

The role of civil society in policy implementation: A case of the Centre for Criminal Justice (CCJ).

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DECLARATION

Submitted in partial fulfilment of the requirements for the degree of Master of Social Science in Policy and Development Studies, University of KwaZulu-Natal, Pietermaritzburg.

I declare that this dissertation, unless specifically indicated to the contrary in the text, is my own original work. It is being submitted for the degree of Master of Social Science in Policy and Development Studies, University of KwaZulu-Natal, Pietermaritzburg, South Africa. None of the present work has been submitted previously for any degree or examination at any other university.

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I dedicate this dissertation to my

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Abstract

This research focuses on the role of civil society in policy implementation, using a case study of the Centre for Criminal Justice (CCJ). Realising that resolving problems of twenty-first century requires synergy of many actors from different organisations and sectors, this study focussed particularly on the role of civil society in public policy implementation.

The study briefly discusses the key concepts such as civil society and public policy implementation. Consideration was also given to civil society in South Africa before and after apartheid, their roles and functions in public policy matters and their improvement in these matters compared to other sectors that is public and business sector. The objective of the study was to find out the role of CCJ in implementing issues of human rights in the justice system.

The results of this study have revealed that CCJ plays an important role in implementing issues of human rights in the justice system. Among the findings, this research has observed that CCJ is involved in activities that address issues of human rights in the justice system. Some of the activities comprise of presentations, workshops and attending community forums.

The study also examined CCJ's partnership with the South African Police Service (SAPS). It shows how CCJ empowers its clients, bridges the gap between the community and SAPS, and plays a role in the dissemination of information. Despite facing challenges, mostly in terms of channels of communication and lack of responsiveness from CCJ's counterparts, which also originate from the informal kind of relationship between CCJ and its working partners, there is a strong working relation.

This research was carried out using a qualitative approach in both data gathering (semi-structured interviews) and analysis (thematic). Out of the fifteen outreach centres of CCJ three were chosen and two police stations. This was done through purposive sampling.

ABBREVIATIONS

ANC.....	African National Congress
AOSFSA.....	Africa Open Society Foundation for South Africa
CCJ.....	Centre for Criminal Justice
CBO.....	Community Based Organisations
CSO.....	Civil Society Organisations
DANIDA.....	Danish International Development Agency
HPCA.....	Hospice Palliative Care Associations
HPF.....	Homeless People Federation
ICHRP.....	International Council on Human Rights Policy
NDA.....	National Development Agency
NGOs.....	Nongovernmental Organisations
NPAC.....	Non Profit Act
NPO.....	Non-Profit Organisation
SAPS.....	South African Police Service
TAC.....	Treatment Action Campaign
UKZN.....	University of KwaZulu Natal
UNDP.....	United Nations Development Programme
USA.....	United States of America

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Chapter1

Introduction to the study

This chapter presents the background to the study. It examines literature that supports the need for the study and presents the objectives and the need for the study. The approach to the study is explained in brief. Questions that guide the research are outlined. A brief background to the case study is also given. The chapter shall end with the thesis structure.

1.1 Background of the study

Scholars of public policy such as Scharpf (cited by Hill and Hupe 2002:59) argued that "it is unlikely; if not impossible, that public policy of any significance could result from the choice process of any single unified actor." Scharpf added that policy formation and implementation are inevitably the result of interaction among a plurality of separate actors with separate interests, goals and strategies. This is corroborated by a plethora of scholars such as Agranoff (2007:9), who pointed out that no single agency or organisation at any given level of government or the private sector has a monopoly on the mandate, resources, or information to address the most incommensurable public problems.

Lovrich (1999:183) stated that little has been studied about the policy partnering between public and non-profit sectors. Lovrich (1999:184) explained that in Washington State (USA) it is clear that the greatest number of public agencies in the areas of courts, corrections and law enforcement are not accustomed to the kinds of sharing of information and organisational resources that are essential to effective multiagency collaboration. These public agencies tend to seek and maintain a professional detachment from the citizens they serve (Lovrich 1999:184).

It is against this background that the research seeks to investigate the role of the Centre for Criminal Justice (CCJ), a non-governmental organisation, in the implementation of human rights through the justice system, as it collaborates with the South African Police Service (SAPS). There are many documents in South Africa and abroad produced concerning the roles of civil society. The present research will narrow its deliberation to areas of human rights in the justice system in South Africa. The focus of interest is to examine the role of civil society organisations in policy implementation in the justice system through a case study.

The main issue in countries that are experiencing important societal transformation is the state's failure or inability to defend its citizens and provide an effective justice system (ICHRP 2003:6). According to DANIDA (2005:4) a state should be able to guarantee equal access to justice for all its citizens.

Bell and Keenan (2004:330) stressed that "human rights protections are often a key dimension in peace agreements and settlements." Bell and Keenan (2004:332) added that "one would expect the human rights non-governmental organisations, which often play a part in ensuring that human rights provision were inserted into peace agreements" text, to have a primary role in ensuring monitoring and lobbying for implementation of the agreements on human rights". According to Bell and Keenan (2004:348), "national institutions for promoting and protecting rights are typically established to take a form of human rights enforcement and non-governmental organisations that deal with human rights issues need to work out a relationship with these bodies". Cardoso (2003:246) stated that a "strong civil society provides support for the rule of law and observation of human rights." Cardoso (2003) explained that in areas of human rights and the rule of law, civil society can provide expertise to complement or challenge the state.

It is a universal aphorism that it is imperative not only that justice prevails, but is seen to prevail. According to Dugard (2008:216), in South Africa, the normal difficulties of accessing the justice system are worsened by gross inequalities, the high cost of legal services and the remoteness of the legal system from most people's lives (Dugard 2008:216). This is echoed by the International Council on Human Rights Policy (ICHRP) (2003:6), which shows that the distribution of security services is correlated with wealth, where the wealthy often receive greater security than the poor.

The ICHRP (2003:6) states that non-governmental organisations can help improve public access to the criminal justice system. The Council had noted that "the justice system and its processes are complex and, particularly in societies where levels of functional literacy are low, Non-governmental Organisations (NGOs) can ensure that members of the public understand the system, know what their rights are and are assisted to enforce their rights." In South Africa, the National Crime Prevention Strategy recognized the social and developmental causes of crime, as well as the need to involve a range of government departments and civil society partnerships (du Plessis and Louw 2005:427).

According to du Plessis and Louw (2005:434), "it is widely acknowledged that crime prevention is not simply the business of government but the role of civil society is equally important." The authors stated further that "South Africa is fortunate to have a well-developed, vibrant, and organized civil society participating in the safety and security sector." At the level of policy development, monitoring and oversight, civil society has played an important supportive role. This has been done through providing

capacity to the criminal justice sector via “conducting research and shaping transformation and change through collaborative engagements with government.....” (duPlessis and Louw 2005:434). Agreeing with du Plessis and Louw, UNDP (2004:20) pointed out that NGO performance is “one way to bring specialized technical capacity to an access to justice programme without creating management layers.”

In South Africa the quality of police service delivery still roughly reflects the logic of apartheid (Bruce et al 2007:79). Township areas often receive lower-quality policing services than suburban areas (although services may tend to be better at presidential stations and in priority areas than in other township areas) and the rural poor receive the worst services of all. There continues to be reports and allegations of instances of discriminatory policing, particularly in rural areas (Bruce et al 2007:79).

Bruce *et al.* (2007), supported by Minnaar and Mistry (n.d:38), pointed out that, traditionally, until 1994, police resources were concentrated in the country’s white suburbs and business areas. They felt that, even under the democratic government, in poorer, mainly black communities, the infrastructure of the SAPS remains derisory. While this has been changing, police resources remain disproportionately located in traditionally white areas and the country’s city hubs (Minnaar and Mistry (n.d). This explains why the CCJ has devoted itself to expanding people’s access to their new rights. The CCJ realized that particularly women experienced difficulty in dealing with the justice system and accessing their rights (CCJ 20011).

According to Dye (1981:85), there are at least three important functions of the police related to service delivery in society. These are law enforcement, keeping peace and furnishing service. At this juncture it is sufficient to note that during the apartheid period the South African Police Service (SAPS), then known as South African Police (SAP), was the prime instrument through which apartheid was sustained; that it was “notorious for the belligerent and abusive demeanour of its members, for its use of excessive force, most notably in suppressing political demonstrations, and for the use of torture; and that it was regarded with widespread antipathy” (Bruce *et al.*, 2007:20).

SAPS members are also supposed to have adopted an approach to policing based on the normative precepts of human rights and concepts such as community policing and partnership and, within government, an emphasis on interdepartmental integration and co-operation (Bruce *et al.*, 2007:27). The central pillar of democratic policing is the provision of policing services that are responsive to the needs of the public. In the words of policing scholar, David Bayley (cited by Bruce *et al.*, 2007:78):

“The most dramatic contribution police can make to democracy is to become responsive to individual citizens’ needs. A police force whose primary business is serving the disaggregate public [...] demonstrates] daily and practically that the authority of the state will be used in the interests of the people. In so far as black South Africa was concerned, the focus of policing was, firstly, on the enforcement of apartheid administrative laws, including, in particular, influx-control laws and the related pass system. Secondly, particularly as resistance to apartheid took shape in the 1960s–80s, the focus of the SAP was on suppressing resistance to apartheid. Other than this, little attention was paid to the quality of policing services in areas inhabited by black South Africans” (Bruce *et al.*, 2009:78).

It is in relation to this background that this research investigated the role of civil society in policy implementation with the case of the CCJ in issues of human rights in the justice system. The role was traced particularly in relation to how the NGO works with the police in upholding human rights through the justice system.

1.2 Brief background of the CCJ

The CCJ is a non-governmental organisation that was set up in 1989 by staff of the School of Law of the then University of Natal (the present University of KwaZulu-Natal), Pietermaritzburg. It was established as a research centre aimed at advancing and protecting human rights in the criminal justice system. It was formed as a response to the failure of the justice system to deal effectively with political violence in the greater Pietermaritzburg area (CCJ 2011).

The shifting of the political order from apartheid to democracy, with the accompanying equitable legislation, saw the CCJ shifting its centre of attention away from research to expanding people’s access to their new rights. CCJ realized that women in particular, experienced difficulty in dealing with the criminal justice system and accessing their rights. Women felt that they were not treated fairly or with due sensitivity when reporting crimes (CCJ 2011).

The activities of the CCJ are carried out through the Community Outreach Programme, with established support centres.

The CCJ, among other objectives, seeks:

- a) To enable disadvantaged communities to claim their rights to justice and services.
- b) To help clients resolve conflicts through mediation.
- c) To educate disadvantaged communities about their rights.

- d) To monitor the implementation and impact of law, policy and state agencies on disadvantaged communities (CCJ 2011).

1.3 Objectives of, and need for, the study

No single agency can address public policy, especially social policy, alone (Merlet et al 2006). The motivation for carrying out this study is based on the need to understand the role of civil society (as one of the critical actors) in policy implementation. If more than one actor is involved in policy implementation there is need for clear understanding of each player's role. The research attempts to answer the following questions:

1. Which activities do the CCJ carry out in an endeavour to address issues of human rights through the justice system?
2. What challenges are faced by the CCJ in its endeavour to address issues of human rights through the justice system?
3. Is there partnership between the CCJ and the SAPS in relation to issues of human rights in the justice system?
4. How can the partnership between civil society and government agencies be improved?

1.4 Methodology

The present research was a qualitative study, using a case study approach. The point of departure was the use of existing literature to explain the background to, and need for, the research. Existing literature (secondary data), mostly on civil society and policy implementation issues, was used in the conceptual framework analysis of the study. Documents from the CCJ which provide a more deep understanding of the activities of the organisation were used as reference. More data was collected from the field (primary data). This data was collected through a qualitative methodology of semi-structured interviews. The reason for adopting this approach is explained in Chapter 3. Data analysis was carried out through a thematic analysis. A qualitative approach was favoured because it provided more understanding of the subject based on the perception of the insiders (in this case staff of the CCJ) as they interact with the state or its agency (in this case the SAPS) (Babie and Mouton 2001).

1.5 Structure of thesis

This study consists of five chapters, as follows:

1.5.1 Chapter 1: Introduction to the study

This chapter covers the introduction of the research, background to the study, aims and objectives of the study and a brief historical background of the CCJ. The chapter includes objectives of, and need for the study and questions to be answered by the research.

1.5.2 Chapter 2: Conceptual and Analytical Framework

The second chapter is a conceptual and analytical framework. This chapter conceptualise civil society and policy implementation. Roles, functions, advantages and disadvantages of civil society organisations in public policy will be analysed.

1.5.3 Chapter 3: Case study and Research Methodology

I shall look at the CCJ's historical background, the objectives and the activities that it carries out .SAPS' mission is also given. The chapter will discuss the research methodology used.

1.5.4 Chapter 4: Findings and Discussion

Chapter 4 present the findings and discuss the results in relation to the theoretical framework.

1.5.4 Chapter 5: Conclusion

This Chapter concludes the whole study by giving a summary of key findings and address to research questions raised in Chapter 1.

1.6 Conclusion

In summation, this study is centred on the argument that current public problems cannot be solved by the state alone. There is a need to understand the role of civil society in addressing public policies that have been characterised by problems.

Chapter 2

Conceptual and Analytical Framework

2.1 Introduction

This chapter provides a conceptual overview of civil society and public policy. It discusses concepts in civil society and public policy, with the emphasis on policy implementation. Civil society's role and function, advantages and drawbacks and its history in South Africa will be considered. In an attempt to link civil society to policy implementation, I will locate implementation in the public policy process and then deliberate on what policy implementation is, what kind of actors are involved.

Merlet *et al.* (2006:3) state that an analysis of the performance of new forms of governance shows clearly that neither states nor civil societies will be able to face the challenges of the twenty-first century alone. Merlet *et al.* (2006). Merlet *et al.* (2006) are corroborated by Kabemba (2005:4), who states that the existence of a strong civil society, working alongside a capable state, is seen as necessary in order to make the state effective. This is contrary to the views of Hogwood and Gunn (cited by Hill and Hupe 2002:50). Hogwood and Gunn, in their ten points for efficacious policy implementation, stipulated that there should be "a single implementing agency that needs not to depend upon other agencies...."

The South African Social Welfare White Paper 6 (16) of 1997 noted that, "given the enormous backlogs in meeting the social and economic needs of the most disadvantaged sectors of the population [in South Africa], the government will not be able to address these discrepancies by itself." The Paper added that a partnership with organisations in civil society is critical. An enabling environment will be created, including legislative and tax reform, to access financial resources and to maximise the contribution of each of the parties. In other words, there is acknowledgement that the state needs to work with civil society in issues of development in order to meet the needs of its citizens (South African Social Welfare White Paper 6 (16) of 1997).

2.2. Civil Society Organisations

The number of non-governmental organisations and their involvement in national and international policy-making has increased extraordinarily over the last half-century and particularly over the past decades (Nzimakwe 2008). This highlights a significant emergence of non-governmental organisations and indicates the important part they are playing in development (Nzimakwe 2008). According to Nzimakwe (2008), globalisation has brought many unforeseen changes to the functioning of governments and this has led to the rise of non-governmental organisations, which have grown in

number and power, such that they now provide services which governments are sometimes unable to fulfil

2.2.1 Conceptualising civil society

According to Garner (2009), what constitutes civil society remains in an amorphous state, despite receiving much attention. This is echoed by Kihato (2001), who pointed out that defining and finding which organisations fall within the framework of civil society continues to be a challenge. Some view them as organisations, some as space. Glaser (1997:5) described them as “.....a kind of empty public space, protected by formal state guarantees of individual liberty and social order, and open to multiple uses by free and equal citizens.”

The definitions of civil society organisations ranges from the broad definition representing the total diversity of human voluntary endeavour; the mechanism through which people come together to pursue their wants and needs, to the more narrow definition of organisations that exist for the benefit of people in our societies (Graham *et al.*, 2008:7). Scholars who write about civil society differ immensely about what to include or exclude within the concept. Some scholars include or exclude organisations that are aligned to the state or market (Carroll 2006:238).

