordinary and immediate action. Being defined as a 'threat' means that protestors are stripped of their political agency to legitimately participate within the state, furthermore it results in their loss of rights if extraordinary action by the state is to be successful. These protestors, who by virtue of being citizens are also entitled to security, are therefore situated on the other end of the scale, as threats. These 'non-citizens' are often othered under the guise of development, in fact they morph from "subjects of development...into objects of security" (Buur, Jensen and Stepputat, 2007:32).

Regan and Henderson (2002:133) in Duncan (2010a:24) argue that when the state cannot account to citizens for the lack of adequate service delivery then there is an increase in possible threats to the state. This has been the case in the South African context under President Zuma where some citizens have seen past the façade of the 'people's president' and realise that their interests are not being maintained. Such dissatisfaction could be "a real threat to the status quo" (Duncan 2010a:24). Buur (2007:120) argues that those that are excluded as citizens and who attempt to hold the government accountable are labeled as 'dissidents'. The construction of the threat allows the state to take the necessary action against the threat and resurrect the fear of a "third force" narrative. Jensen (2001) argues that this is the key to understanding 'political contestations' in the South African context as any opposition to government is regarded as a threat (Buur, Jensen and Stepputat, 2007:32). The state labels those that present a challenge to it as 'enemies' and as a result the state starts to define these adversaries as threats that are no longer entitled to rights (Buur, 2007:112). Participation and attempts to hold the government accountable are consequently being equated with resistance. Buur, Jensen and Stepputat (2007:13) argue along similar lines and claim that 'dissidence' becomes an issue of security because it acts as a threat to the 'new order' that has been established by post-colonial governments by illustrating the failures of this newly established order. According to Seng (2001:4-9), securitisation serves to depoliticise the action of social movements, this is said to be situated in a "technology of discipline". This is portrayed in specific ways

seen in the responses and strategies of the state which forms a particular state discourse and which provides a glimpse of the nature of the South African state.

4. THE DISCOURSE OF THE SOUTH AFRICAN STATE

The securitisation of the state has been explored in terms of the procedural and legislative prohibitions. However, the direct response of the state also needs to be looked at in order to provide evidence of a securitised response of the state. As was discussed in chapter Four, the securitisation of the South African state has been exemplified through the media, oppressive legislation as well as the reorganisation of the police services into a more militarized police force. The general response to protest has been a combination of empty rhetoric and securitisation (Dugard and Tissington, 2013:3). The increasing use of force displays the authoritarian reaction. Many protestors fall into a specific category which sometimes calls for treatment based on ‘authoritarianism’ as a means of control and discipline (Hindess, 2001:101-6 in Buur, Jensen and Stepputat, 2007:16).

This discourse became apparent with the infamous statement made in 2008 by then Deputy Safety and Security Minister, Susan Shabangu. Shabangu ordered police officers to disregard “regulations, negotiations or warning shots” and should instead shoot to kill. The deputy minister went so far as to call for the “bastards” to be killed. She said, “You must kill the bastards if they threaten you or the community. You must not worry about the regulations- that is my responsibility” (Shabangu in Evans, 2008:1). These comments were supported by a number of high ranking officials including former Safety and Security Minister, Charles Nqakula, former police commissioner Bheki Cele as well as former Police Minister Fikile Mbalula who encouraged officers to shoot the “incorrigible bastards” (Mbalula in Malala, 2013:1). President Zuma also endorsed Shabangu’s approach by encouraging people to listen to her (Benjamin, 2008:1). The mandate of force was given some kind of legitimacy especially after it had been endorsed by the president of the country. Furthermore, these comments not only perpetuated police violence but placed the police above the law (Newham, 2011:22). It also contradicts the stipulations of the Regulations of Gatherings Act which calls for ‘reasonable force’ to be used when breaking up a protest or gathering. This response has been sustained by the police and is shown in the increasing number of cases of forceful policing during protests.

