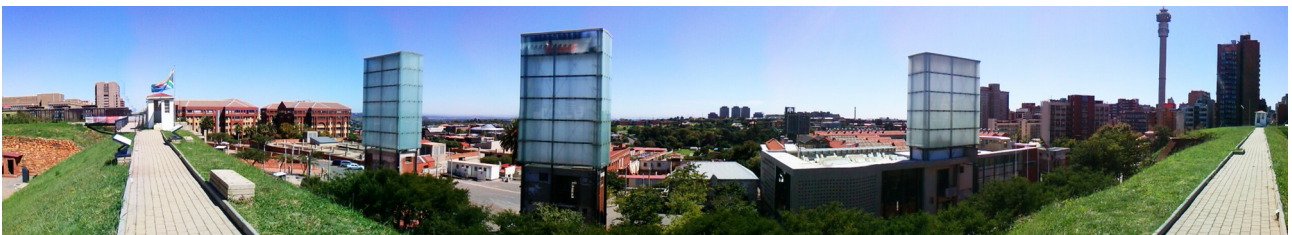


Caught Between the Past and Future: Layers of Meaning at Constitution Hill



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Introduction

Constitution Hill is a site of layered history, memory and transformation in the centre of Johannesburg. The location of a prison for nearly a hundred years until 1983 – under Afrikaner Republic, British colonial, and apartheid governments – it has, under the post-apartheid African National Congress (ANC), been transformed into a mixed-use precinct housing prison museums, a public square, library, resource centres, event, exhibition and office spaces, and the new Constitutional Court, symbolising the new democratic South Africa, based on freedom, equality and rule of law. The concept for the precinct centres on building a hopeful future – represented primarily by the new Court building, opened in 2004 – from a difficult past, that of the history of the prisons, “highly symbolic” of, and intended to legitimise, the transition from apartheid (Segal 2006: viii). This ethnography, which aims primarily at comparing the vision for Constitution Hill and its current use patterns, examines “the space between the planned and the providential, the engineered and the 'lived', and between official projects of capture and containment and the popular energies which subvert, bypass, supersede and evade them” (Shepherd & Murray 2007: 1). It is a subtly contested scene of societal dynamics which play out in myriad ways, mediated by the attempts at creating a space that exudes meaning, and resulting in a continuum of different lived experiences that relate to the vision for the precinct in complicated ways. These experiences are revealing not only of the extent to which Constitution Hill's aspirations have been realised, but also of broader processes and themes and the precinct's place in the city.

The site is comprised of several buildings, old and new. On its eastern edge lies the modestly imposed Constitutional Court: the key generator of new meaning in the precinct, protector of the rights enshrined in the new Constitution, and one of the key symbols of the new dispensation. The buzz surrounding big cases, on days when the country is looking in, punctuates the quiet rhythms of

the space that ebb and flow on other days. The significance of siting the Court opposite Number Four, the black male section of the prison, is crucial given its importance in the collective memory of black South Africans in Johannesburg, representing one of the darkest, most powerful symbols of apartheid. The very materiality of this has been used to help create one of the earliest, most important ideological constructs in support of the new order: The Constitutional Court, a symbol of hope rising from the horrors of the past. The extent to which the precinct has realised its vision, itself tied to visions for the inner-city and the nation, thus provokes some demanding questions about how much South Africa has lived up to the promises of the new democracy. One of the key signifiers of nation-building is the construction of public buildings, of which the Constitutional Court was the first of the new dispensation; a true exercise in imagining how the power of different branches of the new government would be projected and performed. Therefore, the success of the precinct's vision also tells us about the success of the new state in legitimising itself.



Constitution Square, characteristically quiet, facing north. The Visitor's Centre is in the unpainted building, and the Court Building is on the right.

Constitution Square, the central, public space, makes up the intersection between the pedestrian routes that open the site to surrounding areas, and as such is the main area of public life in the precinct. It is where the four distinct – sometimes overlapping – groups of users of the space intersect: employees that work on site; visitors going on a tour of the prisons and Court; visitors attending events hosted on site; and those using the space as a thoroughfare. While these different groups occupy the same physical *place* of the square, they do not seem to occupy the same *space*. Their own lives and reasons for using the space affect their experiences in an interplay with the

mediation of the space received through the architecture, materiality and interactions with other people there. The restriction of commerce and securitisation of the space play important roles in defining its character, unintentionally making it feel distinct from surrounding areas. Thus, the space is often relatively quiet, which, for some, allows for the type of solemn, reflective experience it promises to facilitate; for others, this reflects a lack of comfort and ownership. This dissertation explores the political history of how the idea to construct a place of great meaning was developed, and through ethnographic research, how this measures up to the meaning it holds for those that use it.

Constitution Hill as an Intersection of Meanings

De Certeau claims that the start of historiographical work involves a division between the past and the present (1988); in the South African case this seemingly could be neatly done after apartheid officially ended. However, with time, this division between past and present is increasingly blurred: an 'apparent rupture' (Bremner 2007: 85). South Africa continues to battle the legacies of colonialism and apartheid, shown clearly by the persistent and extreme inequality of the urban landscape of Johannesburg – easily seen from the ramparts above the Old Fort. This blurred division exists deeply at Constitution Hill, and the space embodies complexity by participating in the process of navigating the often contradictory present of the new South Africa. Providing valuable insight and useful conceptual frameworks is Weszkalnys' ethnography of Alexanderplatz in Berlin, also an important heritage site and public space which, like Constitution Hill, has recently undergone profound transformation in line with broad societal changes (2010). Citing Nora and Kritzman (1998), Weszkalnys distinguishes between *lieux de memoire* and *lieux d'avenir*: 'the *lieux de memoire*, such as archives, museums, cathedrals and monuments, siting cultural and national memory. By contrast, a *lieux d'avenir* is a site of arrival, onto which expectations and desires for

particular futures are projected' (2010: 32). Constitution Hill aims at both: to use a carefully conceived *lieux de memoire* through the prison museums and exhibitions, to elucidate a *lieux d'avenir*: the particular future represented by the Constitutional Court.

Constitution Hill thereby attempts to embody multiple meanings: a heritage site in the democratic era of South Africa, monument and memorial to collective imaginings of future and past respectively, and a regeneration node and public space in a contested new Johannesburg. It is thus a key site of meaning, prompting a growing literature situating the precinct in various contexts: the precinct's conception and its place in Johannesburg (Gevisser 2004); urban heritage tourism (Van der Merwe 2009 2013; Khumalo, Sebatlelo & van der Merwe 2014; King & Flynn 2012, 2013); memory and memorialisation (Douglas 2009; Segal 2006); architecture and transition (Patel & van der Merwe 2013); the meaning of the Court building and its visionary art collection (Law-Viljoen (ed.) 2006, 2008). This dissertation echoes some of the conclusions of the above research, particularly in terms of the largely untapped development potential of the site, but argues – contrary to many – that the heritage tourism potential of the site is being increasingly well fulfilled.

Patel and van der Merwe found that “Constitution Hill is failing to provide a space that socially and psychologically resonates with the public or even spatially integrates the city”, citing the decline of visitors, lack of use of the public space, and “alienation from the site expressed by neighbouring residents” (2013: 115-6). They go as far as suggesting that “a visit here reveals a barren space, devoid of any public life” (*ibid.*: 123). However, my experience of the site has shown a myriad of ways that the public is utilising the site, and visitor numbers have sharply increased since they completed their research. Also, unlike many heritage sites, Constitution Hill experiences a constant stream of foot-traffic that does not get captured in these numbers. While many who pass through the space are unaware of its history and functions, others do engage with formal aspects of the site; it is

a space of many levels of learning.

The variety of commentary on different aspects of Constitution Hill has contributed to an increasingly nuanced understanding of the site, but research for even the most recently published work was completed in most cases 5 or more years ago, and so requires updating to trace the precinct's shifting success and place in a changing Johannesburg. This is the first time that Constitution Hill has been analysed in the context of the production of enclaves characteristic of area-based inner-city redevelopment and is the first ethnography of the site, bringing new conclusions about its complex value as a meaningful public space. To frame an understanding of the intended meaning of the site as well as the unfolding realities of how it is used, it is important to engage with the recent history of inner-city Johannesburg and planning efforts that have shaped it. Tied to this is literature on the meaning behind how people use space in urban environments. Finally, literature on architecture, memory and memorialisation elucidates key themes of how heritage sites are developed and used, and also how they are related to broader societal processes and types of governance.