Habib (2002:147) defined civil society as “the organised expression of various interests and values operating in the triangular space between the family, state and the market.” This definition conceptualises civil society as an entity distinct from both the market and the state. Schmitter (cited by Hassan 2009:68) defined civil society as a system or group of self-organised intermediate associations that;

- i. Enjoy relative independence from public authorities, private production units and enterprises.
- ii. Are capable of undertaking common actions to express and defend their interests.
- iii. Do not try to replace the state mechanisms, or accept the responsibilities of government, in general.
- iv. A guide by the previously agreed rules that are civilian in nature and based on mutual respect.

Ibrahim (cited by Hassan 2009:69) also defines civil societies as “all non-governmental and non-hereditary organisations that occupy the public domain between family and state, and are constituted by the free will of their members in order to promote a common cause or interest, or express a common point of view”. Ranchod (2007:2) defined civil society as:

“.....the arena of uncoerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though, in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Civil societies are often populated by organisations such as registered charities, development non-governmental organisations, community groups, women's organisations, faith-based organisations, professional associations, trades unions, self-help groups, social movements, business associations, coalitions and advocacy groups.”

Fatton (1992:4-5) defined civil society as a “private sphere of material, cultural and political activities resisting the incursions of the state.” Fatton’s (1992) definition of civil society prejudices the nature of state-civil society relations. It does not consider that not in all situations is the relationship characterised by confrontation, disengagement and competition, but rather it is sometimes harmonious and complementary. Fatton’s(1992) definition of civil society seems to be influenced, and comes as a counter to, the Marxist notion of state. According to Marxist point of view (cited by Garner 2009), the state is a vehicle for existence of power by the dominant class to further their interests. In other words, it is an instrument of exploitation. Civil society is thus viewed by Fatton as something formed to resist that dominance by the state.

According to Mafunisa (2004:490), civil society includes those organisations that are separate from the legislative, administrative and judicial power of the state. These include labour unions, religious groups, cultural and educational associations, sports clubs, student groups, political parties and ethnic groups adhering to their own rules of conduct and distinctive customs. Mafunisa (2004) added that these are also known as non-governmental organisations (NGOs).

Mafunisa (2004:490) stressed that it is of paramount importance that we understand that public institutions will, in making decisions and implementing these decisions, have to take into consideration the attitude and activities of civil society organisations. There is a need for public institutions, for their proper performance, to establish formal contacts with, and obtain the co-operation of relevant institutions in civil society.

It is not the purpose of this research to engage in an extended debate over the definition of civil society. Rather the research intends to use the following working definition from Chazan and Friedman (cited by Ranchod 2007:2). Chazan and Friedman (1993) view civil society organisations “as organisations that are independent of the state, work with it, but have no intentions of taking over.” This definition was adopted because it tends to best flesh-out the underlying meaning of both formalised and non-

formalised associations. The definition, unlike some, does not jump to conclusions in terms of the relations of the state and civil society organisations. The definition was adopted because it shows that civil society has a role to play in government activities, if the relationship of the two sectors is managed well.

Most of the definitions of civil society outlined support the non-profit aspect in civil society organisations. This research noted that civil society organisations (CSOs) are known variously as non-profit organisations, voluntary organisations, third sectors, social economy sectors, non-governmental organisations or charitable sectors (Salamon and Sokoloski., 2004:3). Because the terms are used synonymously and interchangeably in most documents consulted, this research will use them with the same meaning.

2.2.2 Roles and functions of civil society organisations in public policy

According to Fisher (1997:447), the functions of NGOs differ from organisation to organisation. Some NGOs focus on a single issue, while others try to address numerous issues at the same time. Muhereza and Kyomugisha (cited by Hern 2001:44) describe policy-making and implementation as predicated on the “compliance nature of the triad relationship between the state, donors and civil society.”

Graham *et al.* (2008:15) stated that civil society has played a key role in society for hundreds of years. They further observed that it is really only over the past century and a half that the sector has come to play a more central role in actively changing society. Graham *et al.* (2008) pointed out that civil society played a pivotal role in the anti-slavery movement and the campaign for women’s suffrage. The Geneva Convention brought recognition to the role of civil society organisations in issues of public policy and development (Graham *et al.*, 2008:15).

Clayton *et al.* (2000:5) stated that civil society organisations are now major players in bringing about social and economic change in many developing and transition countries. Civil society has been playing a critical role in the provision of social services in both developed and developing countries (Clayton *et al.*, 2000:6). This is echoed by Salamon and Sokoloski (2004:3), who pointed out that civil society helps to deliver vital human services, such as health, education, counselling, and aid to the poor, often in partnership with the state, and the market, to empower the disadvantaged and bring unaddressed problems to public attention. According to Tandon (1991:2), strength, visibility and importance of non-governmental organisations engaging in promoting development has led to the recognition of the organisations as the third sector, government and with business being the first and second sectors, respectively.

According to Clayton *et al.* (2000:4), the role of civil society in service delivery has undergone a dramatic change in both developed and developing countries. Clayton *et al.* (2004) has observed that, though civil society played the role of service provision in Africa since the colonial era (mission schools and hospitals), now they have grown both in number and the size of programmes they undertake. This is due to the decline in state capacity in public service provision. Clayton *et al.* (2000) and Pollard and Court (2005:18) have argued that civil society organisations are often well-placed to provide key services like health and education and replace the state, mostly when the state is weak. Clayton *et al.* (2004) and Pollard and Court (2005) are supported by Nzimakwe (2008:90), who has noted that the arrival of “democracy based on the majority has opened up new opportunities for NGOs to make a meaningful contribution to the development of South African society.”

Mellor (cited by Parsons 1995:499) stated that, though the role of the voluntary sector was shrinking in the twentieth century, due to the emergence of welfare states, however in recent years the sector has gained central place, as the state is no longer capable of, or no longer interested in, providing the range of services that it once provided.

Similarly, Graham *et al.* (2008:15) stressed that civil society plays a vibrant role in “providing a space for public voice, for the practice of citizenship and for the building of social cohesion.” This view is shared by Castells (cited by Graham *et al.*, 2008:15), who insisted that civil society organisations are “imperative as a space for the building of identity in a world where citizens feel that they have little control over their circumstances and where the nation state becomes too big for its citizens and too small in relation to the global world”. This is evident in the role of the CCJ which understands that human rights grievances of its clients can only be addressed at a level beyond individuals or individual families.

According to Tandon (1991:11), the relationship of individual families with the state needs to be mediated. Tandon (1991:11) pointed out that the state is so “powerful, so controlling and so mighty for individual families” that the state can bully individual families and no fruitful protest can be raised by the latter. Because of the need to limit the powers of the state, Tandon recognises the need for civil society. In other words, civil society acts as a bulwark for individual families against an oppressive government and its policies. This is corroborated by Berger and Neuhaus (cited by Parsons 1995:502), who explained that the voluntary sector has long had a vital role in providing mediating structures which can stand between the individual and large state and business institutions.

According to Burger *et al.* (cited by Tandon 1991:11), studies have indicated that civil society organisations such as neighbourhood associations and churches have managed to mediate between

individual families and government institutions. This role is also carried out by the CCJ as it plays a mediatory role in issues of human rights through justice systems(CCJ 2011).

According to Diamond (1994:7), the most basic function of civil society is to provide the basis for the limitation of state power. Diamond (1994) stated that the function has two dimensions, which are to monitor and restrain the excess use/abuse of power by the democratic state. He stressed that a vibrant civil society is more essential in consolidating and maintaining democracy than initiating it. The second dimension is to democratise authoritarian states.

Robinson *et al.* (2005:1) observed that “civil society organisations actively contributed to regime change and the transition from authoritarian rule in Eastern and Central Europe in the late 1980s.” Harbeson *et al.* (1994:2) felt that civil society has a “role in establishing bridges between society at large and government in seeking harmonisation of their respective purposes.” Harbeson *et al.* (1994:97) pointed out that strong civil society can legitimise the state, while at the same time limiting the scope of its power and activities, and making governments adopt people driven policies.

Robinson and White (cited by Clayton *et al.*, 2000:11) pointed out that civil society and state can complement each other, and build collaboration through developing effective working relationships between the two sectors. They added that this partnership can be made effective by complementing each other. This is corroborated by Tandon, who stressed out that it is important to note that the existence of the state alongside civil society is completely needed to complete the process of the governance of society (Tandon 1991:9). Tandon stated that the state “represents structures of governance, whereas the civil society creates the values and normative framework for governance.”

The involvement of NGOs in the public policy process not only produces direct positive results on citizens, but will also impact positively on the system of governance. It can make government officials better-informed about the potential benefits and costs for various stakeholders of policy decisions (Oshewolo 2011:147). Pollard and Court (2005:18) explained that many civil society organisations “do not play a practical part in implementing policy themselves, but do offer technical advice and expertise on how it might be better implemented.” Civil society organisations such as think tanks and research institutes bridge the gap between those with expertise in policy implementation and those responsible for policy-making (Pollard and Court 2005:18). In the case of the CCJ, it is not the one that is involved directly in apprehending perpetrators of human rights but it works with government agencies such as the police and the courts.

Diamond (1994:7-8) noted that civil society appendages the role of political parties in “stimulating political participation, increasing the political efficacy and skill of democratic citizens, and promoting an appreciation of the obligations as well as the right of democratic citizenship.” Diamond added that civil society can be a “crucial arena for the development of other democratic attributes, such as tolerance, moderation, a willingness to compromise, and a respect for opposing viewpoints.” In other words, civil society adopts practices that uphold tenets of democracy and contributions to policy ideas. Civil society helps to promote tolerance among differing opinions and interests and, through that, it promotes the respect and protection of the minority and the disadvantaged (Robinson *et al.*, 2005).

Civil society also creates “channels other than political parties for the articulation, aggregation, and representation of interests” (Diamond 1994:8). Diamond stressed that this function helps particularly those who are traditionally marginalised by the state; which includes women, children and the disabled. This function is carried out by the CCJ as it realised that women usually experienced difficulty in dealing with the criminal justice system and accessing their rights. Women feel that they are not treated fairly or with due sensitivity when reporting crimes. They experienced secondary victimisation at the hands of the police service (CCJ 20011). According to Diamond (1994:8), it is only through sustained, organized pressure (from civil society), that “political and social equality be advanced, and the quality, responsiveness, and legitimacy of democracy thus are deepened.”

According to Diamond (1994:10), civil society plays an important role in information dissemination, “aiding citizens in the collective pursuit and defence of their interests and values.” This information can be details of what government is doing, contrary to what it claims to be doing. Civil society uncovers abuse of power and human rights (Diamond 1994:10). Diamond’s views are corroborated by Ferris (1998:144), who stated that information dissemination helps citizens to participate more effectively in the political process and more easily monitor and make public officials accountable. Diamond (1994:13) cautioned that this function of information dissemination can only be effectively carried out if civil society organisations, such as associations and mass media, are self-directed in terms of funding, legal standing and operations.

According to Smith (1973:198), the real role of civil society is felt when policies are being implemented by the government. Baqueiro stated that policy implementation is, by-and-large, seen as the chance for civil organisations to exercise the kind of “civil scrutiny that is necessary if we are to have government accountability” (Baqueiro n.d:1).

2.2.3 Advantages of civil society organisations when addressing public policy matters

According to Beer *et al.* (cited by Nzimakwe 2008:96), NGOs are able to expedite a relatively high degree of community participation. This makes them able to accurately recognize the needs of a community they serve. Merrington (cited by Nzimakwe 2008) noted that non-governmental organisations are good at communicating with, and mobilising, the poor. This is because of their closer proximity to the community than government and its agencies.

In the case of human rights through criminal justice, Neild (2001:5) stressed that if the police force is deprived of public trust and co-operation, an attempt to work alone can achieve very little in preventing or fighting crime. This means that community-oriented strategies are a fundamental aspect of both democratic policing and effective policing. This implies that there is need to work with the locals to achieve policy objectives.

Staff members of the civil society organisations normally live in the community, or even belong to the community, which they serve. They are well-known for identifying and addressing unmet needs, for innovating, for delivering services of exceptional quality and often for serving those in greatest need (Salamon and Sokoloski 2004:23). In the case of the CCJ all outreach programme co-ordinators are chosen from the community they serve. Their offices are situated in the populations they help serve (CCJ 20011).

Beer *et al.* (cited by Nzimakwe 2008:96) noted that because NGOs are functioning at community level, or have been formed as a result of a community initiative, they tend to enjoy more legitimacy in the communities. This is because communities have ownership to such initiatives and effectively address their own needs and interests. This is supported by Merrington (cited by Nzimakwe 2008), who pointed out that NGOs are effective in assisting the poor to participate in matters affecting their lives, and as a result, gain more control over the quality of their lives.

The high degree of public participation in NGOs creates a favourable milieu in which indigenous knowledge can be utilised and adapted to local development needs (Beer *et al.*, cited by Nzimakwe 2008:96). This high degree of participation allows communities to apply knowledge and technologies, which they have developed themselves to suit their own situation and which are sustainable (Beer *et al.*, cited by Nzimakwe 2008:96). Nzimakwe (2008) stated that NGOs undertake projects at no or minimal cost to the government and at lower costs than comparative public sector projects, because of their commitment to use low-cost technologies. This is applicable to the CCJ's role, when the organisation is sometimes involved in the mediation of out-of-court settlements. This cuts costs

compared to the government approach of imprisoning trivial offenders at the expense of the taxpayer (CCJ 20011).

Beer *et al.* (cited by Nzimakwe 2008:96) and Fisher (1997:144) explained that because of their structure, which is not characterised by the same bureaucratic nature as that of government, NGOs are very flexible, open to innovation and adaptive to local conditions and changes in the environment. This makes them able to respond faster to situations. Their running costs are lower because of their smaller organisational size, supported by their voluntary character. Although the above view is shared by some scholars, others have contending views. Eikenberry and Kluver (2004:132) lamented that “non-profit organisations are adopting the approaches and values of the private market, which may harm democracy and citizenship because of its impact on non-profit organisations' ability to create and maintain a strong civil society.”

According to Oshewolo (2011:146), NGOs are known to be innovative. Todaro and Smith (cited by Oshewolo 2011:146) pointed out that “NGOs possess the capacity to design new and more effective programmes that reach the poor by virtue of their close working relationship.” However Oshewolo emphasised that though NGOs design new and more effective programmes, it is the mandate of the government to scale up and move them into public policies. Such programmes include “community literacy campaigns, monitoring human rights violations, creating awareness on HIV/AIDS pandemic and other diseases among numerous others” (Oshewolo 2011:146).

According to Clayton *et al.* (2000: 9), although there is limited evidence to support this, it is universal wisdom that NGOs are more efficient and effective than the state in providing services. Oshewolo (2011:146) added, “ideally, NGOs are not constrained by the selfish preferences of the elites who dominate the public sphere.” They are known to be not rigid or conservative, which makes them address problems proactively. Green and Mathias, cited by Clayton *et al.* (2000:9), stated that NGOs are efficient and effective because:

- a) They have specialist experience. Most NGOs are known to specialise in particular areas of need and this has helped them to gain experience and retain specialist employees.
- b) They have more appropriate management structures and systems.
- c) They are known to be flexible.
- d) They have a high staff motivation.

According to Fowler (1991), Frantz (1987) and Hyden (1998) (cited in Fisher 1997:144),NGOs have the “capacity to efficiently transfer training and skills that assist individuals and communities to compete in markets, to provide welfare services to those who are marginalized by the market, and to contribute towards democratization and the growth of a robust civil society.”

2.2.4 Challenges of civil society organisations when addressing public policy matters

NGOs have their weaknesses.Nzimakwe (2008) and Marcussen (1996) cautioned that,although the cited advantages of NGOs are true there is no guarantee that the advantages of having them are true, for all organisations that fall into this sector. They warned that some NGOs, both national and international, are not democratic at all and many projects of NGOs do not effectively reach the poor. The issue of failing to address the needs of the poor is echoed by Clayton *et al.* (2000).They stated that reducing the plight of the poorest of the poor is a questionable achievement of NGOs. According to Clayton *et al.*, even the best projects are not sufficient to allow people to escape poverty, but they generally perform better in the area of service-delivery to the poor (Clayton *et al.*, 2000:8).