During the Marikana massacre, the use of ‘maximum force’ was encouraged and excused. After the Marikana massacre, current Police Commissioner, Rhea Phiyega said that the “police at Marikana were forced to utilise maximum force to defend themselves” (Phiyega in Bruce, 2013:1). Bruce (2013:1) says that, such language from authority is promoting ‘killing’. Citizens that were not involved in struggles that resulted in violence often buy into this approach. They accept that this forceful response is needed to

protect their rights and safety. A social and spatial divide exists which may prevent citizens from identifying with those involved in popular struggles such as these. However, the command is rather vague and the context is not specific enough which means it gives the police power to misinterpret it. As discussed in the case studies above, it has become relatively simple to deem a protest illegal either procedurally or through the misinterpretation of the Regulations of Gatherings Act. This means that protesting communities and organisations can easily be criminalised and subjected to this ‘shoot-to-kill’ approach. This emphasis on illegal protests was echoed in other statements made by members of government. The former Cooperative Governance Minister Sicelo Shiceka said that all illegally directed action will not be tolerated and instead must be in accordance with the law (Shiceka in Bosch, 2009:1). Shiceka was also quoted as saying that government would deal “ruthlessly” with those that engaged in illegal protests (Shiceka in Omarjee, 2009:1) which once again acts in legitimising the state’s use of excessive force.

The response of President Zuma has mostly maintained the same stance of former President Thabo Mbeki who remained largely “insensitive” regarding the process and said that “decisive” action would be taken against violent protests. Furthermore he said that anyone who violated the law would be arrested and that public property was to be respected (Pithouse, 2005 in Duncan, 2010b:122). When President Zuma first came to power, there were hopes that he would introduce a more inclusive system that facilitated participation and initially there were signs that his cabinet would implement a more open system (2010a: 3). In 2009, President Zuma expressed this directly by acknowledging the right to protest but discouraged violent protests by threatening to use the law against violent protestors. He stated “Our constitution allows our people the right of freedom of assembly and expression, and to protest where they feel they need to but this must be done within the ambit of the law” (Zuma in Omarjee, 2009:1). In another comment, Zuma’s spokesperson said that while there may be genuine concerns to deal with, violence cannot be excused (Vincent Magwenya in Bosch, 2009:1). At this time, he also expressed a concern to address the causes of violent protests by saying that the government would hear the concerns of protestors and provide solutions. However, Duncan (2010a: 24) argues that although it may seem like Zuma and his cabinet is more amenable, there has been no change to illustrate this. This has led activists to believe that this is more of a strategy of appeasement than a serious effort to address concerns (Bathembu, 2009:1) illustrating an example of the empty rhetoric used to deal with dissatisfied communities.

The rhetoric which presupposes that the needs and grievances of communities can be met with quick solutions and does not recognise it as meaningful engagement with the state in terms of viewing protestors as their own political agents. It also creates an exaggerated focus on service delivery as the primary grievance of protestors. Gibson (2011:112) argues that liberation has been defined in terms of

access to basic services. However, while interests of the protestors may often be associated with service delivery (which is a central issue of concern), it is not to be mistaken as the necessary reason for protest. Manuel Castells in Zibechi (2012:203) says that this focus on service delivery serves to highlight how the state exacerbates the exclusion of citizens living on the peripheries. This echoes Chatterjee's theory on how these people exist as those who are governed. He says that, "...the world of marginality is in fact built by the state in a process of social integration and political mobilization in exchange for goods and services that only it can procure" (1986:266). This 'economist' understanding of protest therefore perpetuates the political passivity of citizens. Gibson (2011:6) explains that this dynamic establishes the social relations between the masses and the state whereby the available spaces for activity are reduced to one which focuses on service delivery. Heller (2001:156) argues that as the formally elected representative of 'the people', the ANC has completely failed to acknowledge any kind of popular participation as meaningful engagement with the state. And so it has made an effort to isolate popular movements or confine them to "service delivery agents". Pithouse (2007) in Alexander (2010:25) says that it disregards the aspect of 'citizenship' which incorporates the idea of enjoying the benefits of being a citizen while also acknowledging their communication and engagement with the state which then reduces the relationship between the state and citizens to a 'client-service provider' exchange. This reinforces their roles as dependent 'subjects'.

