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Civic-Led Banishment in South Africa: Punishment, Authority, and Spatialised Precarity

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Abstract: Civic-led banishment, a fundamentally spatial punishment, is an understudied phenomenon in South Africa and beyond. We define it as “a punitive spatial practice, enacted by non-state actors in response to alleged criminality or deviance, which attempts varying degrees of socio-spatial expulsion over time”. This definition lays the framework for a socio-spatial analysis of punishment, and yields insights into the exercise of socio-spatial control in public and private space. We emphasise the specific challenges associated with banishment, together with the relationship between space, punishment, public authority, and sovereignty. We demonstrate how “negotiations” around banishment trade off two forms of intersecting precarity: those faced by residents in informal settlements and the potential precarity of public authorities. Finally, we argue that an exploration of all forms of punishment through the lens of socio-spatial expulsion enables us to tap into conversations around penal abolitionism.

Keywords: punishment, banishment, South Africa, sovereignty, informal settlements, precarity

Introduction

Interest in banishment has been growing in recent years, with scholars expanding both the times and places in which they study this phenomenon (e.g. Washburn 2013), and extending its definition (e.g. Beckett and Herbert 2010a, 2010b; Roy 2018, 2019; Super 2020). We situate our paper amidst these generative discussions, focusing on “civic-led” banishment. We use this term to refer to actions instigated by social actors rather than state institutions and officials. Building on Super (2016, 2020) we argue that civic-led banishment is an important, but underexplored, mode of penal control in South Africa.

We define civic-led banishment as “a punitive spatial practice, enacted by non-state actors in response to alleged criminality or deviance, which attempts varying degrees of socio-spatial expulsion over time”. Because those labelled “criminal” are targeted with expulsion we regard civic-led banishment as a type of penal control or “penal phenomenon” (Hannah-Moffat and Lynch 2012). Our definition lays the groundwork for a socio-spatial framework through which we can understand banishment and other forms of penal control. We argue that this conceptual innovation is useful on two fronts. First, it gives new insights into the forms of socio-spatial control being exercised in public and private space. Just as recent work in the United States and elsewhere has extended the concept of banishment to include park exclusion orders, curfews, and evictions (e.g. Beckett and Herbert 2010a; Roy 2019) we make the case for extending the concept even further, to include civic-led banishment in South Africa, and beyond.

Second, our definition of civic-led banishment highlights the particular challenges posed by this mode of penal control, and the insights they bring to the relationship between space, punishment, and public authority.¹ Banishment is a *fundamentally spatial* punishment (Laitinen 2013) which not only pivots on the creation of distance between accusers and accused but also necessitates the maintenance of distance over time. As such, it differs from corporal punishment, which has been the primary focus of literature on civic-led punishment in South Africa. This paper explores how the socio-political and spatial specificities of informal settlements in South Africa shape the possibilities of banishment, raising particular challenges for those seeking a space of impunity for their actions. We are not arguing that informal settlements are the only spaces in which civic-led banishment occurs. Far from it. In her work on policing in eThekweni, S.J. Cooper-Knock also heard of banishment from state-owned rental stock and private housing, spanning areas with different socio-political histories, classes, and tenure types. It is also at work in street patrols across the country. Our focus on a particular settlement type simply allows us to explore how the dynamics of specific spaces shape the practices and negotiations necessary to “secure” this form of penal control. Given that banishment is a fundamentally spatial punishment our framework examines how the precarity of certain spaces plays a role in the way that banishment is implemented and the degree to which it is maintained over time.

We conclude by demonstrating that a socio-spatial analysis of punishment takes us beyond understandings of punishment that are organised around categories of state/non-state, violent/non-violent, or legal/non-legal and loosens the hold of these organising concepts. Exploring all forms of punishment through the lens of socio-spatial expulsion enables a conversation about punishment in general, and the extent to which it is grounded in symbolic or actual expulsion (Dubber 2006; Super 2021). By highlighting the socio-expulsive nature of punishment, specifically long-term imprisonment, we tap into the conversation (and possibilities) of penal abolitionism.

Civic-Led Banishment: Conceptual Innovations

Although there is a rich and growing literature on civic-led policing and punishment in South Africa, very little attention has been given to banishment (with the

exception of Super 2016, 2020). To date, most scholarship on civic-led punishment in South Africa has focused on corporal (i.e. physical) punishment. Thus, we hear of the infamous assassinations of gangsters by People Against Gangsterism and Drugs in the Western Cape (Desai 2004; Dixon and Johns 2001); assaults tied to Mapogo A Mathamaga in Limpopo (Oomen 2004; Rush Smith 2015); assaults administered or engineered by the groups in Port Elizabeth (Buur 2008); acts of “mob justice” in the Eastern Cape (Buur 2009a) and KwaZulu-Natal (Cooper-Knock 2014); as well as community patrols exercising violence (Fourchard 2011; Kirsch 2010; Super 2016).

When banishment does appear, it does so on the fringes of this literature, highlighted in an historical footnote or mentioned amidst a range of possible punishments (Buur 2008:575; Minaar 2001:38; Oldfield 2004:198; Singh 2008:105). Banishment is also noted in the urban studies literature as a threat posed against political leaders (Bénit-Gbaffou and Katsaura 2014:1819–1822). Here, however, it is the contentious nature of local politics rather than banishment itself that is in focus. Consequently, whilst civic-led banishment remains an important penal phenomenon we know little about its form, function, meaning and contestation. Building on Super (2016, 2020) this paper adds to our analysis of civic-led banishment by creating a framework through which it can be better understood. Below, we outline established ideas of state-led banishment before developing our definition of civic-led banishment.

State-led banishment has a long history in South Africa, as it does across the globe. Black’s Law Dictionary (2019) defines banishment as “a punishment inflicted upon criminals, by compelling them to quit a city, place, or country for a specified period of time, or for life”. In South Africa, banishment played an important role in the punishment of resistance to colonial regimes (Badat 2013) but during the Truth and Reconciliation Commission, it was recognised as a “gross violation of human rights” (Bell and Ntsebeza 2003). Consequently, it is considered unconstitutional today.