According to Nzimakwe (2008),NGOs have narrow self-sustainability because their activities are funded mainly by grants from donors, with limited government funding. Clayton *et al.* (2000:10) had misgivings that dependence on external funding and expatriate staff among NGOs can create problems of efficiency through lack of continuity and because funding is often available only for limited periods and for specific projects. This makes them unsustainable.According to Oshewolo (2011:148), when NGOs lack the economic wherewithal or have a dearth of resources, it becomes difficult for them to impact positively on public policy. The problem of funding sustainability is outlined by scholars such as Kanjimbwa (cited by Oshewolo 2011:146).Commenting on the flexibility of NGOs,Kanjimbwa stated that the flexibility of NGOs in the developing countries is sometimes constrained by funding hiccups.

Clayton *et al.* (2000:10) added that programmes or projects of non-governmental organisations are short-term and not sustainable, compared with government programmes. The fact that civil society relies on external donors, which exist for a limited time, makes it difficult for the organisations to do long-term planning (Clayton *et al.*, 2000:11). Clayton *et al.* have also observed that donor dependency makes civil society organisations lose their independence from their funders and become subject to restrictions.This is problematic in South Africa, where civil society organisations’ revenue is dominated by government payments (Salamon and Sokoloski 2004:119).

Clayton *et al.* (2000:8) had observed that although civil society organisations are good at service delivery to the poor their impact is hampered by the fact that they have limited coverage it terms of

operation. Many people do not benefit from them because of their limited sphere of operation. This makes questionable the notion of attending to the poorest of the poor.

Foweraker (cited by Pollard and Court 2005:18) has observed that even if civil society organisations have been successful in providing services to small areas, they may face difficulties in scaling up these programmes or implementing services over larger areas than the communities in which they have roots. Hence, instead of attending to social service needs of the marginalised, some civil society organisations can be viewed as contributing to marginalisation.

Although civil society organisations are applauded for their perceived competence and benevolence, responsiveness to the needs of the poor, Pollard and Court (2005:18) pointed out that many authors, such as Clayton *et al.* (2000) and Cooley and Ron (2003) warned that when civil society organisations “enter into contractual agreements to provide services with governments or donors, they cater their activities to their interests rather than to those of local communities they serve.”

2.2.5 Civil society organisations in South Africa

i. During Apartheid

According to Swilling and Russell (2002), defining civil society in the South African context is a “particularly hazardous exercise because the constructed notion of a ‘non-profit sector’ is inevitably intimately bound up with the unresolved emotive debate about what ‘civil society is’”. Swilling and Russell (2002) explained that as South Africans negotiated themselves from apartheid rule to democratic rule, the debate about the state’s “function and form” could not be isolated from how South Africans visualised a future civil society. Graham *et al.* (2008:16) stated that from the 1920s through to the 1990s the period was seen as difficult. Where community-based organisations were formed and took action, they openly criticised the state. Consequently not all non-profit organisations survived until the beginning of democratic South Africa.

According to Salamon and Sokoloski (2004:110), civil society in South Africa has been shaped by two forces which are “the corporatist tradition of the Dutch settlers that gave civic association a prominent role in the delivery of public welfare service; and the self-help spirit of the indigenous people.” Blacks were cut off from any government assistance and forced to rely on their own organisations and networks Salamon and Sokoloski(2004:110). It is against this background that South African civil society became dominated by service activities, but also in a relatively large advocacy component.

Salamon and Sokoloski (2004:110) stated that black civil society during apartheid was characterised by two types of organisations, which are “organisations for survival”, such as burial clubs, informal savings clubs (*stokevels*), trade unions and non-political professionals. The other organisations were

“organisations of resistance”, consisting mainly of civic associations and trade unions (Salamon and Sokoloski 2004:116).

Everatt (2001:75) stressed that in the course of South Africa’s apartheid history it was necessary to have a strong and vibrant civil society as a counter to the state. This observation agrees with the notion of civil society, which aims at “resisting the incursions of the state” (Fatton 1992). Although there were moments when the state acted against all forms of organisation, for example in the 1960s, in general the colonial and apartheid states tolerated the extensive growth of a diverse and complex black non-profit sector, as long as it remained apolitical (Centre for Civil Society 2002:69).

There was a sustained racist discourse during apartheid which justified state neglect of black social development by reference to the ability of blacks to look after themselves in their own areas and in accordance with “native customs” (Centre for Civil Society 2002:69). The black non-profit sector was a mix of largely localised and less formalised survivalist and oppositional non-profit organisations (Centre for Civil Society 2002:69).

ii. Post-apartheid

The activities of civil society after the apartheid government were incorporated in the laws and policy frameworks of the democratic government, led by the African National Congress (ANC). Before I look at the position of civil society after apartheid it is of great importance to outline the current Acts and policy frameworks that govern civil society relations with the state. Among other Acts and legislative frameworks that govern civil societies in South Africa are the Constitution of the Republic of South Africa of 1996; the Non-Profit Organisations Act 71 of 1997 (NPO Act 17 of 1997); National Development Agency Act of 1998; White Paper for Social Welfare of 1997 and White Paper on Reconstruction and Development of 1994.

As indicated in the definitions of civil society, civil society can be viewed as a space of interaction. This space is recognised as the constitutional right of every South African citizen. The Constitution of the Republic of South Africa 2(18) of 1996 guarantees freedom of association: everyone has the right to freedom of association. It is under this proclamation that civil society organisations claim their right to existence and their role in representing their members in matters that affect them.

According to Ranchord (2007:4-5), in 1997 the government of South Africa introduced the Non-Profit Organisation Act 17 of 1997, which defined the organisations as “ A trust, company or other association of persons established for a public purpose and the income and property of which are not distributed to

its members or office-bearers, except as reasonable compensation for service rendered.” NPO Act 17 of 1997 2(3) states that:

“Within the limits prescribed by law, every organ of state must determine and co-ordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of non-profit organisations to perform their functions”(NPO Act 1997:5).

The main objectives of the Act are “to encourage and support non-profit organisations in their contribution to meeting the diverse needs of the population of the Republic” by:

- (a) creating an environment in which non-profit organisations can flourish;*
- (b) establishing an administrative and regulatory framework within which non-profit organisations can conduct their affairs;*
- (c) encouraging non-profit organisations to maintain adequate standards of governance, transparency and accountability and to improve those standards;*
- (d) creating an environment within which the public may have access to information concerning registered non-profit organisations*
- (e) promoting a spirit of co-operation and shared responsibility within government, donors and amongst other interested persons in their dealings with non-profit organisations (NPO Act 1997:4).*

According to the preamble of the White paper for Social Welfare of 1997:

“South Africans will be afforded the opportunity to play an active role in promoting their own well-being and in contributing to the growth and development of the nation. The challenge facing the welfare system is to devise appropriate and integrated strategies to address the alienation and the economic and social marginalisation of vast sectors of the population who are living in poverty, are vulnerable, and have special needs. An intersectoral response is needed within government and between government and civil society to adequately address welfare needs”(Social Welfare White Paper 1997:2).

In terms of partnership, the Social Welfare White Paper 1 (20) of 1997 noted that:

“South Africa has a fairly developed social security system and a rich institutional framework of welfare services delivered by non-governmental organisations, such as voluntary welfare organisations, religious organisations, community-based organisations and informal family and community networks.

These organisations have expertise, infrastructure and other resources which could play a significant role in reconstruction and development”(Social Welfare White Paper 1997:7).

The White Paper on Social Welfare 3 (23) pointed out that organisations in civil society are particularly well placed to

- (a) Innovate and pioneer new services and programmes, which, if successful, could be replicated on a wider scale.*
- (b) Identify local needs.*
- (c) Respond speedily, appropriately and flexibly to local needs.*
- (d) Promote grass-roots participation in decision-making and direct service delivery.*
- (e) Represent their particular constituencies on structures, such as policy-making and co-ordinating programmes, at all levels of Government, to ensure that interventions are appropriate.*
- (f) Mobilise communities to take action to meet their needs.*
- (g) Co-ordinate action at the local level.*
- (h) Take advantage of economies of scale; and*
- (i) Monitor strategies aimed at achieving equity (Social Welfare White Paper 1997:29)*

The National Development Agency Act of 1998 3(1) states that its primary objective is to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purposes of:

- (a) carrying out projects or programmes aimed at meeting development needs of poor communities; and*
- (b) strengthening the institutional capacity of other civil society organisations involved in direct service provision to poor communities (Development Agency Act of 1998:4).*

The secondary objectives of the NDA are:

- (a) to promote-*
 - (i) consultation, dialogue and sharing of development experience between civil society organisations and relevant organs of state; and*
 - (ii) debate on development policy; and*

(b) to undertake research and publication aimed at providing the basis for development policy(Development Agency Act of 1998:4)

According to the White Paper for Social Welfare 1(20) of 1997:

“South Africa has a fairly developed social security system and a rich institutional framework of welfare services delivered by non-governmental organisations, such as voluntary welfare organisations, religious organisations, community-based organisations and informal family and community networks. These organisations have expertise, infrastructure and other resources which could play a significant role in reconstruction and development” (White Paper Social Welfare 1997:7).

2.2.6 Types of NPOs in South Africa

According to Hospice Palliative Care Associations-HPCA (2009:22), in South Africa, there are three types of Non-Profit Organisation. These are voluntary associations, trusts and Section 21 companies.

i. Voluntary Associations

There is no office of registry for voluntary associations and the only requirement to form a voluntary association is an agreement between three or more people to achieve a common object, primarily other than the making of profit (Bamford 19882; HPCA 2009:24). Bamford (1982) stated that a voluntary association must be established for a purpose primarily other than the making and division of profits, but it is possible for the association to conduct subsidiary activities to make some profit, as long as the main objective of the association is not the acquisition of gain. In other words, profits should not be distributed but returned to the association for the furtherance of the association's objectives.

The agreement may be verbal or written. It is, however, customary, but not required, for the agreement to take the form of a written constitution. The voluntary association is a common structure for small or informal community-based initiatives. It is a product of the common law and is not regulated by statute. According to Bamford (1982), this can be confusing, since the common law is not easily accessible and is sometimes conflicting.

In the presence of the constitution, HPCA (2009:24) stated that the document will control the governance of the association. It is also noted that the “constitution will appoint a group of people and bestow management or executive powers on them to make decisions on behalf of the association and to manage its affairs.”

ii. Trusts

A trust is formed when ownership of property is transferred to another party to be administered for the benefit of certain persons or the achievement of a particular goal (HPCA 2009:25). The property may be transferred by written agreement, testamentary writing, or court order.

According to HPCA (2009:25), for one to establish a trust he or she will be required to have an attorney draw up a Trust Deed and file the original copy thereof with the Master of the High Court. The Master will register the trust and will issue Letters of Authority to the trustees, formally appointing them to act on behalf of the trust. Trusts may be established for private benefit or public purpose and the purpose of the trust is set out in the organisation's trust deed. A trust lacks legal personality and it technically holds property in the name of its trustees.

Trusts are generally flexible structures that can be used for a variety of purposes. For example, a trust may be created to provide for the education of a specific family or a trust may be created whereby trustees are given a wide discretion to use the trust assets for a general purpose, such as a charitable purpose. The purpose of a discretionary trust must be lawful and sufficiently certain. If a trust has a mainly charitable purpose, the fact that it has a subsidiary purpose which is not charitable will not invalidate it (Bamford 1982).

iii. Section 21 Companies

The Companies Act, No. 61 of 1973, provides for an "association not for gain in terms of section 21." These organisations, which are commonly called "Section 21 Companies", must have at least seven members, each of whom undertakes a guarantee commitment in the event of the financial failure of the institution (NonProfitAct 1997:25). A Section 21 Company, like all companies, must register with the Registrar of Companies in terms of the Act and, unlike other types of NPOs, it cannot operate before it is registered (NonProfitAct 2009:25). The records of the Registrar are open to the public. Section 21 Companies possess legal personality.

According to NPAC (2009:25), "the founding documents of the Section 21 Company are the Memorandum and Articles of Association. The Memorandum sets out the purpose of the NPO; the Articles of Association regulate how it operates." According to the Company Act of 1973, Section 21 Companies may be established for the promotion of religion, the arts, sciences, education, charity, recreation, any other cultural or social activity, or communal or group interests.

A Section 21 Company does, however, have substantial autonomy of their internal management and the operation and running of day-to-day businesses. It also has a significantly developed risk profile

compared to the other types of NPOs discussed above due to the requests for accountability, disclosure and independent audit.

2.2.7 Beyond the governing Acts

After 1994, many civil society leaders moved into government or into business. They thought the battle was over and won (Graham et al., 2008:18). This shift had deep implications for the sector in South Africa; the sector was inundated with inexperienced leadership and the result has been a gearing down in civil society action, particularly amongst the trade unions (Graham *et al.*, 2008:18).

In South Africa the discussions of civil society organisations often focus on the more formalised organisations. Such conceptions ignore many informal gatherings and associations that take place at a grass-roots level in which local people come together to meet the needs that arise within their communities and which never become formalised (Graham *et al.*, 2008:7). Graham *et al.* reiterates that it is important to view civil society organisations from an understanding of their range and the variety of issues they try to address.

Regardless of many changes in the civil society sector after the democratic government took over, according to Everatt and Gwagwa (2005) South Africa has a larger non-profit sector than the developed countries. They stated that there are 98 920 non-profit organisations across all sectors and the largest sectors are culture and recreation, with 20 587 organisations, social services, with 22 755, and development and housing, with 20 382. Everatt and Gwagwa (2005) noted that most (53%) non-profit organisations are less formalised, community-based organisations (CBOs), concentrated in poorer communities. Black people, mostly women, are the most active in less formalised non-profit organisations (Everatt and Gwagwa 2005).

Africa Open Society Foundation for South Africa (AOSFSA) (2007:77) estimated that, as of 2002, there were about 100 000 civil society organisations in South Africa and as noted earlier more than half of them are less formal, 'community-based' organisations. Besides traditionally conceptualised civil society organisations such as trades unions, churches and other religious groups, as well as human rights and other formally registered non-governmental organisations (NGOs), there has been an emergence of grassroots 'social movements', some of which have had extensive success in influencing government policies.

2.2.8 The relationship of civil society and government in policy implementation

The right to freedom of association, enshrined in the National Constitution, guarantees an individual's freedom to establish, to join or take part in the activities of an association. This is of great significance to civil society in South Africa (Currie and de Waal 2000). Civil society sectors inhabit a complex and

changing context in the new democratic South Africa, marked by key debates such as the relationship of the sector to the state and to the private sector, as well as the role of the sector (Graham *et al.*, 2008:4). The nature of the apartheid government in South African history led to the creation of civic groups that were different to those that had previously existed. Civil society formations during apartheid were based on race, ethnicity and class and were largely drawn in advocacy work opposing the apartheid government (Graham *et al.*, 2008:17).

According to Salamon and Sokoloski (2004:116), the first democratically elected government of South Africa “bolstered its relationship with the civil society sector in policy development and implementation, engaging NGOs in funding and delivery of development projects in line with public policy agendas.”

The dawn of democracy brought new problems for many civil society organisations, which had to redefine their identities and roles with a “legitimate, constitutional democracy” (Everatt 2001:75). According to Everatt (2001:75), while some civil society organisations closed down, others made significant shifts in orientation and began to embrace new roles, including being participants in the policy-making process and becoming partners with government in service delivery and acting as watchdogs of new the government’s performance.

AOSFSA (2007:77) observed that the new democratic government began to view progressive civil society as an ally that it could work with in achieving a commonly held vision on the reconstruction of society. Civil society started to work along with government in policy formulation and implementation where state capacity was lacking. According to the Open Society Foundation for South Africa (2007:77), the new government started to view civil society as a partner that could be relied upon to supplement its own capacity for the common good. However, the organisation has noted that this relationship did not last, since as time went by the government started to side-line the civil society in decision-making and viewed the sector only as a “supplementary delivery mechanism” (Open Society Foundation for South Africa 2007:77).

