

15 SECURING BODY, SPACE AND STRUCTURE THROUGH THE POWERS OF LAW AND STATE: SOME SOUTH AFRICAN URBAN EXAMPLES OF DISPLACEMENT AND RECONCILIATION

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INTRODUCTION

The South African State of the Nation Address (SONA), held on 9 February 2017 in Cape Town, was overshadowed by vocal protests by some members of parliament, representing opposition parties to the ruling African National Congress (ANC). These members objected, amongst other things, not only to the presence of 441 armed military personnel and riot police in the parliamentary precinct, but also to the presence of then-President Jacob Zuma, who delivered the SONA. The President entered the house amidst a combination of claps from his supporters in the ANC and insulting jeers from members of the opposition parties, especially the Economic Freedom Fighters (EFF).

The rules of the house allow members of parliament to raise a point of order, and the Speaker is obliged to recognise the member. Opposition party members used this procedure to get the Speaker, Baleka Mbete, to rule on what they called the unconstitutional presence of both the President and his security forces, but the Speaker accused them of abusing the procedure in order to disrupt proceedings. The President attempted his introduction, but loud interruptions and the raising of more points of order prevented him from continuing. The first person to be asked to leave the house by the Speaker was Willie Madisha from the Congress of the People (COPE). He was escorted out by white shirt-wearing parliamentary protection services.

Then the leader of the EFF, Julius Malema, accused the Speaker of being partisan and maintained that the members in the house were not safe from police and military intimidation. Malema further insulted President Zuma, saying that he was not a legitimate president, that he did not have the right to address the house² and that, since the Constitutional Court found that the President was in breach of the Constitution, he should not be allowed to hold a public office. At that point, the EFF insisted the President leave the house. This resulted in complete chaos. The Speaker ordered the removal of the EFF and more white-shirted security personnel entered and began to forcefully remove EFF members, who were known for their

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2 Constitution of the Republic of South Africa, 1996. Chapter 4 defines the structure of Parliament and qualifications for membership of Parliament.

un-parliamentary attire of red overalls and red hard hats, in sympathy with mine workers and other black labourers. Red overalls were hitting white shirts with their red hard hats, but they were swiftly overcome and thrown out, all amidst more shouting and swearing. When the Democratic Alliance (DA) and its leader Mmusi Maimane again raised objection to the presence of military personnel, insisting on the constitutional separation of powers, more shouting erupted, with many accusing him of being a racist and a sell-out, and so the DA walked out. With the absence of opposition parties, the President could finally deliver the SONA, laughingly, to a calm house representing mainly the ruling party, the ANC.

The powers of law, state and church have through the ages been enabled, sanctioned and defined by body, space and structure. The recent spectacle that took place during the South African SONA is interesting, because the objections by the opposition were made against the presence of the bodies of both the President and the security forces ordered by him for his protection, in the space that is the assembly, in the structure that is the parliament building. It was not enough to object to the speaking of the President and the acting of security forces, but to their actual presence in the spaces that are the assembly and the precinct.

The powers of law and state have through the ages been enabled, sanctioned and defined by body, space and structure. The aim of this contribution is to investigate securing of body, space and structure through the powers of law and state in South Africa, which was traditionally managed through division, fortification, discrimination and segregation. It traces methods of securing the civil body in urban space back to both the classic Western world and traditional African societies. Both law and state controlled bodily access to legal space and structure. Rights, obligations and privilege determined freedom of movement in and out of the physical and institutional spaces and structures that housed these powers. With every regime change and thus change in power, the measures of control changed, which often resulted in the displacement and disappropriation of cultural groups. Amidst international increase in violence and terrorism, South Africa seems unaffected. Violence and destruction are not in the churches, mosques or synagogues, but on campuses countrywide, as part of the post-apartheid revolutionary demand for free tertiary education. The past few years have seen service delivery protests in the streets and, when Jacob Zuma was still president, protests calling to have him removed. Security has increased through barriers of human bodies and technology and access to the spaces and structures of law and state is more controlled than ever before in the general contradictory climate of reconciliation.