This presupposes that citizens are not expected to participate and should only do so through a form of 'supervised participation'. According to Marx cited in Gibson (2011:125), political participation becomes reduced to merely supporting incumbent governments. Fanon elaborates on this by saying that the default status of such a citizen is normally 'apolitical'. Neocosmos (2010:115) in Hart (2013:178) says that state politics works to de-politicise the acts of citizens and situates it in a kind of 'technicism', that focuses on merely delivering human rights. This is seen to replace 'active politics'. Citizens are only encouraged to be political when it reinforces the interests of the "political elite". This ties in with Chatterjee's explanation of governance where governance is purposed to ensure policy success rather than situate issues in the realm of 'politics' (Chatterjee, 2003:35). This emphasises the passive role of the citizen that is being put forward, one where the state does not think it necessary for citizens to be their own political agents of change. By limiting the action of people in this way, governance becomes 'easier' and it becomes simpler to defer any criticism of the government or hold the government accountable.

This 'invented' form of political participation which exists separately from a more formal space of activity normally focuses on the more accepted role of a citizen in a participatory democracy. These 'accepted roles' of a citizen are also limited to a specific space. Chatterjee (2003:38) explains this in the Indian context where he makes a distinction between 'political society' and 'civil society' where the latter

is regarded as the legitimate political space for engagement between the state and members of society. However, not all people exist in this ideal conception of civil society. This is because civil society is not seen as accessible to all citizens within a state. This goes back to the fact that only those with the necessary status and societal position are able to influence government.

A more 'accepted' role of the citizens lies in participation through voting. This focus on participation was emphasized by DA leader, Helen Zille who reinforced the state discourse by undermining the value of the act of protest. In this regard, Zille (Sapa, 2013:1) urged dissatisfied citizens to vote rather than protest, as this is the primary means needed to bring about change. In this case of political opportunism, the emphasis on the procedural aspect of democracy is limiting of popular participation and suggests that protest as a form of engagement is futile. Past experience has shown that voting does not guarantee service delivery or broader change. Election manifestos are often more promising than they are realistic as politicians present a very different future to the one that they provide, Pithouse (2007) says that "councilors...most often function as a means of top-down social control aiming to subordinate popular politics to the party" (Alexander, 2010: 29).

By 2011, the Presidency chose to take a more direct approach by calling on municipalities to improve communication with people in order to address and maintain dialogue on service delivery and performance (SA Government and News Agency, 2011:1). Against this background it is clear that Zuma began by promising to listen to the concerns of protestors and attempted to visit the different communities. However, this stance was short-lived and as protests increased and became more violent in nature, President Zuma relied on "law and order" which was to be maintained by security forces (Duncan, 2010a:4). From 2011 onwards, the response of the state has been heavy handed and recent statements from politicians have become increasingly authoritarian. A definite pattern has emerged where the more brutal the response of the state, the more violent the protest became.

4.2 Escalation of violence during protest

When looking at the role of the state in perpetuating violence during protests, Nicolson (2012:1) says that the extent of violence which takes place during a protest is often established by the police force which culminates in battles between the police and citizens. The violence is not contained in these situations but may have a ripple effect, in that one violent protest may lead to another violent protest or other violent action. For example, Andries Tatane's murder gave way to a violent and destructive response where people tried to burn down public buildings (Karamoko, 2011:33). The frustration of the people engaged in protest is clear. Another theory put forward which explains the increasingly violent protests states that rioting may in fact be the only means that the poor have to voice their interests and may also be a tool to get the attention of government (Albritton, 1979:1003 in Bond and Mottiar, 2011:5). So