Location in Johannesburg

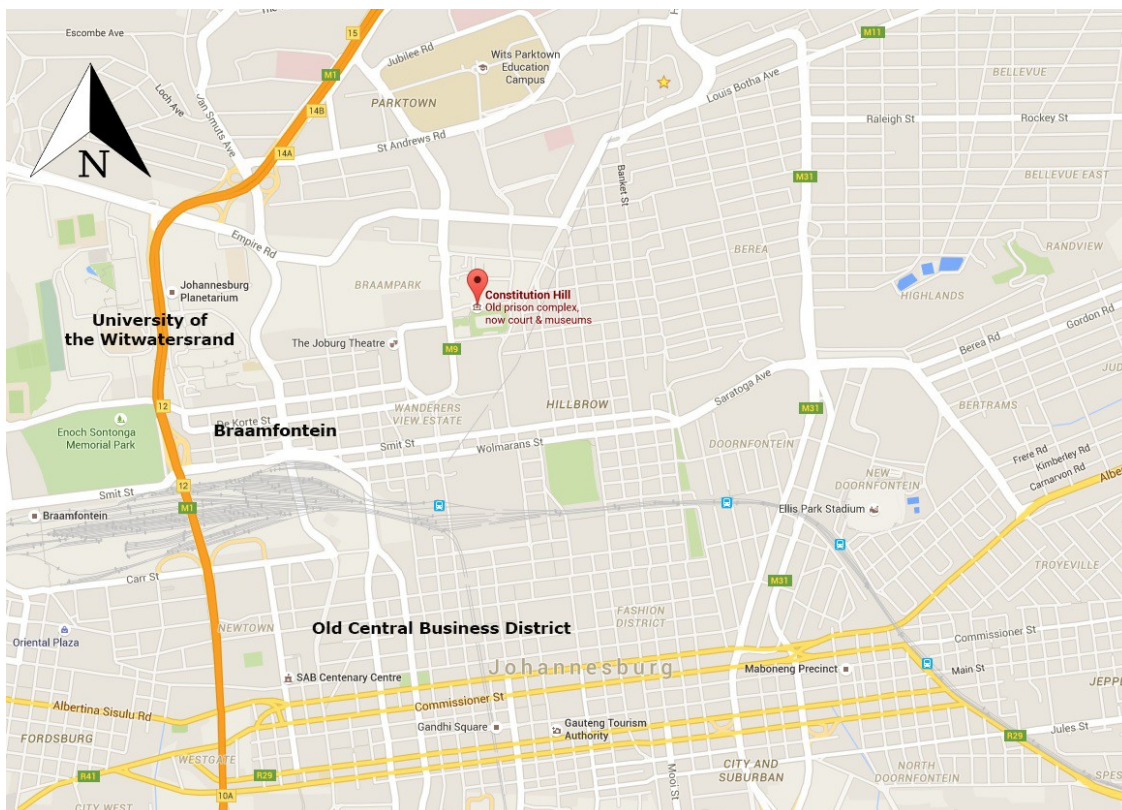
The symbolic intensity of Constitution Hill was amplified by the decision to locate the new Court in the centre of South Africa's busiest city, right amongst the people, and key to the winning design for the precinct was that it “was an intervention that responded to the city around the court, making connections across and beyond the site” (Segal 2006: 89). As such, the recent history of redevelopment initiatives in inner-city Johannesburg – seeking to open up and stitch together previously distinct spaces – is important. Johannesburg's change since apartheid is characterised by “extraordinarily rapid and bewilderingly complex spatial developments” (Harrison *et al* 2014: 4).

However, “despite the formal abolition of legally encoded and administratively enforced racial segregation, the organization, regulation, and use of urban space have continued to display the outward signs of separation, differentiation, and fragmentation across racial lines” (Murray 2011: 214). The urban planning agenda that has responded to this, with transformation and integration important factors, has influenced the nature of development at Constitution Hill. The city's complexity and fragmentation has meant that while many different races, classes and genders occupy the public space at Constitution Hill, integration between different groups is deeply limited, which as much reflects broader difficulties of integration efforts in Johannesburg as it does shortfalls in the site's planning.

The decline of the inner-city and CBD towards the end of apartheid is well-documented, associated with capital flight, lack of investment and maintenance, subsequent overcrowding, crime and disorder (Murray 2011: 87-95; Bremner 2000; Chipkin 2008: 408-12). However, many thousands of black South Africans and Africans from other parts of the continent – many seeing the inner-city as 'a place of opportunity' – have moved into central Johannesburg; from the 1980s a process referred to as 'greying' started to take place in the inner-city and by the 1990s it was almost exclusively occupied by black people (Chipkin 2008: 407-8, 416; Dinath 2014: 235; Bremner 2000). This occurred in the context of the end of apartheid and influx control laws, which allowed densification that satisfied some of the 'pent-up demand to move closer to jobs and services' (Harrison *et al* 2014: 9). However, many people that moved north during this decline, mostly white and wealthy, still see it as a place of danger, thus are weary of visiting. The sense of collapse and disorder of the 1990s played a significant role in shaping urban management policy in the inner-city (Harrison 2016 int.). Constitution Hill was part of this response, aiming at inserting itself into this complex inner-city environment in a way that could aid regeneration, combat disorder, and promote integration.

Thus, Constitution Hill sought not to become an enclave, envisioning the site as stitched into the

fabric of the surrounding city. This aim is described by Albie Sachs – an anti-apartheid activist, Justice in the Court at the time, and closely involved with developing the precinct's vision – as 'connecting Hillbrow with Parktown with Braamfontein: the three totally different Johannesburgs' (in Segal 2006: 89). Therefore, the design process involved community engagement with the neighbouring areas of Hillbrow and Braamfontein to gauge what local residents required in terms of public space and amenities. However, the relative transience of these communities – due to their respective immigrant and student populations – have made such a process all the more difficult, as did a lack of interest in the development from immediately local communities (Gevisser 2004). As noted by Gotz and Simone, the inner-city is “is a place to pass through, to run from, not a place to collaboratively contest or coinvest in for the longer term. In such an environment, government efforts to provide services, social development, or security in ways that assume a collective desire to stay and be together are not only tenuous. They may also be highly perilous” (2003: 134). Constitution Hill's inner-city environment has thus shaped what has been possible in realising its vision.



Map showing Constitution Hill's place in Central Johannesburg (Source: Google Maps).

There are increasing numbers of immigrant and community associations contributing to greater inner-city permanence, and Dinath cautions against characterising the inner-city as only in flux (2014). The city's struggle to grapple with this tension frames the limited extent to which Constitution Hill actually can stitch together the different Johannesburgs that surround it, which remain largely distinct. Conflict between transience and permanence is again reflected in the space by how most immediate locals *do* use the space: as a thoroughfare, as temporary sojourners. This is further complicated by the historically tense relationship between inner-city residents and the city's formal planning efforts: "residents' efforts to secure the range of illicit and informal trades available to them by consolidating control over specific spaces, clients and domains of inner-city life increasingly clash with the limited upgrading and redevelopment initiatives pursued by the key municipal institutions" (Simone 2004a: 418). No informal traders are allowed in the precinct, highlighting how contestations – characteristic of the city's broader attempts at order and control – play out through tensions in Constitution Hill's vision: wanting to impose power modestly, wanting to be part of the city, and wanting to be a place of deep meaning. Aiming to create a balance between what is sacrosanct and what is normal has resulted in ambiguity about what is welcome in the space.

Constitution Hill is also controlled by private security guards and CCTV. While crime is a legitimate concern, continuously uneasy relations between black South Africans and uniformed security, as well as the immigrant status of many locals, mean that the presence of security simultaneously enhances and diminishes feelings of safety and accessibility. Contrary to Constitution Hill's vision of promoting spatial integration and connection, Murray has shown that many of Johannesburg's City Improvement Districts (CIDs) have become sanitized enclaves of new urbanism that remain exclusionary, largely on the basis of affordability (2011: 269, 277-80). While, as a public initiative, Constitution Hill is not CID, the nature of area-specific development brings up

some parallels that require interrogation (see Dinath 2014); Constitution Hill feels distinct from surrounding areas, despite its intended permeability. Thus, many regeneration projects “remain basically mechanisms geared towards the creation of urban enclaves and the protection of sectoral interests ... and contribute to exacerbating intra-urban inequalities” (Peyroux 2012: 192).

Immediately post-apartheid, Johannesburg planning experienced a transitional period, which saw attempts at reversing inner-city decline through bodies such as the Inner City Office (ICO) and the Central Johannesburg Partnership (CJP), broadly shifting by the end of the 1990s to a more neo-liberal approach, part of the desire to be a World Class City (Winkler 2011: 263; Bremner 2000: 190-1). In 2000, Johannesburg established one single-tier municipal council, which allowed for longer-term city development plans (Harrison *et al* 2014: 11). In addition to private-sector-led CIDs, the strategy for inner-city regeneration in Johannesburg became characterised by several large-scale, publicly funded development projects, which added much needed impetus to the Constitution Hill project, itself faltering at the turn of the millennium. As the new structures of the local government were being put in to place, a period relatively free from bureaucratic constraint allowed for large-scale projects like Constitution Hill to proceed.

Many of the iconic projects of the new millennium – largely driven by the Johannesburg Development Agency (JDA) and the provincially funded, semi-autonomous, commercial development agency Blue IQ, both established under the newly consolidated metropolitan authority in 2001 – can also be seen as part of Johannesburg's attempt to become a World Class City (Beavon 2004: 275). Constitution Hill, with ownership and management coming not only from provincial and local government through Blue IQ – which instituted several catalytic inner-city developments in this period – and the JDA, but also the Departments of Justice and Public Works, has been a site of both co-operation and contestation between spheres of government. This was complicated further

by the establishment of the Constitution Hill Development Company, which runs, but does not own the site. It is therefore crucial to weigh up the roles of key stakeholders in the project, “since those who shape a particular space affect who has power within it” (Winkler 2011: 261). As the development progressed, intra-governmental contestation played a role in the production of a space which succumbs to some of the dynamics Murray explores in developments led by public-private partnerships, describing the emergence of ambiguous places, that – like Constitution Hill – feel neither fully public nor fully private (2011: 20). Another useful framework for understanding this blur of public and private is Shearing’s concept of “mass private property”, the dynamics of which also extend into public spaces through the extension of governance into the hands of private elements such as security guards, affecting the extent to which different members of the public can feel genuinely included in the space (2003).

Complex Use Patterns in a Complex City

Simone’s conception of “people as infrastructure” provides a useful alternative mechanism for understanding the way people use urban space by examining how those who are economically or otherwise dispossessed can use their interactions and relationships with others to carve out meaningful cultural and economic space which the city doesn’t always provide (2004a). Such social infrastructure has developed at Constitution Hill in the relationships between a group of staff (tour-guides, security guards and cleaners) and the people that pass through the precinct (local residents, students, schoolkids). This dissertation examines the dynamics that underpin such relationships, suggesting that part of this connection is founded on mutual feelings of exclusion. De Certeau’s work on the construction of meaning through everyday practices are useful in analysing the use of public space: “spatial practices in fact secretly structure the determining conditions of social life” (1984: 96). That there are so many different people enacting so many different ‘spatial practices’ in

this space is what complicates its public life. “In short, *space is practised place*” (*ibid.*: 117); Constitution Hill is constructed to mean something more than the city around it, but the different users of the space all animate it in their own ways, each adding their own layers of meaning. This research brings some of these enactments into juxtaposition with the original visions for the development of the site, revealing meanings of the *space* for different people.