SECURING THE CIVIL BODY IN URBAN SPACE

Through the ages, humans have endeavoured to secure their public and private spaces by keeping their enemies out. This required a clear division between friend and foe and fortification of what belongs to one group, to the exclusion of another. It further required a clear definition of ownership, of what is mine, and by implication, what is not yours.

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Urbanism in the form of the first significant city-states developed in Archaic Greece as independent centres of power, mainly due to the area's geography. High mountains, desolate valleys and coastal islands separated these sovereign towns, each with its own government and army for protection. The political organisation of the city-states was a decentralised pattern that developed naturally and was well suited to the geography of the Greek mainland.³ The sense of belonging to a city-state was later defined by the Latin term *civilis*, relating on the one hand to a citizen belonging to the city-state and to public life therein, and on the other to the courteousness or civility that denoted the behaviour befitting a citizen.⁴ Fortresses no longer just protected a ruler. The whole of the citizen body was protected from outside threats by keeping the enemy body, the "other", out.⁵ Securing urban space by fortifying its boundaries seemed easy in a homogenous society.

This form of security was not only visible in the West. Pre-modern African cities also contained city walls for protection. Antoni Folkers, Director of the African Architecture Matters Foundation, investigates whether the walls first appeared because of the slave trade or whether there were walls enclosing earlier cities as well.⁶ Similar to the city-states of ancient Greece, these cities were also largely self-sufficient. World heritage adviser Susan Denyer⁷ has attributed the often labyrinthine African city plans to military strategies aimed at confusing enemy troops, but as African architectural theorist Masudi Alabi Fassassi⁸ has argued, the reason for this planning strategy was far more complex. The loose structures of pre-modern African cities began as enclosures within the traditional African landscape and were usually constructed around the spatial concept of the extended family.⁹

It was the proximity of the Mediterranean Sea that allowed colonial expansion in Ancient Greece. Greeks chose sites for their colonial towns that resembled the geological context of their native country, confident of their ability to adapt their familiar town planning and water management practices to suit these conditions.¹⁰ Although the Greeks saw the metropolis, the founding city, as the motherland, their colonies set up throughout the Mediterranean were completely independent.

The act of colonisation can be traced back to ancient Egypt, but it was only later that the Romans started using the Latin term *colonia*. Greek and Roman colonies were established in cities, which were the centres of life in the ancient world. With colonial expansion, the status of the civilian changed. Alexander the Great tried to

3 Brumbaugh RS. 1970. *The Philosophers of Greece*. New York: Thomas Y. Crowell Company, 9-10.

4 "Civilian". Dictionary.com

5 Fields N. 2006. *Ancient Greek Fortifications 500–300 BC*. Oxford: Osprey Publishing.

6 Folkers A. 2010. *Modern Architecture in Africa*. Amsterdam: Sun Architecture.

7 Denyer S. 1978. *African Traditional Architecture: A Historical and Geographical Perspective*. London: Heinemann, 31-39.

8 Fassassi MA. 1997. *L'architecture en Afrique noire. Cosmoarchitecture*. Paris: L'Harmattan.

9 Folkers, *Modern Architecture in Africa*.

10 Crouch DP. 2004. *Geology and Settlement: Greco-Roman Patterns*. New York: Oxford University Press.

assimilate the Greeks with the Persians, Egyptians and Syrians, but this policy was abandoned after his death. Initially the subjects in Roman colonies or provinces, the *provinciales*, had no rights apart from *ius gentium*, which were basic human rights, but the Romans foresaw the danger that the conquered would revolt and granted those under Roman rule a form of citizenship which made them feel part of the Empire. With the Edict of Caracalla in the year 212 CE, all free men in the Roman Empire were given full Roman citizenship. Thus, whereas the Greeks did not attempt to mingle with the people of their colonies, the Romans, through a process of Romanisation, convinced the native communities to adopt Roman culture, law, language and customs.¹¹