this means that sometimes the poor will have to operate outside the rules and norms in order to maintain their interests. Here, Chatterjee (2003:66) explains that in order for the poor to be successful in holding the government accountable, they need to exert a specific kind of pressure on government which sometimes involves acting outside the enforced rules, as these are inherently oppressive. Consequently their only option lies in the form of ‘dissidence’ and revolt against the government in what Chatterjee calls rallying “against the distribution of power”. This was illustrated in South Africa when in 2009 President Zuma visited Balfour, a small town in Mpumalanga which experienced particularly violent protests. Other areas like the Sakhile township in Standerton and the community of Rust-ter-vaal outside Vereeniging engaged in violent protests until President Zuma also visited their areas and listened to their concerns

However, sometimes protestors do not anticipate a violent protest and the use of force is pre-empted by the state and, in some cases, a conscious effort has been made by police to boost equipment and training when dealing with protests (Nicolson, 2012:1). These securitised measures combined with the idea that protestors are criminals is undoubtedly a formula for enabling and legitimising police brutality. This is a clear example of how a vicious cycle of violence is created. The government professes a zero tolerance policy on protest yet on the other hand, it can be seen to also perpetuate the violence that takes place during these protests. This also has larger implications, the increasing examples of the police’s hard handed approach to protests has seen them in constant ‘opposition to local struggles’. Taking into account that the police represent the state, it reflects the attitude of the state to the grievances of communities and organisations that are protesting. In line with this, Burger (2012:1) says that the response of the police allows communities to identify the police as agents of their “failing government”. Therefore they direct all their frustration at the police which has a greater effect regarding the relationship between citizens and the police, and their ability to trust them as legitimate enforcers of the law.

As mentioned at the beginning of this chapter, the Minister of State Security Siyabonga Cwele recently discussed the government plans to address increasingly violent protests. However, the mandate to deal with protest has come from a higher authority President Zuma, who called for preventative measures to be taken, in the form of intelligence gathering. This is in order to alert governmental departments to take the appropriate security measures (Cwele in Makinana 2013:1). The message coming from the state seems to suggest that these protests exist outside of what is deemed political and legitimate (as discussed above) and therefore affect the response of the state. This was clearly illustrated by the comments of Minister Cwele who attributed the high rate of protest to the unemployment of the youth who are said to be ‘mobilised easily’ when needed (Cwele in Makinana, 2013:1). Such a comment not only takes away from the legitimacy of the cause but also undermines their ability to engage with the state. The call for a more securitised response came directly from the state as Cwele (in Makinana, 2013:1) said,

Our teams are now on the ground and as the security cluster we are now ready to implement the plan. We will identify, deter or arrest and speedily prosecute those who are involved in perpetuating violent protests.

The criminalisation of protestors has its origins here, in the way they are understood and discussed. The portrayal of protestors as perpetrators means that their acts are always defined in relation to the law and not as a right. With regard to violent protests, it is clear that there is no attempt to understand the context and reasons for the violence, the legal rhetoric not only easily criminalises protestors but also acts as a rallying point to gain support from the public which then allows the state to institute extraordinary securitised measures¹⁸. This was once again seen with State Security Minister Cwele who, in an address to Parliament on 14 May 2013, discussed these violent protests primarily as a crime (Cwele in Patel, 2013:1). He then called on citizens to “join hands with the security forces and law enforcement agencies to ensure that ‘these perpetrators’ did not gain the upper hand against law and order” (Cwele in Patel, 2013:1). This zero tolerance approach was echoed by the Kwa-Zulu Natal Provincial Commissioner, Lieutenant General Mmamonye Ngobeni who was very clear on the response of the state when she said that protestors should be arrested if they were found to be transgressing the law. She also belatedly added that the police did acknowledge the right to protest but could not tolerate illegal protests (Nair, 2013:1). These comments were made when Ngobeni reflected on the recent incidences of illegal protests which were said to threaten the rights of “innocent members of the public” (Ngobeni in Nair, 2013:1). On the other hand, there are some cases where the government has not responded at all. For example, the ongoing service delivery protests in Wesselson, Ermelo in 2011 received no reaction from government. This illustrates the distance that the government sometimes creates between itself and protestors (Wheeler, 2011:1). This failure of the government to sometimes respond to protest may also aid in creating more ‘radical’ and illegal protests as protestors may feel that this is a more effective way to publicise their cause in since more ‘peaceful’ protests are ignored (Duncan, 2010b:120). When the government does communicate, the message is that unrest will be responded to with the force of the militarized police (Underhill.2013:1). While there is much emphasis placed on ensuring that protests are non-violent, not much attention is paid to the role of the police in violent protests. Recently, President Zuma said that the security cluster would ensure that violent protests are responded to with immediate action and investigation, so while emphasis is placed on how protest can lead to the violation of rights and injury to people and destruction of property, no mention was made of the rights that are violated or harm caused when the police respond with force against protestors (Underhill, 2013:1). No peaceful alternative is provided to deal with violent protests at the lowest human cost. Duncan (2010b:121) says that if protests are ‘illegal’ because procedure has not

