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**Article:**

Rugg, Julie Joyce orcid.org/0000-0002-0067-6209 (2020) Social justice and cemetery systems. *Death Studies*. 1776791. ISSN 1091-7683

<https://doi.org/10.1080/07481187.2020.1776791>

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## Social justice and cemetery systems

### ABSTRACT

This paper applies social justice frameworks to 'cemetery systems' which here denotes the framework by which each nation state orders the disposal of the dead, and which generally includes burial, cremation and the interment or scattering of cremated remains. An application of social justice theory indicates the desirability of certain key principles for all cemetery systems: decent disposal as a human right; democratic accountability; equality of access to services regardless of income; freedom of religious expression; and environmental sustainability. Achieving these principles is not necessarily straightforward, and conflict between principles is heightened by financialisation and population densification.

### Introduction

This paper focusses attention on a task faced by societies across the globe: dealing with the physical remains of deceased human individuals. From the very earliest creation of settlements, decisions have had to be made as to how much resource and land to commit to that task and how it should be organised. In modern societies, the state usually creates a legal framework for burial and cremation and in some cases that legal framework includes a strategic planning requirement to ensure adequacy of those services. There has been some, but limited, academic consideration of contemporary strategic planning to deal with disposal of the dead. This discussion has generally been located within a largely functionalist framework and related to demand and supply modelling or land allocation. It is rarely acknowledged within these frameworks that cemeteries and crematoria are essential elements of *social* infrastructure or – further – that the provision of cemetery services should be delivered with due regard to social justice.

In order to deploy conceptions of justice, it is necessary to be clear what exactly is being judged. This paper uses the term 'cemetery system', as shorthand to describe the delivery within a nation state of cemetery and/or crematorium services by various combinations of statutory authorities, the private sector and religious authorities and organisations. The word 'cemetery' has here been chosen as the preferred term, as being ultimately derived from the Greek term 'lay to rest'. This is a rather more sympathetic construction than 'disposal' of the dead, the phrase more commonly used, for example, in the UK. Further, in the vast majority of countries where cremation is a preferred option, the formal burial of cremated remains in a cemetery is commonplace.

The discussion will draw on a range of international examples to demonstrate the universality of problems intrinsic to cemetery systems. The paper uses theories associated with social justice framed in a human rights model to assess five closely interlinked desiderata for all cemetery systems: a right to decent treatment; that cemetery systems be democratically accountable; that there should be equality of access to provision regardless of income; the system should encompass a right to religious expression as it reflects in funerary practice; and that the system be sustainable in environmental terms, and absorb what might be regarded as a fair proportion of natural resources such as land and energy. These principles are here discussed in terms of planning, governance and management, financial frameworks, the contribution of cemetery systems to social infrastructure, and environmental impacts. An effective cemetery system holds all these elements in balance, and a failure to arrive at a balance inevitably leads to social injustice. However, the ability to arrive at a balance is compromised by degrees of financialisation within the cemetery system, combined with and at times exacerbated by the increasing imperative to accommodate mass demand. Population density and pressure on finite resources increases the incidence of functionalist responses and can reduce the ability to deliver the 'social' element of cemetery services. Consumer dissatisfaction with those responses in turn escalates demand for private sector alternatives, which generally increase the rate at which funerary practices consume finite natural resources.

This paper constitutes a first attempt to analyse cemetery systems from a social justice perspective and is perforce exploratory. The discussion is framed for a planning, management and policy audience, but will draw on debates from other discipline and policy perspectives, referencing international examples to demonstrate the global nature of the issue under consideration.

## **Cemetery systems**

Definition is at the heart of academic endeavour, and in this paper the task of definition is an essential first stage in the application of broad political theoretical concepts. Attention paid to notions of justice requires there to be a clear understanding of 'what' exactly is unjust. It would be tempting to look specifically at cemeteries in isolation. These have been studied extensively, from a range of disciplines including anthropology, sociology, history, design and landscape, policy and planning including environmental impacts (for example, Coutts, Basmajian & Capin, 2011; Cox, 1998; Francis, Kellaheer & Neophytou, 2001; Van Steen & Pellenbarg, 2006), but rarely from a political theoretical perspective. Similarly, it might be appropriate – rather – to consider cremation. This subject has, again, been studied in considerable detail, again from a similar range of academic disciplines (for example, Jupp, Davies, Grainger & Raeburn, 2017; Rotar, 2013). In addition, emerging new trends and technologies have also been considered including, for example, green burial and alkaline hydrolysis (Clayden, Green, Hockey & Powell, 2015; Olsen, 2016). All these studies tend to discuss either cemeteries or crematoria out of context: burial and cremation are not

considered together, and reference is rarely made to the broader legal and governance frameworks in which burial and cremation take place.

This paper takes an alternative approach, and focuses attention on 'cemetery systems'. This is a shorthand term that will be used to encompass all modes of disposal of human remains and applies to the entire package of ways in which those modes are delivered within individual nation states. These systems are a component of the processes, attitudes and activities which frame a country's funerary culture (Rugg & Parsons, 2018; Mathijssen & Venhorst, 2019), but are also an element of broader social infrastructure requirements that include amenities and essentials such as parks, hospitals, schools and transport. Disposal of the dead is both a social/ritual practice and a technical/practical function. All nation states have devised their own systems for dealing with human remains.<sup>1</sup> This 'devising' is more or less deliberate. Systems often develop through accretion, with traditions, practices and laws accumulating and overlaying each other over time, following the exigencies of population growth and a general shift away from Church to state control of core social functions. Cemetery systems, operating with varying levels of complexity, are delivered by a network of social institutions and encompass a number of common elements.