SECURING LANDSCAPE THROUGH DIVISION IN THE CAPE COLONY

Although it is popularly believed that the Dutch colonised the southern tip Africa in 1652, this is not strictly true. The Dutch East India Company (*Vereenigde Oostindische Compagnie* or VOC) did not have a mandate to colonise the Cape, but rather was tasked with setting up a victualing station to provide fresh produce initially to Company ships and later to foreign ships. The VOC was a corporation, the first to issue shares, and via this corporation the Dutch managed to build up colonial possessions on the basis of indirect state capitalist corporate colonialism. The VOC was thus an arm of the Dutch State, from whom it obtained its power. It had a policy of non-interference in local laws in China and Japan and strict instruction not to enslave the indigenous population, the Khoi, at the Cape.¹²

The Dutch settlement lay in the path of traditional Khoi grazing routes and conflict between the Dutch and the Khoi broke out in 1659–1660. Jan van Riebeeck, the first commander of the Cape, decided to build a defensive barrier along the eastern boundary of the settlement to keep the natives out and to prevent the Khoi from raiding their livestock. The boundary had a half-moon shape and included thorn bushes, wooden walls, watch towers and a hedge of bitter almonds (*Brabejum Stellatifolium*) characterised by its intertwined branches, which was planted between the Liesbeeck River and Kirstenbosch,¹³ parts of which can still be seen growing in the National Botanical Gardens in Cape Town today.

For many the hedge marks the first step on the road to apartheid and symbolises how white South Africa cut itself off from the rest of Africa, dispossessed the indigenous people and kept the best resources to itself. Van Riebeeck posted a law forbidding anyone from making passage through the hedge or even breaking off a

11 “Roman citizenship”. Wikipedia. Haverfield F. 1913. *Ancient Town planning*. London: Oxford University Press.

12 Gerstell D. 2010. *Administrative Adaptability: The Dutch East India Company and Its Rise to Power*. *Emory Endeavors in World History*. Online at: <http://history.emory.edu/home/documents/endeavors/volume3/DanielGerstell.pdf>

13 See South African National Biodiversity Institute. Online at: www.sanbi.org

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twig. The power of Van Riebeeck's law divided the bodies of the Dutch and the Khoi and separated their landscapes and the space that they were allowed to occupy, by inserting a living structure between them. This law controlled bodily access to the space and structure of the VOC, and freedom of movement was reserved for those with certain rights and privileges. Almost 300 years later, the architects of apartheid continued Van Riebeeck's act of separation by legislating the hedge into existence through the Group Areas Act.¹⁴

CREATING URBAN SPACE FOR THE "OTHER" IN PRE-DEMOCRATIC SOUTH AFRICA

The Dutch possession was transferred to the British in 1795 and returned to the Batavian Republic, a French satellite administration in 1803 until the second British occupation in 1806. The Cape was now a part of British Colonial rule, and although there was a definite effort to Anglicise the Dutch, a concerted effort was not made to incorporate the native communities as civilians into the British Empire. There was no political colonial strategy similar to that of the Romans. In fact, pre-democratic southern Africa was marked by the societal distinction between Europeans and non-Europeans, between whites and non-whites.¹⁵

Colonial powers claimed the urban as their exclusive domain, incorrectly¹⁶ believing that they produced it as a consequence of being civilised. The Voortrekkers after their trek were primarily an agrarian people. In 1904, only 6% of the Dutch descendants, or Afrikaners, lived in towns, and by 1960 the percentage had increased to 76%.¹⁷ The black population, too, were uprooted and displaced from a simple rural existence, and after the proclamation of the Native Lands Act in 1913 there was a sharp increase in black urbanisation, because black people were forced to seek a new life in towns and cities. The twentieth century urban condition was characterised by the close contact of black and white.¹⁸ By the 1920s the increased urbanisation of both blacks and whites raised the concern of unchecked black migration and the permanence of blacks in urban areas.

Blacks were tolerated in the urban areas only because they were necessary to its capitalist economy as a source of labour. White people, regarding the urban as their

14 Essop T. 2004. Budget Speech 2004/2005: Department of Environmental Affairs and Development Planning, 21 June.

15 Steenkamp AC. 2008. *Space, power and the body – the civil and uncivil as represented in the Voortrekker Monument and the Native Township model*, PhD Diss, TU Delft, 41.

16 Steyn G. 2011. "The spatial patterns of Tswana stone-walled towns in perspective", *South African Journal of Art History* 26(2):101-125. Steyn compares the size of nineteenth century southern African Tswana towns with their contemporary European counterparts and Folkers states that Eurocentric denial of African histories disregards the history of ancient African cities like Meroe, Axum, Punt and Raphta. See Folkers, *Modern Architecture in Africa*.