Mbembe and Nuttall's *Johannesburg: The Elusive Metropolis* (2008) and Bremner's *Writing the City into Being* (2010) fit into a new body of literature speaking to “the elusiveness and unknowability of the city” (Harrison *et al* 2014: 17). This dissertation, while focused on a bounded space, argues that this mysteriousness is expressed through the complexity of social and spatial relations practised at Constitution Hill, which reduces the potential impact of a singular vision for use of the space. However, more material factors, including extreme inequality, the hangover from historical systems of exclusion, and a mistrust between largely disenfranchised inner-city residents (Murray 2011: 158; Beall, Crankshaw & Parnell 2002), complicate the process of creating meaningful, welcoming public space. As such, Constitution Hill is a microcosm of a broader tension between Johannesburg's desire to become a World Class City and its need to provide for the urban poor (Robinson 2003: 270; Murray 2011: xi-xii), further indicating its status of being caught in-between.

Architecture, Memory and Memorialisation

Murray suggests that “the urban landscape needs to be understood not simply as an inanimate setting, passive surface, or contextualised background for the display of crystallized power, but as an energizing force capable of shaping the social world, both a physical location and a lived, experienced place filled with symbolic meaning” (2011: xxii). Put another way, “if the plan

constructs a stage, the drama is played out by a city's [or space's] inhabitants" (Miles, Hall & Borden 2000: 3). This frames how the symbolic architecture and creation of space at Constitution Hill mediates peoples experiences there, but, crucially, cannot control them. Tobe, Simon and Temple provide an appropriate framework for analysing the Constitutional Court's new home: "architecture provides the setting in which to situate – and declare – important moments of decision-making and their consequences. At the same time, we should be aware that architecture both frames – and is framed by – justice" (2013: 2). The deep symbolism – linked to the legitimacy of the new state – behind the "aspirational" architecture of the Court as the precinct's centrepiece frames the variety of performances that animate and reanimate Constitution Hill's vision in unpredictable ways (Geuss 2013: 278; Coombes 2003: 12). This dissertation aims precisely at interrogating how an infinite array of possible performances manifest in such an unpredictability.

Connerton's formulation of collective memory is a useful lens through which to examine Constitution Hill's engagement with and representation of South Africa's past: "images of the past commonly legitimate a present social order. It is an implicit rule that participants in any social order must presuppose a shared memory" (1989: 3). Constitution Hill's vision involves memorialising a history of intense divisions and monumentalising a particular imagining of the future, both seeking to legitimise the "present social order". During my research, the Constitutional Court judgement on President Zuma's misuse of public funds, and the subsequent mobilisation of the space by civil society and political organisations has shown that either the collective memory presented by the prison museums, or the imagination of the future enshrined at Constitution Hill can be used in various ways to legitimise either the "present social order" or social/political movements.

Contestation over past and future is an ongoing process in South Africa, and places like Constitution Hill play important roles in facilitating such debates, thus revealing of the broader legitimacy of the current order.



Democratic Alliance members marched to the Constitutional Court on April 15th to protest against President Zuma's violation of the Constitution.

Marschall argues that in South Africa “many people are more concerned about the future than a memory of the past” (2012: 190); better futures may be more easily imagined through forgetting, rather than remembering a painful history. Memorialisation can actually promote forgetting rather than remembering: “Post-apartheid South Africa's attempts to render particular versions of historical memory in virtually living form risk succumbing to this ironic amnesia of musealization” (Graham 2007: 72). Further, “monuments and memory sites do not have an integral capacity to preserve memory for the future; the transgenerational transfer of memory always relies on active processes of remembrance, such as purposeful visitation, commemorative functions and symbolic rituals” (Marschall 2010: 362), which relates to the formation of collective identity (Bremner 2007: 94). Constitution Hill provides a space for imagining and constructing a future, partly through a particular engagement with the past that is containerised there, making the explicit claim that remembering our past is a crucial aspect of imagining our future. This dissertation examines how this has manifested at Constitution Hill, which can illuminate broader processes of collective memory and nation-building.

South Africans, led by the ANC, have transformed many symbols of history and heritage in the post-apartheid era. From monuments and statues, to street- and building-names and even public holidays, changes have attempted to articulate both the ideals of the struggle against apartheid, and those of the new South Africa: reconciliation, unity in diversity (Rassool 2007: 114). Such endeavours are part of “where the idea of shared nationhood is being invented” (Bremner 2007: 85).

However, monuments and memorials generally put forth particular imaginings of history, from which certain groups may feel excluded, for example foreign nationals for whom the South African narrative does not resonate. Also, favouring of symbolic over material reparation has left many South Africans deeply angered (Marschall 2010: 369). These factors complicate the ability of Constitution Hill to fulfil its goal of becoming a beacon of civic consciousness.

The subjectivity of memorialisation processes often forms the basis of debates between political and other organisations over how to represent the past (Coombes 2003: 57-8). Political power and the circumstances of transition play important roles in shaping this (Marschall 2010: 366, 369), and the ANC's political power has influenced the construction of the ideology that underpins Constitution Hill. Specific understandings of history, represented by monuments and memorials, shape the way we understand the present or imagine the future, which, if successful, lends legitimacy to the current social order. It is difficult work, in a country with such a divided history, to present public history in a way that allows for a shared memory of the past to promote a future that all South Africans have an equal stake in. Such contestations have shaped the two key narratives usually expressed in post-apartheid South African remembrance practices: “that of resistance, defiance, struggle and triumph; a narrative of loss, heroism and celebration, in which national identity is packaged in terms of the resilience, resistance, vitality and creativity of apartheid's opponent”, and that “of forgiveness and reconciliation ... around which the myth of post-apartheid as a unitary force is formed” (Bremner 2007: 95). To a large extent, through both the museums and the Court, Constitution Hill taps deeply into both of these narratives.

Methodology and Outline

The primary research for this dissertation was conducted through participant observation. I spent

twenty-one days at the precinct over a five week period; walking around, sitting in the public spaces, going on tours, visiting exhibitions, speaking to all manner of people *in* the space, eating at the restaurant, and observing the rhythms of the space. While a short visit during the quiet daytime hours may suggest a relatively unused space, spending time on site from the early morning into the late evening reveals the broader patterns of use, the multiplicity of users, and the complexity of their interactions or lack thereof. Those I spoke to all gave me their unique perceptions of Constitution Hill, and the countless chance encounters and interactions I had there added to my understanding of the site's range of meanings. For these reasons, spending time in the space to understand the way use patterns match up to the vision for the precinct was crucial. While the institution of the Constitutional Court, because of its significance as the highest judiciary body, occupies the collective imaginary of many South Africans, the site's meaning was intended to be conveyed through how people actually experience the space. Observing and speaking to the people that physically use it thus awakened me to some of the key patterns of how different groups of users experience Constitution Hill.

My positionality as a young, white, English-speaking male, as well as the physical vantage points from which I observed the site, shaped the way I experienced it as well as what I observed there. My lack of ability to speak local languages was a problem, as while everyone I spoke to understood English, many conversations happen in other local languages. Given a long history of white minority rule, it is understandable that local people are uncomfortable about having to speak English when so many white South Africans remain unwilling to learn local languages. This dynamic, I imagine, limited the conversations and people I had full access to. Despite this, many different people, including staff, local and international visitors, and passers-by were relatively forthcoming about their experiences. I also spoke to people whose experiences didn't conform to my own perceptions about the use patterns of the space which further highlighted its profound

complexity. As I spent more time in the space, support staff such as security guards got to know me and this allowed me to learn more deeply from them about how they and others experience the space. As people who spend every working day in the precinct, they provided particularly valuable insight.

I also conducted formal interviews with Constitution Hill staff including a former CEO, people working in offices on site, a former CEO of the JDA, an urban planning expert and former City of Johannesburg employee, a former Justice of the Court, a member of the Heritage, Education and Tourism (HET) team, and a researcher working on site. These interviews gave me a deeper sense of the nature of people's experiences in the space, and were informative about the process of developing the precinct, dynamics that have hindered further development, and decisions that impacted on the precinct's ability to realise its vision. Finally, an archival collection about the making of Constitution Hill, housed on site at the South African History Archives, provided rich detail about the site's history, development, and many of the tensions in its vision.

The first chapter of this dissertation is a political history, tracing how the development plans for the site evolved in tandem with the concept, which was given particular life by the decision of the Court to build its new home there. This process was also shaped by the broader dynamics both of urban development in Johannesburg, and of memorialisation practices of South Africa. The way this unfolded – key decisions about the use of the space, differences of opinion amongst stakeholders, and broader processes – ultimately shaped the way the space has been constructed. The second chapter focuses on how this constructed space is experienced by the people that use it, and is based largely on the ethnographic research I conducted there.

Chapter 1

The nature of debates around Constitution Hill's heritage significance highlight how memorialisation practices are closely tied to the legitimacy of current social and political orders. Following the prison's closure in 1983, memorialisation debates tended to ignore the site's history beyond the Old Fort complex, which housed white prisoners after a brief spell as an Afrikaner military fort, indicating their occurrence in the context of a still existent white supremacist state. Post-1994, these debates shifted dramatically, and ideas for musealization began revolving around the site's significance – previously silenced – for black urbanites and the struggle against apartheid. Questions over the use and meaning of the site thus long preceded the end of apartheid, giving it a significant history as locus of intra-governmental contestations, but became closely tied to the nation-building project of the post-apartheid era. The transformation of a key symbol of apartheid into home of the first public building of the new dispensation was a critical instance of designing how power would be exercised by different branches of government, in this case the highest arm of the judiciary. The idea of transformation thus presumed a certain national trajectory of broader transformation and reconciliation, which largely hasn't played out as imagined by the planners of Constitution Hill. Combined with internal politics, the subject of this chapter, this presumption prevented many aspects of the site's vision from being realised, as its own future and meaning have been hostage to national and local processes.