Habib (2002:147) has observed that some organisations, such as the Treatment Action Campaign (TAC), demonstrate adversarial relations with the state on one issue and more collegiate relations on another. This was typical during the Mbeki administration. Other organisations, such as the Homeless People Federation (HPF), challenge and oppose some state institutions, but have established partnerships with others.

Service-related NGOs that contract with the state and community organisations that partner with the ruling party are behaving in a manner conducive to democracy. The ruling party has gone out of its way

to reward such behaviour, mainly by providing access to corporatist institutions and other public participation channels established by the state (Habib 2002:147).

Kabemba (2005:4) has postulated that African states have no problem with working with the civil societies in areas of development governance, but the issue that concerns states is to what extent they should involve civil society in alleviating problems that affect society. Kabemba (2005:4) states that where the state is weak and dysfunctional, the state is scared that the civil society will challenge its dominance and in some scenarios take over the control of the state.

2.3 Public Policy Implementation

2.3.1 Public Policy

According to Cochran and Malone (2010: 3) public policy emerged as a prominent subfield with the discipline of political science in the mid-1960s. Brooks (1989:16) defined public policy is the broad framework of ideas and values within which decisions are taken and action, or inaction, is pursued by governments in relation to some issue or problem. Frederich (1963:79) professed public policy as “A proposed course of action of a person, group or government within a given environment, providing obstacles and opportunities which the policy was proposed to utilize and overcome in an effort to reach a goal or realize an objective or purpose.”

de Coning (2006:3) defined public policy “as statement of intent.” It specifies the basic principles to be pursued in attaining specific goals. According to de Coning (2006:3), “policy interprets the values of society and is usually embodied in the public management of pertinent project and programmes.” de Coning (2006) added that policy process has numerous phases and these include initiation, design, analysis, formulation, dialogue and advocacy, implementation and evaluation.

Figure 2.1

A SYSTEMIC VIEW OF THE POLICY PROCESS

Public Policy Process (Steps of the Policy Cycle)				
Agenda-setting→	Formulation→	Decision-Making→	Implementation→	Evaluation→
Government accepts to evaluate an issue brought up by an actor.	Possible solutions to a problem are elaborated by a network of actors.	Government chooses a solution among those formulated by the network of actors.	Public servants, possibly working with the network of actors, translate policy into concrete action using substantive policy tools. <u>Existence of a public policy</u>	Evaluation can be performed by any actor. Government actors conduct impact, process and/or efficiency evaluation, so the policy can be adjusted.

- To start the policy process, a government must decide to pay attention to an issue.
- The policy process always starts with the agenda-setting.
- The policy process is not necessarily a linear process. From the formulation, steps can be skipped or repeated. It can also stop and resume.
- The policy process can stop at any moment.
- The duration of a policy cycle is variable.

(Extracted from Caroline Dufour, 2010. Public Policy Process Steps of the Policy Cycle).

2.3.2 Locating policy implementation within policy discourse

According to Brynard (2000:164), implementation evolved from policy science, where it was viewed by early scholars as merely an administrative choice which, once policy had been legislated and instituted to the institutions mandated with administrative authority, would happen of and by itself. This observation is buttressed by Younis and Davison (1990:3), who stated that studies of public policy have been traditionally separated into three stages, which are policy formation and design; policy implementation and policy evaluation. This means, as noted by Brynard (2000), that there was assumption that policy decisions were going to be implemented as intended by the decision-makers and also produce the desired results. This prejudiced approach has led many studies being carried out that focused on the means to improve policy formulation and design, with no attention to implementation. This has caused policy implementation to suffer for a long time from what was called a “black box” approach (Younis 1990:4).

The idea of breaking a policy process into stages is well known as a stages, heuristic or text-book approach (Parsons 1995). It was widely received during its early days. The approach is derived from the works of public policy scholars such as Laswell and Eaton, who break policy process into “functionally and temporally distinct sub-processes” (Sabatier and Jenkins-Smith 1993:1). The work of Jones (1997) and Anderson (1979) makes clear categories in the policy process. The stages are problem identification, agenda setting, implementation and policy evaluation (Sabatier and Jenkins-Smith 1993:2).

Although the stage heuristic approach makes the policy process more comprehensible because each phase can be looked at separately, phases can be compared, for example, in terms of implementation. This approach has faced criticism. Barrett and Fudge (cited by Hill and Hupe 2002:56) pointed out that it is difficult to separate implementation from policy formation. Palumbo and Calista (cited by Hill and Hupe (2002:70) have also supported the idea of not separating policy implementation from other policy components. They have argued that research demonstrated that implementation is a legitimate part of the policy-making process and it cannot be weakened empirically or delegitimised normatively. Stages heuristic is accused of creating an artificial idealistic view on policy, whereas, in reality, the course of policy is much more unpredictable. In reality, a policy process is not always a rational goal-oriented process and many decisions are *ad hoc* and irrational.

Analysing the claim of Barrett and Fudge (cited by Hill and Hupe 2002:56) stressed that if it is not possible to separate policy formation from implementation there is difficulty in setting the limits for the implementation study. Palumbo and Calista have pointed out that public policy implementers are involved in every phase of the policy cycle (Hill and Hupe 2002:70). It seems both arguments are reasonable, depending on the reason why one wants the policy cycle to be viewed as sequential or as holistic. To those who support the stage heuristic approach, they are the same as those who say, when we have a tyre puncture let us deal with the wheel only and not the whole vehicle. If there is an engine knock, let's deal with the engine. This is fine and reasonable. Those who want to address the policy cycle holistically will be arguing that, when driving your vehicle, you should pay attention to the whole vehicle to avoid accidents, rather than only the steering which you are controlling. This is also practical and reasonable. Both arguments are correct, even though they give the impression that they are opposing each other.

The fact that this research is examining the role of civil society in the policy implementation stage makes one think the researcher is an aficionado of the stage heuristic model. However, there is a time when the stage heuristic approach is necessary and needed, but not on all scenarios. In this scenario it

is good to use the stage heuristic approach, because it makes it easier to look at each stage separately. This does not mean civil society organisations are involved only in the policy implementation stage only. They are found in the whole cycle of the policy process.

O'Toole (2000:264) stated that policy implementation moved from nowhere to a position of prominence. He added that an understanding of policy implementation requires recognition of the multi-actor character of policy action. O'Toole is echoed by Parsons (1995:500), who pointed out that in "designing the delivery of public services, the contribution of the voluntary sector is a factor which cannot be excluded from analysis of the development of modern delivery systems."

According to Parsons (1995:484), programmes are not implemented by single organisations but rather through a matrix or set of organisational pools. Kaufan (cited by Parsons 1995:491), pointed out that implementation now involves a large number of stakeholders and the potential for a good deal of conflict and "dysfunctionalities." According to Parsons (1995:499), "the involvement of the voluntary sector in social and other policy areas is a matter of growing interest." It was with this disposition that the research ventured into the role of civil society in policy implementation, with specific attention to issues of furthering human rights through the justice system.

2.3.3 What is implementation?

Mazmanian and Sabatier (cited by Parsons 1995), define implementation as "the carrying out of a basic policy decision, usually incorporated in a statute, but which can also take the form of important executive orders or court decisions . . ." (Matland 1995:146). According to Brynard (2005:9), the meaning of implementation is to "carry out, to accomplish, to fulfill, produce or to complete" and this meaning could easily be equated with service delivery. Van Meter and Van Horn (cited by Brynard 2005:4) view policy implementation as encompassing "those actions by public or private individuals (or groups) that are directed at the achievement of objectives set forth in prior policy decisions."

One can say that implementation is to put into action what has officially been agreed on, or putting policies into practice. Implementation is all about change. In most cases changes seek improvement in people's lives. Jenkins (cited by Parsons 2005) has said "the study of implementation is a study of change; how change occurs, possibly, how it may be induced. It is also a study of the micro structure of political life; how organisations outside and inside the political system conduct their affairs and interact with one another; what motivates them in the way they do, and what might motivate them to act differently" (Parsons 1995:462).

According to Pressman and Wildavsky (cited by Parsons 1995:464), “policy implementation is a process of interaction between the setting of goals and actions geared to achieve them.” They state that “it is an ability to forge links in a causal chain, so as to put policy into effect and goals need to be clearly defined and understood, resources made available, the a chain of command be capable of assembling and controlling resources and the system be able to communicate effectively and control those individuals and organisations involved in the performance of tasks.” Unlike Edwards’ view, Pressman and Wildavsky’s definition (cited by Parsons 1995) show implementation as something that cannot be detached from the whole process of policy process.

According to Adamolekun (cited by Makinde 2005:63), implementation refers to the activities that are carried out in the light of established policies. It refers to the process of converting financial, material, technical and human inputs into outputs, which are goods and services. Edwards (cited by Makinde 2005:63) defined policy implementation as a stage of policy-making between the establishment of a policy and the consequence of the policy for the people whom it affects. Edwards (cited by Makinde 2005:63) pointed out that it also involves a wide variety of actions, such as issuing and enforcing directives, disbursing funds, making loans and assigning and hiring personnel. A closer analysis to Edwards’ definition clearly shows that he perceived implementation in the stage heuristic approach.

According to Cloete and Wissink (2000:166), “implementation is the ability to forge subsequent links in the causal chain, so as to obtain the desired result.” They stipulate that policy implementation includes those actions by public or private individuals or groups that are focussed on the attainment of objectives set forth in priority policy decisions.

2.3.4 Actors involved in public policy implementation

According to Agranoff (2007:9), on no account can a single agency or organisation, at any level of government or the private sector, have a monopoly on the mandate, resources, or information to deal with the most incommensurable public problems. In other words, the current problems, which are normally, referred to as wicked problems, need the teamwork of actors from diverse sectors. Wicked problems are a class of problems that defy solution (Roberts 2000:1). They are called wicked problems because there is no agreement on what the problem is. Because there is no consensus on problem definitions, there is a plethora of solutions. The problem-solving process is complex, because resources and political results always change. They include numerous actors who shift their goals or come and go (Roberts 2000:1). There is no doubt that issues of human rights are categorised in this genre because there is no clear agreement on the problem. Many solutions can be reasonably brought forward and there are no clear goals and objectives. Human rights issues are thus among wicked problems.

Weimer and Vining (2005:264) stated that there is a need to know and comprehend individuals and groups involved in policy implementation. This is substantiated by Parsons (1995:72), who pointed out that implementation involves understanding the way individuals and organisations relate to other more powerful or less powerful organisations in order to attain their goals. In the case of the present research it is about understanding the role of the CCJ in policy implementation. The role of the CCJ needs to be understood, as it relates to the SAPS in issues of human rights through the justice system. When identifying implementation actors, Weimer and Vining (2005:264) spelt out that one has to identify those with substantive interests in the issue and those with official standing in the decision arena. There is a need for one to ask the questions who is involved, who is not involved? Why are they not involved and what are their interests?

Weimer and Vining (2005:279) emphasise that understanding the motivations and political resources of the implementers is important for predicting whether or not the policy will produce the intended results. Actors have a variety of resources and a political base. Civic organisations like the CCJ claim support from the populace. Professionals (e.g. SAPS) obtain their support from proficiency and experience (Weimer and Vining 2002). It is crucial to look at those who did not involve themselves in the implementation process but have the power to influence the process positively or negatively. In other words the question of investigation will be why the dog did not bark? (Weimer and Vining 2002).

2.3.5 Partnerships and participation in policy implementation

Despite objections from some scholars such as Hogwood and Gunn (cited by Parsons 1995), there is enough backing to show that policy success is somehow believed to be a product of a synergy of multiple actors from different organisations. Hjern (cited by Hill and Hupe 2002:54) has stated that most of the policies he and his colleagues have studied depended upon interactions between several different organisations. In the case of the present research it is believed that the synergy of the CCJ, the SAPS and other agencies not discussed in this paper are important in addressing issues of human rights through the justice system.

Brinkerhoff and Crosby (2002:85) cautioned that “in the world there is wide recognition that the socioeconomic problems that policies address cannot be solved by governments acting on their own, nor are they the exclusive domain of one sector.” They added that issues affecting policy managers in developing countries call for solutions that cross individual agency boundaries and in many cases that go beyond the public sector, to have room for non-state actors. In other words, there is a need for partnerships between government, the private sector and the non-profit sector.

Brinkerhoff and Crosby (2002:114) emphasised that partnerships are necessary to achieve convergent objectives through the combined efforts of multiple actors, but where the respective roles and responsibilities of the actors involved remain separate. Brinkerhoff and Crosby (2002:6) say that the action of a government agency of precluding participation of other partners disrupt policy implementation. They added that there is a need for the concerted action of the multiple actors from government agencies, civil society and the private sector, i.e. the contributions of all actors are necessary.

Brinkerhoff and Crosby (2002:9) stated that in policy implementation the “arena for action expands beyond the authority of a single manager or agency and often extends far beyond the public sector”. Policy changes often mean that actors that have not worked together have to synchronise operations and harmonise procedures. It is in this line of discussion that I seek to understand the role of the CCJ as a civil society actor as it interacts with the SAPS, which is a government agency, in the implementation of human rights through the justice system.

It is also important to note that partnerships are crucial, in the sense that they increase resources available for the policy, as each member brings its resources on stage. Sharing ideas and other resources makes implementation uncomplicated, rapid and flawless (Brinkerhoff and Crosby 2002:114; O’Toole 2000:266). However, it is important to note that stakeholders involve themselves for different causes and do not share the same view. For this reason, partnerships with stakeholders of identical creeds are not easy. Partnerships, if not properly managed, may be characterised by conflicts, resulting in disorganisation.

According to Brinkerhoff and Crosby (2002:51), participation is central to policy implementation. Brinkerhoff and Crosby (2002:51) added that implementation often requires actions by large numbers of people in order to achieve results. Citizen participation is salient for legitimisation and constituency building, especially when dealing with winners and losers. Brinkerhoff and Crosby (2002:55) pointed out that participation can be done for the following reasons: increase likelihood of implementation and policy sustainability; ensure or enhance the success of a policy and better service delivery; increase the support, legitimacy, transparency and responsiveness of a particular policy and reduce opposition to a particular policy. Richardson (1983:2) observed that prior to inclusion of participation as a tool for development, citizens were viewed as “consumers” who have passive interests in policy formulation and had no capacity to contribute effectively to the process; the onus was left to professionals, politicians and managers to ensure that services were delivered.

2.3.6 Models of policy implementation

i. Top-down approach

Top-down theorists (Van Meter and Van Horn 1975; Mazmanian and Sabatier 1981; 1983; 1989) see policy designers as the central actors and concentrate their attention on factors that can be manipulated at the central level (Matland 1995:146). According to Matland (1995:147), top-down theorists agree that there is a need for policy goals to be clear and consistent, for the number of actors to be limited, for the extent of change in the policy to be limited and for the implementation responsibilities to be given to an agency that is sympathetic to the policy goals. In the case of human rights through the justice system, the top-down model puts the onus on the policy-makers to frame policies that will address issues of human rights through the justice. This may be problematic, because issues of human rights do not have clear and consistent policy goals and cannot be delegated to one agency or one sector.

Effective implementation requires a good chain of command and a capacity for co-ordination and control (Parsons 1995:465). This model assumes that a policy is rational and ideally correct as it leaves the jurisdiction of the policy-makers, but it later degenerates in the hands of policy implementers (Parsons 1995:466). In the context of this study, failure to address issues of human rights through the justice system mean the blame will be on the implementers, and among others these include the SAPS and the CCJ. According to Parsons (1995:466) the top-down model "is imbued with the ideas that implementation is about getting people to do what they are told....., and keeping control over a sequence of the stage in a system, and about the development of a program of control which minimises conflicts and deviation from the goals set by initial the policy hypothesis."

ii. Criticism of top down approach

The central criticism behind the top-down model is based on its failure to take into consideration the role of other actors and levels in the policy implementation process (Parsons 1995:467). Parsons criticised the top-down model and labelled it "a prescriptive theory" similar to Taylorism and scientific management. He added that the problem of the top-down model is that it emphasise the definition of goals by the top-down approach, rather than by the roles of workers on the line.