¹⁸ As was discussed in the theory of securitisation.

been followed then police should aim to protect the safety and well-being of the public rather than using force to exacerbate protests that may not even be violent to begin with.

However, this has not proved to be the case and the destructive response of the state has been sustained. In understanding the state response, Buur, Jensen and Stepputat (2007:32) claim that these methods are specifically employed by the state to eliminate threats to order. Response ranges from torture to the more subtle ‘intimidation’ and a deliberate lack of services. While the torture aspect may not be made that obvious against our ‘democratic’ backdrop, the latter forms of treatment are evident through the intimidation from the police and difficulties with the municipalities. Buur, Jensen and Stepputat (2007:33) argue that the both the “discourse and practice” show a state attempting to exert its authority and disregard ‘illegitimate’ calls for development¹⁹. In actual fact, this authoritative nature of the state should come as no surprise since the ‘post-colonial state’, in this context the ‘post-Apartheid state’, was formed on some kind of foundational violence. Fanon (1963:155) attests to this by saying that the ‘native bourgeoisie’ which comes into power after independence does so using aggression and violence. As discussed in the previous chapter, the struggle to end Apartheid was inherently violent and all claims to a peaceful transition were largely misleading. This violence was deemed necessary and legitimate for a new order to be established. It is therefore the remnants of this foundational violence that rears its ugly head in the largely violent response to protest that is seen today. The government still maintains the use of this ‘legitimizing’ violence in social containment. Popular participation, instead of being viewed as an entrenched democratic right is viewed as a threat to the already unraveling hegemonic order of the incumbent government. The same violence that was used to create order in the struggle to end Apartheid is now being translated into a means to restore order where dissident citizens pose a threat to the government. Duncan in De Waal (2012:2) claims that this will eventually result in a “massive social explosion” as the continual repression by the government will serve to fuel more radical protests. Fanon (1963:170) explains that this is because a process has begun where the masses have begun ‘to sulk’. They have retreated from the nation and the idea of it because they feel that they no longer belong there. This marks the ultimate breakdown of the nation building project.

5. CONCLUSION

The securitisation of state discourse and action is reflective of this breakdown of national unity that the government has not been able to sustain. The response of the state has painted a rather grim picture of

¹⁹ Development here refers to improved service delivery in areas that are seen to be neglected by the government and have become issues of concern for the communities and organisations that are protesting. However, it may also refer to the ability of excluded communities and organisations to be taken seriously by government both as independent political participants and citizens entitled to rights entrenched in the constitution of the state.