The partnership between national, provincial and local government enabled the development to get off the ground in the early 2000s. However, after the first construction phase was completed in 2004, complex institutional arrangements as well as conflict between different stakeholders ultimately prevented many development goals to be realised. Such tensions and decisions during the conceptualisation of the space resulted in some inconsistencies in the vision – many of which the

planners were aware early in the process – that have remained to some extent unresolved, resulting in gaps between how the space was intended to be experienced and its complex patterns of use, explored in chapter 2. The shifts in development progress at Constitution Hill have also been influenced by broader shifts in urban planning in Johannesburg and the inner-city in particular. This chapter explores how these dynamics – particularly tensions in the relationship with the inner-city environment, between accessibility versus security and commercial activity versus gravitas – are revealing about the new South African state's anxieties around how power was to be performed by the Constitutional Court, a brand new governmental institution, and thus how the space around it should be experienced.

The precinct's vision was characterised by needing to respond to several related imperatives: to contribute to inner-city regeneration and to rehabilitate and animate the heritage resources of the site, thereby creating a symbolic new home for the Constitutional Court as part of a broader project of constructing an ideology to legitimise the new political order. The context of South Africa's transition to democracy is therefore crucial to understanding the vision for the site, which sought to be “a vantage point which gives us an understanding of our society in transition” (Constitution Hill HET feasibility study, 2002: 7). By basing the highest Court in the land at a key symbol of apartheid's racist brutality in Johannesburg, the construction of the new dispensation's first public building was a metaphor for making a break between the illegitimate history of apartheid and the new Constitutional Era. This was a wholesale transformation of the country, reflected in microcosm through the transformation of space at Constitution Hill; its development was a key instance of the new ANC government's attempts at legitimising itself. As explicitly stated in the advertisement for the architectural competition to design the Court: “As South Africa transforms its systems of governance, appropriate architectural expressions are required to reflect new democratic institutions and profound changes in society and culture” (South African History Archives, hereafter SAHA,

AL2395, A03, Department of Public Works, 1997).



Imagining the future from the past: A view of Johannesburg sky from the courtyard of the Number Four Isolation Cells.

An important aspect of the architectural competition, launched in 1997, involved responding to the site as a whole. The fundamental outcome of this process involved acknowledging the horrors of the South African past through interpreting and re-animating the prison buildings, using history as a reminder of the importance of the new Constitution, to prevent us from committing the same atrocities we have in the past. The planners had to balance this theme with responses to broader, city-specific processes and its location within them. Given the rapidly changing and deeply complex

inner-city context, developing ideas that would meaningfully engage and connect all the separate and distinct areas around the site by creating a lively and open public space, was a difficult, and potentially unrealistic task. Various local dynamics provided the immediate context: the overwhelming sense of inner-city collapse of the 1990s, extreme inequality, a historic lack of open public space, tensions between wanting to become a world class city and wanting to respond to the needs of the urban poor, and between the transience and permanence of local communities. In a period when inner-city regeneration was a key priority, Constitution Hill, like other regeneration projects, was intended as catalytic development which could trickle across to surrounding areas and local communities, attracting further private investment in the process (Harrison 2016 int.). The plans for redeveloping the site responded to these converging needs through its interpretation of the history, complemented by the sensitively designed Court building – intentionally laden with symbolism and the rhetoric of transformation that defined this early period of post-apartheid South African – an important ideological contributor to the ANC's nation-building project.

A History of Contestation and Co-operation

It was during the height of apartheid that intra-governmental contestation over the site began, illustrating how obscurity over ownership of the land and debates over how to use it have deep roots. In the early 1960s, the Johannesburg City Council sought to build a new Civic Centre in Braamfontein, for which plans included some land occupied by the Old Fort complex, then owned by national government (SAHA, AL2395, A03, *Rand Daily Mail* 17.2.1965). This sparked a debate between City Council and the Historical Monuments Commission (HMC) around the Fort's heritage significance. City Council argued that its history was primarily to do with common criminals, undeserving of special preservation, while the HMC emphasised its history as an Afrikaner Fort intended to protect against a British invasion at the time of the South African War 1899-1902

(SAHA, AL2395, A03, *The Star* 10.12.1964). Eventually, in 1964, the building was declared a national monument, highlighting an early instance of its heritage being used to legitimise state ideology, curbing City Council's expansionary plans for the site, and closing one early chapter of intra-governmental contestation over the space's value and use.

Almost twenty years later, in 1983, the prisons closed down, and its buildings soon began to decay. The site's increasing dereliction is largely attributable to the “confusion and bankruptcy of the late apartheid state” (Bethlehem 2016 int.), and also broadly in line with the unfolding inner-city decline in this period. Despite its relative neglect, parts of the site were used: a mortuary was established and the Rand Light Infantry (RLI) occupied part of the Old Fort. Ideas were presented to renovate the site and unearth and preserve aspects of its heritage resources, and already in 1984 the city leased the Fort to the Prisons Department to create a museum exploring the country's history of “penological development”, emphasising the military history of the Fort with no mention of the site's importance to black South Africans (SAHA, AL2395, A03, *Express* 15.4.1984; 27.1.1985).

However, the Prisons Department's museum plans never materialised, as they did not receive the required government funding (SAHA, AL2395, A03, *Sunday Times Metro* 22.7.1990). Following this, several new proposals were made for the site, including a nursery school and community centre for Hillbrow residents, and in 1991 the Fort Foundation was established to facilitate the Fort's restoration and create museums pertaining to its military history (SAHA, AL2395, A03, *Rosebank Killarney Gazette* 16.7.1991). Museum ideas at this stage mentioned Mahatma Gandhi's imprisonment there, but were still far more focused on white prisoners and military history (SAHA, AL2395, A03, *Sunday Times Metro* 24.11.1991). It was only during the negotiations that led to apartheid's demise in 1994 that museum ideas started recognising the site's importance for black people in the context of the struggle against apartheid: “An outwardly antisocial building, which

was simultaneously a symbol of government and opposition, is being opened up to the public at a time when those self-same opposing forces are negotiating a new social, political and economic dispensation for the country” (SAHA, AL2395, A03, RFB Consulting Architects, 1992: 90).

Preserving the site's heritage no longer involved contributing to the apartheid state's legitimacy, but became tied to the creation and consolidation of the new state, run by the ANC, elected in 1994 with a need to legitimise itself and display its power through its institutions.



Another symbol of the new South Africa, the flag, at the entrance to the Old Fort. View from ramparts with Hillbrow tower in the background.

The Fort Foundation's bankruptcy prompted the new City Council to set up the Fort Steering Committee (FSC) in 1994, including City Council members, the RLI, and National Monuments Council, as well as Neil Fraser from the Central Johannesburg Partnership (SAHA, AL2395, A03, Minutes of 1st FSC meeting, 16.8.1994). Interestingly, while the Central Johannesburg Partnership was primarily responsible for managing private-sector-led City Improvement Districts, Fraser was involved from early on in the public development at Constitution Hill, possibly contributing to the

blur between public and private that has manifested in the space. The FSC redefined the Fort site to include the women's and black male sections of the prison, and obscurity about ownership of the land re-emerged, with different land parcels spread between national, provincial and local government, impacting what was available for development or demolition (SAHA, AL2395, A03, Minutes of 2nd FSC meeting, 5.9.1994). Tension between the development potential and the preservation of heritage ultimately undermined the site's potential to fulfil its vision.

The decision by the Department of Justice (DOJ) in 1995 to locate the Constitutional Court at the site of the old prison complex was crucial in shaping redevelopment plans. Minister for Public Works, Jeff Radebe, spoke at the launch of the architectural competition, calling out the “need to weave a common consciousness that harmonises the conflicts and hurt of the past with the justice and reconciliation so necessary for the construction of a new society. The foundation of that new society rests solidly on the Bill of Rights and the institution of a Constitutional Court. Its symbolic manifestation will be revealed through the development of this historic site of the Old Fort into the physical seat of the ultimate guardian of our citizens' rights” (SAHA, AL2395, B01.2, Speech, 15.7.1997). This highlights the site's importance in constructing and legitimising the ideology of the new state, and how its transformation metaphorically represented that of the country. Its importance as part of an ANC-led nation-building project was emphasised by Constitution Hill's inclusion as one of the Legacy Projects, a series of monuments and memorials celebrating the country's heritage and history.

These national imperatives coincided with reactions from institutions aiming to rejuvenate the inner-city, including the Inner-City Office (ICO), led by Graeme Reid, whose idea “was to have big projects to reverse decline and catalyse investment” (Bethlehem 2016 int.). Commitment toward dual-goals of becoming a heritage site and a regeneration node was shown in Mayor Mogale's

speech at the architectural competition launch, who saw the project as “halting the deterioration of Johannesburg, honouring the memory of those who suffered and died” and “as an effort to implementing our new Constitution and furthering the new democracy of South Africa” (SAHA, AL2395, B01.2, Speech, 15.7.1997).

The Vision: Constructing an Ideology

The winning design for the Court building centred on the theme of Justice under a tree, reflecting transparency and cultural traditions in Africa that saw disputes resolved under trees. This was realised in the design – which saw several of the Justices working with the architects – through the use of glass which prevents the space from feeling cloistered, and through the artwork embedded into the fabric of the building, giving the Court foyer the feeling of a clearing in a forest. This metaphor extends into almost all facets of the Court building (see Law-Viljoen (ed.) 2006). The Court building also sought to open seamlessly into the public square, contradicted by the design of its entrance, which involves first ascending a small staircase, before entering and descending more stairs into the foyer. As such, the Court sought to both be distinct from and integrated with the public square. This tension is also demonstrated by how the precinct as a whole seeks to be permeable and integrated with the surrounding city, but is also designed as a distinct, solemn place of reflection that respects the Court's power, highlighting the dilemma of how its power would be performed and felt.

The design team sought to create a building that was modest in its display of power, part of the ANC's attempts at distinguishing its exercise of power from the brutal authoritarianism of apartheid. Thenjiwe Mthintso, a member of the Gender Commission who participated in the process, pushed strongly for a building “that smiled”, in response to her mother's experience of apartheid

Johannesburg. She had “been frightened of modern buildings” and felt that “they frowned” (Sachs 2016 int.). This fear and uncomfortable relationship with the built environment, still experienced by many black people in the city, also relates to a broader historically uneasy relationship with the legal system and court buildings in particular. The design of the Court aimed to respond to this fear through its modesty and accessibility, but it also sought to create an extra-ordinary building. This contradiction is captured by Justice Mokgoro's description of the entrance: “you are welcomed into the Foyer of the Court with a huge, imposing, yet welcoming, eight-metre wooden door” (Cited in Law-Viljoen, 2006: 31). Wanting to be both imposing and welcoming is a conflict that manifests in sometimes uncomfortable relationships to the Court building and space around it.