First, and most obviously, the overall shape of these systems will be defined by a country's dominant religious beliefs and traditions and broader cultural preferences. Death ritual is central to all major world religions, which often define the degree to which either burial or cremation is the preferred primary option. Muslim, Orthodox Jewish, Greek Orthodox and many traditional religions in Africa seek to ensure that the body remains physically intact, reflecting belief that the body is sacred gift from God or an image of God, or that burial facilitates on-going relations with ancestors (see, for example, Al-Dawoody, 2018; Blagojević, 2013; Golbert, 2015; Ngubane, 2019). Artificial destruction of the body is deemed to be disrespectful and even abhorrent in these belief systems, and is believed to carry consequences in the afterlife. Where burial is a theological requirement, the provision of space for interment has long been addressed as a function of religious authorities, in local graveyards or burial grounds associated with particular places of worship (Rugg, 2000).

In Westernised and predominantly Christian countries, the press of urbanisation and the separation of Church and State have meant that traditional Church provision has been superseded by or melded into statutory provision which is guided by scientific rather than spiritual precepts (De Spiegeleer, 2017). However, in many countries it remains the case that cemetery systems include both 'secular' state provision and some remnants of 'traditional' interment space provided by religious authorities. These systems often also include the operation of burial grounds where use is restricted to particular groups, as in the case of Jewish burial societies where ownership and management sits outside the principal statutory system (Jacobs, 2008).

Cremation is a preference in some world religions, principally Hinduism, Sikhism and Buddhism, and again reflects theological concerns for the fate of the soul (Caixeiro, 2005; Crosby & Collett, 2005; Myrvold, 2006). Cremation is also a majority preference in many Westernised and Protestant countries, where – since the Reformation – after-death ritual is deemed to carry no significance in the afterlife. Cremation was declared incompatible with Catholicism by Pope Leo XIII in 1886, and this restriction was not relaxed until 1963 (Newton, 2005). From this point, cremation rates often accelerated in largely Catholic countries although in 2016, Pope Francis issued the instruction that all measures should be taken to ensure formal burial of those remains. In both Hinduism and Sikhism, cremation is followed by the dispersal of ashes in running water with no subsequent place of interment or commemoration. However, in other religious systems, cremated remains are either buried or placed in columbaria. In Japan, for example, interment of ashes facilitates continuing funerary ritual and an on-going relationship with ancestors (Aveline-Dubach, 2014).<sup>ii</sup>

Second, cemetery systems differ substantially from country to country, but can be described through reference to three distinct elements: the agencies involved in service delivery, modes of committal, and post-committal practices (Box 1). It is simplest to disaggregate these through reference first to cemeteries and burial, and then to crematoria and cremation.

[Box 1 around here]

Cemeteries are owned and managed by a number of different types of agency. In most countries a 'mixed economy' exists, and the mix can be quite distinctive. For example, burial space remains under the control of the state church in Sweden and Norway although in both instances a process of transfer to full municipal ownership and responsibility appears to be under way (Hadders, 2013; Marjavaara, 2012). In the UK the mix includes state owned and managed cemeteries, churchyards and burial grounds provided by religious denominations, and a small number of private sector cemeteries (Rugg & Parsons, 1998); the Netherlands also has a mix of municipal and 'special' cemeteries owned by religious communities or privately (Mathijssen & Venhorst, 2019). In some countries, including for example the US and Colombia, large-scale private corporations to own burial spaces, with the state taking responsibility for meeting residual need (Klaufus, 2015; Llewellyn, 1998). In the US, those corporations can also include small 'not-for-profit' operators (Sloane, 1991). In locations with scattered and remote rural settlement, it is likely that some element of burial need will be met by less formal interment on homesteads. Indeed, in South Africa there is a right to continued interment on farmed land where family interment has taken place, even where ownership and management has changed hands

(Parker & Zaal, 2016). Full state ownership of burial provision is controversial in many countries, and can reflect policies of enforced state secularity as, for example, in France (Fornerod, 2019) or countries under communist control (Lilly, 2019).

Grave tenure – the combination of practical and legal modes defining use of the grave – is the second crucial element in understanding how burial provision is delivered. The vast majority of cemeteries are subdivided into single family burial plots, and each plot will include space for multiple interments facilitated through deep graves, vaults or sometimes elaborately constructed above-ground mausoleums. Some cultures and religions do not have more than one interment in a plot and have a prohibition against grave re-use: this is often the case in Muslim and Orthodox Jewish burial grounds, and amongst many traditional African religions.