The same is true in the United States, where banishment is considered illegal. Numerous scholars, however, highlight how state-led projects have re-established banishment practices in America and why this term specifically remains important (Beckett and Herbert 2010a; Roy 2019). Ananya Roy (2018, 2019: 227–228), for example, argues that terms like “displacement” do not cover the multiple forms of “dispossession” systematically faced by Black families experiencing eviction after their mortgage foreclosures. She uses the term “racial banishment” to emphasise the “territorial proliferation of ... *prison logics*, manifested in geographies of forced mobilities and *illegalised presence*” (emphasis added). Beckett and Herbert (2010a, 2010b) focus on the punishment-like nature of a range of civil law measures used to exclude people from small areas—like parks, buildings or neighbourhoods—in the name of tackling social problems like homelessness, drug addiction, or gang membership. Because they are enacted through civil law mechanisms, reliant upon a relatively low burden of proof, officials can use these measures flexibly and at their discretion (Beckett and Herbert 2010b:3–5). Breaking these orders, however, constitutes a criminal offence (Beckett and Herbert 2010b:4). The results can be “negative and significant, particularly if they amass

over time" (Beckett and Herbert 2010b:12). Furthermore, these practices are *experienced* as punishment by those at the receiving end (Beckett and Herbert 2010a:11). Therefore, they describe them in terms of "banishment" not "exclusion" (Beckett and Herbert 2010a:11–12).

Such work is significant because it encourages us to consider where punishment (in this case banishment) may be instigated under a different guise. The focus of these authors, however, remains on state-led banishment. Building on Super (2016, 2020), we expand that focus to include civic-led banishment. We acknowledge the importance of exploring banishment as a state-led process, because it highlights the systematic undermining of people's substantive rights by the state. De-centring the state in our conceptual frameworks, however, does not weaken our capacity to speak about systematic state injustice (Shearing and Wood 2003:404). If we expand the concept of banishment to include civic-led banishment, we are still able to talk about state-led projects but can *also* speak about civic processes, and their interaction with projects of statehood.

Next, we develop the key facets of our definition of civic led banishment which we define as "a punitive spatial practice, enacted by non-state actors in response to alleged criminality or deviance, which attempts varying degrees of socio-spatial expulsion over time". This definition provides a framework through which we can explore banishment and reconfigure our conversations around punishment more broadly.

Non-State Actors: By focusing on "civic-led" banishment we analyse punishment imposed outside the state criminal and civil law system. In other words, we explore banishment instigated by social actors rather than state institutions and officials. Both state and civic banishment are expulsive. However, whereas state banishment is lawful (or at least lawful until proven otherwise) civic-led punishment is unlawful. This unlawfulness renders it more precarious than state banishment because its effectiveness is dependent on its perceived legitimacy (as opposed to its legality)—by both its targets and onlookers (immediate and distant). We recognise, however, that the boundaries between state and non-state are constructed, blurred, and porous (Bierschenk 2010; Hagmann and Peclard 2010:–539). In practice, the relationships, resources, symbols, ideas and ideologies that weave across any institutional boundary means that there is no natural divide between state and non-state (Mitchell 1999). Rather, the creation and sustaining of a boundary between the two is a political act, which can be used to leverage symbolic, interpersonal, institutional and material power (Fuller and Beni 2001; Mitchell 1999). Thus, we focus on those who are *constructed* as being beyond the bounds of the state but our analysis explores the ways in which this boundary is solidified or subverted in practice.

*Punitive Spatial Practice...In Response to Alleged Criminality or Deviance:*² Whilst all punishment operates in dialectic with space, banishment is a fundamentally spatial punishment (Laitinen 2013), pivoting on the creation of distance between accusers and accused. For an expulsive action to be classified as banishment it must seek to exclude someone from a space that they could otherwise have entered or occupied because they are believed to have committed a "criminal or deviant" act (Beckett and Herbert 2010a:11–12; Super 2020:50). The space in

question could vary greatly—from a house or street corner, to a settlement, a section of a settlement, or a province. The banished group/individual may be barred from these spaces at all times or just at certain moments, such as evenings or weekends. We argue that civic or private security patrols that impose curfews and/or seek to remove, or bar “suspicious” people from a particular area—often because of *who they are* not because of *what they do* (Cooper-Knock 2016; Cooper-Knock and Owen 2015; Roy 2019)—are also acts of banishment (see also Super 2016).³

Attempts: This word is crucial because it allows us to take attempted banishments seriously, exploring the diverse hopes and ideals of participants. Over time, civic-led banishments are often renegotiated, eroded, ignored or overthrown. Precisely because banishment is an unstable penal form, we must analyse both what people are *trying* to do through acts of banishment as well as the actual outcomes that follow. In doing so, we can understand the needs, interests and desires that drive civic-led banishment *and* acknowledge the relationships and resources that make these aspirations incredibly difficult to pull-off in practice. This also enables us to see the contradictions between the discursive lines of the “moral community” (Buur and Jensen 2004:144)—which divides the “criminal” from “community”—and the entangled, messy nature of social life. This divergence is what can make projects of socio-spatial expulsion equally enticing and elusive.

Varying Degrees of Socio-Spatial Expulsion Over Time: Banishment is inextricably linked to both space and time because it always seeks to engineer a re-ordering of socio-spatial relationships over time. The time in question might be a matter of hours or a matter of decades. Either way, banishment depends upon instigators being able to claim and sustain sufficient authority over space and *across time* to render it effective. Corporal punishment, in contrast, is typically enacted with relative immediacy. While the moment that banishment is initiated might be referred to as an act of expulsion, banishment itself is ongoing. As we will see below, it is precisely this temporal dimension that makes it so difficult to achieve and sustain. Such difficulties are not limited to civic-led banishment, as the high failure rate of state-led banishment testifies (e.g. Beckett and Herbert 2010a). Nonetheless, by placing the question of time at the core of civic-led banishment, we draw attention to its precarity, which of course, is exacerbated by the fact that, like other forms of civic-led punishment, it is illegal.

