

**Cultural Heritage as Transformation:
a study of four sites from post-apartheid South Africa**

*Andrea Durbach**

Introduction

In a country undergoing political transition, cultural heritage can assume a significant role in resurrecting and preserving features from a political past that may inform a nation's emerging cultural identity. The selection of subjects and structures and the process of cultural acknowledgement can be complex as claims, often competing, are made for cultural recognition and protection. Final decisions may necessitate compromise and history may even risk being re-written in the process of nomination and selection as political interests, crucial to the transition, are weighed and accommodated.

On a grand scale, the promise and the process of transformation in South Africa, has required the dismantling of an entrenched system of racial exclusion, apartheid and the political embrace and construction of an inclusive, non-racial democracy. This transition has been distinguished by two critical factors: a negotiated transition between the executioners of apartheid and the majority of South Africans brutalized by apartheid's reach and impact, and a 'settlement' or compromise that was forged against the encumbered imperatives of realpolitik and economic stability. These key features underlying South Africa's transition to democracy offer 'a powerful lesson in the mutual dependency of former enemies who, within a context of continual crisis management and high levels of (political) violence, were forced to accept compromise.'¹ They are also manifest in the myriad of processes – political, social, economic and cultural – that inform South Africa's ongoing "pragmatic path to transformation.' (Hamber)

* Professor, Faculty of Law, UNSW Australia; Director, Australian Human Rights Centre. I am grateful to my colleague, Dr Lucas Lixinski for introducing me to heritage scholarship and practice and for his acute insights and contributions to this chapter. My appreciation also to Jasmine Opdam for her valuable research assistance.

¹ (B Hamber.1998) (see also Sparks, A. (1997). *Tomorrow is Another Country: The Inside Story of South Africa's Negotiated Revolution*. Arrow Books: U.K.)

This article examines the role of cultural heritage as a potential agent of transformation in the ‘new’ democratic South Africa. It considers the evolution of South Africa’s national cultural heritage protection framework and its relationship to the nation’s negotiated transition and settlement and transformation to democracy. By reference to four sites of historical and heritage significance, all with a powerful association to South Africa’s colonial and racist past, the article analyses their enduring, revised or potential heritage status and the extent to which the (re)designation of these sites is defensible under South Africa’s contemporary national heritage legislation and the values central to South Africa’s ‘transformative’ constitution.

The first site of exploration is Jan Van Riebeeck’s indigenous wild almond tree hedge, housed in Kirstenbosch, the National Botanic Gardens in Cape Town. Many assert that the hedge, which was planted in 1660 by Dutch colonial administrator and founder of Cape Town, Jan Van Riebeeck, marked a critical first step towards the execution of apartheid, deliberately positioned by the Dutch colonisers as a distinct barrier against settlement or co-existence with the indigenous Khoikhoi communities. Despite its history, the heritage listing of the hedge has endured post-apartheid.² Similarly, the second site, the Voortrekker Monument, erected in 1949 to mark the centennial of the 1838 ‘Great Trek’ – the migration of Dutch settlers from British controlled coastal areas into South Africa’s interior – is a symbol of white minority rule, “presenting a metanarrative about the rise of the Afrikaner nation as inevitable.”³ The architect of the Voortrekker Monument, Gerhard Moerdijk, declared the monument “a tangible tribute to a group of people who through their stupendous efforts had laid the foundation for a white civilization to be built in the interior of Southern Africa”⁴ and these efforts were manifest decades later when the monument was reclaimed by Afrikaner interests to ensure its adaptation and survival in a non-racial, democratic South Africa. On 8 July 2011, close to 20 twenty years after South Africa’s transition to democracy, the Voortrekker Monument was declared a National Heritage Site by the South African Heritage Resources Agency.

The third and fourth sites of focus are currently under heritage protection consideration and are illustrative of the parallel processes of transformation that can be generated by historical exploration and reconstruction. The Museum van de Caab was constructed, following archaeological excavation of the site, to depict the impact of slavery and *apartheid* on generations of farmworkers whose access to land ownership and usage has been restored and transformed through the process; the South African Constitutional Court, housed within the Constitutional Hill heritage precinct, is a “physical manifestation”⁵ of the integration of South Africa’s history of oppression and resistance and the principles of human rights and constitutionalism, the foundations on which a post-*apartheid* South Africa would be built.

² Add – ref to post 1994 Heritage listing

³ Autry in Silberman p138

⁴ Quoted in Elizabeth Delmont, *Monolith to Myth*, 1992).

⁵ King and Flynn

Part one of the article considers the evolution of South Africa's national cultural heritage⁶ protection framework and its relationship to the nation's negotiated transition and settlement and transformation to democracy. The second part of the article explores the heritage "journey" of the four specified sites and the extent to which their signification has clung to the imperatives of compromise or embraced the principles of reconciliation underlying the foundation of the new South Africa. The concluding section considers whether heritage as symbolic reparation has coincided with the transformative aspirations of the heritage "project" or whether this therapeutic objective might have been overtaken by the entrepreneurial dictates of economic development and the parallel imperative "to help pay for the socio-economic deprivations of the apartheid regime."⁷

"The ethos of heritage as a binding force": redesigning South Africa's heritage framework

The traditional idea underlying heritage protection is that of codifying collective forms that signify the past, of designating markers of a particular time or period. Its primary function is conservative and retentive, essentially conserving the *status ante quo*. In this article, the transformative capacity of heritage is considered, not only as a response to significant political, social and cultural change and how to contain new and diverse forms of identity but more importantly, to actively dislodge "the 'singularity' of South Africa's *apartheid* history and heritage"⁸ and forge a new, empowering cultural history from a "negative heritage."⁹ Accordingly, heritage is examined as a mechanism to both protect and reconfigure national identity in a time of significant political change, demarcating the past and presaging the new South Africa that envisaged revision and reconciliation, development and redistribution.