Berman 1978; Hoppe, van de Graaf, and van Dijk 1985, cited by Matland (1995:147), criticised the top-down approach for viewing policy implementation only as administrative and ignoring the political aspects or trying to eliminate them. Matland (1995:147) cited the passage of legislation as characterised by ambiguous language and goals, in order to gain a passing coalition. Such policies cannot enter into the prerequisites of the top-down model because of their lack of clarity and clear goals.

The fact that the top-down model approach assumes that all policy goals can be easily defined and a policy can have clear goals is a shortfall not to be overlooked. As earlier noted, most social problems are characterised as wicked problems Roberts (2000). Among other personalities of wicked problems are the facts that there is no agreement on what the problem is; because there is no consensus on problem definitions there is a plethora of solutions; the problem-solving process is complex because resources and political results always change; and they include numerous actors who shift their goals or come and go (Roberts 2000:1). This observation was noted by Matland (1995: 155), who pointed out “that statutory mandates often are exceedingly vague. They do not incorporate specific goals and they fail to provide reasonable yardsticks with which to measure policy results.”

In the case of the present study on the implementation of issues of human rights through the justice system, there is no clearly defined policy, but the issue is widely accepted as a problem with no specific causes and solutions. There is no consensus among actors whether or not human rights abuses or other criminal activities are caused by lack of employment, lack of stiff penalties to offenders or lack of education, which may be underlying factors.

iii. Bottom-up approach

“The bottom-up approach was largely a reaction to the top-down model based on identifying weaknesses in it and suggesting alternatives to address those weaknesses”. Various criticisms of the top-down model were expressed. The notion that policy-makers exercise, or ought to exercise, some kind of direct and determinacy control over policy implementation might be called the noble lie (Elmore 1979 cited by Parsons 1995).

Bottom-up theorists (Berman 1978 and 1980; Hjern and Porter 1981; Hjern 1982; Hjern and Hull 1982) emphasised target groups and service deliverers, arguing that policy really is made at the local level (Matland 1995:146). Some of these scholars stated that “a more realistic understanding of implementation can be gained by looking at a policy from the view of the target population and the service deliverers” (Matland 1995:148). Bottom-up theorists that it is at the micro-level that policy directly affects people (Matland 1995:149). In the case of the present study, the approach calls for attention to street-level bureaucrats, such as the SAPS and grassroots organisations like the CCJ, which will be representing those directly affected by the policy.

iv. Criticism of bottom up approach

A normative criticism against the bottom-up approach by Matland (1995:149) is that, “in a democratic system, policy control should be exercised by actors whose power derives from their accountability to

sovereign voters through their elected representatives.” This weakens the importance of deliverers, because the authority of local service deliverers does not derive from this power base. Matland(1995) only supported flexibility where the goals of the policy formulator and implementers are the same, otherwise independence may lead to policies which result in lower performance on official goals.

The second criticism brought by Matland (1995:150) is that although the grassroots may claim a stake in implementation, a closer look always reveals that at the end of each policy there is a need to go back to the central actors (legislators), because they are the ones who structure the goals and strategies of those participants who are active. Matland added that the “institutional structure, the available resources, and the access to an implementing arena may be determined centrally and substantially can affect policy outcomes.”

2.4 Conclusion

This chapter has emphasised that no single agency or organisation, at any given level of government, or the private sector has a monopoly on the mandate, resources and information to address public policies. It is under these grounds that I discussed civil society as a collaborative partner in implementing these difficult policies. More attention was given to the role and function of this sector in an endeavour to appreciate its responsibilities when it comes to policy implementation. It was noted that civil society in South Africa is guided by different policy and legislative frameworks. The discussion of civil society was not dealt with in isolation, but in relation to policy implementation. Throughout the discussion of policy implementation it was observed that implementation is not a purview for a single actor, but rather it demands the action of concerted multiple actors from different sectors and organisations.

Chapter 3

Case study and Research Methodology

3.1 Introduction

The participation of CCJ in the implementation of human rights through the justice system as it collaborates with the SAPS is the attention of this chapter. The first part of the chapter gives an overview of the CCJ's history and work. Some of its objectives, its services to the people and its roles in issues of human rights through the justice system are highlighted. Interpretation of CCJ's history and work was done using existing documents that record the activities of the CCJ. A brief overview of the SAPS in terms of overall service delivery is also given in this chapter. The chapter ends with laying out the research methodology used in this present research.

3.2 Historical background of the CCJ

The CCJ is an NGO that was set up in 1989 by staff of the School of Law at the University of Natal, Pietermaritzburg. It was established as a research centre aimed at advancing and protecting human rights in the criminal justice system and was formed as a response to the failure of the justice system to deal effectively with political violence in the greater Pietermaritzburg area (CCJ 2011).

According to Kubayi (2011:268), the CCJ embarked on two parallel programmes, namely the research programme and the outreach programme. In the early 1990s the CCJ was involved in the study of the nature of the political conflict and the breakdown of the criminal justice system. The intention was to identify the system's weaknesses and the reforms necessary to restore it to effectiveness and to adapt it to the changing political order. The CCJ is passionate on policing, for the reason that there was obvious and widespread dissatisfaction with it and since failures in police services affected the entire legal system and because the police was, or is, the community's first point of contact with the justice system (Kubayi 2011:256).

The change in political order from apartheid to democracy, with the accompanying equitable legislation, saw the CCJ shifting its centre of attention away from research to expanding people's access to their new rights. CCJ realised that mostly women experienced difficulty in dealing with the criminal justice system and accessing their rights. Women felt that they were not treated fairly or with due sensitivity when reporting crimes. In other words they experienced secondary victimisation at the hands of the Police Service (Kubayi 2011).

According to Kubayi (2011:264) the CCJ is convinced that “secondary victimisation can be prevented when women are empowered with knowledge of their constitutional rights and the manner in which to enforce them and seek redress in the criminal justice system.” Kubayi (2011:264) further contended that women, children and communities are better protected when they are provided with specific information on issues such as offered legal and social support services, human rights and relevant legislation and how to exercise their legal rights.

Later, as time went on through the Outreach Programme, the CCJ realised that clients, including an increasing number of men, wanted help with issues such as labour disputes and obtaining pensions, social grants and child maintenance. Therefore the support centres widened their scope and now use the law and state services to try to solve almost any legal, social or personal problem that individuals have (CCJ 2011).

3.2.1 Objectives of the CCJ

The CCJ seeks:

- a) To enable disadvantaged communities to claim their rights to justice and services.
- b) To help clients to resolve conflicts through mediation.
- c) To educate disadvantaged communities about their rights.
- d) To contribute to teaching in relevant subjects at the Faculty of Law.
- e) To collect and maintain data on social and legal problems encountered by disadvantaged communities.
- f) To monitor the implementation and impact of law, policy and state agencies in disadvantaged communities.
- g) To undertake and promote research into the work of the CCJ in its development and outreach activities, on topics of conflict resolution, furthering access to justice, the protection of human rights or any other related subject, including interdisciplinary research.
- h) To train, develop and support researchers through collaboration with professional researchers.
- i) To advocate for the reform of law, policy or practice on the basis of research findings.

To develop and maintain links with other institutions which have similar goals and interests (CCJ 2011).

The location of the CCJ at the University of KwaZulu-Natal (UKZN), ever since its establishment, has allowed the organisation to benefit from associating with the UKZN's Faculty of Law (Fernandez *et*

al.,2009: 7). The relationship of the two units is integral to the CCJ's tasks, because it gives the CCJ the privilege of using the University's resources and facilities. Fernandez *et al.* (2009: 8) remarked that:

"Research collaboration between CCJ and the Faculty of Law is based on the practical experience of the former and the research strengths of the latter. The collaboration promises much for both, not only in the realms of substantive criminal law and criminal procedure, but in a range of wider research areas that flows naturally from the daily work of the Outreach Centres..... "

3.2.2 Community Outreach Programme

The CCJ is engaged in various activities aimed at addressing the needs of the disadvantaged in KwaZulu-Natal. Most of these people are located in rural communities, where there are minimal or chances of accessing the justice system. This impinged on ordinary citizens' rights to access the criminal justice system(CCJ 2010:6). It was after identifying these problems that the Community Outreach Programme was launched in 1997.The Community Outreach Programme attempts to address the limitations in access to justice present in the legal system. The Programme is there to assist in rural and peri-urban communities with access to the legal system and to protect their rights (CCJ 2010:6).

According totheCommunity Outreach Programme Final Draft of Monitoring Report (2007, 2008-2010:6), the human rights that the Outreach Programme tries to protect are treasured in the Constitution of the Republic of South Africa. These include rights to: equality; life; human dignity; freedom and security; privacy; freedom of religion, belief and opinion; freedom of expression; political rights; freedom of association; labour practice; property; housing; health care; food, water and social security and access to information (CCJ 2010: 6)

According to the CCJ (2003:3),the establishment of Community Outreach Programme was motivated by the need to empower members of the community who do not have access to the legal system, through education concerning rights, information, advice, problem-solving and assistance in obtaining legal redress. An important consequence of empowerment is that it restores individual dignity and promotes the awareness of human rights in the wider community.

According to the CCJ website, since 1997 the Outreach Programme has formed the focus of the Centre's activities, employing twenty local women trained in paralegal skills, each serving areas of fifty square kilometres or more (Kubayi 20011:263-4). Currently the programme has fifteen Community Support Centres in the Midlands and northern KwaZulu-Natal. Some centres have one, while others have two co-ordinators, who have received paralegal training to furnish them with basic knowledge of the legal system and other training to deal with other community problems. The number depends on the workload in the area being served. Co-ordinators are recruited from the communities they serve.The

co-ordinators are all women, since their primary function is to assist victims of rape and abuse, commonly perpetrated by men against women (CCJ 2004:1).

According to Kubayi (2011:262), the main objective of the Outreach Community Support Centres is to narrow the gap between the institutions of criminal justice and communities and to make such institutions accessible. These centres are positioned either at police stations or magistrate courts. Setting these centres at police stations or magistrates' courts was done in order to offer convenient access for clients and to be able to work easily with criminal justice services, for example by helping clients to report a crime, assisting with counselling and taking statements and applying for court orders and affidavits (CCJ 2011). The location of Support Centres at police stations and magistrates' courts also gives authority to the co-ordinator when dealing with perpetrators of crime (The CCJ 2004:1 and Kubayi 2011:264).

According to CCJ (2003:3), the Community Outreach Programme has made a quantum leap in the upliftment and empowerment of the communities it services. The Outreach Programme aimed to work with police and magistrates to help women and children in rural areas who are victims of rape, sexual assault and other forms of abuse. The programme aimed to equip women and children with the knowledge and skills to learn about and claim the rights guaranteed by the new democratic constitution. Since the aim is, in part, to encourage women and children to come forward to report crimes, staffs of the Outreach Programme are all females (CCJ 20011).

3.2.3 Activities at Outreach ProgrammeCentres

According to the CCJ (2003:25) the objectives of the Community Outreach Programme are implemented through six activities. These are; legal support and assistance services; social support services; community outreach activities; information resources; community development and empowerment; and monitoring the implementation of legislation.

a) *Legal support and assistance services*

The Programme offers legal support services to members of the public experiencing human rights abuses, both criminal violations and civil disputes. Clients are advised on the correct action to take and to report the matter to the police, if necessary. Legal support is given in partnership with the police, courts and other stakeholders. These legal support services are delivered through the following methods: counselling, mediation and conflict resolution, referral to other institutions, support services and partnership with public institutions (CCJ 2003:71).

- i. **Counselling**-Clients are counselled on the best action to take with their cases. Trauma counselling, if available, is provided for as long as the client needs it. When cases are taken to court,co-ordinators continue to provide support and counselling to the victims and their family throughout the trial process(CCJ 2003:71).
- ii. **Mediation and conflict resolution.** According to the CCJ (2003:72), mediation is the most effective way of dealing with domestic violence and other civil dispute matters. The evaluation has recorded that, in the case of disputes between husband and wife, 75% of the clients choose mediation as a way of dealing with conflict (CCJ 2003:72).The protection order is regarded as the last option when mediation has failed to address the problem.
- iii. **Referrals to other institutions.** Many of the cases that Outreach Centres deal with need collaboration with other government or private agencies. Co-ordinators always link people with the appropriate service providers and do some follow-ups to ensure that such individuals have received the necessary adequate services (CCJ 2003:73).
- iv. **Support services.** As individual cases go through the court system clients receive personal support throughout the process. This is done through accompanying clients to the court, assisting the prosecutor when requested and providing support during the proceedings. When rape cases are dealt with,co-ordinators accompany clients to the district surgeon for forensic examinations (CCJ 2003:73).
- v. **Partnerships with other institutions.** According to the CCJ (2003:73), the most vital aspect of delivering services to members of the public is through the establishment of relations with institutions of criminal justice, relevant government departments and traditional leaders. This can be fairly accomplished through collaborating with relevant public authorities on cases presented to Outreach Centres. They also assist police with their investigation of cases brought to them. Concerning issues of social services,such as grants, the co-ordinators assist clients to collect and complete all the documentation necessary for the processing of grants and other types of claims (CCJ 2003:73).

b) Social support services

Members of the community are provided with services that empower them to deal more effectively with public authorities in order to access public services such as state grants and other social services. This is carried out through networks and collaboration with government institutions and other organisations

in both the public and private sector. Members of the communities that CCJ serve experience serious difficulties in accessing service from government and other institutions like banks(CCJ 2003:78). This is exacerbated by high illiteracy. The Community Outreach Centres have observed that through ignorance people often lose out on services that they are rightfully entitled to (CCJ 2003:78).Most of the cases that the outreach centres deal with include pensions, child grants, foster care grants, care dependency grants and disability grants.

c) Community Outreach activities

These activities involve community based-workshops, presentations at schools and community based-presentations.

- i. **Community-based workshops** are conducted in communities in order to raise knowledge of the law by members of the public and raise their awareness and respect for human and legal rights. They are carried out at community-based venues at least once a month. Through these workshops co-ordinators receive information about community needs and respond to questions that ordinary people have. The target group of the workshops is all members of the community, men and women (CCJ 2003:87).
- ii. **Presentations at schools** are given to equip children and youth with the knowledge of the law and their rights with regard to human rights abuses such as rape and child abuse. Co-ordinators pay a visit to at least two schools in their area per month (CCJ 2003:91).
- iii. **Community-based presentations** are made to raise awareness and provide information about human and legal rights. Through this platform the co-ordinators make people aware of the variety of services that the programme provides. Co-ordinators attend meetings called by other stakeholders within the community and there they give legal input to the discussions. Presentations are given at hospitals, clinics, churches, magistrates' courts and tribal authorities. As with community-based workshops, the presentations are targeted at *all* members of the community (CCJ 2003:94).

d) Information resources

Resources fostering general knowledge and respect for the law are made available to members of the communities within which the Outreach Centres operate. The purpose of these initiatives is to ensure that written publications are presented in accessible language and format for people with low literacy levels(CCJ 2003:98).Media that the CCJ use to propagate its information are radio, posters, flyers,

newspapers, websites and resource centres. All these channels provide concise, specific information about the outreach programme, statutory information, legal rights and remedies (CCJ 2003:98).

e) *Community development and empowerment*

With full financial and moral support from head office, co-ordinators participate in community development by empowering members of the public with skills and other support services aimed at poverty alleviation and social upliftment (CCJ 2003:98). The support is given to clients based on needs identified by co-ordinators (CCJ 2003:98).

f) *Monitoring the implementation of legislation*

According to the CCJ (2003:101), difficulties experienced by members of the public in their dealings with public authorities have revealed a number of shortcomings in the way in which legislations is implemented by government departments. It is noted that the CCJ has placed itself in a position to contribute towards a solution to these problems. Among other legislation, the Centre monitors the recognition of the Customary Marriages Act and the Maintenance Act. In relation to the former Act, co-ordinators identified severe problems being experienced by clients who approach the Department of Home Affairs to register their customary marriages, in terms of the new legislation. Many were being registered under civil marriage without their consent (CCJ 2003:102). Researches by the CCJ in relation to the Maintenance Act showed that there are problems in regard to interpretation and application of legislation and the infrastructure of the justice system.