To classify banishment as a purely spatiotemporal manoeuvre, however, would be to ignore the fundamental logic of this punishment. People are banished from spaces because the instigators are attempting to rid society of behaviour that is considered to be criminal or deviant. This is why banishment must be conceived as “socio-spatial” in nature. These two elements are inextricably tied but how they are configured may vary from instance to instance. Thus, we think of banishment as being positioned on a grid—where the degree of both social and spatial expulsion sought may vary. In doing so, we create a framework for gauging a more nuanced idea of what those initiating banishment hope to achieve. At its most extreme, instigators seek complete socio-spatial erasure (i.e. death) (Super 2016, 2021). While death represents the most extreme form of permanent removal, less extreme but nonetheless permanent removals include the

banishment of a person from a particular space and all the social networks embedded within (or flowing through) that space. Often, however, instigators seek a less extreme goal. They may, for example, seek to bar someone from living in an area but not object to them maintaining social relationships with those who remain. In practice, this is always subject to contestation: thus, socio-spatial expulsion may be sought but never realised.

Having established our definition, the paper proceeds as follows: first we discuss our methodological approach. Next, we explore the parameters of public authority and “permissive space” (Cooper-Knock 2018) within informal settlements in South Africa. Our aim in this section is to highlight how socio-political realities have emerged in dialectic with space across South Africa. Such dialectics exist across the world but they are perhaps particularly strong in South Africa because apartheid was, in essence, a spatial project. Informal settlements today reflect these legacies and the imprint of post-apartheid policies which, in turn, shape negotiations over “permissive space”—that is, the space in which one can operate without consequences within or outside of the criminal justice system (Cooper-Knock 2018).⁴ We argue that those negotiating banishment face a paradox: on the one hand, the relatively expansive public authority that informal settlement leaders exercise, in a context of limited legal protection, renders residents vulnerable to banishment. That same degree of leverage, however, means that local leadership positions are often highly contested, and shaped by the power relations emanating from local party political committees and the nature of the ward council system. Thus, instigating and sustaining socio-spatial expulsion creates social and political costs that local leaders, and residents, can oft ill afford. Having laid the foundation for our argument, our final section explores how these negotiations over permissive space play out in practice.

Methodology

This paper explores how the social, political and spatial specificities of informal settlements in South Africa shape the possibilities of banishment that exist there. Our main concern is to advance the theoretical concept of civic-led banishment. To do so, we draw on both original and previous research that we have respectively been engaged in for the past 15 years. Our empirical examples are drawn from a pilot project conducted by the authors in Cape Town during 2015; research by Super in informal settlements in Khayelitsha, Philippi, Nyanga, and Masiphumelele (Cape Town) from 2012 to 2020; Cooper-Knock’s research in eThekweni between 2010 and 2020; and research that Cooper-Knock conducted with Fiona Anciano and Mfundo Majola in Imizamo Yethu (Cape Town) between 2019 and 2020.

Our research was predominantly conducted through qualitative, in-depth interviews with residents, NGOs, lawyers, and state officials in each of our areas of research. We also attended meetings of community-based organisations in our research sites, where discussions were held about how to deal with and prevent crime. During the course of her research Super was a witness for the Social Justice Coalition (SJC)⁵ at the Khayelitsha Commission of Inquiry⁶ and observed the first

ten days of its public hearings; attended mass meetings hosted by the SJC's "Campaign For Safe Communities"; and was a member of the Anti-Vigilantism Sub-Forum established in the wake of the Commission. Cooper-Knock has attended meetings of the Informal Settlement Network in Cape Town and Abahlali baseMjondolo in eThekweni, as well as Community Police Forum meetings across eThekweni. In addition to interviews, Super attended three trials where community members were charged with criminal offences in connection with vigilante-related violence; Cooper-Knock also observed magistrates court cases for three months in eThekweni, which included cases of vigilante violence. We draw on newspapers, state documents (including the records of court cases), and residents' documents to substantiate our findings. Our joint interviews for this project were conducted in English or Afrikaans. Other interviews varied, with some done as part of a broader research team. While we both speak some Xhosa and Zulu, where interviews occurred in those languages, they included a translator.

Our interest in banishment and public authority arose out of our previous research into vigilantism. Both of us are penal abolitionists. As such we do not support imprisonment as a response to crime, and find the argument that "'ineffective' state policing causes vigilantism" to be both reductionist and problematic—not least because we do not believe that the criminal justice system provides an adequate solution to social and structural problems. We are acutely aware, however, of the important role that criminal (in)justice plays in the lives of poor residents in South Africa's informal settlements. The mixture of state oppression and neglect (not least in the sphere of policing) that characterises these spaces has resulted in a multitude of problems. It is precisely because of this neglectful absence that many perceive a punitive state as a stand-in for substantive justice (Caldeira and Holston 1999; Koch 2019; Super 2021). Being aware that we were writing about experiences we had not lived, we sought to maximise the capacity of our interviewees to "object to what is said about them" (Mosse 2004) within interviews, in informal conversation, and through feedback at community meetings. In this way, we sought to create a feedback loop—however imperfect—which shaped our analysis.

Public Authorities, Precarity, and Permissive Space

There is much diversity within and between informal settlements across South Africa. Nonetheless, we can identify key socio-political and economic trajectories, which shape the lived realities of informal settlement residents, and everyday governance in these areas. This section begins by exploring the emergence of informal settlements and their evolving relationship with the state, providing an insight into the form and function of public authority in such spaces. This socio-political context provides the parameters within which permissive space—the space of impunity—is negotiated. We close by discussing the challenges that face those who try to secure such a space for their actions.

An estimated 13.1% of South African households are in informal settlements (News24 2016). Their emergence was intimately tied to the apartheid regime. As Anne-Marie Makhulu (2010: 552) has shown, informal settlements grew as

African workers, who were barred from permanent residence in urban areas on account of their race, sought spaces to live. In some senses, these settlements acted as an “accommodation” to the system but they were also spaces of “opposition and subterfuge”. Some of the governance structures that play a role within informal settlements today—like street committees⁷—are rooted in these histories of opposition.

In the transition from apartheid much changed, but critical structural problems have remained. Today, South Africa is one of the most unequal countries in the world, with informal settlements and impoverished rural areas bearing the brunt of centuries of racial capitalism. Relationships between informal settlements and the state remain complex. In one sense, their very existence is testament to the limits of the state because the post-apartheid constitution provides for “adequate housing”. Since 1994, access to adequate housing through the market remains unaffordable for many and the state’s delivery of housing has not kept pace with demand. Where housing has been delivered it has not always been deemed adequate by recipients due to its quality and/or location (Huchzermeyer and Karam 2006; Pithouse 2008). Basic services in informal settlements (such as electricity, water, and sanitation) are expanding but remain limited. Income levels within informal settlements vary but many residents are struggling to make ends meet in contexts of deindustrialisation and stubbornly high unemployment (Hunter and Posel 2012). Although the state provides social grants these do not measure up to the wide-ranging socio-economic rights promised in South Africa’s constitution (Hart 2014).