The entrance to the Constitutional Court, with Dumile Feni's *History* sculpture on the right.

While the winning design was approved early in 1998 with a goal of completion in 1999, the construction project was stalled by a budget over-run and the inability of securing further funds from national government, concerned about the escalation of costs (SAHA, AL2395, B01.2.2.7,

email from Justice Chaskalson to other Justices, 22.2.1999). Progress was delayed until 2001, when the provincial government formed its development subsidiary Blue IQ – run by Paddy Maharaj, and the ICO became the Johannesburg Development Agency (JDA) – still run by Reid, which became responsible for managing the development at Constitution Hill. According to Bethlehem, Reid's successor at the JDA, “Reid had an institution with no money, while Maharaj had lots of money without an institution”; this “marriage”, combined with a collective belief – amongst the national government, primarily the DoJ and Department of Public Works (DPW), the Constitutional Court Justices, as well as provincial and local government in the form of Blue IQ and the JDA – in the vision for the site, meant that Blue IQ funding could resuscitate the project (2016 int.). In this moment, the multiple imperatives and stakeholders driving the development came together, allowing construction to proceed.

Further progress involved establishing the Heritage, Education and Tourism (HET) team in 2002 to interpret the site's history and heritage resources: the historic buildings, its civic significance as home of the Constitution, and its inner-city context. This would be realised through “putting both its material culture and its civic significance into an intense, activated social environment where it is compelled to have meaning, and where it acts as a hub referring people outwards to other attractions and interpretations of the city” (Constitution Hill HET feasibility study, 2002: 23). However, to make space for the Court building something had to be demolished. The eventual decision was to destruct the Awaiting Trial Block, which had enormous significance given the many thousands of political and other prisoners that passed through it. It was thus a key part of how the site featured so prominently in the “collective memory of African urbanites” (Bethlehem 2016 int.). To honour this, the Awaiting Trial Block stairwells were retained, two integrated into the Court building, the other two in the public square, with three forming the base of glass, light towers, which give the site some visual distinction and a “glowing, more Modernist feature” (Sachs 2016 int.). Also, the bricks of the

Awaiting Trial Block were carefully taken down and used in the Court chamber and the Great African Steps, which meander between the Court and Number Four. This was important conceptually: the bricks that imprisoned so many now house the institution that protects our freedom. The theme of using the troubled past as the foundation for a new, better future – expressed so deeply at Constitution Hill – is characteristic of the rhetoric of the transformation of the country, and shows the precinct was intended as an ideological signifier of the legitimacy of the new state.



One of the Awaiting Trial Block staircases in the square, converted into a light tower

Spatial Design Conflicts

From early on, site plans involved creating a meaningful, accessible public space, thereby contributing to the integration and unification of surrounding areas (SAHA, AL2395, B03.1, HET Prospectus report, 2003: 23). By developing thoroughfares for pedestrians and vehicles, the aim was to “contribute to the correction of historically distorted spatial patterns and development practices that resulted due to the past apartheid policy” (SAHA, AL2395, B01.2.2.3, Greater Johannesburg Metropolitan Council, 1997: 1). Emphasising pedestrian routes that bisect the site with east-west and north-south routes, the intention was to counter fragmentation by opening up a space – due to its former existence as a prison and military fort – that had always been hidden and walled off, to ensure that it became “a vibrant part of the city” (SAHA, AL2395, A01, Constitution Hill Masterplan, 2001: 1). However, this concept succumbed to an anticipated tension: “As with many urban public places, 'Constitution Hill' can be expected to give rise to contradictory requirements for security and accessibility, and competitors must balance these needs in their site designs” (SAHA, AL2395, B01.2.2.6, Competition Brief and Conditions, 1997). The design aimed for “a living, people-centred and people-friendly urban space”; “comfortable”, but also “safe and secure” (SAHA, AL2395, B01.2.2.6, Legacy Projects, 1998: 4). Through creating a busy, attractive, mixed-use precinct, ownership for local communities would be engendered, thereby providing safety through Jane Jacobs' idea of “eyes on the street” (Sachs 2016 int.; see Jacobs, 1961). However, as many of the development plans for the precinct faltered, the decision was taken to securitize the space with private security guards and CCTV. This decision did not reconcile the fact that uniformed security guards may bring safety and comfort to some, but they represent a threat and deterrent to many South Africans.

This relates to worries that “the imperative to generate an income towards sustainability could, if

badly managed, dilute the historical and symbolic integrity of the Precinct” (SAHA, AL2395, B01.2.2.6, Legacy Projects, 1998: 3). While the funding model aimed at developing commercial and retail facilities to fund the heritage aspects of the site, the imperative to create a Human Rights Precinct housing relevant organisations restricted commercial prospects. The precinct has thus struggled with contradictory goals: becoming a commercially viable and vibrant part of the city, and becoming a place that is replete with meaning. Thus, the “careful mandate” about the intended meaning of the site ultimately restricted what was possible in terms of private sector investment (Thring 2016 int.). This dynamic, added to the clumsiness of the bureaucratic structures of ownership and management, has meant that even interest from relevant organisations including the Ahmed Kathrada Foundation and others, as well as commercial use proposals, have not yet been taken up (*ibid.*), undermining the funding model for the heritage aspects of the site, and consequentially, the use value of the space.

Constitution Hill sought, through engaging local communities, to provide useful public space and social amenities for residents of Braamfontein and Hillbrow. These areas are home to incredibly lively street-life, busy and dirty, and filled with both formal and informal commercial activity: from the pavement you can buy fresh food, cooked take-aways, cigarettes and sweets, and a variety of other goods. Community engagement led to plans for a children's room, resource centre, library and reading room, recreation and sports amenities, and retail and commercial facilities. However, the concern in the precinct's design that providing “attractions” to local communities could again weaken the symbolism and heritage significance of the space (SAHA, AL2395, B01.2.2.6, Legacy Projects, 1998: 3). Combined with concerns about maintaining gravitas, this ultimately meant *keeping out* aspects of the inner-city environment that the precinct so desperately wanted to be stitched into. This was demonstrated by the decision not to allow informal traders – characteristic of most of the inner-city – to set up shop in Constitution Hill's public space, reflecting a key tension in

the design process: it wanted to be incorporated into the surrounding environment, but not to simply be another part of the inner-city. A crucial consequence of this is how a former prison has been entrenched as an enclave, indicating an ironic path dependency; perhaps it is destined to be overlooked by the city around it, as it was by white people living in Hillbrow during apartheid (Gevisser 2016 int.), as it is now by African migrants living there.



Penis enlargement posters, ubiquitous in inner-city Johannesburg, reach only the edges of Constitution Hill (View into the precinct from the west).

Partial Completion Amidst Growing Contestation

The Court Building, public square, and the Number Four and Women's Jail museums, opened in 2004, along with the enormous parking basement forming the foundations for further development on the precinct's western side. However, following this, the complex institutional arrangement – involving the DoJ, DPW, JDA, Blue IQ and the newly formed Constitution Hill Development

Company that would manage the site even though it didn't own any of the land – began to unravel, leading to more contestation than co-operation over the site's future. While during conceptualisation and construction, the intra-governmental partnership allowed for possibility, in the mid-2000s it became cumbersome, restricted by bureaucracy, and undermined Constitution Hill's ability to fulfil its potential. Disagreements between stakeholders, partly due to changes in Blue IQ leadership (Sachs 2016 int.), manifested in clashes over how to develop the rest of the site and deepened the tension between wanting a sacrosanct space occupied by relevant institutions and needing to attract private investors to spur further development. Money was splurged on consultants, leading to proposals far from satisfactory to the Justices, including one for a series of car showrooms and a grocery store (Bethlehem 2016 int.). While a grocery store seemed to threaten the sanctity of the space, it likely would have drawn in a great deal more local residents. The Justices here seem offended by a particular idea of what commerce represents, without imagining more creative solutions to how commercial activity could attract people without undermining the site's meaning. This further highlights anxieties over how the Court's power was to be displayed: it wanted to be modest, but not normal; amongst the people in the inner-city, but not the same as them.



Aerial view of the precinct, showing that much of the site remains undeveloped (Source: Google Earth, Text Added).

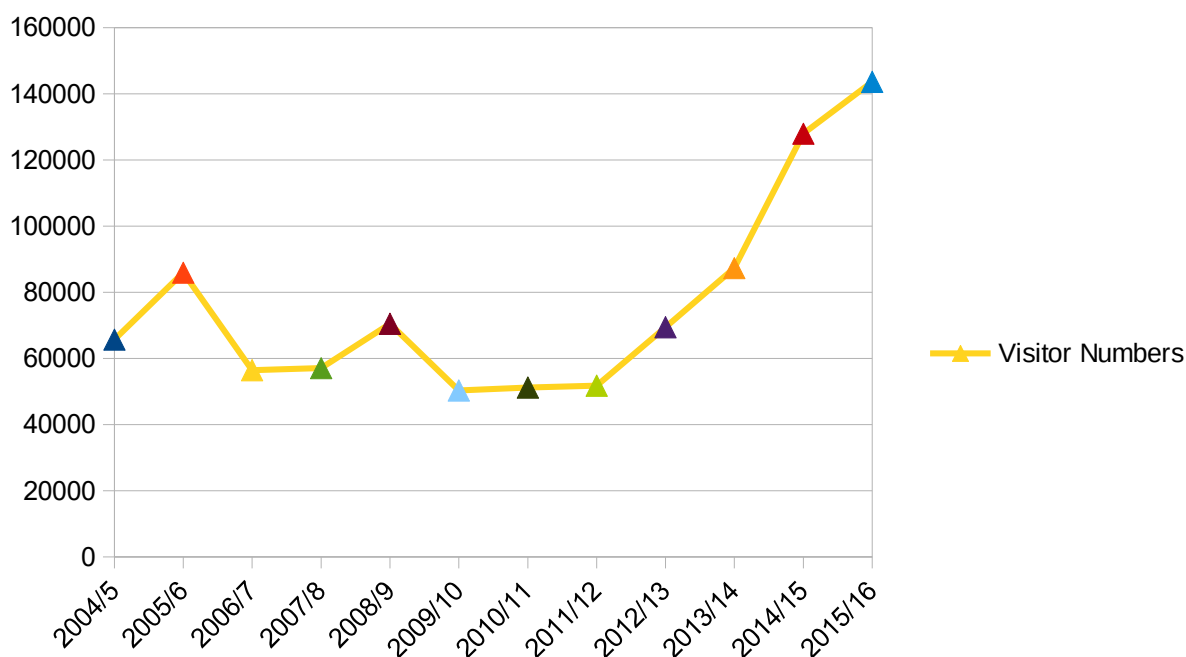
Thus, Constitution Hill has increasingly been used as political bait, with different stakeholders wanting progress in their name but not wanting to provide further funds (Thring 2016 int.).