The majority of Westernised countries that rely substantially on burial will operate a system of limited grave tenure. Graves are, essentially, leased which means that they will be re-used by another family after a defined time period. In many Southern European and South American countries, bodies are placed in above-ground catacombs and mausoleums for a specified time period to allow for decomposition; bones are then removed and placed in a family or communal ossuary. It is rarely the case that buying a family grave entails the purchase of the land itself. Scotland is one exception, in having a historic system of 'lair' ownership, which has left a complex legacy of ownership rights. It is much more likely that the grave is leased from the burial authority, with control of the grave reverting back to that authority after the lease expires. Burial provision in some cases also includes the interment of unrelated individuals in 'common' graves, where families have no rights to decide who might be interred in the grave. Ownership of a burial right generally also confers the right to erect a memorial, and – conversely – common interment may well not include that right. Within cemetery systems there is variety as to the fate of the monument once the right expires: ownership of the memorial may well revert to the owner of the burial site, or be destroyed if not removed by the family concerned. Cemeteries will often accommodate full body interment and cremated remains interments either within existing family graves or in separate cremated remains plots or in above-ground columbaria.

Cremation facilities are also delivered in a variety of formats. In some countries only the state is permitted to provide crematoria facilities although in many there is mixed economy of state and private sector providers. For example, Germany has both public and private crematoria; in Poland there is one church crematorium, one co-operative and one private with a further 49 municipal sites (*Pharos International*, 2018). Public/private partnerships are also evident, and even dominate in some countries. The nature of cremation facilities also differs. Many countries operate 'service' crematoria where there is an expectation that the funeral service will take place at the crematorium, which is appropriately designed for ritual activity and sited within a landscape suitable for the scattering or interment of ashes. In other countries, the funeral service takes place in a separate chapel or other secular

event building, and the body transferred to a crematory located in a rather more industrial setting ('functional crematoria'). This mode of operation is evident in the US: in 2018 an estimated one third of all funeral homes had their own crematories, and this percentage was expected to rise (NFDA, 2018). It is now the case that cremation accounts for more than half of all disposals. Functional crematoria are owned and operated in a similar way in Australia, New Zealand and South Africa. Across Asia, and in countries with a majority or large minority Hindu population, cremation often takes place in designated locations on open wooden pyres (*Pharos International*, 2018).

Finally, cemetery systems that encompass cremation will also include some regulation around the disposal of cremated remains. The Hindu and Sikh religions both require ashes to be scattered on flowing water, preferably the Ganges. In the majority of countries, cremation is followed by formal interment of cremated remains, and this practice requires the provision of burial space for that purpose. This is the case in countries with very high levels of cremation, including for example Czechia (Nešporová, 2020). In many Asian countries, ashes are deposited in substantial multi-storey crematoria. Where space is provided, regulations are likely to limit tenure. Some countries have rather more lax regulation on the disposal of ashes: in the UK and the Netherlands, for example, it is possible to retain cremated remains at home or scatter them in a meaningful location (Rugg & Parsons, 2018; Mathijssen & Venhorst, 2018). Again, this practice leaves no material footprint. The market is responding to demand for other disposal options, including scattering at sea, in fireworks and on artificial coral reefs, although at present take-up is small (Nations Baker, Menzel Baker & Gentry, 2016).

### **Planning, social justice and deathscapes**

It is important to distinguish nation-state cemetery systems as bounded entities in order to create definable institutions that are responsible for deploying or restricting social justice (Moroni, 2019). Nation-state cemetery systems are delivered within governance, regulatory and economic contexts and are created through the accretion of decisions, made more or less strategically. Poor decision-making and ineffective on-going management can lead to detrimental outcomes for the users of services, and applying social justice precepts is a valuable way to establish how exactly a particular system might be failing. This paper addresses the issue as it sits in distinctive, interdisciplinary, space that combines reference to social justice, to planning, and to the study of deathscapes which in itself is an interdisciplinary endeavour. Each of these areas has a substantial literature that it would not be possible to address here. However, in summary, this paper, will construe social justice largely from a human rights perspective (Kallen, 2004) and consider what 'universal moral guidelines' should frame cemetery systems. Planning debate carries congruent concerns with regard to moral accountability. In 2005, the American Planning Association *Code of Ethics and Professional Conduct* defined a commitment to 'expand choice and

opportunity for all persons, recognising a special responsibility to plan for the needs of the disadvantaged, and to promise racial and economic integration' (Moroni, 2019, pp.2). The study of 'deathscapes' has fully engaged the attention of cultural geographers, who are exploring the ways in which space and place frame and mediate the experience of death, bereavement and commemoration in a range of locations (Maddrell & Sidaway, 2010). Cemeteries are often taken as modern heterotopic echoes of the lived environment (Johnson, 2008), and it would be tempting to elaborate how it might be possible to define a 'just city' of the dead. Indeed, Soja's formulation of spatial justice as the 'fair and equitable distribution in space of socially valued resources and the opportunities to use them' usefully encompasses a number of the themes that will be covered by this paper (Soja, 2009).

However, it would be mistaken to posit cemetery systems as purely urban or entirely spatial phenomena. Funerary practices also exist within frameworks of legal and administrative ordering. Broadly, dealings with the body can be defined using the Foucauldian concept of 'bio-politics', or 'techniques for achieving the subjugation of bodies and diverse techniques for achieving the subjugation of bodies', to serve the purposes of capitalism (Rabinow, 1987, pp. 262). From the eighteenth century, bio-politics extended to the sanitary ordering of dead bodies (Rugg, 2020). Mbembe further develops the concept of 'necropolitics', or subjugation of populations to terror and violence (2003). He identifies 'topographies of cruelty', and these include sites of covert mass burial which both obscure the physical evidence of violence visited on the bodies of war crime victims, and delivers further violence to the emotions of those who remain ever uncertain as to the fate of their family members (Azevedo, 2016). The field of memory studies has recognised the importance of acknowledged and unacknowledged burial space to the task of creating acceptable commemoration narratives (Spira, 2014). However, this paper considers the rather more prosaic concern of 'quotidian' death: the vast majority of deaths that take place across the globe routinely, expectedly, unremittingly, at the scale of around 55m every year. These deaths – ostensibly unproblematic – nevertheless create a logistical and emotional burden that has to be accommodated within some kind of infrastructural framework: a cemetery system. Outwith the extremes of war, violence and disappearance, cemetery systems still present knotty and complex social justice issues that are intrinsic and which defy easy resolution.