Over the last 25 years, the state’s response to informal settlements has been changeable and contradictory. On paper, state policy has shifted towards a more inclusive policy of incremental upgrading (Cirolia et al. 2017). In reality, violent and illegal evictions of informal settlement residents by the state continue (Chance 2018). Where the state does acknowledge people’s occupancy within an informal settlement, residents gain some security of tenure but this does not equate to transferable ownership. In practice, however, many informal settlements have thriving rental and property markets (Muzondo et al. 2004:8).⁸ This dissonance means that the tenure is ultimately negotiated with the state *and* with other residents and leaders (Barry 2006). Tenure security thus becomes one of several forms of security that informal settlement residents must negotiate, including physical and socio-economic security (Meth 2013). The relative ease or difficulty of these intersecting negotiations varies by individual, household and settlement. But due to the expulsive physical and structural state violence that underpins the creation of these settlements, the structural inequalities that sustain them, and the multiple power relations that are produced from the intersection of informal settlement leadership and local party-political structures, security in its diverse forms can prove elusive for many residents.

Our article focuses on the pursuit of one form of security (and justice), through civic-led banishment. To understand how banishment is negotiated, we must first understand how leadership and governance functions within informal settlements. For that, we turn to the structure of local politics in South Africa. Each municipality across the country is divided into wards, which are represented by a Ward

Councillor as well as Councillors elected municipally through Proportional Representation. The largest ward in South Africa covers over 118,000 residents, with the most substantial wards typically being in metropolitan areas (Udjo 2017:94). This can mean that Ward Councillors are responsible for populous and diverse areas and that a sizeable gap exists between state representatives and everyday neighbourhood governance (Anciano and Piper 2018:63; Cherry et al. 2000:902; Meth 2013). That gap becomes particularly significant within informal settlements where, as mentioned, everyday life is governed by a mixture of state and non-state regulation (Anciano and Piper 2018).

Unless they are considered actively oppositional, councillors and state officials typically allow local community leaders a wide range of *de facto* discretion over the governance of their areas. Leaders, for example, often play a crucial role in the negotiation and recognition of tenure in a settlement. Often, a local committee holds some form of documentary record of ownership and rental although the veracity of these records varies (Anciano and Piper 2018). To bolster tenure security, residents may also seek letters from their Councillor (Patel 2013:280) or affidavits of “sale”. Ultimately, though, the local committee plays a critical role in shaping tenure security and sale. In the sections of Khayelitsha that Super studied, for example, new residents had to provide a letter from their previous area’s leadership explaining why they left, along with reference letters attesting to their good character. Informal sales were also meant to be authorised by the street committee, with preference given to local residents. Similar practices existed in many of the settlements in which Cooper-Knock worked (see also Barry 2006). While the specifics of spatial governance varied, this level of informal authorisation was normalised, with state officials tending to ignore or enable such practices.

The breadth of issues that leaders oversaw meant that their opportunities to pursue both public goods and private gains could be significant (Misago 2017).⁹ Consequently, leadership positions were often hotly contested. Routes to leadership, however, could be multiple and diverse. Because settlement-level governance exists below the bottom tier of representative governance in South Africa, there is no “pre-ordained hierarchy” between the different organisations that exist within particular settlements (Spinardi et al. 2020:540). Therefore, the representation and negotiation of people’s everyday needs is undertaken by diverse organisations, ranging from religious institutions to political parties; from social movements to street and section committees, which form part of the rich associational life in different neighbourhoods (Vivier and Sanchez-Betancourt 2020). It is, therefore, always crucial to define public authority from the ground up. The presence of a particular organisation—like a political party—tells us little about who represents that party on the ground, the authority it exercises over different issues, the terms of that authority, and the shifts in its importance over time (often in keeping with electoral cycles) (Anciano and Piper 2018; Drivdal 2016). The relative importance of these organisations depends on the historical repertoires of authority in a specific area, as well as the contemporary networks of relationships and resources that hold sway (Barry 2006). This may well mean that political parties remain key in multiple areas. But their relative importance—and their meaning—has to be demonstrated rather than assumed. Moreover, any

analysis of public authority must acknowledge its contested nature. In matters of dispute resolution, for example, the authority of different organisations may wax and wane. The boundaries between different organisations may also solidify or dissolve over time (Misago 2017:45). Often a “committee” and “leaders” will emerge within a given settlement but their institutional and personal loyalties; the basis of their legitimacy; and the means by which they can gain or lose power remain an open analytical question (Béni-Gbaffou and Katsaura 2014:1815). Neighbourhood-level politics are never divorced from international, national, and provincial realities and relations of power, but they are also shaped by the highly localised particularities. Understanding this is crucial if we are to understand how civic-led banishment is negotiated on the ground in precarious contexts.

Those instigating banishment—like those undertaking any form of illegal punishment—must negotiate a “permissive space” for their actions. That is, a space of impunity in which people can avoid consequences for their actions from within or without the criminal justice system (Cooper-Knock 2014). We argue that civic-led banishment creates a particular paradox for those trying to negotiate a “space” for their actions. As already noted banishment is a *fundamentally spatial* punishment (Laitinen 2013), pivoting on the creation of space between accusers and accused. On the one hand, the relatively expansive public authority that leaders may wield within informal settlements, in a context of limited legal tenure, renders informal settlement residents vulnerable to banishment. There is a danger, for those facing banishment, that their expulsion will be viewed by state officials as part of the legitimate authority that informal settlement leaders exercise over space. At the same time, the expansive nature of public authority in informal settlements leaves leadership more vulnerable to contestation. Consequently, instigating and sustaining socio-spatial expulsion creates social and political costs that local leaders may ill afford. Similarly, in a context where intersecting insecurities make local networks of support particularly important for residents, banishment can create an unsustainable rupture in connections with neighbours, family, friends, and acquaintances. In the section below, we explore this paradox in practice, exploring examples of banishment that seek different forms of socio-spatial expulsion.