Persistent disagreements over further development and a lack of funding largely due to exhausting Blue IQ's budget on the parking basement, meant that many of the original development plans have remained unrealised (Bethlehem 2016 int.). Following the completion of the Court and basement, former CEO of the Constitution Hill Development Company Thring claims a dwindling support – financial and otherwise – from government, as well as a lack of engagement from the Court with the rest of the site (2016 int.). While government money has been vital in periods for galvanising the Constitution Hill project, and plans for further development have come close to fruition, at crucial moments government money hasn't materialised. Also, the operating budget is still far below those of comparable heritage sites in South Africa (*ibid.*). Ironically, like other conceptual tensions, intra-

governmental contestation was predicted early on as a possible weakness: “the high profile political nature of the initiative could lead to negative and destructive competition for visibility amongst various government departments and between different levels of government” (SAHA, AL2395, B01.2.2.6, Legacy Projects, 1998: 3).

The history of the prisons speaks to the sacrifices of many South Africans in the struggle against colonial rule and apartheid, and the idea of placing the Constitutional Court on this site is more powerful because the new Constitution was one of the key outcomes of this struggle: “the product of those sacrifices was that we had the fruits of democracy” (Ntuli 2016 int.). As such, the site's concept beautifully captures the hope that characterised the transition from the brutalities of the past to the freedom and equality of the future, both of which are represented materially and metaphorically at Constitution Hill. To bring this to life, aside from the museums and tours, the HET team sought to develop a range of site-specific opportunities for inter-activity. For example, one idea was for visitors to make artworks to be put onto ceramic plates and make up a mosaic in the public square, allowing people to leave a physical trace of their experience, thus adding layers of meaning to the site. Gevisser, a member of this team, suggests these ideas were crucial for animating the site's vision, and bemoans the fact that so many of their models weren't put into action (2016 int.). While the tours in particular, but also the information signs, public art, monuments, speakers playing struggle songs in the square, and architecture all mediate people's experience of the space, the relative lack of opportunities for interaction have limited the extent to which user experience can correlate with the site's vision.

Conclusions and Prospects



Graph showing Constitution Hill's Annual Footfall (Source: Constitution Hill Development Company, Footfall Trend Analysis).

After an initial spike in visitor numbers when Constitution Hill first opened, numbers fell and hovered around 50,000 until 2012, when the precinct's difficulties were somewhat alleviated, largely by a new annual grant from the Gauteng Growth and Development Agency (GGDA). Marketing and programming are increasingly comprehensive and Constitution Hill continues to develop and realise strategies to remain relevant to immediately local communities, accounting for the recent, significant growth in visitor numbers (Phasha 2016 int.). There has also been recent progress in terms of advancing further development on site, with a renovation of the visitors centre expected to commence at the end of 2016, and co-operation with the GGDA re-invigorating plans to attract investors for developing the precinct's western side (Ntuli 2016 int.). Also, a gradual increase of return visitors – people who came as part of school-groups in the precinct's early years coming back with their children, friends and family – is contributing to the realisation of Constitution Hill's goal of becoming a beacon of human rights and civic consciousness that attracts all South Africans

(Phasha 2016 int.).

While the site's future prospects are largely positive, the institutional complexities and financial difficulties that defined the first several years of Constitution Hill continue to shape its realities. Added to struggles to secure funding and poor site management, this meant that programming and marketing – like the development potential of the site – faltered until recently (Bethlehem 2016 int.). The hopeful moment of the transition to democracy which was captured in the concept dissipated as the site's prospects were increasingly limited by the complexities of the city around it and the unanticipated trajectory of the nation.

While Constitution Hill succeeded in realising the concept of using the past to imagine the future through its juxtaposition of the Court and the prison, it succumbed to tensions within its own vision of its relationship to the city and how the space would be experienced. These tensions – of which the planners were aware, but failed to resolve, including aims for balance between security and accessibility, commercial activity and solemnity, incorporation into the city and being a place of distinction – show that the process of carefully designing how the power of a key branch of government would be performed was wrought with anxiety and uncertainty. This is reflected in the inconsistencies between the vision for the way the space should be used and the ways people experience it, as explored in the next chapter, which ultimately undermined the site's potential to contribute to the legitimacy of the new state.

Chapter 2

The vision for the use of space at Constitution Hill was only partially and unevenly realised. Combined with the broader realities and complexities of how people in Johannesburg use public space, this has resulted in a multitude of differing experiences of the space. It is therefore a site onto which broader dynamics – to do with race, class, gender, age, citizenship, and relationships with the city – are projected, mediated by the site's architecture, materiality and intended meanings. Importantly, what users bring to the site also shapes both their own and other people's experiences, adding layers of meaning to an already densely layered space. Key decisions to do with securitisation and restricting commercial development, as well as other tensions in the vision, ultimately manifested a space that has become an ambiguous enclave in the inner-city: a welcoming site of deep meaning to some, and an uninviting, incoherent, nondescript place to others. This chapter explores how complex societal dynamics are refracted and reflected in, and framed by the nature of the public space at Constitution Hill, and how this relates to its original vision. While arguing that the vision for how the space would be experienced remains in some ways unfulfilled, the complexity and variety of use patterns mean that assessment is not straightforward. Given this variety, this chapter represents just a glimpse into the ultimately irreducible complexity of how users interact with the space and each other.

It is through animation that place becomes space (De Certeau, 1984), and Constitution Hill is animated by many types of people and activities, both distinct and overlapping, thus the space embodies enormous complexity. While the crucial aspect of animating heritage sites is programming – increasingly comprehensive at Constitution Hill – the site, as a public space, museums, and the home of the Court and other organisations, is enlivened in myriad ways. I categorised four distinct groups of people who occupy the space, between which interaction

appeared to be generally limited. These consisted of: people that visit to experience the site's heritage and the Court; those who visit for other reasons - primarily for events hosted there; locals that use the site as a thoroughfare - largely school-children, students, and people walking between work and home; and employees of the Court, other organisations, and Constitution Hill itself. While the nature of the public space and its programming do bring all these people into the same place, Constitution Hill does not, and perhaps cannot, force them to engage each other. Tensions in the vision for the site, as well as broader divisions in South Africa, often along class and/or racial lines, account for why the space is frequently animated in unintended ways, sometimes contrary to how it was imagined by its designers. The unanticipated trajectory of the nation, to which the space is ultimately captive, meant that the designers lost some control over what the space means.

Rhythms of the Space

Constitution Hill is reasonably busy as a thoroughfare early in the morning, but after work and school days begin, a solemn quietness usually characterises the space. For most of the rest of the day, there are regularly groups of tourists or school-groups following their guides, and just a trickle of locals passing through the site as they go about their business. The security guards often pass the time by pushing the button in the square that fills the space with recordings of anti-apartheid struggle songs; a break from the monotony of their days, which prompts handfuls of passers-by to sing or dance along. From the early afternoon, school-children pass through the square, playing and sometimes doing homework together, followed by university students, workers and families heading home, bringing into the space the energy of a day lived in the city. This provides contrast to the quieter daytime hours when the space feels remarkably distinct from dynamic, bustling Hillbrow to the east, and from the student and commercial life of Braamfontein to the south-west. Weekends and public holidays can be even quieter than weekdays, or be filled with people attending a market,

party or event on site; it is a different place depending on the day and where you are on the site.

Despite its characteristic quietness, there is an intensity to the energy that underpins interactions on the site, a feeling one gets – especially if aware of the history – in places with great heritage significance: important things have happened here. During my days of participant observation, this energy swelled up and climaxed with the important Constitutional Court judgement about Nkandla, which found that President Zuma violated the Constitution in a misuse of public funds for upgrades to his private residence. It was an energetic indicator of the Constitutional Court's position as the precinct's key generator of new meaning. While, in line with its vision of becoming a human rights precinct, Constitution Hill is home to other related institutions, the Court is the anchor, and its judgements have profound significance for the whole country. Albie Sachs, who described watching the Nkandla judgement as “a moment of huge personal uplift”, saw the day as the “materialisation of something we worked very hard to achieve: the Constitution in the first place, the Constitutional Court, judicial review to uphold the key principles of the new Constitution, and also the place, and the space and the building and style of work all [came] through in those particular moments” (2016 int.).



Mmusi Maimane, leader of the Democratic Alliance, immediately surrounded outside the court for comments after the Nkandla Judgement, police in the background.