## **Social justice and cemetery systems**

This paper proposes that there are five elements or aspects of cemetery systems where application of social justice theory is particularly fruitful and enlightening. Briefly stated, these include planning; ownership and management; finance; social infrastructure; and environmental impact. There have been variable levels of scholarly exploration and academic debate directed towards each of these elements, but hitherto there has been little recognition that all these elements are in fact inextricably linked and can be construed



as social justice issues relating to basic human rights, democratically accountable governance, equality of access, freedom of religious expression, and environmental justice. It is this degree of interlinking which mediates against tidy resolution of the social justice issues in this policy area, particularly given increasing levels of financialisation and urban densification.

### **Planning and a human right to decent interment**

Cemetery systems are often construed as reflecting a rather diffuse Foucauldian governmentality, and this contention has perhaps stymied alternative analysis using a rights-based approach. It is not unreasonable to presume that all cemetery systems should reflect the notion of a right to decent disposal. This right is not axiomatic. One signal of a failing nation state is cemetery systems that are compromised by under-development, corruption and criminality, where there is no clear responsibility for provision, respectful treatment is not guaranteed and there is a fear that graves will be immediately disturbed (Golunov, 2019; Grant, 2019; Mokhov & Sokolova, 2020). Article 25 of the Universal Declaration of Human Right defines the right of everyone to 'a standard of living adequate for himself and the wellbeing of his family, including food, clothing, housing and medical care and necessary social services'. In this context, decent disposal can be construed as a necessary social service.

There are instances of statutory authorities adopting a human rights approach. For example, the New South Wales Cremation and Cemeteries Act 2013 foregrounds its provisions with the statement of the desire to 'recognise the right of all individuals to a dignified interment and treatment of their remains with dignity and respect' (NSW Government, 2013). Here, the term 'right' is not necessarily referencing any universally ratified human right, which does not exist in this context. Rather, reference is perhaps being made to the ancient UK common law right to burial with Christian rites in the parish churchyard (Ariss, 2004). This right clearly does not pertain to modern practices, and in expanding this right to comprise treatment 'with dignity and respect', the New South Wales government has created duties and expectations that have no clear definition. It may be appropriate, then, to contend that all humans should have the rights commensurate with the principals laid down in Article 17 of the 1949 Geneva Convention I, which binds parties to any conflict to ensure that the dead are 'honourably interred, if possible according to the rites and religion to which they belonged', with graves 'properly maintained and marked so that they may always be found'.<sup>iii</sup> As will be seen, inclusion of a religious reference is rather more problematic than might be expected. However, it remains the case that a right to decent treatment creates a planning obligation, to ensure that services are indeed available commensurate with scale of need and that service demand and supply is routinely monitored.

### **Ownership and management: democratic accountability**

The obligation to create a cemetery system might then require that system to be defined and managed via a process of democratic decision-making. Democracy is central to social

justice: people should be involved in making the laws to which they are subject. Cemetery systems are not always arrived at through democratic processes. There are instances in which entire cemetery systems have been devised for political reasons and imposed on the populace. For example after the Second World War the influence of Communist regimes on funerary practices often extended to state oversight of burial and cremation facilities, with the objective of undermining the expression of Christian belief (Pashova, 2013; Schulz, 2013). Vestiges of restrictive state control are still in evidence in countries no longer under Communist rule. Similar secularising objectives are in evidence in many Francophone countries, which through the course of the eighteenth and nineteenth centuries, reframed their burial practices to reduce the influence of the Roman Catholic Church, and still maintain systems in which – by law – no religious expression is permitted (Fornerod, 2019).

In practice, liberality may well be in evidence even where state control appears restrictive. Matthey, Felli & Mager considered the dynamic inter-relationship between the legal and spatial in their analysis of decision-making around integrating Muslim demand for burial space in Switzerland. Their study concluded that decisions were often made at localized, Canton, level and did not disturb the overall purpose of national regulation which was to accept only secular cemeteries. Political debate on the issue was 'restricted to a limited constituency and largely hidden from the larger public's view' (2013, pp. 431). Scrutiny and transparency in decision-making are important principles underpinning the operation of cemetery systems, not least because the lack of effective oversight can lead to poor outcomes in terms of routine failure to meet appropriate standards. In New South Wales and in Scotland, substantial revision of burial and cremation law followed the discovery of malpractices by municipal authorities (Davies & Bennett, 2016; Scottish Government, 2019). In both cases, new legislation was driven by the desire to increase effective governance and oversight.