17 Welsh D. 1969. "Urbanisation and the Solidarity of Afrikaner Nationalism", *The Journal of Modern African Studies* 7(2):265-276.

18 Steenkamp, *Space, power and the body*, 50.

own creation and thus their own social space, saw black people as an element that needed to be controlled.¹⁹ This led to stricter and harsher measures in dealing with the black urban population, and under apartheid the explicit desire existed to exclude non-whites from white space.²⁰ The Lagden Report²¹ suggested that black people in urban areas be moved to their own space and once again they were displaced and dislocated to the newly established urban locations.

In her doctoral dissertation, University of Cape Town lecturer Alta Steenkamp has argued that the attitude that urban blacks needed to be kept separate from white urban dwellers and that their lifestyle needed to be ordered and managed stemmed from a colonial sentiment, based on the fundamental belief in white supremacy of the right of whites to rule its “others” and the right of whites to order their space and enforce limits of “others” in their space.²² Through the system of apartheid, enforced by the structure of law, white people positioned their bodies in what they believed to be a secure space, where the non-white or “the other” was marginalised, freedom of movement and citizenship denied and access to space, power, wealth and knowledge limited.

The relationship between space and power was thus characterised by the inclusion of some and the exclusion of other.²³ The control of movement, activities and places of residence in urban spaces was a central weapon of the apartheid regime in South Africa.²⁴ Rights, or the lack thereof, were spatial.²⁵ White society not only created its own space, but also the space of its “other.” Non-whites were not considered to belong to white society, and their status as citizens was similarly unclear.²⁶ Philosopher Michel Foucault has described the urban as the context in which the civic and civility find their definition. The rules of civility are determined in the laws, regulations and norms put forward for and by its citizens.²⁷ This relationship between power and space can certainly be found in the South African context.

19 Steenkamp, *Space, power and the body*, 193.

20 Steenkamp, *Space, power and the body*, 54.

21 In 1903, after the Anglo Boer War, Lord Milner convened a commission under the chairmanship of Sir Godfrey Lagden to report on “native affairs”. Zimmermann R and Visser D. 1996. *Southern Cross: Civil Law and Common Law in South Africa*. Oxford: Clarendon Press, 81.

22 Steenkamp, *Space, power and the body*, 140.

23 Steenkamp, *Space, power and the body*, 199.

24 Bénit-Gbaffou C et al. 2009. *Sécurisation des quartiers et gouvernance locale. Enjeux et défis pour les villes africaines (Afrique du Sud, Kenya, Mozambique, Namibie, Nigeria)* [Neighbourhood security and local governance. Issues and challenges for African cities (Kenya, Mozambique, Namibia, Nigeria, South Africa)]. Paris: Karthala, 56.

25 Steenkamp, *Space, power and the body*, 199.

26 Steenkamp, *Space, power and the body*, 145.

27 Steenkamp, *Space, power and the body*, 14.

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THE STRUCTURE OF APARTHEID: ARCHITECTURE AND TOWN PLANNING

For centuries in precolonial southern Africa, the Great Fish River formed a natural barrier between the Khoi and the Xhosa, although there were traces of cultural osmosis between the groups in the form of language, agriculture and intermarriage. With the arrival of the Dutch, the VOC planted the hedge that formed part of a boundary intended to keep the Khoi out of the Dutch space. With advent of the twentieth century, urbanisation town planning methods were devised to segregate people of different races, while also including them in the greater urban landscape for economic and labour purposes.

Urban infrastructures such as railway lines were used as dividing mechanisms. The buffer strip, and later a physical barrier, was an extra measure that would serve to dislocate the space of whites from the space of non-whites. Steenkamp explains that by law around 30% of the land acquired for a native township in the proximity of any other racial group had to be used as a buffer strip.²⁸ The Minister of Native Affairs determined the width of the strip: a 457-metre-wide green belt that could not be used by residents of the native township. This reminds of the *cordonne sanitaire* initially intended to stop the spread of infectious diseases, but it was used in colonial town planning in places like Stone Town, Zanzibar to, as Bissel puts it, “echo colonial phantasies of racial containment”.²⁹ Racial discrimination extended through all spheres of life. In architecture, buildings were designed to provide separate entrances and exits, and access to certain spaces was completely forbidden. There were numerous projects to house the urban black in separate townships, and the urban landscape of pre-democratic South Africa was marked by imagery of separation.