Spatial Precarity and Civic-Led Banishment: Exploring the Framework

Above, we explored the paradox that banishment creates within informal settlements, where settlement leadership and social networks are potentially as powerful as they are precarious. Below, we look at how these dynamics play out in practice, by exploring three different forms of socio-spatial expulsion: spatial banishment as continued social relationship; spatial banishment as conditional social inclusion; and banishment as socio-spatial rupture. In each case, we explore the negotiations that civic-led banishment created around public authority and spatial precarity.

Spatial Banishment as Continued Social Relationship

We start with examples of banishment that blur notions of parental authority, familial care, and public order. These cases centre on the banishment of young

people from the settlement under the guise of discipline and/or reform. Typically, in these examples, someone is sent to another section or to the rural areas, in order to remove them from the temptations of crime and to subject them to stricter discipline in an attempt to change behaviour that is seen as criminal or deviant (Super 2016, 2020).

In several of the examples that we give in this section, we explore how the coercion that lies at the heart of banishment is rendered less visible. Sending young people away can be represented as an act of parental (or quasi-parental) authority, as being in the youth's best interests, and as being part of broader practices of multi-sited care (many of which are not driven by punitive motives). In reality, what distinguishes banishment from the many contexts in which adults may send young people in their care elsewhere is that this sending away is an act of punishment and the person may not return until the instigator decides that the punishment is over. Framing civic-led punishment purely as an act of care and/or as a form of lawful parental discipline (i.e. as a continued social relationship between parent and child), masks the punitive and coercive side of being "sent away". Resultantly, instigators are unlikely to run afoul of the criminal justice system. Furthermore, where banishment is framed as an act of parental authority (including by someone in *loco parentis*) it is less likely to pose a challenge to potentially precarious public authorities. And as such, it is also less likely to rouse objections.

This is not to say that public authorities and social pressures do not shape these acts of banishment. On the contrary, such manoeuvres are often coercive and can draw in public authorities in complex ways. Our research in eThekweni and Cape Town found that parental figures occupy a difficult position when those in their care are accused of committing crimes. If they are not seen as taking decisive disciplinary action, they risk others doing so. They also risk being seen as part of the problem themselves: as someone who is enabling and benefiting from crime in the neighbourhood. To protect those in their care and themselves, parents can feel under pressure to *be seen to be* disciplining young people. Banishment was one of the more extreme measures that parents could take in this regard, as several cases that Super studied reveal: in PJS settlement, for example, a young person had been "voluntarily" sent to the Eastern Cape by his parents.¹⁰ In reality, this was not a purely voluntary act. His parents had acted because they knew that if they did not, their child would be assaulted and they all risked being chased from the settlement (Super 2016). In some cases, the role of public authority or broader social pressure was more explicit. In R settlement a local branch of the South African National Civic Association (SANCO) summonsed the parents to a meeting where it was collectively decided that the child had to leave the neighbourhood (*ibid.*). Elsewhere two boys, aged 14 and 15 years, were suspected of having stolen a laptop and cellphone. They, together with their parents, were summonsed to a general meeting of residents where community leaders threatened to call the police and also warned the parents that their children would be seriously assaulted if they were not sent away. Given that the children had already been assaulted by two section committee members to obtain a confession and trace the stolen property, the threat of further violence was credible (Super 2020).

What is clear from these examples is that when spatial banishment is framed as *a form of continued social relationship* it falls under the umbrella of parental authority, which makes it both easier to justify at a settlement level and less visible as a form of punishment to the state. In such cases, the permissive space in which punishment occurs can be relatively stable, and costs for public authorities may be minimal.

Spatial Banishment as Conditional Social Inclusion

Our second example explores the banishment practices of street patrols enforcing curfews. Many scholars view illicit road closures, street patrolling and curfews as acts of exclusionary policing, with discussions of punishment being reserved for instances in which patrols exercise violence against suspects (Cooper-Knock 2014; Diphorn 2017; Kempa and Singh 2008; Tshela 2003). We argue, however, that such patrols should be seen as acts of intermittent (small-scale) banishment (see Super 2016).

Take the patrols that Super analysed in Site B section of Khayelitsha and Cooper-Knock explored in Imizamo Yethu. In both cases, these patrols claimed to act in the name of “the community” against “criminals”. Discursively, the line between criminals and community was clear. In practice, it was not always as apparent. When the patrols in each section were enforcing evening curfews, those who were present on the streets were deemed to be criminals, unless they could prove otherwise. During the evening, inclusion in “the community” became conditional on people’s absence from the streets.

Imizamo Yethu is a settlement in Hout Bay (Cape Town) with a mix of informal and formal housing where a male patrol has been running periodically since 2016 (Anciano and Piper 2018).¹¹ In its most recent iteration, the patrol instituted a curfew from 10pm until the morning during which time people were expected to be at home. Here we see the logic of protection and punishment blur (Super 2016:464). Patrols started from the premise that respectable members of the community would not be outside their homes after this hour. Therefore, the ones who were being excluded from the streets were necessarily criminals and if they were encountered, they should be punished as such (see also Fourchard 2011; Super 2016).

The intermittent banishment that Imizamo Yethu’s patrols enacted was part of a larger project of controlling crime in the area which sought *both* to limit the presence of “criminals” from outside the neighbourhood and to discipline those within the neighbourhood. Thus, in addition to staying off the streets after 10pm, residents also had to refrain from playing loud music or having parties within curfew hours. As one male resident recalled, “At ten o’clock. After ten o’clock they are outside. We must stay nice with your house ... after ten o’clock, I can’t play the music on loud”. In these cases, we see the logic of expulsion and that of containment beginning to blur (Sylvestre et al. 2015).

The banishment work of street patrols has been normalised in post-apartheid South Africa by the growing prevalence of private security companies who patrol more affluent areas (Diphorn 2015).¹² This, in combination with the latitude

residents in informal settlements have to govern space means that patrols are unlikely to be opposed by the state. They may even be actively endorsed through community policing initiatives (see Cooper-Knock 2014; Super 2016:453). The permissive space in which they operate becomes unstable, however, where they begin to irritate or intimidate residents or where they face hostile responses from the criminals that they tackle. In Imizamo Yethu, while some residents supported the patrols others felt that their project had gone too far. One female resident, for example, shared the story of her neighbours, who had been attacked with pepper spray in their house for playing music too loudly. Acts like this, she argued, were turning residents against the group. Many of the patrols we studied were relatively short-lived precisely because of the threat of retaliation that they faced from residents and/or criminals via legal cases, threatened violence or social ostracism. Even where patrols were endorsed by leaders in the area, they could rarely withstand this kind of resistance. And this, ultimately, was the paradox they faced: their social control often rested on the implicit threat of violence but if this threat was actualised, it could quickly erode the good will upon which they rested.