For other nations, issues relating to transparency, accountability and democratic control still pertain even where there is no restrictive political objective for the cemetery system and local governance is well developed. In the UK, the cemetery system includes municipal, Church of England, third sector and private sector provision. Almost all cemeteries and most crematoria are owned by local authorities, and paid for through the local 'council tax'.<sup>iv</sup> Overall, this element of the cemetery system delivers a degree of transparency, accountability and democratic control. Democratically elected councillors are advised on policy by politically neutral local authority officers, and the major decisions that are made on service delivery are published in the public domain. Local taxpayers who are unhappy with the service they receive are at liberty to complain to their councillors, and – in extremis – elect councillors who they feel will manage the cemetery system in a way more closely reflective of their concerns. Tensions relating to management decisions can often become local news stories in which councils are called to account, for example, on land allocation, maintenance standards or fees setting (for example, Elworthy, 2019).

However, in rural areas in England and Wales, Anglican churchyards are often the principal place of burial but without any semblance of democratic accountability. National Church policy sets fees for burial and for burial services, but maintenance and other related policy is decided at parish and diocesan level. There is no transparency or accountability, and parishioners are not at liberty to challenge decisions that are made. A principal area of controversy relates to the freedom to erect memorials, which in some parishes may be subject to restrictions that can appear arbitrary and inconsistent (Rugg, 2013). The UK is by no means unique in the degree of Church involvement in burial provision. In Scandinavian countries, and despite the high degree of overt secularity in those countries, the Church continues to play a major role in the provision of burial space, as in Sweden and Denmark (Church of Sweden Employers' Association, 2013; Kjølner, 2012). However, it appears that - in Sweden certainly - new burial regulations are 'secularising' practices to ensure greater choice, for example, in allowable monument design (Gustavsson, 2015). Thus, democratic control, transparency and accountability are also desirable features of cemetery systems to ensure that the service being delivered accords to societal expectations for that service, and remains sensitive to changes in funerary practice.

#### **Finance: equality of access**

Rawls conceives of inequality as referencing a broad panoply of 'social primary goods': 'liberty and opportunity, income and wealth, and the bases of self-respect - are to be distributed equally' (Rawls, 1972: 303). Here, the 'bases of self-respect' will be taken to include the ability of an individual to secure respectful treatment not necessarily of themselves at death, but of their loved ones. An equal distribution implies not just that facilities be available, but that they should also be affordable. With one or two exceptions, little attention has been paid to the economics of cemetery systems (Canofari, Marini & Scaramozzino, 2017; Faye & Channac, 2015).

An affordable cemetery system rests on policy with regard to taxation and subsidy. The provision of space for interment is a service that takes exacting calibration in order to arrive at a system which is cost-neutral particularly where there is a large population to serve. Land that lies close to urban centres and is suitable for interment tends to be expensive; delicate decisions need to be made as to the rate of grave re-use; and cemetery maintenance costs will increase as the ground is used since the landscape becomes an increasingly complex amalgam of roads, pathways, green landscaping and mature vegetation. Without an effective grave re-use system, income is likely to decline and the cemetery becomes a wasting asset. It is often the case, then, that cemetery systems are subsidised directly by central government or via local government taxation. The level of subsidy depends very much on the mix of public and private sector involvement. In the US, functional crematoria are generally operated as adjuncts to funeral business, and large-scale cemeteries are often owned by large corporations. The state, via the Veterans Office, delivers veterans-only cemetery service; and local authorities are left to provide services for indigents and households on low incomes (Sloane, 1991).

The economics of cemetery systems define the status of the service user as a citizen, consumer or disenfranchised 'supplicant'. In some countries a specific 'burial tax' is a universal tax, deducted from income. Being a taxpayer confers a right to interment: in Sweden, for example, this fee is recalculated annually according to local costs of service delivery. Each taxpayer pays the same and can choose a burial or cremation with or without religious ritual (Church of Sweden Employers' Association, 2013). This kind of approach defines the service user as a 'citizen', who contributes tax and receives services accordingly on a fully equitable basis. In places where cemetery services encompass substantial private sector involvement, the service user is more accurately defined as a consumer. Burial and cremation fees are set in a competitive market, with the provider aiming to secure a profit. As a consumer, the service user may well expect to exercise choice and agency in their relationship with the provider, and seek reparation when expectations are not met.

A third kind of relationship exists, where the cemetery service is highly subsidised or free to the user who is perforce construed as a supplicant receiving charity and lacking agency. In New York, for example, millions of indigent individuals have been interred on Hart Island, where graves are dug by prisoners from the nearby penitentiary (Bernstein, 2016). More commonly, the user might receive a welfare payment to help offset burial or cremation costs providing that individual meets certain income criteria (Valentine & Woodthorpe, 2014). A number of justice issues pertain as to the quality of the 'basic' burial or cremation that an impoverished individual might fairly expect to receive. 'Basic' might include interment with unrelated individuals in an unmarked grave or an unattended cremation service with families denied any agency to define their own consolatory ritual. At its most extreme, indigent burial provision can be so functional as to amount to deliberate punishment (Gopp, 2007).

Inequity does not relate just to space and ritual: 'basic' burial can also include an element of temporal inequality.<sup>v</sup> Indeed, time is a central component of inequality in cemetery systems. In Greece, for example, lower-income families may be afforded a grave space for a period of no more than three years, after which time half-decomposed bodies are exhumed and reinterred in 'digesting pits' before disposal in a common ossuary (Blagojević, 2013). This system defies definition as decent or respectful treatment.