Days of important Court activity are those when the rest of the country and even the world is looking into the site – which on other days feels a paradoxical mix of both distinct from and

embedded in the city and country that surround it. Nevertheless, judgement days in the Court are moments in which the space affects, rather than is affected by, broader processes. Hence, Sachs described the moment of the Nkandla judgement as “the Court being put on the emotional and visual map of South Africa” (*ibid.*). The significance of the meaning of Constitution Hill and all that it holds, historically, currently, and in the future imaginary of South Africa, thus occupies the collective consciousness of millions of people. However, on other days, the site's significance – or lack thereof – relates less to the functioning of the Court, and more to the actual experiences people have in the space. As such, many people I spoke to – for example students describing it as bringing “the law and the history to life” – found it important to actually experience the *space*, which brings across its gravity much more powerfully than seeing or hearing about it on TV or radio. It was fascinating to witness the space change so rapidly from its quiet rhythms and local people passing by, oblivious to the site's meaning, to a space charged with energy and meaning and on display to the world. This is further complicated by how even on Court days, when the site's meaning is amplified and projected, many locals continue to pass by, seemingly unmindful of its significance, showing the space to embody multiple meanings simultaneously.

Attempting Integration in a Fragmented City

Jo Buitendach, who conducted research about the prison graffiti over four years of site visits, and has seven years of experience doing walking tours of the inner-city, suggests a distinction between those who pay to be there and those walking through, noticing a broad lack of interaction between those groups (2016 int.). This is also reflected by the fact that most people who visit for events or tours generally arrive by car or tour-bus, while many local residents are walking through and not generally spending time in the precinct, highlighting a class distinction between those walking and driving. Further, Buitendach suggests that people who come for tours would be unwilling to go into

Hillbrow, which is sad given the public art outside the eastern edge of the precinct that aims to encourage engagement between Hillbrow and Constitution Hill (*ibid.*), and an example of the precinct's relative inability to facilitate integration and connection between different inner-city areas. While many who attend events that are mandated by Constitution Hill's educational principles also engage with the heritage aspects of the site, those that attend other events such as parties are less likely to do so. As such, the reasons one has for visiting largely define how one experiences the space, and those with different reasons tend not to engage with each other.

Despite the relative lack of integration at Constitution Hill, I observed and heard about many examples – described by Buitendach as “success stories” (*ibid.*) – of chance, valuable encounters that wouldn't have been possible other than for the public space created at Constitution Hill. However, the extent to which such interactions can materialise depends on the openness and accessibility of the space, which is different for different people. This can be attributed to several inter-related factors: methods of and reasons for entering, the nature of security, as well as one's race, gender, class, age and nationality. Owen Muzambi has been working since 2014 at offices in the precinct at Driven, a youth-focused subsidiary of the entrepreneurship incubator The Awethu Project. During his first year he felt very unwelcome in the space, finding it uninviting. He was regularly harassed by security guards for supposedly loitering, told he can't sit outside the court to eat his lunch or go up the Great African Steps, and was refused entry to the public toilets in the square (2016 int.). He didn't think that the space was open and public and describes feeling “so out of place when [he] got here”, citing his race as a key reason for poor treatment from security (*ibid.*). Buitendach agrees that treatment by security is racialised, but also suggests that as people who are relatively powerless in society, they may exert the power they do have as authority figures in this space as a form of “power-trip” (2016 int.). Furthermore, Muzambi suggests that the security guards and the boom gate at the eastern entrance “push people away”, making him wonder: “What is

allowed here? What is not allowed here?” (2016 int.). This highlights a violent gap between how the space was intended to be felt and how people are experiencing it.

This gap relates to a broader tension between the city's residents, especially those who are black, and uniformed security guards. While crime is a genuine issue in Johannesburg, the imposition of private security – to create safe spaces and alleviate the fear that characterises many people's relationship with the city – can also make people feel nervous and unwelcome. As described by Gevisser, “the interesting thing is that there is quite visible security along the square, but that might be actually a deterrent. ... The security that you get walking on a busy street might be more desirable than the security you get by men in uniforms, because of what men in uniforms mean. ... I really don't think that was cracked at all” (2016 int.). This was a key unresolved tension in Constitution Hill's attempts to be integrated into the fabric of the inner-city; it is controlled and securitised in such a way that it keeps the inner-city out, showing a failure to engender ownership in the site for local communities. Thus the space has become an enclave – albeit porous – a place of control in stark contrast to the lively, colourful areas around it. This is particularly striking when standing atop the Fort's ramparts, looking from the quietness of Constitution Hill into the vibrant, relatively unregulated streets and balconies of Hillbrow across the road. However, children passing through seem to have a different relationship to the security and controlled nature of the space. Buitendach suggests that children may not be as hamstrung by the difficulties of history that older South Africans feel (2016 int.), demonstrated every afternoon by kids playing, laughing, climbing on the public art, seemingly more able to claim ownership of the space than their parents or other immediately local adults.



View from the Ramparts into Hillbrow (Pretoria Street).

The presence of the Court has ambiguous effects on how people use the space. It is remarkable that so many people walk past this important institution, seemingly unaware of its power and significance. On one level, it is a revolutionarily modest display of power, described by Sachs as follows: “Its mystique was that there was no mystique about it. It didn't say: 'this is an important public building, hold your breath, speak in whispers, don't make a noise when you walk past here.' There's nothing like that at all, people talk and chat, and the kids play, and they sometimes climb onto the Dumile Feni sculpture, and there's a sense of naturalness, that I found particularly marvellous” (2016 int.). Alternatively, the Court's lack of visual distinction combined with the securitisation of the space may result in it feeling like any other private or semi-private space in which the urban poor feel unwelcome, such as office parks or the sanitized enclaves created through

City Improvement Districts (See Dinath 2014: 239-241). However, some that pass by are aware, often painfully so, of the presence of this important government institution. Muzambi thus suggests that the space feels controlled, as if one shouldn't pass by. He likens the experience to that of being in Harare where nobody is allowed near the heavily protected presidential residence. When passing the Court, it brings back feelings of restriction and unwelcomeness (2016 int.). Consequentially, Kotze street, which runs along the southern edge of the precinct, remains a much busier thoroughfare than the internal precinct roads, which is also to do with the failure of the precinct to provide commercial and retail facilities; while one can buy a snack or a cigarette from informal traders on Kotze street, nothing of the like is available when walking through Constitution Hill.



Kotze Street, with its graffiti, informal traders, people hanging around and constant foot and vehicle traffic, feels much more part of the city than the open space at Constitution Hill.

I observed a sense of community between the local people that pass through the site and the tour-guides, security guards and cleaners working there, all of whom are black. Often these relationships

manifest in small interactions such as greetings and brief conversations, while amongst the staff running the tours, the cleaners and security guards, there exists a camaraderie; during quieter hours, they often pass the time together, sharing lunch, gathering after a shift, caring for a plant together, taking turns playing a *djembe* drum. While this reflects genuine engagement between different people in the public space, these interactions are generally amongst working class black people, and seem to be at least partially premised on being fellow outsiders in a space only partially belonging to them, evidenced by the fact that many immediately local people don't spend time in the space, using it only as a thoroughfare. This indicates how the precinct is beholden to the complex race and class dynamics operating in South Africa, and brings up an apparent contradiction: while Muzambi describes his uncomfortable relationship with security as a belligerent "black-on-black sentiment", the communion between black staff, including security, and passers-by, possibly suggests otherwise. However, this communion seems tied to mutual feelings of exclusion, showing Constitution Hill hasn't fulfilled its intention of being open and welcoming to all.

Related to this is how some people I spoke to, including security guards and coffee-shop employees, are ambivalent about working there. For them, the concept of the precinct and the presence of the Constitutional Court isn't immediately meaningful in that they are working low-level jobs that don't provide many opportunities. Here emerges a certain irony: even those working in and passing through the same space as the Court feel distant from the rights that it protects. One security guard, hailing from Kwazulu-Natal and now living in Hillbrow, seemed generally sceptical of authority, which added to his feeling that the Court's work didn't hold great significance to him. It is possible, given the apparent reality that many in Hillbrow don't know or particularly care about the site, that this is to do with a feeling that even though the Court is protecting our rights, many are still struggling to access these rights (see Emdon 2003: 215, 229). However, contrary to this, another security guard I spoke to on the day of the Nkandla judgement, beaming as he listened to

radio reports on his cellphone, clearly felt that through working there he is more connected to the significance of the Court. He articulated this as “even though I am low, and the people in the Court are high, they are holding up the law for the people that are low”.

Integration across race and class lines at Constitution Hill seems very limited. While those who visit the site for tours – of which a much higher proportion are white compared to passers-by, tour-guides and support staff – do interact with the staff, particularly the tour-guides, these interactions are governed by social convention and do not often seem to stray out of the confined relationship of tourist and tour-guide, customer and service-provider. However, one tour-guide really values his opportunity to “interact” and “engage” with both international and local visitors, most of whom report overwhelmingly positive experiences. The majority of visitors find it to be a powerful, meaningful, educational experience, with reports such as “life-changing”, “gives me hope”, “gives new meaning to my freedom”. Despite occasional criticisms of tour-guides being unavailable, poor signage or rude security, it seems that by-and-large the painful history and hopeful future represented at the site resonates strongly to most *visitors*, but unfortunately not to all who pass through or live nearby.

A South African Narrative in Complex Contexts

Muzambi, of Zimbabwean origin, doesn't relate to the narrative of South Africa's history and transition expressed at Constitution Hill, broadly reflecting how many people from other parts of Africa, even those living in immediately adjacent areas like Hillbrow, don't find that the site's content resonates with them. Gevisser attributes this to “the way the story was still being told,” reflecting that the future imagined by the Court – itself ideologically representative of the new South Africa – is still very much a process under construction (2016 int.). The context of serious,

on-going xenophobia – exemplified by regular attacks against foreign nationals that flared up in 2008 and 2015 – combined with the illegal residence status of significant numbers of immigrants and refugees, partly accounts for a lack of interest and engagement with the site by locals hailing from elsewhere in Africa.

Part of this process, according to Gevisser, is how Constitution Hill relates to sites of civic consciousness in the US which play key roles in their “national narrative or the national mythology”, and suggests that conceptualising the precinct involved asking: “is there a way that Constitution Hill can be a little bit like the Statue of Liberty, a beacon, that says you're welcome here, even if you have to flee your place, because this is a place of tolerance, openness, diversity, possibility?” Unfortunately, however, “given the way the South African narrative was framing itself, it was retrospectively an unrealistic expectation” (2016 int.). This highlights a conflict in how the precinct's vision relates to broader processes: while it sought to accommodate and welcome all people, those for whom xenophobia is a constant reminder of being unwelcome in the country may find Constitution Hill's attempts at welcoming them a bit trite. If you do not feel safe and welcome where you live, how and why should you feel this way at Constitution Hill?