Banishment as Social and Spatial Rupture

The third form of banishment that we explore—banishment as social and spatial rupture—often proved the most difficult to sustain. Instigators might hope for a permanent expulsion but in a context where leadership is potentially precarious and social networks are important, social rupture and physical distance could prove too challenging to maintain. Below, we explore how such acts were initiated, providing important insights into negotiations over authority, legitimacy and impunity, before exploring their relative fragility over time.

In some cases, support for banishment was forged through the public performance of deliberative action, where decisions were legitimated as acts of representative governance. In Khayelitsha, for example, a man's neighbours complained to their street committee that he regularly started fires in his home when trying to cook whilst drunk. Due to the size and materiality of many informal dwellings, as well as the open-flame energy on which many residents are forced to depend, there is an "inhumane margin for error" (Spinardi et al. 2020) over fire hazards within informal settlements. In the governance of fire-related behaviour, residents trade this knowledge off against the fear of settlement fires, which can spread quickly with deadly consequences. In tackling this case, the committee drew on institutionalised procedure, giving the man three warnings (as they were obliged to do in their constitution) before asking him to "take his materials and leave the space" (in Super 2020).

In another case, when two brothers in their 20s were suspected of breaking into shacks in the Wetlands Informal Settlement in Masiphumelele,¹³ the section committee called the parents and wrongdoers to a meeting. There, according to Super's interlocutor, they tried to convince the brothers that if they continued committing crimes the whole family would be "chased away". The young people were placed on six months of "probation", with everyone agreeing that if "anything happened again they would have to move" (in Super 2020). When it

became clear that the warning was not being heeded, the section committee referred the matter to the area committee which called the entire section (about 3,000 people) to meet at an outside open space. At this meeting the decision was taken to “drop down” (destroy) the shack and evict the family. The committee even informed the police of the decision and asked for assistance with the expulsion, “because we didn’t want anyone to beat them”. In complying with this request, and effectively supervising the demolition of the shack, the police both legitimated the banishment, shored up the area committee’s public authority, and prevented the banishment from collapsing into serious violence.

This same recourse to institutions and institutional process was evident in the case we studied of Thandeka and her sister Nomvula to the south-east of Cape Town’s CBD. Thandeka and Nomvula¹⁴ both moved to the settlement to buy homes when they were tired of renting. Settling into the community, Thandeka opened a shop inside her home to support her family, and Nomvula, her sister, joined the local stokvel.¹⁵ Nomvula subsequently used some of the stokvel’s funds without authorisation. With her sister’s encouragement, she approached the group and offered to pay them back. The stokvel members, however, accused her of under-estimating the amount she had taken and claimed that Thandeka had started her shop with the stolen funds. Subsequently, the sisters were brought before multiple meetings of the stokvel and the local section committee. Their position was weakened by the fact that the stokvel’s chairperson was also a key member of the section committee. The verdict was clear: “They say to my sister, she eat the money so they are going to sell her house”. Both sisters claim that this directive was underwritten with threats of violence: “They say they going to kill my sister and ... she must leave” (8 August 2015).

Recourse to institutions does two things in these cases. First, it helps to frame banishment to outsiders as an act of spatial governance in which leaders and committees represent their communities. Such governance, as we have argued, has been normalised within informal settlements. Second, institutionalised decision-making helps to reduce an individual’s personal exposure for pursuing a banishment by focusing attention on the public authority *qua* institution, on its procedures, and on the collective. This double manoeuvre makes banishment more socio-politically feasible (by acting in the name of “the community”) enabling state officials to interpret banishment as non-violent (Super 2016). However, where it is accompanied by serious physical assault, and/or the state’s sovereignty is directly threatened, claiming to act as a public authority could make it *more* likely that the state will seek to hold leaders accountable. Here, leaders often claimed strategic ignorance of events, explaining them as acts of “the community”. As a SANCO office holder explained to Super, “If it comes from the area committee then the police blame the committee” (16 August 2014).

Civic-led policing and punishment in the name of “the community” has a long history in South Africa. Practically, it confounds a criminal justice system that is designed to prosecute individuals. Politically, it seeks to legitimise a potentially contentious action by framing it as an act of popular policing and/or popular justice. In reality, of course, communities are often diverse and divided. Maintaining the mantel of “the community” can be near impossible over time. Nonetheless, it

can prove a powerful means of instigating banishment-as-rupture. In 2015, for example, suspected drug-dealers were expelled (amidst acts of lethal collective violence) from Masiphumelele. These events were precipitated by the brutal rape and murder of a 13-year-old boy. At a mass meeting, attended by around 800 people, a collective decision was taken to delegate a group of young men to find the offenders and purge the area of drug dealers (see Super 2021). Mobilising under “#drugsmustfall”, vigilantes destroyed the shacks of suspected drug-dealers and instigated forced evictions from formal (bricks and mortar) houses over a period of three months, in the name of “the community”.

Although events in Masi followed a mass meeting, in other narratives, banishment is more spontaneous. Take one settlement to the west of Durban, for example. This was considered a relatively peaceful area by its residents at the time, with a clear sense of community. That said, as with all neighbourhoods, there were also interpersonal tensions. Whilst no formal street committee existed, a small number of individuals claimed and exercised authority in different contexts. Their legitimacy came through a mixture of: their longevity as residents; their civic activism (e.g. in Community Police Forums, the shack dwellers’ movement Abahlali baseMjondolo, or the African National Congress); their willingness to speak up and act on community issues; and their ownership of land and property in the area. These individuals were not without their disagreements but largely co-existed cooperatively and have been known to act collectively as and when the community need arises. Despite being relatively peaceful, there have been several banishments within this area in recent years. In several of the cases described, these banishments built upon long-running frustrations but were ultimately fairly spontaneous. Take, for example, the case of a daughter and her husband who had a reputation for starting fights in the settlement. On one occasion, the husband had badly assaulted another resident. As Angela, a local resident who held some authority in the area recalled: “the same evening, actually, all the community members around here were standing together and chasing these people away ... they had to just grab whatever and go”. Although the mother was allowed to remain, like the parents we encountered above, she knew that she would be unable to renegotiate her family’s access to the area (28 July 2018).