After the collapse of apartheid in 1994, the status of the civilian changed, and a legal member of the State could not be deprived of citizenship.³⁰ South Africans of all races are allowed to vote and own property.³¹ The new Constitution of the Republic of South Africa, 1996 stated that everyone is equal before the law and has the right to equal protection and the benefit of the law.³² Where access to public space was previously determined by race, people of all races are now free to move in and around space, noticeably public urban space. The Constitution determines that everyone has the right to freedom and security of the person (body), which includes the right to be free from all forms of violence from either public or private sources and it determines the right to bodily integrity, which includes the right to security in and control over their body.³³

28 Steenkamp, *Space, power and the body*, 184.

29 Bissel WC. 2010. *Urban Design, Chaos, and Colonial Power in Zanzibar*. Bloomington, Indiana: Indiana University Press.

30 Constitution of the Republic of South Africa, 1996, sec 20.

31 Constitution of the Republic of South Africa, 1996, secs 19 and 27.

32 Constitution of the Republic of South Africa, 1996, sec 9.

33 Constitution of the Republic of South Africa, 1996, sec 12(1)(c) and 12(1)(b).

Archbishop Desmond Tutu coined the phrase “the rainbow nation” to describe the dream of post-apartheid South Africa, where all races live in harmony and thrive in a climate of reconciliation and multiculturalism. But the reality of post-apartheid South Africa is often far removed from that dream. President Zuma was recently deposed to face 783 charges of fraud, corruption and money-laundering. He has been linked to numerous scandals, including allegations of allowing state capture by a powerful Indian business family, the Guptas, and his frequent reorganisation of parliament has caused economic decline and downgrade to junk status. The present government is linked to mismanagement and misappropriation of funds, and opposition parties accused the ruling party, the ANC, of being unable to self-correct – at least until the final ousting of Zuma, who had survived six motions of no confidence.

The nation has seen an increase in violent crime, poverty and unemployment. People are taking to the streets to protest the lack of service delivery and to demand free tertiary education and Zuma’s removal. The State has failed to provide security for its civilian body, while Zuma enjoyed, and members of parliament and other ANC officials still enjoy VIP protection, travel with notorious blue light brigades at law-breaking speed and generally seem to be above the law. Civilians have to rely on increased fortification and private security companies, and the urban environment is marked with images of security, visible as fortification in the form of physical barriers and the presence of security forces, who are usually private security personnel.

As mentioned above, it was the presence of 441 armed military personnel and riot police in the parliamentary precinct ordered by the president for protection that caused uproar amongst members of the opposition during the State of the Nation Address. The parliamentary police emerged during apartheid, when the whites only government was a contested state. Although Chapter 11 of the Constitution establishes structures for civilian control of the Defence Force, the Police Service and the intelligence services and it makes the president the Commander-in-Chief of the Defence Force, it places conditions on when and how it may be employed and requires regular reports to Parliament. Zuma was also criticised for using apartheid tactics of division, fortification and the removal of any possible opposition to his faction, as a way to protect his position as the leader of the ANC. Zuma refused to acknowledge that it was his governance and the mismanagement of state entities that was causing economic collapse. He continuously blamed the country’s economic woes on apartheid and the whites, therefore spreading racial division and ignoring the ideal of unity amongst all races and the dream of the rainbow nation. One of the outcomes of increasing racial division has been the decolonising debate.