popular participation in South Africa and has illustrated state control of the 'political'. Securitisation permits extraordinary measures to deal with 'urgent threats'. Against this background, the state acts outside the confines of the law and 'everyday politics'. Protests are therefore conceptualised and dealt with outside the political realm. This not only robs these citizens of their emancipatory agency but makes it easier for government to criminalise these citizens and use securitised measures to deal with them, measures which the rest of the citizenry buy into once protesters are established as 'viable threats'. These measures are clearly visible in how state organs have violated the right to protest through the misuse and deliberate misinterpretation of the Regulation of Gatherings Act which, evidence has shown, results in more radical protests that are deemed illegal. This inevitably invites the forceful response of the police to ensure that the protest is stopped and thus the state sustained cycle of violence is established and, as a result, the securitisation of society allows this to be normalised to the rest of the citizenry. The state has equated the right to protest with an issue of state security, this disjunction clearly reveals the nature of the South African state. Unfortunately this increasingly repressive nature will only serve to exacerbate the violence taking place during protests and the control that the state attempts to exert to 'stabilise' the country will only bring more instability.

CHAPTER SIX:

CONCLUSION

This research aimed to look at how security limits the right to protest by arguing that a securitised response formed the reaction of the state to protest. The state response to popular participation is difficult to make sense of if the state is understood as the democratic guardian of security. On the surface we see a formally democratically elected government using the security sector, more specifically the police, to deal with the fairly recent upsurge of protestors. Given the commonly disseminated history of the liberation movement and the ever praised rights based constitution, it is difficult to make sense of the state response to popular protest in South Africa. Securitisation theory, while not flawless, has provided a realistic and useful lens through which this situation could be examined. In using securitisation theory to describe the actions of the state, this thesis has also attempted to understand how the political culture which necessitates this response was established. In doing so, a larger discussion on how the state understands the citizenry is facilitated.

1. REFLECTION

The discussion of this topic and attempts to understand the frustration of the right to protest by the state was largely made possible by the interviews conducted with various activists around South Africa. Their experiences and insight into the situation added an invaluable dimension to the debate. These contributions provided evidence to illustrate how the state unapologetically frustrated the right to protest. This evidence coupled with the theory on popular politics and securitisation aimed to explain how the

government was able to sustain these actions and why. This problem was discussed by examining the political culture that was established and sustained by the ANC from exile through to today. An analysis of the politics of the exile period provided a useful 'point of reference' to identify the origins of the securitised response to 'threats'. Looking specifically at the ANC, Chapter Three also showed how the ANC sought to form its exclusive national liberation project.

As was discussed in Chapter Four the militarised conception of leadership and governance was further developed and became normalised to the rest of the citizenry with the militarisation of the SAPS in 2009. This chapter reflected on the physical representation of the state's repressive response to protest. The same techniques of control that were used to protect the party and maintain loyalty are being employed today, this time through clearly documented cases of police brutality and unconstitutional procedural prohibitions. The influence of the party in the state response to protest has disqualified any claims of 'apolitical' policing of protests. This evidence also illustrates how the state exacerbates the very problem that it professes to be resolving. Both Chapters Four and Five showed how the increasingly brutal police response perpetuated violence in some cases. This was made worse by the procedural prohibition of protest which sometimes confined activists to protest in their own communities in a manner that would attract the attention of the respective party. On the other hand, such actions merely made it easier for the government to criminalise the protestors and legitimise its own actions. Besides the fact that the grievances of the protestors are largely ignored or delegitimised, there are larger implications that were brought to the fore that are important to consider when looking at the actions of the state.

Protestors are effectively considered 'non citizens' and so their constitutionally entrenched right loses its performative power. The right to protest takes on real meaning when it is exercised, if not, it is reduced to a right on paper. And so, when protestors are criminalised while trying to exercise a right, it is clear that they are situated outside the realm of the accepted citizenry and are confined to what Chatterjee earlier referred to as 'political society'. Aside from the exclusionary nature of criminalisation, it also means that protestors are not protected by the state anymore. They automatically qualify as people who will incur excessive force from the police. The conversion of protestors into criminals comes at a time when the police have been instructed to treat criminals with necessary force in an effort to reduce crime rates. This mandate has been endorsed by high level politicians and even the president who, as discussed in Chapter Five, have made largely irresponsible statements which use unmistakable securitised and militarised language. This perpetuates the violent culture that surrounds protest. This seemingly frantic and destructive response of the state serves to exacerbate the problem instead of addressing the underlying causes of the increasingly violent protests. It seems that the number of people injured or killed during

violent protests or damaged property is an acceptable sacrifice in exchange for involuntary political compliance and maintenance of power.