3.2.4 Research Programme

In 2009, the CCJ started to revive the emphasis on research that gave it publicity during the early 1990s. It aimed to attract and fund researchers and to fulfil its duty as part of the University to generate knowledge that is shared by others. While contributing to the publication of researches and the sharing of knowledge, research is also used to improve and refine the service of co-ordinators. Research have an extensive impact too, as the findings may provide groundwork for advocating improvement on a national level in the justice system, the provision of social services and other aspects of service delivery (CCJ 2011)

In the past 13 years, research has been focused on refining the Outreach Programme: by recording and analysing data. The CCJ has identified trends, successful methods and barriers relating to service delivery and access to justice. Kubayi (2011:268) pointed that the research programme is based on the activities of the Community Outreach Programme, while the latter, in turn, is the beneficiary of the yield

of the research programme. As pointed out by Kubayi (2011:268), the two programmes have dialectical relationship and they all advance the vision of access to justice for all.

Research Programme Aims

- a) Conduct and publish research on the activities of the Outreach Programme, focusing on improving its services
- b) Advocate for the reform of law, policy or practice, based on research findings
- c) Attract researchers from in and outside the University to work at the CCJ on topics ranging from sociology to local government
- d) Contribute to teaching issues relating to the Outreach Programme, at the Faculty of Law (CCJ 2011).

3.3 South African Police Service (SAPS)

According to Dye (1981:85), there are at least three important functions of the police in society. These are; law enforcement, keeping peace and furnishing service. According to Bruce *et al.* (2007:14), the SAPS was founded in terms of the provisions of the Constitution of the Republic of South Africa Act 200 of 1993, which came into force on 27 April 1994. Specifically, section 214(1) provided that: "There shall be established and regulated by an Act of Parliament a South African Police Service, which shall be structured at both national and provincial levels and shall function under the direction of the national government, as well as the various provincial governments."

In terms of service delivery the mission of the SAPS is to:

- I. Prevent anything that may threaten the safety and security of any community.
- II. Investigate any crimes that threaten the safety and security of any community.
- III. Ensure criminals are brought to justice.
- IV. Participate in efforts to address the root causes of crime (Bruce *et al.*, 2007:78)

As reflected in its mission statements and its approach to the allocation of resources, the SAPS clearly has substantially re-orientated itself as a democratic police service. At the same time, the assessment discusses evidence that suggests that, in many ways, service provision still follows the logic of apartheid, with race and ethnicity continuing to play a role as determinants of the quality of service delivery. It is palpable that there are shortcomings in SAPS service delivery, but, on the other hand, there is also much activity and a substantial amount that is being achieved (Bruce *et al.*, 2007:6).

The quality of police service delivery thus still roughly reflects the logic of apartheid. Township areas often receive lower-quality policing services than suburban areas (although services may tend to be

better at presidential stations and in priority areas than in other township areas) and the rural poor receive the worst services of all. There are also continuous reports and allegations of instances of discriminatory policing, particularly in rural areas (Bruce *et al.*, 2007:79).

Bruce *et al.* (2007) are supported by Minnaar and Mistry (n.d:38), who have argued that traditionally, until 1994, police resources were concentrated in the country's white suburbs and business areas. They further noted that even under the democratic government, in poorer, mainly black communities the infrastructure of the SAPS remains derisory. While this has been changing, police resources remain disproportionately located in traditionally white areas and the country's city hubs. This explains why the CCJ has devoted itself to expanding people's access to their new rights. The CCJ realized that mostly women experienced difficulty in dealing with the criminal justice system and accessing their rights (CCJ 20011).

The impression, then, is that race and ethnicity continue to play a role as determinants of the quality of service delivery and that this is accentuated in rural areas (Bruce *et al.*, 2007:80).

3.4 Research Methodology

The study used a qualitative approach in both data gathering and analysis. A qualitative approach was favoured because it provided more understanding of the subject, based on the perception of the insiders (in this case staff of the CCJ), as they interact with the state or its agency (in this case the South African Police Service) (Babbie and Mouton 2001). The study was based on a literature review (secondary data) and face-to-face semi-structured interviews (primary data) with four CCJ staff and two SAPS station commanders.

Respondents were informed about the nature and purpose of the research and were given the discretion to decide whether to participate or not. Participants were also assured that their true identities were to remain confidential. In this research their names have been replaced with codes R1 to R4 and P1 and P2 in order to guarantee their anonymity. They were also informed that they had the right to withdraw from participating if they felt they needed to and no action would be taken against them. When the participants agreed they were asked to sign forms of consent.

Firstly, a literature review was done in order to formulate the theoretical and conceptual framework of the study. The background of the CCJ, policy and legislative frame-work governing civil society and analysis of civil society, in general, and South Africa, in particular, were considered. From the 15 Outreach Centres run by the CCJ's Outreach Programme, three co-ordinators were chosen for interviews and were selected through purposive sampling. Two SAPS station commanders, where CCJ

outreach centres are positioned and the CCJ director were included as interviewees. This meant a total of six interviews were to be conducted.

3.4.1 Research Methods

Most of the questions used were open-ended in order to obtain qualitative data. The interviews lasted for about 20 to 30 minutes and were conducted in English. The copies of the interview schedules used are attached as Appendix 6.3; 6.4 and 6.5.

Face-to-face interviews were determined because they allow the observation not only of verbal but also of non-verbal data. The fact that I did not plan to have a second chance to interview my respondents meant that semi structured became a suitable approach to use (Bernard 1988). Semi-structured interviews were favoured because they allowed the researcher to write down a list of questions and topics as a guide, but gave the researcher some level of latitude to follow leads in the course of the interview (Bernard 2000). Semi-structured interviews were used to allow the participants to express their opinions and ideas in their own words (Esterberg 2002).

Semi-structured interviews also permitted me to follow up topics that drifted from the interview guide, but still provided the opportunity for identifying new ways of seeing and understanding the topic at hand. In other words, it bequeathed room for probing. Probing was needed whenever an answer was incomplete, vague, irrelevant, inconsistent or otherwise inadequate. Probing was used at two levels, namely probing for clarity and probing for completeness (additional information). Probing for clarity was often a matter of requesting a more precise response, or an explanation of a term, while probing for completeness was done to ask for additional responses to the question.

Tape recording helped the research to have time to develop rapport with my respondents. Semi-structured interviews also provided reliable, comparable qualitative data (Bernard 1988). The small sample was chosen due to time limit of the study.

3.4.2 Sampling

The research used a non-probability sampling technique called purposive sampling. According to Babbie and Mouton (2001:166), in the purposive sampling technique, the choice of respondents relevant to the project is guided by the judgement of the researcher and the purpose of the study. The CCJ has 16 Outreach Centres and in this research I only engaged three Centres. These centres were chosen based on the fact that their offices are positioned at police stations. I purposely chose centres that are at police stations, since this research included interviews with station commanders.

3.4.3 Method of analysis

Data gathered was analysed using thematic analysis. Thematic analysis is a search for themes that emerge as being important to the description of the phenomenon (Daly *et al.*, cited by Fereday and Muir-Cochrane 2006:3). Thematic analysis involves identification of themes through careful familiarisation with the data and emerging themes become the categories of analysis (Fereday 2006:4). This was valuable in this research, as it allowed me to group the responses into coherent themes as guided by the research questions described in Chapter 1.

3.5 Conclusion

The chapter has outlined the historical background of the CCJ. Activities that are carried out by the CCJ include legal support and assistance services (counselling, mediation and conflict resolutions, referrals to other institutions, support services and partnership with other institutions); social support services; community outreach activities (community-based workshops, presentations at schools and community-based presentations); information resources, community development and empowerment; and monitoring the implementation of legislations. A brief scan of the mission of the SAPS, in terms of service delivery, was also given. The mission is to prevent anything that may threaten the safety and security of any community, investigate any crimes that threaten the safety and security of any community, ensure criminals are brought to justice, and participate in efforts to address the root causes of crime.

Chapter 4

Findings and Discussion 4.1 Introduction

This chapter presents the findings and analysis of what was obtained from the six interviews conducted. Three interviews were carried out with the CCJ outreach programme paralegals, known as the co-ordinators. These were from Mpumalanga, Plessislaer and Mpophomeni. This research refers to these co-ordinators as R1, R2 and R3, according to their respective locations. Another interviewee was the director of the CCJ, referred to in this study as R4. There were two interviews with the SAPS station commanders of Mpophomeni and Plessislaer and they are referred as RP15 and P2, respective to their stations. Analysis was done after data was grouped into emerging themes.

4.2 Bottom-up approach to issues of human rights through the justice system

Bottom-up approach advocates, Berman 1978 and 1980; Hjern and Porter 1981; and Hjern 1982, argue that a policy can be successfully implemented if it considers the needs of people who benefit from the policy. Briefly, the bottom-up model involves itself in negotiation and relationship with participants or actors, as consensus is a priority in this approach. Although, due to the scope of this study, I cannot completely claim that the CCJ uses a bottom-up approach, the elements of a bottom-up approach were understood to be dominating in the responses given by CCJ staff.

Oh we assist them with information. Before someone access services they need to know what kind of service they require. If they go there and seek services and fail to access that service then we need to know what the problem was and assist them to unblock whatever the stumbling block is making them not to access justice. (R4)

The fact that the CCJ gives consideration for its clients about the service they want before they help them shows that they are not in a position to impose their solution on their clients. This was witnessed by the researcher, when a client came to the CCJ during my visit to one of the Outreach Centres. A client presented his cases to the co-ordinator and the co-ordinator had to ask him first what kind of help he wanted. When the client specified the kind of help he wanted among many options that were available for his case, which was when the co-ordinator proceeded to take action.

Some scholars such as Matland have argued that “a more realistic understanding of implementation can be gained by looking at a policy from the view of the target population and the service deliverers” (Matland 1995:148). This has proven that the notion that policy-makers exercise, or ought to exercise, some kind of direct and determinacy control over policy implementation might be called the noble lie (Elmore 1979 cited by Parsons 1995), meaning it's not feasible for all policies to be implemented by policy makers without the contribution of the public.

4.3 Who are the actors involved in addressing issues of human rights through the justice system?

It was discovered that, in carrying out its main objective of furthering human rights in the justice system, the CCJ is involved through referring its clients to the SAPS and other government agencies. In the light of the taped responses, Merletet *al.* (2006:3) stated that an analysis of the performance of new

forms of governance shows clearly that neither states nor civil societies will be able to face the challenges of the twenty-first century alone.

The agencies most mentioned by CCJ staff as institutions they refer their clients are the SAPS, the Department of Education, the Department of Social Development and the Department of Health. To show that they do refer their clients to some policy actors, when I asked R2 the kind of help they give to ordinary citizens in terms of accessing the justice system, she replied:

Sometimes it needs all stakeholders to be involved like councillors, chiefs or whoever. I used to refer people to those relevant stakeholders. It depends on type of cases. Others may require police assistance or any departmental assistance in that sense I do intervene by referral letters or by contacting that stakeholder to make that person access information easily. In short I can say in most instances we use power influence through referral system. (R2)

It has also been discovered that the CCJ not only makes referrals to the SAPS and other government agencies but they also receive people referred to them by other government agencies. This was noted from the response of R1, who was asked to describe the CCJ's relationship with the SAPS. Among other things, she said:

I can say the relationship is high because if they [SAPS] come across problems they can't resolve they refer them to our office..... The police give them [clients] my own cell phone number. Or they phone [SAPS] saying this police officer has failed to deal with this issue can you be in office a little bit early on Monday so that you can attend to our problem before you start your work. (R1)

When asked if they received clients referred to them by the SAPS and other government agencies all four respondents said that they did. R4 said:

Yes, definitely the majority of people. (R4)

This response from R4 shows that implementation of human rights through the justice system is something that cannot be confined to one actor, but rather is done by multiple actors.

4.4 CCJ complementing SAPS

Part of the findings of this research has revealed the complementary role of the CCJ in the work of the SAPS in addressing issues of human rights through the justice system. Something that authenticates the complementary role of the CCJ to the work of the SAPS in issues of human rights through the justice system came from P1 station commander. When asked whether he has any idea why some people prefer to report their cases through the CCJ and not directly to the SAPS, he said:

Maybe because sometimes people come to the charge office in this community service and wait for longer time. The issue being the shortage of human resources but if they go to CCJ they get attended first time they go in. And also the issue of the follow-ups of the cases that reported to CCJ. Because if a case is reported through CCJ she does follow up of each case she opens a file on. I think that is the advantage. (P1)

The respond from P1 shows that SAPS, just like any other government agency, SAPS face a challenge of an acute shortage of resources, and like mentioned in chapter two civil society seem to be flexible and responsive to the needs of their clients Beer *et al.* (cited by Nzimakwe 2008:96 and Fisher 1997:144). The CCJ is regarded as an NGO that strategised itself in such a way as to complement the SAPS in order to address issues of human rights in justice system. When asked a similar question, why people prefer to report to their (CCJ) organisation than the SAPS, R1, was short and precise:

Ah! I think it is because the other organisation [SAPS] has failed to address their problems, then they move to our offices [CCJ]. (R1)

The reasons given by R1, R4 and P1 illuminate the incapacity of the SAPS to provide sufficient services. These reasons are corroborated by Nzimakwe (2008) and Pollard and Court (2005:18). According to Nzimakwe (2008:90), globalisation has brought so many unforeseen changes to the functioning of governments that this has led to the rise of NGOs, which have grown in “number and power”, such that they now provide services which governments are sometimes unable to. Pollard and Court (2005) have pointed out that civil society organisations are often well placed to provide key services, mostly when the state is weak. In this context the research has seen the CCJ as being well placed to provide key services that the SAPS has failed to provide, in order to address issues of human rights through the justice system.

4.5 Partnerships in addressing issues of human rights through the justice system

According to Bell and Keenan (2004:348), “national institutions for promoting and protecting rights are typically established to take a form of human rights enforcement and non-governmental organisations that deal with human rights issues need to work out a relationship with these bodies. The CCJ (2003) states that, the most important aspect of delivering services to members of the public is through the establishment of relations with institutions of criminal justice, relevant government departments and traditional leaders.

In Chapter 2 we noted that O’Toole (2000:264) stated that understanding of policy implementation requires recognition of the multi-actor character of policy action. O’Toole’s (2000) view is echoed by

Parsons (1995:500), who pointed out that in “designing the delivery of public services, the contribution of the voluntary sector is a factor which cannot be excluded from analysis of the development of modern delivery systems”. This line of argument was found in the responses received during the present study. The words of R1 confirm that independent action is not realistic when addressing problems of the twenty-first century. When asked whether she attends community forums in the area where she is stationed, R1 replied:

Yes. I can't work independently; I am working with other stakeholders.....Ah the relationship is very well, we share ideas, and we share cases. (R1)

When asked about the CCJ's relationship with the SAPS, R2's response shows that there is partnership between the two organisations. She responded:

It is very good I can say so [confidence]. The relationship is very good because we do have cases here [CCJ] and then we go to them [SAPS] with the client and explain our intervention and what is needed on their side and do assist them. (R2)

The idea of engaging in partnerships does not only come out from the interviews but is also listed among the objectives of the CCJ as following: To develop and maintain links with other institutions which have similar goals and interests.

The CCJ's partnership with the SAPS concurs with the opinion of Scharpf's (2002) that policy formation and implementation are inevitably the result of interaction among a plurality of separate actors with separate interests, goals and strategies. Other public policy scholars such as Agranoff (2007:9) pointed out that on no account can a single agency or organisation, at any level of government or the private sector, have a monopoly on the mandate, resources, or information to deal with the most incommensurable public problems.