In further and more extreme cases, appropriate funerary ritual may actively exclude individuals whose identity is not formally recognised. In the US, historically, plantations often contained separate burial grounds; subsequent destruction of those sites has reinforced and reiterated historic contempt and disregard for the victims of slavery (Hughes Wright & Hughes, 1996). It has been estimated that up until 1953, 90 per cent of US cemeteries had racially restrictive covenants (Wickersham & Yehl, 2013). Recent research has also iterated the degree of dismissal inherent in the treatment of individuals who have died as they attempted to cross the US-Mexican border. In Falfurrias TA, bodies have been interred in a section of the Sacred Heart Burial Park but with little attention to formal

ordering or even secure marking: investigators found 'multiple bodies buried in the same grave or commingled with body bags, trash bags, shopping bags or a milk crate', and a lack of any formal identification processing that would facilitate the identification of 'John/Jane Doe' remains (Alonso & Nienass, 2016: 422). These dismissals speak to the politics of grievability, which recognises a societal tendency to view only certain types of death as being worthy of recognition and resource.

### **Social infrastructure: services reflecting cultural and religious difference**

It is not inappropriate to reference 'dignity and respect' as a human right in cemetery systems and this indicates that these services are more emotionally significant than other kinds of functional infrastructure. In the English language, there have long been difficulties attached to terminology relating to dealing with human remains. In the UK, the default term is often 'disposal', but this word – which is more generally used to indicate the removal of unwanted matter – by no means embraces the complexity of social significance attached to the act of burial, cremation or indeed any other similar technology applied to human remains. Cemetery systems are social infrastructure, similar to schools, churches, theatres or other structures that meet the higher cultural needs of society. Cemeteries contribute immeasurably to urban 'emotional intelligence' since they are locations for the expression of feeling and diffuse spirituality not necessarily attached to formal religion (Bachelor, 2004; Francis, Kellaher & Neophytou, 2001).

'Decency and respect' are not fixed terms, but do presuppose actions that are commensurate with societal norms which in themselves encompass religious beliefs. The Human Rights Act includes – in Article 9 – the freedom to exercise religious belief, and in Article 18 the right 'to manifest [...] religion or belief in teaching, practice, worship and observance'. Funerary ritual is central to all religious beliefs, and it is not therefore unreasonable to expect that cemetery systems be sensitive to the needs of religious groups. Indeed, it is notable that one UK city – Leicester – has included in its core strategy statement the desire to create or retain 'cultural facilities and opportunities, including places of worship, cemeteries and crematoria that help people who live here to develop a sense of belonging, to value the cultural diversity and heritage of our City' (Leicester City Council, 2013). Cemetery systems do not always embrace multiculturalism. In the nineteenth century, many countries in Europe introduced ostensibly secular burial systems, and are now adapting in rather uncertain ways to multicultural demand for burial space where confessional identity can be expressed (Fornerod, 2019; Kadrouch-Outmany, 2016; Matthey et al., 2013). Across Africa, migration and rapid urban expansion has also led to conflict between largely Christian colonial practices and the desire for Muslim populations for separate burial space expressive of their cultural identity (Onwuzurigo, 2014).

However, issues pertain where the boundaries are blurred between formal observances based on religious law and rather more diffuse cultural preferences. For example, in the UK,

debate to counter legal challenges to allow for open air cremation – currently not permitted under UK law – has stressed the absence of any requirement for the practice within formal Sikh teaching (Juss, 2013): it is argued that open air cremation is a preference rather than a theological necessity. In another example, commemorative preferences might also include more elaborate memorials: this is the case with the Roma community and is based on the desire to express familial kinship and group identity (Parker & McVeigh, 2013). However, such memorials tend to take up more space, which is problematic in countries where burial space is limited. Acknowledging that cemetery systems constitute social infrastructure carries presumptions of inclusivity and cultural sensitivity which are not always easy to deliver.

### **Environmental impact: pollution and sustainability**

The right to religious expression becomes problematic if it carries a detriment to others: belief systems may clash on issues such as the rights of women to perform certain actions, or the acceptability of non-cis identities. The right to religious expression in cemetery systems also provokes debate on the detrimental impact on the environment of certain activities. As with many of the political theoretical issues referred to in this paper, environmental justice has a substantial literature. Here, it is necessary to touch on two issues: the polluting nature of certain funerary practices and the unequal fall of the impact of that pollution; and broader sustainability issues relating to consumption of finite resources, particularly land.

Pollution impacts vary substantially and depend on the degree of planning control. In undeveloped countries, a high concentration of burials in the wrong kind of soil and close to the water table can result in pollution of the local water supply, particularly if the community is reliant on wells for potable water (Üçisik & Rushbrook, 1998; Żychowski & Bryndal, 2015). In Westernised countries, crematoria emissions are more likely to be problematic (Santarsiero et al., 2005; Mari & Domingo, 2010). Across Europe, these emissions are controlled by the Environmental Protection Act 1990 which requires the application of filter systems. However, the continued use of use of poorly-functioning technology might in some instances be facilitated by emissions-trading schemes (Rugg & Parsons, 2018). In other parts of the world, controls may not be in place, or might also be poorly implemented: for example, in Bogatà, in 2013 public demonstrations took place to protest the 'smoke and stench' emitted by cremators in the La Merced Norte Cemetery (Klaufus, 2015).