The decolonising debate started in 2015 with a revival of the black consciousness movement amongst University of Cape Town students, which was expressed in the “Rhodes Must Fall” campaign to remove the Rhodes statue in front of campus. Protests extended to Oxford, England, which is home to the Rhodes scholarship. English-born Cecil John Rhodes was Prime Minister of the Cape and had strong

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British imperialist sentiments. Although protesting students are mainly part of the “born free generation”, who were born after 1994, and were thus never part of the apartheid struggle themselves, they are dissatisfied with the remaining presence of colonial and apartheid symbols, as well as with a dysfunctional government that cannot change their economic situation which is another remnant of colonial and apartheid legacies. Although the Constitution of the Republic of South Africa, 1996, states that the country belongs to all who live in it and that we are united in our diversity, this diversity runs deep with a rainbow of heritages in the South African public sphere.³⁴ The call to decolonise South Africa and remove pre-1994 statues depicting white people has spread from campuses to public squares, but there has still not been a movement to decolonise parliament, which in essence is a remnant of colonial rule.

“England is the mother of parliaments”, announced English statesman John Bright in 1855 during his speech in the House of Commons. The South African Parliament in Cape Town is based on the Westminster system, where the seating pattern is two banks of seats positioned in opposition. This seating pattern derives from a religious structure, more specifically St. Stephen’s Chapel,³⁵ inside the Palace of Westminster, which was the debating chamber of the House of Commons from 1547 to 1834. The former Chapel’s layout and functionality influenced the positioning of furniture and the seating of Members of Parliament in the Commons. The Speaker’s chair was placed on the altar steps – arguably the origin of the tradition of Members bowing to the Speaker, as they would formerly have done to the altar. Where the lectern had once been, the Table of the House was installed. The Members sat facing one another in the medieval choir stalls, creating the adversarial seating plan that persists in the chamber of the Commons to this day. This arrangement encouraged two parties in strong opposition. This became characteristic of the Westminster political system. The British Parliament adhered to an *ancien regime*. Architects did not try to develop a building type suitable for parliament because they looked towards the past for appropriate stylistic associations and not to the future of an institutional organisation.³⁶

Charles Freeman was the architect of the original Parliament structure in Cape Town, which was built in 1885. The colonial building, complete with Corinthian porticos and a huge dome, is next to the lush Company Garden. The House of Assembly was the design of well-known architect, Sir Herbert Baker. In 1890, Cecil John Rhodes was elected prime minister of the Cape Colony, and his members of parliament occupied this building for five years. Rhodes’s ambition was to fly the Union Jack from the Cape to Cairo and in 1895 Rhodes backed the Jameson

34 Du Plessis GA. 2016. “‘Rhodes must fall’ – An alternative approach to statues in the South African public sphere”, in Green MC, Hackett RIJ, Hansen L and Venter F (eds). *Religious Pluralism, Heritage and Social Development in Africa*. Stellenbosch: African Sun Media, 271-289.

35 “St. Stephen’s Chapel”. Wikipedia.

36 De Klerk M. 1995. “An assembly for South Africa – precedents and possibilities”, *Architecture SA* 77:23-24.

Raid aimed at overthrowing President Paul Kruger's Transvaal Republic, where gold was discovered in 1867. Rhodes was forced to resign his position. The Houses of Parliament in Cape Town saw debates on the Anglo-Boer War, two World Wars, political change, the loathed apartheid system, Britain's intent on granting independence to its African colonies, the assassination of prime minister Hendrik Verwoerd and, in 1994, witnessed how Nelson Mandela stood up as the president after the country's first democratic elections.

CONCLUSION

Both the architecture of the Parliament building and the parliamentary system are stark reminders of South Africa's colonial past. The stately classical building has seen regime changes from British colonialism to apartheid to democracy, and more recently it has borne witness to political instability and the now familiar scene of violent removals of members who oppose President Zuma, which in turn is an ironic reminder of apartheid tactics of division, fortification and segregation. Elleh describes the post-colonial crises the best: The new anti-colonial and anti-racial segregationist leader is himself the segregationist.³⁷ In colonial times, the practices of using architecture to dominate the masses were consolidated and carried over to postcolonial eras under the guise of state ceremonies and rituals. As new leaders try to erase the memories of their predecessors, they truly believe that they are the antitheses of colonial legacies, however in the process they recoup all the characteristics of colonial inspired projects.³⁸

37 Elleh N. 2002. *Architecture and Power in Africa*. Westport: Praeger, 5.

38 Elleh, *Architecture and Power in Africa*, 162.