2. What are the implications of this state response to popular participation?

The most obvious consequences of the securitised response of the state will revolve around the violation of rights and issues of service delivery going unheard. However, it would be unfair to reduce the significance of this issue to the abovementioned. The securitisation of South African society has fundamentally sought to confine popular participation to activities that the state is comfortable with, that is, activity which does well in maintaining the status quo established by the ANC during exile and post - Apartheid. It diverts the focus of popular participation to procedural aspects of democracy such as voting and delegitimises any other actions. If protest is to occur, it must be within the sometimes problematic interpretation of the law. As discussed in Chapter Five the abuse of the Regulation of Gatherings Act and other procedural means frustrate the right to protest altogether. A closer examination of the details of the unfounded additions to the protest procedure would show that these were ultimately employed to deter protest altogether, the most fitting example of which spoke of a memorandum being handed over to the party being protested against. Obvious and worrisome, the actions of the state illustrate a clear agenda. As discussed in Chapter Five, the findings of the research point to a larger project of the state. The increasing number of protests undermine the ANC's ability to maintain their rule which is based on building a 'better life for all'. The clear threat to their hegemony illustrates a breakdown of this nation building project which, for campaigning sake, is often rooted in idealised portrayals of the ANC's role in the struggle against Apartheid.

2.1 Theoretical implications

This research aims to add to the body of knowledge on this subject matter by deconstructing the situation through securitisation theory. Here the actions of the state are understood in terms of identifying a viable threat, in this case the protestors and then making this threat viable to institute extraordinary measures (as seen with the criminalisation of protestors). The extraordinary measures in this context are manifested through excessive force used by the police as well as the procedural hindrances placed on protestors. All this is specially executed for a specific referent object of security. The protection of the citizenry normally legitimises securitised policies. However, in the South African context the entire citizenry clearly does not benefit from these actions. The logical conclusion would point to the ANC led government and its supporters as the real referent objects of security. It is the interests of those that wield the most power in society that institute and endorse such policies.

Of course the use of securitisation provides a limited but specific analysis of the situation. This

largely state centric theory does indeed fail to engage with other aspects of the debate. However, for purposes of this thesis its focus on the state perspective of security was useful to understand the state mandate on protest. It is thus clear that the securitised response of the state is largely detrimental to popular participation. This kind of concentration of power in the hands of the state is not as useful to the state as may seem. As shown in this research, the rate and sometimes uncontrollable nature of protest does not show clear signs of abating. With the absence of any meaningful engagement from the government with the underlying issues informing the increase in protest, it will have to work much harder to conceal its inherently repressive nature. Equating popular participation as a ‘threat’ will soon lose its persuasive power and the once supported securitised ‘speech acts’ will appear as another semantic delusion. The South African state response to popular participation is therefore one that cannot be sustained without exposing the cracks in its farcical democracy.

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APPENDIX A: INTERVIEW QUESTIONS

1. What is the name of your organisation? What is your organisation about?
2. Have you had any protests that have been prohibited or protests/gatherings where there were unreasonable conditions placed on it in 2011 and 2012?
3. If yes, what was this protest about? What were the grievances of the protest?
4. How did you go about applying for the protest?
5. If your protest was prohibited, what reasons were given for the protest and by whom?
6. If there were unreasonable conditions placed on the protest, what were they?
8. In either of the abovementioned cases in question 5 and 6, how did the organisation respond? Did you go ahead with the protest, review the application etc?
9. If you did go ahead with the protest, how did the police respond?

10. Do you have any documentation in your possession that communicates the prohibition or unreasonable conditions that your community or organisation had to protest under?