This “community” action was less exposing than acting alone but the latter was not unheard of. Within the same settlement, for example, Cooper-Knock heard of a man who had been “chased” from the area by a female, middle-aged resident after he had assaulted her brother in the local bar. The resident in question had previously occupied an institutional position as a local social movement leader and a Community Police Forum official. She had earned residents’ respect by opposing an exploitative local landlord; by navigating legal and bureaucratic systems on the community’s behalf, and by obtaining food parcels and clinic support for more vulnerable residents. She had also, for a time, joined a political party and stood for elections as councillor. When she chased the man out of the area, she no longer held these positions and was intermittently living there. The fact that she was still able to wield considerable authority points to the complexity of rule in some settlements. In this case the echoes of her institutional roles remained significant. They earned her legitimacy in the area and also provided

her with a network of people who she could call on if necessary. Ultimately, however, she was only one of several people in the area who was able to wield such authority and, as we discuss below, this authority was precarious.

Thus far, we have demonstrated the different tactics that leaders and residents utilised to negotiate their ability to exercise public authority. The conundrum banishment posed, however, was that instigators had to try to sustain this spatial punishment over time. This was not merely a legal difficulty, it was a social and political one. While it might be easy to discursively separate “the criminal” and “the community” doing this in practice was another matter. In reality, those who were considered to be doing wrong were often connected to their areas in ways that could not simply be erased. Connections of fear, favour, and affection often remained. Since the “pains” of banishment were high, those who had the social connections to resist their expulsion did so. This was risky: the costs of such resistance could be lethal. On the other hand, with the right resources and relationships, individuals could make it legally, socially and politically untenable for leaders to resist. To illustrate this, let us return to three of the cases we explored above.

We start in Masiphumelele, the site of 2015 #drugsmustfall expulsions. Banishments are generally ignored by the criminal justice system because, as a state official anecdotally related to Super, they are seen as matters of spatial governance (Super 2020). Therefore, it was typically only in cases where severe physical violence *accompanied* the act of banishment that legal recourse was feasible. In Masi, where lethal violence accompanied the expulsions, the police arrested at least 37 people, thus closing and potentially collapsing the permissive space (for further detail, see Super 2021; see also Super 2017). One young leader who was arrested knew this personally. Placed on bail, he was given conditions that were themselves tantamount to a form of banishment, including court-ordered relocation to his sister in Khayelitsha (some 30 kilometres away) until the criminal charges against him were finalised (see also Sylvestre et al. 2015). Due in part to the violence administered by those who claimed public authority, and the legal charges that followed, the construct of “the community” fractured in the wake of the #drugsmustfall campaign and by 2018, many of those expelled had returned to the area.

Even where redress was not pursued, banishment might collapse because the *perceived* costs were deemed too high. This was true in the case of the man who was chased out by a former leader. The last time that Cooper-Knock spoke with Angela, she was concerned: “the community”, she explained, was being “very slack” by allowing the return of a man. “I think he got scared and he ran away and left the area”, she recalled, “and recently he’s come back”. His friend, who had rented a room to him before, had decided to re-establish the lease. “You make nonsense last time and now you are back?”, she reflected; “What guarantee do we have that you will not do it again?”. Despite the reservations that she and others had, no-one seemed willing to intervene unless the man in question created more trouble. This had become one of many issues that authority figures in the area cared about but had to “let go” (28 July 2018; 18 November 2018). To some degree leaders everywhere have to pick their battles. But in informal

settlements, in the midst of structural precarity and contestation over leadership positions, the most secure authority was often that which was exercised sparingly. The more frequently an individual asserted their authority, the greater the chance that they would ultimately upset internal or external interests, jeopardising their own status in the process.

Despite the difficulties highlighted above, banishment was not impossible to sustain. Take Nomvula and Thandeka, for example. After the section committee and stokvel members padlocked the shack and sold Nomvula's household goods she opened a case at the local police station. Unfortunately, this only served to aggravate members of the stokvel and subsequent attempts to repay the group and reclaim her house and possessions proved unsuccessful. Stokvel members insisted she must move elsewhere. In actuality, Nomvula had moved in with Thandeka and this resistance to the banishment order was considered "rude" and "disrespectful". According to Thandeka, retaliation came in the form of a demolition: her home was destroyed by at least 100 people and she was left to spend the night, pregnant, in the rain guarding her possessions, lest they be stolen. The next morning, Thandeka opened a case and—after utilising personal contacts in the police—the case eventually (many months later) reached court.

These two legal cases exacerbated the social rupture between the stokvel and the sisters but they also offered them an opportunity for social leverage. Under the pressure of a potential criminal case, the stokvel members agreed to rebuild Thandeka's home in return for the withdrawal of charges. This was duly done, although the rebuilt shack was, according to Thandeka, of a greatly reduced size and quality. During Super's last visit, relations between Thandeka and the stokvel and section committee remained strained and Nomvula was still banned from living in the area, although she occasionally visits, under the radar (Super 2020). Meanwhile, Thandeka claims, the stokvel members "made a business of" her sister's house, profiting from the rent they charged the new occupants (20 February 2018).

In sum, this section has highlighted the critical importance of taking the politics in/ of particular spaces seriously, laying out how negotiations over different forms of banishment play out in everyday life. By framing civic-led banishment as a collective act of socio-spatial expulsion we are able to explore the different forms of banishment we encountered: spatial banishment as continued social relationship; spatial banishment as conditional social inclusion; and banishment as social and spatial rupture. In doing so, we see the varied ways in which negotiations over sociality, authority, and impunity are shaped by this fundamentally spatial punishment.

Concluding Conversations About the Relationship Between Punishment and Socio-Spatial Expulsion in South Africa, and Beyond

In this article we have explored civic banishment, and what negotiations around banishment can tell us about public authority and punishment. We have shown that negotiations trade off two forms of precarity: the intersecting precarities that residents face within informal settlements and the potential precarity of public authority within these spaces. Limited tenure and the tendency of state officials to

read banishment as an act of legitimate spatial governance, not violence, renders residents vulnerable to civic-led banishment. That said, because civic-led banishment is an ongoing collective socio-spatial project it can prove costly for residents and leaders to maintain. In this sense it is different to state banishment which is, at least on the face of it, legal. If the banished person maintains relational ties in the area or takes legal action, the space for civic led banishment can quickly contract and instigators have to choose whether they are willing to face redress for their actions.