Debate on the increasing cost and availability of cemetery plots invariably reflects land-use shortage and the unwillingness commit a finite resource to cemetery use. Ethical issues do pertain with regard to the competing needs of housing and cemeteries. Indeed, highlighting the 'immorality' of immoderate land use for cemeteries was through the twentieth century a central feature of cremation propaganda, which asked the public if they wanted 'playing fields or cemeteries' (Jupp, 2006).

It is possible to argue that funerary practice can be regarded as a 'privileged' type of pollutant, where the harm is allowable given the sensitive nature of the resource demand. Flexibility begs questions of degree. If detrimental funerary practices are tolerated, then does that toleration extend to the consumption of resources to effect funerary rituals *beyond* the functional purpose of removing the dead from view in an efficient and hygienic way? The boundaries are not always easy to negotiate. For example, it has already been noted that, in the UK, the preference for open-air cremation amongst the Sikh community has provoked legal challenges. A judgement has accepted that, in principle, open-air cremation is a legal mode of disposing of the dead; however, in practice, planning regulations are likely to prohibit this type of cremation if it breaches environmental legislations around toxic emissions (Rugg, 2019).

Environmental justice issues also sit around the consumption of land to accommodate interments. In many places around the world, religious objections to having more than one burial in each grave are being relaxed as a consequence of substantial population growth and pressure on burial space. For example, multi-tier graves are now sold in Tehran's Behesht-e Zahra Cemetery, which extends to over 580 hectares (Bayatrizi & Ghorbani, 2019). Resistance to the 'relaxation' of rules can be strong: in Greece, where the Greek Orthodox Church does not permit the practice, cremation was made legal in 2006. The Athens Mayor has construed the crematorium 'an important development [...] which upholds the state's obligation towards citizens' fundamental human rights' to choose'. (Smith, 2019). However, the Greek Orthodox Holy Synod has successfully challenged and delayed the construction of a crematorium.

These three examples from the UK, Iran and Greece indicate the difficulty of balancing the desire to respect religious and cultural traditions whilst at the same time reducing pollution and protecting finite resources. Environmental justice in burial provision also extends to what might be regarded as excessive pollution that follows highly 'processed' burials where the body might be embalmed and placed in an elaborate casket containing plastic and adorned with metal (see, eg Jonker & Olivier, 2012). These practices beg the question of what the dead should be 'allowed' in order to fulfil their own funeral wishes and those of family and friends. These questions are remarkably difficult to square in cultures where it is accepted that the dead continue to experience the actions of the living, and where ancestors might become displeased with their afforded level of respect (Ngubane, 2019).

### **The compounding impacts of financialisation and scale**

Resolving competing principles is not easy to achieve within cemetery systems: for example, the desire for equality does not always accord with principles related to freedom of expression; and concepts of what might be a dignified mode of disposing of the dead does not necessarily tally with environmental sustainability. This paper concludes by discussing two further contexts – external to cemetery systems but integral to their

operation – that further, and substantially, complicate the task of achieving a just cemetery system. These contexts are the intervention of the market, and increasing population pressure.

The financialisation of a very broad range of social services reflects on-going neoliberalisation of state policy intervention. Here it is argued that where financialisation plays a central or enhanced role in the delivery of cemetery systems, the incidence and severity of social injustice is likely to be exacerbated. The point is made with reference to two deliberately extreme system models. In a 'democratic' system, a funerary tax would cover the basic cost of cremation or interment depending on the individual preference. Burial of the body or – if required – of ashes would take place in the cemetery with graves allocated one after the other in rows, families would have the option of renewing the grave tenure, and all citizens would be treated equally. Under a 'financialised' system, burial and cremation would be available on the open market with facilities available subject to the ability to pay. Within these models, cemeteries may well be laid out as 'gated communities' of the dead with exclusive access and substantial family plots promising perpetuity burial. Low-income families would be required to use subsidised 'residual' facilities, where grave tenure might be severely limited in order for the authorities to meet demand and contain cost.

These models are not wholly abstract question. For example, South Africa – a country of extreme income inequality (Sulla & Zkhali, 2018) – has substantial disparities of land ownership and access to land. Municipal cemeteries are running out of space and are unsafe: personal attack and theft of memorials is commonplace. Calgro M3 is a residential property developer that expanded into the provision of memorial parks in 2014; it now owns five such parks (Calgro M3, 2020). The memorial parks offer a wide range of grave types: a '2 grave family estate' is available for R91,800 and a '6 grave family estate' for R266,400. The cemeteries sit in a similar rhetorical frame as Calgro M3's collection of 'lifestyle estates' or retirement villages, which offer secure housing in a park-like setting and with high levels of personal service (<https://www.calgrom3>). Arguably, memorial parks in South Africa extend the experience of extreme inequality beyond the grave and become 'an idiom for segregation' (Harrisberg, 2019).

South Africa is not exceptional. The profitability of cemetery services – particularly in the US – has long been subject to critical scrutiny, particularly given the development of global brands such as Services Corporation International, which trades as 'Dignity'. In these models, multiple opportunities are taken to maximise the profitability of cremation or cemetery services by inducing consumers to purchase additional items and services (Beard & Burger, 2017; Mitford, 1998; Sanders, 2012). The pressure to over-consume is built into any financialised system in order for providers to make the required profit, and there are consequences in terms of the unequal consumption of finite resources. Any financialised cemetery system adds additional stress to the issue of sustainability, and provokes



questions as to why rich decedents in a community should be allocated resources needed by the living, poorer members of those communities.