The CCJ's working partners were mentioned by respondents as those organisations they refer their clients to. These include the SAPS and the Departments of Education and Health. The South Africa Social Welfare White Paper 6 (16) of 1997 encouraged partnerships between civil society and government, when it explicitly pointed out that “given the enormous backlogs in meeting the social and economic needs of the most disadvantaged sectors of the population [South Africa], the government will not be able to address these discrepancies by itself.” The South Africa Social Welfare White Paper 6 (16) of 1997 stipulated that a partnership with organisations in civil society is critical.

Robinson and White (cited by Clayton *et al.*, 2000:11) stressed that civil society and state can complement each other, and build collaboration through developing effective working relationships

between the two sectors. They felt that this partnership can be made effective by using each sector's strength and responsibilities.

4.6 Empowering the poor people and helping them to build their identity

The results of the present research have revealed that the CCJ is involved in empowering poor people and helping them to build their identity. According to Graham *et al.* (2008:15) civil society plays a vibrant role in "providing a space for public voice, for the practice of citizenship and for the building of social cohesion." Castells (cited by Graham *et al.*, 2008:15) insisted that civil society organisations are "imperative as a space for the building of identity in a world where citizens feel that they have little control over their circumstances and where the nation state becomes too big for its citizens and too small in relation to the global world."

This issues of helping poor people through empowering them and giving the identity was found in the responses to the different questions. R1 was asked to explain the kind of help they give to ordinary citizens, in terms of accessing the justice system. She pointed out that:

Ordinary citizens are not aware of their rights. I give them legal empowerment by doing presentations and workshops and also assisting them through going to their children's schools and do presentations. I am giving them legal empowerment. (R1)

R3 said:

I help them with running workshops about human rights, presentations and also by attending meetings and introducing the office to the community and service. (R3)

It is not only found in the interviews conducted that the CCJ empowers and restores human rights of the disadvantaged. This role is listed as one of the objectives of the CCJ. It is listed as follows: To enable disadvantaged communities to claim their rights to justice and services (CCJ 2003).

In all the responses from the interviews, respondents clearly show that the CCJ is involved in empowering and building the identity of individuals in the community it serves. However, Clayton *et al.*, (2000:8) observed that, though civil society organisations are good at service delivery to the poor, their impact is hampered by the fact that they have limited coverage in terms of operation. Although R1 put it in the context of good relationships with various police stations, there was indication that referral from various remote police stations is due to lack of the CCJ services at other police stations. She said:

I am receiving clients from Ichanga police station, Msunduzi Police Station, Hamasdale Police Station, Hill Crest Police Station, (R1)

4.7 Advisory role

The findings have shown that the CCJ does address issues of human rights through giving advice to its working partner the SAPS. This was noted from the responses given by R4. She described their advice-giving role:

You will go and report to the police station and at the police they will listen to you and say okay fine we don't deal with this or we don't know how to deal with this issue but we do have a victim support centre in the premises. Please go to them they will inform us as to how best to help you after you have spoken to them. (R4)

What R4 said is supported by Pollard and Court (2005:18), who felt that many civil society organisations “do not play a practical part in implementing policy themselves, but do offer technical advice and expertise on how it might be better implemented.”

4.8 Bridging the gap between the SAPS and the community they serve

Harbesonet *al.* (1994:2) stated that civil society has a “role in establishing bridges between society at large and government in seeking harmonisation of their respective purposes.” This was hinted at an interview with R1. When asked to explain, in short, the role the CCJ plays in issues of human rights through the justice system, she said:

I can say we are taking law to the people. The government is passing law in the parliament and they are few people who are passing those laws to the people to which those laws apply to, so we are closing that gap. (R1)

The action of the CCJ is related to the observation of Dugard (2008: 216), who pointed out that, in South Africa, the normal difficulties of accessing the justice system aggravated by gross inequalities, the high cost of legal services and the remoteness of the law from most people's lives.

When the station commander, was asked if the SAPS has any challenges with working with the CCJ, she said something that shows that the CCJ is playing a pivotal role in bridging the gap between the community and the SAPS:

So far no challenges when CCJ members are available, the only challenges that I have got is after hours because they are not available as well as weekends but when it is during the working days so far we are working in co-operation with them. (P2)

The fact that when the CCJ co-ordinator is not available the SAPS experience some setbacks in service delivery shows that the CCJ is of great importance in bridging the gap between the community and the SAPS. Harbesonet *al.* (1994:97) stressed that strong civil society can legitimise the state, while at the same time limit the scope of its power and activities. Governments thus adopt people-driven policies.

Harbeson's words are supported by P2's words. When asked to describe their working relations with the CCJ in addressing issues of human rights through the justice system, P2 replied:

..... It is a very good one because our community now even know that we have got victim support centre within our premises. They know that they are being catered for, for their rights and they also trust the police at large because they are being accommodated in all ways in regard to their problems that they have got regardless that it is criminal or it is just civil or it is just a small intervention needed from CCJ. (P2)

The fact that the community knows that the SAPS has a victim support centre (the CCJ) and their problems can be catered for substantiates the argument that the CCJ is legitimizing the SAPS in issues of human rights through the justice system.

The findings supports what Kubayi (2011:262) had said earlier, that the main objective of the Outreach Support Centres is to narrow the gap between the institutions of the criminal justice and to make such institutions accessible.

4.9 Engaging in information dissemination and education

The present study has revealed that, as with other civil society organisations that advocate respect human rights, the CCJ is involved in information dissemination and public education concerning human rights. When asked about the kind of help the CCJ gives to ordinary citizens, in terms of accessing the justice system, R4 said:

Oh we assist them with information. Before someone access services they need to know what kind of service they require. Secondly we help them with interpreting some of the laws. That will assist them to know what laws are there to protect them, which particular law is going to protect or make sure they access their right.(R4)

This response is supported by Diamond (1994) and Ferris (1998), civil society plays an important role in information dissemination, "aiding citizens in the collective pursuit and defence of their interests and values." This information can, for example, be details of what government is doing contrary to what it claims to be doing. Civil society uncovers abuse of power and human rights (Diamond 1994:10). The findings are supported by the following objective in the CCJ: To educate disadvantaged communities about their rights (CCJ 2003).

Respondent R1 said:

So with regard to crime prevention they call us to go to school and give them information about new laws especially what has been done, what has been amended on sexual Offence Act,..... we

are giving them information, information is power for them to protect themselves against committing crimes.....and recently we started the Victim Empowerment Programme.....will explain to them the Criminal Procedure Act because they don't know exactly what the justice system is all about. (R1)

On the same question, about the kind of help the CCJ provides to ordinary citizens, in terms of accessing the justice system, R3 said:

The role is to make the community aware of their rights and how to put them into practice and to see if those human rights are not abused and also to make them aware of the remedies of domestic violence. (R3)

When asked if she had anything to add about the role of the CCJ in issues of human rights through the justice system, R4, the director of the CCJ raised the educational role of the CCJ:

So for us it is like as an organisation based at the university, as a training institution and as an educational institution we will educate local people so that they can render legal services to their communities..... (R4)

R4's response is corroborated by ICHRP (2003:6), which stated that NGOs can help facilitate public access to the criminal justice system. The Council had recorded that "the justice system and its processes are complex and, particularly in societies where levels of functional literacy are low. NGOs like the CCJ can ensure that members of the public understand the system, know what their rights are and are assisted to enforce their rights."

4.10 Protecting the interests of the poor

With many civil society organisations, if not all, their chief objective is to protect the interests of their members and the CCJ is no exception. When asked to explain the role the CCJ plays in issues of human rights through the justice system, respondent R4 replied:

..... we are making sure that people are treated fairly and then they do feel that their human rights are violated, we make sure they are upheld. So that is this whole within law we are promoting human rights and within this police station we are promoting human rights so that people's rights are not violated. You have a right for someone to listen to you. And when someone says no go away we don't deal with this issue, already you feel that your right has been violated, isn't it? The mere fact that we are there and that SAPS feel they are not sure how to handle this issue, yes there is human rights violation, they say go to the victim support centre [CCJ] and they will attend to you and we will take it from there. So that's how we uphold people's human rights through the programme. (R4)

Similar to that, Graham *et al.* (2008:15) stressed that civil society plays a vibrant role in "providing a space for public voice, for the practice of citizenship and for the building of social cohesion." This is supported by Castells (cited by Graham *et al.*, 2008:15), who pointed out that civil society organisations are "imperative as a space for the building of identity in a world where citizens feel that they have little control over their circumstances."

4.11 Safeguarding indigenous knowledge

The findings showed that the CCJ plays a part in safeguarding indigenous knowledge, although this was not pursued as an objective, but emerges as a consequence of furthering human rights through the justice system. R4, the CCJ director showed that CCJ respects traditional ways of handling human rights issues. She replied

The pace of service delivery is not meeting their demands and needs, some of the ways of doing certain things are very intimidating for people, and you know the law, the lawyers. Not all of it meets the needs of ordinary people. Other people have their own traditional practices. What must they do because they want to solve their problems in a traditional way? So what must they do they go to someone who is a lawyer then he says this whole thing is nonsense and I don't believe it. However someone with link to the community [co-ordinators] can explain and actually harmonise the informal and the formal to meet the needs of the ordinary people. (R4)

This role played by the CCJ is not something unique in the field of a civil society discourse. The high degree of public participation in NGOs creates a favourable environment in which indigenous knowledge can be utilised and adapted to local development needs. This high degree of participation allows communities to apply knowledge and technologies which they have developed themselves to suit their own situations and which is sustainable (Beer *et al.*, cited by Nzimakwe 2008:96). This is reinforced by Merrington (cited by Nzimakwe 2008) argues that NGOs are effective in assisting the poor to participate in matters affecting them.

4.12 Piloting projects that can be scaled up to national level

The findings of the present study showed that the CCJ's programme can be regarded as a pilot project that can be used nationally. This is based on the response gathered from respondent R4, who is the director of the CCJ:

.....So what CCJ is doing is to demonstrate to the government and to community that this kind of service is what is needed to solve almost sixty percentages of issues or cases that people have in rural areas. Especially with limited resources it is so costly for them to come to town for an advice. So as far as CCJ is concerned we would like if this programme can be replicated throughout and let other NGOs provide similar services so that people will feel the service delivery is moving fast. (R4)

According to Oshewolo, NGOs are innovative in terms of creating new projects and the ideas of scaling up such a project are viewed as a mandate for the government to move NGOs into public policies. Such programmes include "community literacy campaigns, monitoring human rights violations, creating awareness on the HIV/AIDS pandemic and other diseases, among numerous others" (Oshewolo 2011:146). Todaro and Smith (cited by Oshewolo 2011) enthused "NGOs possess the capacity to

design new and more effective programmes that reach the poor by virtue of their close working relationship.”

Although there is a need to scale up the CCJ programmes, the responses have shown that the CCJ has no capacity to do this by itself. Foweraker (cited by Pollard and Court 2205:18) has warned that even if civil society organisations have been successful in providing services to small areas, they may face difficulties in scaling up these programmes, or implementing services, over larger areas than those of communities in which they have roots.

4.13 Responsiveness of NGOs

The research has found that the CCJ is quick to respond to the needs of its clients and there is no bureaucracy in terms of addressing their clients' needs. They try to make sure that all their clients have their issues addressed.

The responsiveness of the CCJ to the needs of its clients was mentioned by R4 and P1. When P1, a station commander, was asked if they have any problems with working with the CCJ, he said that there is no problem because the CCJ is responsive to people's needs:

They solve people's problems quickly [CCJ]. They are no queues to wait for her [co-ordinator] for one to two hours. You go in you go out, your problem is solved. (P1).

When I asked P1 again why people prefer to report to the CCJ rather than to SAPS directly gave the responsiveness of the CCJ as the reason:

Maybe because sometimes people come to the charge office to this community service and wait for longer time the issue being the shortage of human resources but if they go to CCJ they get attended first time they go in. (P1)

At the end of the interview I asked the commander if he had anything to say and he gave an example of the responsiveness of CCJ to the needs of its clients:

Eh there is nothing much besides that for the office to be here [at SAPS] it has been really really helping the community. You find old ladies coming here she will always be kind enough to say you have reported your issue let me drop you off at your house..... (P1)

This confirms the argument of Green and Mathias, cited by Clayton *et al.* (2000:9), that NGOs are efficient and effective. This is supported by Oshewolo (2011:146), who said “ideally, NGOs are not constrained by the selfish preferences of the elites who dominate the public sphere.” They are known as not rigid or conservative which allows them to address problems proactively. The issue of the CCJ's alertness and accommodation of the needs of its clients was corroborated by R4, who had the following to say when asked why people like to report to their organisation [CCJ] instead of the SAPS or responsible government agencies:

Yes of course! The set-up of some of the police stations in many instances is not user friendly, you see. So of course there is someone that they believe is going to treat them with fairness [CCJ co-ordinators]. They are going to a relaxing environment; someone is going to listen to them. They are going to be

provided with counselling, obvious they are going to go to that person because you know people like to be referred, if they are intimidated by an institution, they prefer to go and consult someone they are comfortable with. (R4)

R4's response clearly shows that in South Africa the quality of police service delivery still roughly reflects condition under apartheid. Township areas often receive lower-quality policing services than suburban areas (although services may tend to be better at presidential stations and in priority areas than in other township areas) and the rural poor receive the worst services of all. There continue to be reports and allegations of instances of discriminatory policing, particularly in rural areas (Bruce *et al.*, 2007:79).

4.14 The relationship between the CCJ and the SAPS

Although this study revealed that the relationship between the CCJ and SAPS is informal, the findings show that the relationship is beneficial and mutual. This is authenticated by responses that I received from all my respondents when I asked them to describe their working relations with the police in addressing the issues of human rights through the justice system. Some describe the relationship as follows:

I can say the relationship is high because if they [SAPS] come across problems they can't resolve they refer them to our office. (R1)

It is very good I can say so [confidence]. The relationship is very good because we do have cases here [CCJ] and then we go to them [SAPS] with the client and explain our intervention and what is needed on their side and do assist them. (R2)

Station commanders P1 and P2 described their relationship with the CCJ very positively:

The relationship is very important and successful and we arrange activities together when engaging the community. (P1)

Eh it is a very good relationship. It is a very good one because our community now even know that we have got victim support centre within our premises. (P2)

Although this relationship was described as good and of benefit to the community, some respondents felt something could be done to improve this relationship.

Ah I say maybe.... I think the members of SAPS need to be more committed to their work so that the plan of action can be done they are a lot of things we are doing together, but sometimes there is a lag there is no specific people to deal with. In stations if they will be specific person to deal with us I think the working relationship will be much better. (R2)

R4 and P2 had the same sentiments when asked how to improve the relationship between the two organisations. They suggested that the government allocates more funds to NGOs like the CCJ. They suggested:

Of course that first thing they [government] can do is to try and support those organisations by giving them funding (laughing). Isn't it the most important thing? Yes! Of course it is funding and what is important also is recognition of paralegals as a profession, especially here at CCJ, because you are

using CCJ as a case study. Right now the work of paralegals is not regulated that's why our relationship with other stakeholders is informal. There is no statute that regulates the work of paralegals as yet. (R4)

By giving the resources to CCJ members. Enough resources to deal with issues that are being reported in the area and bring more NGOs together with CCJ so that we can work as a team close together. There is need for giving CCJ resources. They need to be empowered with resources to improve effectiveness of the relationship. (P2)

4.15 Problems experienced by the CCJ in addressing issues of human rights through the justice system

They are many challenges and problems that are encountered by the CCJ as the organisation pursues its main objective of furthering human rights through the justice system. One of them was cited as a lack of a formal relationship between the organisation and the SAPS, which makes new members of the SAPS fail to understand the work of CCJ.

