

State must make us feel safer to stop vigilantes

OPINION
Mary Nel

A wave of vigilante violence has recently rocked the working class suburb of Rosettenville, south of Johannesburg.

Images of people being brutally beaten or even killed by a vengeful mob are a regular feature on television, in newspapers and on social media.

Private citizens often take the law into their own hands to punish perceived wrongdoers in their communities.

Their aim is to improve their collective security and social order where formal law enforcement is absent or ineffective.

The fundamental issues of law, order, justice and power that lie at the heart of vigilante activities have many wider implications.

Vigilantism challenges the formal boundary between crime and punishment, between law and justice.

Despite its ubiquity, vigilantism has largely been overlooked as a legal topic worthy of in-depth consideration, or even definition.

Vigilantes resort to violence to “fill the gap” left by unsatisfactory law enforcement.

This loss of legitimacy is due to the state being inefficient, corrupt and out of touch with popular concerns. The situation is exacerbated in poverty stricken communities, where violence is

commonplace.

● *Vigilantes as both victims and perpetrators:*

Vigilantes are viewed as criminals who deserve to be punished. But they are also sometimes portrayed as being proactive citizens fighting crime.

The courts and the executive seem to share the popular assumption that vigilante violence deserves harsh condemnation.

This goes hand-in-hand with an uneasy acknowledgement that vigilantism is essentially an attempt to address a long-standing and ongoing problem – namely the state’s woefully inadequate response to societal order and security demands.

This ambivalence is reflected in the words South Africans use to talk about vigilantism.

These include oxymoronic terms such as “popular justice”, “kangaroo court”, “vengeance attacks” and “mob justice”.

And the ambivalence is reinforced by the fact that

there are very low levels of trust between citizens of the country and the police. This was borne out again with the release of the country’s latest crime survey by Statistics South Africa.

It showed that, on the whole, South Africans are reluctant to report crime because they think the police can’t, or won’t do anything about it.

● *Vigilantes as law-enforcers:*

During the course of my research, I found that vigilantes saw the law as a stumbling block to achieve justice.

It’s also noteworthy that vigilante “justice” is often carried out in a way that crudely parallels the formal justice system.

This allows vigilantes to represent their exercise of power as not only comparable with, but superior to, conventional law enforcement.

So, how can the state counter the strategies of vigilantes and re-establish its own legitimacy.

● *Tackling vigilantism:*

To establish its legitimacy, the state must demonstrate its capacity to reduce citizens’ feelings of insecurity and fear.

This requires dealing sufficiently harshly with crime, while also delegitimizing the option of violent “problem-solving”.

The state can go one of two ways. It can go the exclusionary route – harshly punishing those who take the law into their own hands.

Or it can opt for more inclusionary alternatives, such as using restorative justice or co-opting vigilantes’ crime-fighting power.

Police-vigilante partnerships have been rather less successful due to vigilantes’ propensity for violence.

But there have been examples of former vigilante groups being incorporated via neighbourhood watch and community policing initiatives.

The practice of justice by the state in marginalised communities needs to be based on shared societal and communal values.

These include the need for practical reparation (for example, police could return stolen goods to crime victims rather than retaining them as exhibits), community participation, ubuntu (human kindness) and policing that focuses on fair treatment and accountability.

Doing this would greatly increase the likelihood of citizen buy-in.

■ Nel is a senior lecturer in Public Law, Stellenbosch University. Source: <http://theconversation.com/>



A group of foreign nationals in Pretoria club together to fend off attacks by locals. / Sandile Ndlovu