In concluding, we argue that the lens of socio-spatial expulsion does more than simply enable us to understand civic-led banishment in South Africa, and beyond. By troubling the state/non-state boundary and focusing instead on questions about space and coercion we open up fundamentally different conversations about punishment more broadly, and the “hostile solidarity” (Carvalho and Chamberlain 2018) that it generates. To date, much of the work on civic-led policing and punishment in South Africa has focused on the exercise of physical violence. Often, this analysis asks whether violent civic activities—and support for police brutality (Hornberger 2013)—demonstrates a fundamental disconnect between constitutional rights and punitive forms of popular justice. Thus, Barbara Oomen (2004:153) asks whether Mapogo A Mathamaga are engaging in vigilantism or a form of “alternative citizenship”; Lars Buur (2009b:194) argues that constitutional rights hold little traction in South African townships because “it is through violence that people are turned into human beings”; and Nicholas Rush Smith (2015:342) suggests that rights have not reduced violence in the country, instead they have “elicit[ed] anger and enable[d] violence”.

Implicit and explicit within these discussions is a juxtaposition between *de jure* rights and *de facto* violence; between constitutional protections and popular justice. The danger of these binaries is that we start to think of the criminal justice system, as it exists on paper, as being the opposite of popular justice. Even when we break those binaries and speak of “hybridities”, “entanglements”, or “assemblages” of punishment (see Diphooorn 2017), we are left with the notion that it is the *divergence* of popular and official justice that explains lethal forms of collective violence and other forms of civic-led punishment. If, however, we explore *all* forms of punishment through the lens of socio-spatial expulsion we open a different entry point, which allows us to build on the long-running conversations of prison abolitionists, who question the capacity of state criminal justice systems to secure justice for either offenders or victims of crimes (see, for example, Christie 1977; Davis and Rodriguez 2000; Gilmore 2007; Mitchelson 2019). We are also forced to recognise that definitions of criminality are fluid—varying across place and time—and intensely political.

In doing so, we realise that popular desires for punitive expulsive justice (i.e. banishment) may not necessarily be out of kilter with state visions of criminal justice. In actuality, socio-spatial expulsion, to a greater or lesser extent, underpins both state and civic-led punishment. Viewed this way, opposition to bail, the pursuit of mandatory minimum sentencing, the instigation of civic-led banishment and even the extra-judicial killing of suspected criminals are all efforts to pursue varying degrees of socio-spatial expulsion or ways of distancing the “moral community” from the criminal “other” (Super 2021). The discourse and practices

around imprisonment are also, like the discourses and practices of punitive forms of popular justice, based on the removal of the offender from their community (Super 2021). In both official and unofficial “justice” there is a lack of identification with the offender’s “personhood” (Dubber 2006), necessitating their removal from society. The degree might differ, but the essence is the same.

In sum, by bringing banishment to the fore, we loosen the opposition between popular justice and state justice. In doing so, we open up space for discussions of punishment that are as likely to speak about prison abolition as they are to speak about violence reduction in the community. We believe that this will lead to more productive, creative conversations about the structural challenges people face, the hopes that they hold, and different roles that the state can play in forging more inclusive and equitable futures. In the midst of these conversations we do not just deconstruct civic-led forms of policing and punishment, we also deconstruct and denaturalise those that exist within the state. In the words of Matthew Mitchelson (2019:222), “when we stop accepting prisons as the naturally occurring outcome of crime and punishment it becomes significantly less difficult to imagine alternative geographies”.

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We hope that this article does justice to the life stories and insights with which we have been entrusted. Any mistakes remain our own.

Endnotes

¹ On public authority, see Lund (2006). Unlike Lund, we do not argue that those exercising public authority are necessarily seeking to draw on forms of statehood.

² See Laitinen (2013:550) who uses the term “spatial practices” in relationship to banishment. We use the term “deviance” in the sociological sense of the term to refer to conduct which while not criminal (in the legal sense) nonetheless allegedly deviates from the norms of a specific community. However, since both “communities” and “norms” are social constructs, their boundaries are often contested and not set in stone.

³ The same claim can also be made of police patrols (Samara 2011:82).

⁴ We use the term permissive space here as we understand sovereignty to be grounded in negotiations over everyday life. For a full discussion of permissive space and how this fits into comprehensive anthropological debates over sovereignty, see Cooper-Knock (2018).

⁵ A human rights organisation situated in Khayelitsha.

⁶ Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations Between SAPS and the Community of Khayelitsha.

⁷ Street committees, established at the height of the liberation struggle, in the 1980s, were offshoots of a long history of self-governance in black townships and what were then called “squatter settlements”. During the “campaign of ungovernability” they purported to exercise state functions, via, for example, “people’s courts”. They remain an important site of “non state” governance in areas like the formerly black townships in Cape Town and Gauteng.

⁸ Informal markets have also developed around formal housing—particularly state-delivered housing, leaving their occupants in similarly precarious positions (Cirolia and Scheba 2019).

⁹ Informal settlements – for South Africa – are not exceptional in this regard. In grassroots politics across the globe familiarity provides the possibility of personalistic and flexible politics (Bénit-Gbaffou and Katsaura 2014:1809).

¹⁰ Many of Cape Town’s informal settlement residents retain strong links with rural areas in the Eastern Cape. They refer to the Eastern Cape as “home”, and there is much back and forth. Despite not having lived there for years, they nonetheless retain familial ties (Super 2014).

¹¹ This research was conducted by Cooper-Knock, Fiona Anciano and Mfundo Majola and is shared with their permission.

¹² As a tactic, it, and other forms of expulsive violence, were also deployed by some township activists against councillors, police officers, and some alleged criminals during the anti-apartheid insurrection in the 1980s (Marks and Mackenzie 2001; Rueedi 2020; Super 2017).

¹³ A former black township in Cape Town, with mixed formal and informal housing.

¹⁴ Not their real names.

¹⁵ A stokvel is an informal savings and credit scheme, predominantly found in formerly black townships.

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