I have already indicated that sometimes with informal arrangement you find a new police officer who comes to the station or a new station commander who doesn't know about the working relation of the victim support and the station. How they work and how they complement each other. Because of lack of understanding that slows down the work and that interferes with day to day work of the co-ordinators. (R4)

Another respondent R4 complained that they are faced with a challenge when other agencies that are involved in a case take time to do their part. She lamented with the following words, even repeating some words to show her grief:

Yes those are the challenges and the other thing is when the process has already started we really play a very important role in informing the client about what is happening with their cases. But because you find out that they are some other units that are going to be involved in completing the client's cases you find that another unit might not co-operate because it is so far away. It takes such a long time..... The person's issue drags on and on and on and we don't push for the speed resolutions when they are other people involved outside the police station are working in. (R4)

This problem is substantiated with what Lovrich says with reference to law enforcement agencies in the USA. According to Lovrich (1999:184), in Washington (USA) it is clear that the greatest number of public agencies in the areas of courts, corrections and law enforcement are not accustomed to the kinds of sharing of information and organisational resources that are essential to effective multiagency collaboration. R4 was not the only one to complain about other agencies that delay completion of cases, but R2 and R3 also expressed their concerns, as follows:

In regard to Department of Social Development there are a lot of challenges there. The responses are very slow when you refer cases to them. Sometimes we don't get the response at all, sometimes it is moving slowly. (R2)

Another challenge that I have experienced is with Department Social Development. The social workers there. You find that because we [CCJ] are at the community we are the first people that they come to report to and then we take steps urgently. Then you find out that the case is stuck with them. And after that if we do a follow up it seems as if we are telling them now what to do about their job. (R3)

Although Brinkerhoff and Crosby (2002:6), have said that the idea of government agencies closing doors to participation by other partners disrupts policy implementation the results of this study have shown that lack of co-operation is still happening.

4.16 Conclusion

This chapter has outlined and discussed the results gathered from the interviews and analytically discussed them in terms of the theoretical framework in Chapter 2. The results obtained in this present study complements what is already known on the area of public policy implementation by civil society. There was also evidence that contradict what was alleged about civil society in policy implementation. The study has shown that, among other roles in pursuing issues of human rights through justice, the CCJ does have a good partnership relationship with SAPS and other government agencies. The organisation complements the work of the SAPS, they do information dissemination for their clients, they help their clients to build identity and in their approaches like solving problems through traditional channels give respect to traditional channels of addressing human rights like consulting traditional leaders for help.

Chapter 5

Conclusion

This chapter concludes the study and gives a synopsis and summary of the key findings of the study. This is done by trying to resolve the research questions raised in Chapter 1.

5.1 Activities carried out by the CCJ

The findings show that the CCJ is involved in a lot of activities to address issues of human rights through the justice system. Some of its activities, identified via existing CCJ literature and also from interviews, include: legal support and assistance services (Counseling, mediation and conflict resolutions, referrals to other institutions, support services and partnerships with other institutions); social support services; community outreach activities (community-based workshops, presentations at schools and community-based presentations); information resources, community development and empowerment; and monitoring the implementation of legislation. During the interviews these activities were mentioned in response to different questions and by different respondents. Some of the statements that mentioned the activities of the CCJ are the following:

I give them legal empowerment by doing presentations and workshops and also assisting them through going to their children's schools and do presentations. (R1)

I help them with running workshops about human rights, presentations and also by attending meetings and introducing the office to the community and the service we provide. (R3)

The role played by CCJ mostly is to reach the communities, teach them about their rights and also to meet with relevant stakeholders. (R2)

5.2 Roles and functions of the CCJ in addressing issues of human rights through the justice system

Based on the words and language that were used by the respondents, and also evidence from CCJ documents, the CCJ has many roles and functions in the implementation of human rights through the justice system. These roles and functions can be summarized as complementing the SAPS; partnering with the SAPS and other government agencies;empowering poor people and helping them to build their identity; giving advice to clients and working partners; bridging the gap between the SAPS and the community they serve;engaging in information dissemination and education;and protecting the interests of the poor.

5.3 The relationship of the CCJ with the SAPS

Although the research has found that the CCJ and the SAPS have an informal relationship, data gathered from the interviews described the relationship as good and characterised by frequent referrals of clients to each other. This referral system has been seen as a way to avoid duplication of work among different stakeholders. However, the relationship is sometimes affected by setbacks in terms of responsiveness to the needs of clients. Some CCJ staff members pointed out that more can be done on the side of the SAPS to improve the relationship. This was often mentioned in relation to SAPS responsiveness to cases reported to them through the CCJ.

5.4 Challenges that CCJ face when addressing issues of human rights through the justices system

Research has revealed that the CCJ face challenges during its course of addressing issues of human rights through the justice system. This include lack of a formal relationship with the SAPS and other government agencies, lack of formal recognition of paralegals and lack of responsiveness by government agencies when the CCJ presents issues to them that need attention.

5.5 Improving the relationship of the CCJ and government agencies

Three respondents, R2, R4 and P2, indicated that the relationship between the CCJ and government agencies, especially the SAPS, can be improved. It was observed that the relationship can be improved if government agencies show commitment to their responsibilities and create a clear channel of communication with NGOs. There was also a statement by R4 that there is a need to recognise the work of paralegals, so that it will be easy for NGOs like the CCJ to formalize their relationship with government agencies. Funding non-governmental organisations by government was perceived by some respondents as a mechanism to improve the relationship between the two sectors.

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6. Appendices



Faculty of Humanities, Development and Social Sciences
School of Sociology and Social Studies

Informed Consent Form

Introduction and project information:	
<p>My name is Mr Emmanuel Ranganai, a master's student in Policy and Development Studies at the University of KwaZulu-Natal, Pietermaritzburg campus. I am conducting a research project entitled '<i>The role of civil society in policy implementation. The case of Centre for Criminal Justice (CCJ) in furtherance of human rights through justice system.</i>' The purpose of the study is to investigate the role of civil society organisations in policy implementation. From this study I hope to understand the role civil society organisations in implementation of issues of human rights through justice and as they work with the South African Police Service.</p> <p>I have selected your organisation due to its working relations with my department of Policy and Development Studies. The interview is for academic purpose as partial fulfilment of my Masters of Social Science in policy and development studies. As a registered postgraduate student at UKZN, I would like to request your participation in the research. This interview should take about 30 minutes of your time.</p> <p>This document will detail your rights as a research participant, please read it carefully and sign if you agree to participate.]</p>	
Your rights as a participant:	
<p>Please note the following rights and expectations you have and may hold regarding this research:</p> <ol style="list-style-type: none"> 1. Your participation in this research project is entirely voluntary and you may choose to withdraw from the research without penalty at any time for any reason. 2. You may not benefit directly from your participation in the study. However your participation may help to shape the way civil society organisations interact with government agencies in public policy implementation. 3. All the interview scripts and tapes will be kept by the supervisor for the period of five years and then everything will be incinerated. 	
Contact details:	
Researcher: Contact number: Email address:	Project supervisor Contact number: Email address:
Formalisation of consent	
Signature of participant: _____ Date: _____	Signature of researcher: _____ Date: _____



Faculty of Humanities, Development and Social Sciences
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Informed Consent Form

Introduction and project information:	
<p>My name is Mr Emmanuel Ranganai, a master's student in Policy and Development Studies at the University of KwaZulu-Natal, Pietermaritzburg campus. I am conducting a research project entitled '<i>The role of civil society in policy implementation. The case of Centre for Criminal Justice (CCJ) in furtherance of human rights through justice system.</i>' The purpose of the study is to investigate the role of civil society organisations in policy implementation. From this study I hope to understand the role civil society organisations in implementation of issues of human rights through justice as they work with the South African Police Service.</p> <p>I have selected your Police Station due to its working relations with Centre for Criminal Justice which is my point of reference in this study. The interview is for academic purpose as partial fulfilment of my Masters of Social Science in policy and development studies. As a registered postgraduate student at UKZN, I would like to request your participation in the research. This interview should take about 30 minutes of your time.</p> <p>This document will detail your rights as a research participant, please read it carefully and sign if you agree to participate.]</p>	
Your rights as a participant:	
<p>Please note the following rights and expectations you have and may hold regarding this research:</p> <ol style="list-style-type: none"> 1. Your participation in this research project is entirely voluntary and you may choose to withdraw from the research without penalty at any time for any reason. 2. Your name throughout the research and publication shall be withheld. 3. You may not benefit directly from your participation in the study. However your participation may help to shape the way civil society organisations interact with government agencies in public policy implementation. 4. All the interview scripts and tapes will be kept by the supervisor for the period of five years and then everything will be incinerated. 	
Contact details:	
<p>Researcher: Contact number: Email address:</p>	<p>Project supervisor Contact number: Email address:</p>
Formalisation of consent	
<p>Signature of participant: _____ Date: _____</p>	<p>Signature of researcher: _____ Date: _____</p>

Interview schedule to CCJ co-ordinators

Script Number.....

Establish a rapport :(shake hands) My name is Emmanuel Ranganai. I am a post graduate student of policy and development studies at university of KwaZulu Natal Pietermaritzburg campus.

I have selected your organisation purposefully because of its working relations with my department of Policy and Development studies and I am interested in understanding roles of civil society organisations in policy implementation.

I would like to assure you that all the information we are going to discuss in this office will be used for research purpose only and your name will remain confidential throughout the whole project and publication. You may choose not to answer any question which you are not comfortable with. Our interview is going to last for about thirty minutes. Just to confirm what I requested earlier, are you comfortable if I record and write down what we discuss.

1 .Biography

- i. Let me start by asking you the title of your position?
- ii. How many years have you been working for Centre for Criminal Justice? []

2. Activities at CCJ (This section's response should be written on other response sheet)

- i. What kind of help do you give to ordinary citizens in terms of accessing the justice system?
- ii. **[If more than one]** Which one among the ones you mentioned do you often offer?
- iii. What do you do to address these issues?
- iv. Do you have issues that you refer to the headquarters after failing to address them at local level?
- v. Do you attend or engage in community forums of this community you are stationed?
- vi. In short, what role do you think you play in issues of human rights through justice system?

3. Working Relations

- i. How do you describe your working relations with the police in addressing the issues you mentioned? **(Note interesting issues that may be raised that need further probe)** (This response should be written on other response sheet)

- ii. What kind of challenges do you experience as you try to address the issues you mentioned?
(This response should be written on other response sheet)
- iii. Do you receive people referred to you by other government institutions/ agencies? **Yes** []
No []
- iv. **(If yes)** Which institutions/ agencies normally refer people to you?

.....

.....

.....

.....

- v. How do you describe your general working relations with all of the agencies you mentioned?

4. Opinions

- i. What do you think the government should do to improve its relationship with the non profit sector/civil society organisations that deal with issues of human rights through justice system?
(This section's response should be written on other response sheet)
- ii. What do you think need to be done to improve the effectiveness of your relationship with SAPS?
- iii. Do you have any idea why some people prefer to report their cases through CCJ not directly to SAPS or other government agencies?
- iv. It seems there is duplication of work when people come through CCJ to report crimes. What do you think?

5. Close

Thank you for your time **(name)**.....Should I need clarification or further details I will contact you and make arrangements. Or if you think you got information that you think is vital for this research you can contact me through contact details on the informed consent I gave you.

6.4

Interview schedule to CCJ director

Script Number.....

Establish a rapport :(shake hands) My name is Emmanuel Ranganai. I am a post graduate student of policy and development studies at university of KwaZulu Natal Pietermaritzburg campus.

I have selected your organisation purposefully because of its working relations with my department of Policy and Development studies and I am interested in understanding roles of civil society organisations in policy implementation. Our interview is going to last for about thirty minutes.

I would like to assure you that all the information we are going to discuss in this office will be used for research purpose only. You may choose not to answer any question with which you are not comfortable with. Just to confirm what I requested earlier on, are you comfortable if I voice record and write down what we discuss.

1 .Biography

- i. Let me start by asking you the title of your position [.....]
- ii. How many years have you been working for Centre for Criminal Justice? [.....]
- iii. Under which law section is your organisation registered? [.....]

2. Activities at CCJ (This section's response should be written on other response sheet)

- i. What kind of help do you give to ordinary citizens in terms of accessing the justice system?
- ii. **[If more than one]** Which one among the ones you mentioned do you often offer?
- iii. Do you have issues that are referred to you as head office after failing to get solutions at outreach centres?
- iv. In short, what role do you think as CCJ you play in issues of human rights through justice system?

3. Working Relations

- i. How do you describe your working relations with SAPS in addressing issues that are reported to your organisation?(**Note interesting issues that may be raised that need further probe**)
(This response should be written on other response sheet)
- ii. Is your relationship with SAPS formal or informal (something guided by written agreements)?
Formal [] Informal []
- iii. What kind of challenges/problems do you experience as you try to address issues you mentioned? (This response should be written on other response sheet)

iv. Do you receive people referred to you by other government institutions/ agencies? **Yes** [] **No** []

v. **(If yes)** Which institutions/ agencies normally refer people to you?

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vi. How do you describe your general working relations with all of the agencies you mentioned?

4. Opinions

- i. What do you think the government should do to improve its relationship with the non profit sector/civil society organisations that deal with issues of human rights through justice system? **(This section's response should be written on other response sheet)**
- ii. Do you think your [CCJ] relationship with South African Police Service or any government agency will be more effective if it is guided by legislation or specific policy framework at organisational level?
- iii. Do you have any idea why some people prefer to report their cases through CCJ not directly to SAPS or other government agencies?
- iv. It seems there is duplication of work when people come through CCJ to report crimes. What do you think?

5. Close

Thank you for your time **(name)**.....Should I need clarification or further details I will contact you and make arrangements. Or if you think you got information that you think is vital for this research you can contact me through contact details on the informed consent I gave you.

Script Number.....

Establish a rapport :(shake hands) My name is Emmanuel Ranganai. I am a post graduate student of policy and development studies at university of KwaZulu Natal Pietermaritzburg campus I have selected your organisation purposefully because of its working relations with Centre for Criminal Justice and I am interested in understanding roles of civil society organisations in policy implementation as they work with the police.

I would like to assure you that all the information we are going to discuss in this office will be used for academic research purpose only and your name will remain confidential throughout the whole project and publication.You may choose not to answer any question which you are not comfortable with. Our interview is going to last for about thirty minutes. Just to confirm what I requested earlier, are you comfortable if I record and write down what we discuss.

1 .Biography

- i. Let me start by asking you the title of your position? [.....]
- ii. How many years have you been working for the South African Police Service? [.....]

2. Activities of the Police Service (This section's response should be written on other response sheet)

- i. What kind of legal issues do you normally deal collaboratively with CCJ?
- ii. Which one among the ones you mentioned do you often attend to?
- iii. What kind of challenges do you experience as you try to address issues you mentioned? **(This response should be written on other response sheet)**
- iv. What is the difference between cases that are reported directly to you [as SAPS] and those that come through CCJ or other agencies?
- v. Do you attend or engage in community forums of this community you are stationed?
- vi. In short, what role do you think CCJ plays in issues of human rights through justice system?

3. Working Relations

- i. How do you describe your working relations with CCJ in addressing issues of human rights through justice system?**(Note interesting issues that may be raised that need further probe) (This response should be written on other response sheet)**
- ii. Is your relationship with CCJ formal or informal (something guided by written agreements)? Formal [] Informal []

- iii. What challenges do you face when working with CCJ as a non-governmental organisation compared to working with other government agencies?
- iv. Do you invite CCJ to some of your meetings with the community?
- v. Besides CCJ which other non-governmental organisations you often work with on issues of human rights through justice system?

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4. Opinions

- i. What do you think the government should do to improve its relationship with the non-profit sector/civil society organisations that deal with issues of human rights through justice system?(This section's response should be written on other response sheet)
- ii. What do you think need to be done to improve the effectiveness of your relationship with CCJ?
- iii. Do you have any idea why some people prefer to report their cases through CCJ not directly to your organisation?
- iv. It seems there is duplication of work when people go through CCJ to report crimes. What do you think?

5. Close

Thank you for your time (**name**).....Should I need clarification or further details I will contact you and make arrangements. Or if you think you got information that you think is vital for this research you can contact me through contact details on the informed consent I gave you.