A related challenge in keeping the precinct relevant to local people is the relative transience of communities in surrounding areas: Hillbrow - due to its immigrant population, and Braamfontein - due to its constantly turning over student population. While transience in itself does not explain a lack of engagement with the site by local people, when added to broader feelings of exclusion (based on citizenship or otherwise) and an uneasy relationship between inner-city residents and urban planning authorities (Simone 2004a), it complicates attempts at connection and integration. As such, multiple local dynamics pose a threat to the wide-ranging vision for Constitution Hill: “you can't just ... land a project in the middle of the inner-city with all its complexity, and expect it

to be activated” (Gevisser 2016 int.). As such, there lacks an organic relationship between the Court and the surrounding inner-city neighbourhoods, largely a consequence of the site's securitisation and attempts to preserve its integrity by restricting commercial activity. This also results in a space that sometimes feels more private and controlled than public and open.

While there is increasing permanence in the inner-city, partly shown by an increase of community associations, the fact that many local residents do not stay in the area for long means that in spite of local community engagement, new arrivals to the area may feel disengaged, potentially adding to feelings of antagonism (Harrison 2016 int.). Attempts at responding to this involve developing targeted programming for various local communities to get them into the precinct (Ntuli 2016 int.). The transience of local communities can also be an opportunity, bringing new potential visitors and because previous visitors may “take with them some of the lessons that they learnt here, and may be able to impart this on their peers or their parents, so that we start building active citizens” (*ibid.*), a goal that has been met with at least some success. For example, I observed a group of local youth exploring the site, eventually attaining two copies of the Constitution and sharing passages with each other, bringing the site's goal of Constitutional education to life.

The Market at the Fort, now running for four years, provides opportunities for local people to showcase their skills and services (Ntuli 2016 int.). This has attracted local residents from South Africa and other parts of Africa, which according to Constitution Hill responds to the need for African unity, appreciating and understanding other cultures, contributing to the site's goal of integration, challenging xenophobia and representing the “African diaspora in action” (*ibid.*). Constitution Hill is constantly developing their programme to appeal to wider audiences, while sticking as closely to their key principles as possible. This includes talks, seminars and exhibitions that pertain to democracy and human rights, special programs for days of national importance, a

debating tournament now featuring 100 “previously disadvantaged” schools to acquaint learners with constitutionalism, a youth festival, an environmental festival, a festival focused on youth entrepreneurship and socio-economic rights, outreach programmes to schools and educators, and the introduction of new tours (Phasha 2016 int.). While the children's room programming has been inconsistent for several years, they have been working to secure the resources needed to keep it open every day, to provide homework classes, constitutional education, and holiday programmes for local children (Ntuli 2016 int.). Such efforts are likely to increase engagement with the site by immediately local people, as should the introduction – currently under way – of free Wi-Fi in the precinct (*ibid.*).



Market at the Fort

However, many other events – hosted in spaces rented out by Constitution Hill to increase revenue – have little or nothing to do with the vision. While some private events include relevant seminars,

workshops and conferences, others, especially parties, seem more about the site's location and facilities. While the significance of the site may be diluted by such events, they may increase its vibrancy and engagement with the city, highlighting the difficult balance between being a space of deep meaning and being commercially viable and stitched into the city. But the site's meaning can penetrate such events; a law student from the University of Johannesburg remembers “getting trashed” at a party at the Fort and looking over towards the Court, feeling remorse about the way he was using the space. Another example is the wedding of a young white couple that occurred in the Women's Jail in 2015, heavily criticised by Milisuthando Bongela as white insensitivity towards a history of black pain, who suggests that “If Constitution Hill is a cold, dark place that houses a cold, dark history, it should not to be celebrated with sparkling wine but remembered with sobriety and seriousness” (*City Press* 20.9.2015). The law student recognised that his action may be contrary to the site's vision, while the white couple did not, showing how private events hosted at Constitution Hill may or may not contribute to meaningful engagement with the site, even though they do increase the footfall.

Portrait

The powerful messages the site intends to convey are not felt by all who use it. One man I spoke to clearly experienced it as a space of deep meaning, but in a very different way to its original vision. Seemingly destitute and possibly under the influence, he entered the square and began descending the steps towards the offices just north of the square. A security guard stopped and interrogated him, and they argued for a few minutes until he came back up to the square. The security guard then consulted a colleague about how to proceed. The man pleaded with them until he was left standing in the square. They controlled his presence in the space, but did not kick him out, interestingly preserving some of the publicness of the square. He then approached me, telling me he was looking

for work, which he remembers finding here previously in helping set up for youth events. However, the staircase he was descending doesn't lead towards events spaces.

He claims his first time here was when his uncle brought him, either in 2006 or 2007, and this is his second visit. I realised he seemed a bit deluded, as he was forgetting and remembering fragments somewhat arbitrarily. The place brings him memories of when he first came here: he was still in school, “trying to focus and become something”. But then his mother died and he's been going in a “negative direction” since. He had wanted to do something positive and had found some work, but is struggling to find employment now. He complained that the security guards wouldn't let him go where he expected to find work, but he was looking for something from his past that no longer exists: intent on going there, but not seeming to know where *there* was.

After we talked, he milled around a bit, spat on the floor several times and fiddled with a match and two empty matchboxes. He asked me for a smoke, then money to buy a smoke as he drifted off somewhat aimlessly past the visitor's centre. He seemed to be heading down the Great African Steps, but emerged again passing the Court and eventually heading out of the precinct. Despite not heading down the metaphor-laden Great African Steps, he was walking between the memory of his past and his imagined future, though in an inversion of the past and the future represented at Constitution Hill. His is a past of hope and opportunity, before he had disappointed the people that loved him, and a future which is indeterminate and seemingly void of positive prospects. His, like the site's present, is uncomfortable, caught between the past and the future, though in very different ways. This example serves to highlight that each individual entering the space brings to it their own meanings, and so conclusions about what the space means threaten to oversimplify what is an enormously complex object of study.

Conclusion

The ways Constitution Hill is used by various people relate in complicated ways to its original vision. While many visitors seem to have experiences that quite closely correlate with the concept, and many passers-by do engage with the meaning of the site, many more are unaware of the significance of the space, and many immediately local residents do not use the space at all. Much of this reflects tensions that were engrained in the planning process and thus in the design, and as such the site embodies complexities with no easy solutions. Constitution Hill beautifully captured a hopeful moment of the country's transition through a recognition of the past and imagination of the future, but it remains caught in between the two, hostage to the contradictions and difficulties that characterise contemporary South Africa and inner-city Johannesburg.

Constitution Hill succeeded to an extent at mobilising collective memory as part of a nation-building project that imagined a future of equality and constitutionalism, but its intention of creating a safe, inviting, open public space in the inner-city has not been straightforward and at least partly unfulfilled, and integration and connection are limited. That a site so carefully intended to facilitate integration has not done so – largely because it was unrealistic given the complex and difficult realities of the inner-city – is a marker broader failures of integration in South African society at large. It is essentially a public space, used by many, and home to valuable chance encounters, but it is also carefully orchestrated, resulting in ambiguous interactions in the space, as well as feelings of exclusion and the absence of many.

Conclusion

The story of Constitution Hill is one where a grand, idealistic vision for change battled to overcome several individual challenges and tensions. Imagining the future of the site was tied to imagining the future of the country, and the problems faced by the precinct show that its planners were perhaps too optimistic about the nature of change in post-apartheid South Africa. The concept and its uneven implementation were shaped by the combination of a complex and rapidly changing inner-city environment, state attempts at constructing and legitimising a new national ideology, and a cumbersome arrangement of stakeholders and their internal politics. The vision for the precinct, in trying to respond to multiple local and national imperatives, was ultimately pulled in too many directions for it to succeed in all its aims. While the transformation from an ugly past to a hopeful future – represented in the precinct by the prison museums and the Court – resonates powerfully for many, Constitution Hill is only awkwardly integrated into the inner-city, and hasn't succeeded in meaningfully connecting surrounding areas and their inhabitants. However, in drawing these conclusions, it is with an awareness that what the space means to each soul that enters it is immeasurably complex, and that it has created great value both for people experiencing the space and in the collective imagination of many South Africans. As such the layers of meaning at Constitution Hill are essentially irreducible.

The failures and successes of Constitution Hill are both shaped by broader processes and by important conceptual inconsistencies. Inner-city regeneration dynamics and the new national narrative – under construction through heritage sites like Constitution Hill – framed the site's development and in part manifested in tensions in the site's vision that were not reconciled, resulting in various unintended meanings for the space. Conflict between wanting a place that was both safe and accessible resulted in a securitised space which is unwelcoming and in some ways

inaccessible to many local people. The tensions between aiming to be a space that exudes meaning but also of being commercially viable and stitched into the city engendered an ambiguous space, feeling neither fully public nor private. It is thus an enclave, distinctly separate from the areas that surround it, with little engagement between those that visit the space and those that live nearby. Planners underestimated the persistent segregation of Johannesburg's urban landscape; as such connecting distinct areas through one space of meaning was from the beginning an unrealistic endeavour.

Constitution Hill, as a space and an ideology, is in a state of being caught in between; between the future and the past, as hostage to the complex processes of the post-apartheid era, and between public and private, reflecting the insularity of many precinct- and area-based regeneration nodes in a changing Johannesburg. While it has created value and meaning for many South Africans, and success has been increasing over the past few years, the space remains ambiguous, experienced differently by all who enter it. The memorialisation of the past and monument to an imagined future, represented by the spatial and metaphorical dialogue between prison museums and Court, is incredibly powerful, but Constitution Hill has not yet been able to construct a space where this meaning is shared by all who occupy it, thus highlighting the tenuousness of shared collective memory in contemporary South Africa.

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