Increasing population pressure is a second context threatening the delivery of social justice within cemetery systems. Well over half of the world's nation states have a population that is more than 70 per cent urban, and there are 356 cities with a million or more residents. Rapid expansion of urban populations often overwhelms existing cemetery systems and creates an imperative to streamline or even replace traditional practices. These changes happen in numerous ways. The spaces afforded the dead are reduced by aggressive state promotion of cremation; where cremation is the primary practice, systems are devised to 'densify' the storage of cremated remains; and renewable grave tenure is mooted for places without such tradition (Tremlett, 2007; Kong, 2012; Davies & Bennett, 2016). Perhaps the most extreme example is Hong Kong, which is 100 per cent urban and densely occupied. Here, government promotion of cremation has not eased pressure on land, as a consequence of growth in the number of columbaria. Since the 2000s, scattering cremated remains at sea has been proposed as the new state-preferred option (Chan, 2019). This kind of change often undermines and restricts the ritual content of funerary practices and reduces the consolation they offer. Dissatisfaction, in turn, creates opportunities for private sector intervention (Rugg, 2018), which in turn exacerbates inequalities.

## **Conclusion**

The American Planning Association *Code of Ethics and Professional Conduct* expressed commitment to 'urge the alteration of policies, institutions, and decisions' that were incompatible with choice, opportunity for the disadvantaged and social integration (Moroni, 2019, pp. 2). A first step in evaluation is to recognise an institution requiring change. This paper has identified 'cemetery systems' as bounded institutions with a specific function, in evidence in every country. It is possible to evaluate these system according to a range of social justice principles, and here reference has been made to the desirability of a right to decent treatment at death; the obligation to be democratically accountable and so responsive to societal expectation; equal access of all people to decent treatment of their dead, irrespective of income; freedom of religious expression; and due regard for environmental sustainability. This paper argues that the intervention of the private sector tends to exacerbate inequalities. It is also the case that population pressure tends to unbalance cemetery systems in favour of more highly functional state-run approaches. These in turn undermine the social objectives of funerary systems and increase demand for private sector alternatives.

This paper has presented a first foray into the interconnections between planning, social justice and deathscapes, and has used themes within political theory to address elements of funerary practice. It is acknowledged that taking a human rights perspective is not unproblematic, and that 'human rights' may be regarded as Westernised values that are

not universally applicable. However, this paper has drawn on global examples as an indicator of the universality of problems associated with need for all societies to decide how to organise the disposal of the dead. Different kinds of problems pertain in different locations and cultural contexts: for example, in European countries, problems of integration have followed the flow of migrants and created tensions around religious and cultural expression in funerary practice. In developing countries, planning and technology infrastructures are not always adequate to ensure that cemeteries and crematoria are non-polluting. Global megacities, subject to high levels of densification, are recreating burial and cremation practices that are rather more functional than social.

In this initial foray, it has not been possible to draw on data that is reflective of user perspectives of cemetery services. Profound emotional and spiritual consolation can be delivered by well-managed and sensitive cemetery systems. Conversely, deep distress is likely to attend to systems that are poorly framed in terms of the social justice principles outlined here. This paper calls for greater attention to be paid to examining the experience of social injustice in cemetery systems, particularly in the contexts of financialisation and urban densification. Further research is required to understand whether and how far marginalised services users are able to negotiate or mitigate the impact of these injustices.

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## Box 1: Delivery of cemetery services

### Provision of burial space

<i>Economy of provision</i>	State church owned and/or controlled; Mixed economy including two or more elements of denominational, municipal, private sector and 'homestead' interment; or Municipal/state only
<i>Grave tenure</i>	Perpetuity, which may include single interment per grave; Mixed offer of perpetuity and limited-tenure graves usually with multiple interments in each grave; or Limited-tenure graves only

### Provision of cremation facilities

<i>Economy of provision</i>	State/local authority only; Mixed economy of state /private; or Private sector only
<i>Delivery model</i>	Service crematoria; Mixture of service and functional crematoria; Functional crematoria only; or Open-air cremation sites only or with functional crematoria
<i>Disposal of ashes</i>	In flowing water; Compulsory interment in cemeteries alongside full-body interments, or in specific 'urn gardens' (with limited or perpetual grave tenure) or scattering in gardens of remembrance; or Freely (within broadly defined public health parameters) including retention within the domestic sphere, scattering in public places.

<sup>i</sup> Although it is interesting to note instances where cemetery systems have been imposed by one nation on another, as happened under the Napoleonic Empire (see eg Malone, 2017 on the Italian states).

<sup>ii</sup> It is also the case that bodies may be disposed of via excarnation using methods including tree and platform burial which were common practices amongst First Nations. Parsis also dispose of their dead through exposure in to scavenging birds, using Towers of Silence. However, the numerical incidence of these practices is extremely low.

<sup>iii</sup> [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule115](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule115)

<sup>iv</sup> Services are delivered by 'burial authorities', which include all tiers of local government with the exception of county councils. A summary is given in Rugg and Parsons, 2018.

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<sup>v</sup> The concept of temporal inequality in cemetery provision was developed with Ioanna Paraskevopoulou during a tour of the Third Cemetery in Athens in 2019.