During apartheid, the concept of cultural heritage spoke predominantly to a culture of separation and racial segregation, effectively applied "to institutionalize fragmentation and the actual distribution of power."¹⁰ The injustices of South Africa's history of fragmentation and oppression are distinctly acknowledged in the preamble to its post-*apartheid* Constitution (1996) and the redress of "past inequities" is a stated objective of the nation's new national heritage resources legislation. In his address at the opening of the Robben Island Museum on South Africa's Heritage Day in 1997¹¹, President Nelson Mandela declared that South Africa's cultural

⁶ For the purposes of this paper, the definition of cultural heritage as articulated by xxxx as (definition of Fowler in Kotze?) is adopted

s3 of the *South African Heritage Resources Act* 25 of 1999 refers to heritage resources that are part of the "national estate" as having "cultural significance or other special value for the present community and for future generations" See <http://www.acts.co.za/national-heritage-resources-act-1999/>

⁷ Meskell and Scheermeyer p156

⁸ Du Preez 2006 at <http://www.freewebs.com/redlocationmuseumarchives/curator.htm>

⁹ Meskell 2011 p1

¹⁰ Roodt 2006: <http://uir.unisa.ac.za/bitstream/handle/10500/3658/roodt.kongres.pdf?sequence=1>

¹¹ 24 September - declared a national monument on xxxxxxx

institutions could not “stand apart” from the country’s new Constitution and Bill of Rights” if the emerging democracy was to “triumph over yesterday’s division and conflict.” Reminding the gathering of the manifestation of that history, Mandela said:

During colonial and apartheid times, our museums and monuments reflected the experiences and political ideals of a minority to the exclusion of others.

... With democracy, we have the opportunity to ensure that our institutions reflect history in a way that respects the heritage of all our citizens. Government has taken up the challenge. Our museums and the heritage sector as a whole are being restructured. Community consultation, effective use of limited resources, and accessibility are our guiding principles as we seek to redress the imbalances.

...In this way we will help strengthen the ethos of heritage as a binding force, rather than a divisive one; as a force for truth rather than an artificial construct to satisfy all and sundry.¹²

South Africa’s new constitutional accord which envisaged a transition from the “grossly unacceptable features of the past to a conspicuously contrasting future founded on the recognition of human rights, democracy and peaceful co- existence”¹³ necessitated the enactment of legislation for, inter alia, the “establishment of an all-encompassing cultural heritage protection regime”¹⁴ that respected the heritage of all its citizens. While the Constitution contains direct and indirect references to respect, promote and protect cultural heritage, and specific provisions in the Bill of Rights (Chapter 2 of the Constitution) “are designed to safeguard ... and give recognition to a right to culture”¹⁵ a new national narrative in the aftermath of transition demanded the reconfiguration of a cultural heritage that had been designated and protected under legislation devised and implemented by functionaries of colonial and apartheid governments.

The Preamble to the *National Heritage Resources Act 25 of 1999* (NHRA) and the fundamental principles of the *World Heritage Convention Act 49 of 1999* (WHCA) (the domestic enactment of the international *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*)¹⁶, which largely replaced pre- and *apartheid* heritage legislation, echo much of

¹² <http://www.anc.org.za/show.php?id=4215>

¹³ Mahomed, J in *S v Makwanyane*

¹⁴ Kotze and Janse van Resnburg p15

¹⁵ Roodt at 209; ss 30 and 31 of Bill of Rights

¹⁶ The shift in heritage protection observed domestically after 1994 also gave rise to South Africa’s participation in international instruments relating to cultural heritage. It was only after 1994 that South Africa become a party to the World Heritage Convention 1972 (concerning the protection of world cultural and natural heritage), the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954 and the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970. Regionally, South Africa is also a party to the African (Banjul) Charter on Human and Peoples’ Rights 1981, ratified by South Africa in 2002.

the language and aspirations underlying the South African Constitution and its Bill of Rights. The preamble of the NHRA asserts that South African heritage can assist in defining the nation's cultural identity and affirm its diverse cultures, "and in so doing shape (the) national character":

Our heritage celebrates our achievements and contributes to redressing past inequities. It educates, it deepens our understanding of society and encourages us to empathise with the experience of others. It facilitates healing and material and symbolic restitution and it promotes new and previously neglected research into our rich oral traditions and customs.

Similarly, the Fundamental Principles of the WHCA (which governs the protection of world heritage sites in South Africa, such as Robben Island), provide that "cultural and natural heritage management must be sensitive to the people and their needs and must equitably serve their physical, psychological, developmental, cultural and social interests," that "participation of all interested and affected parties in the governance of cultural and natural heritage must be promoted" and "participation by vulnerable and historically disadvantaged persons must be ensured."¹⁷

The principle of participation, foundational to South Africa's transformation to democracy, is a significant feature of post-*apartheid* heritage legislation. Prior to the NHRA taking effect on 1 April 2000, heritage was managed by a single national agency, the National Monuments Council, predominantly governed by representatives of the *apartheid* government who "prioritized buildings and monuments defines as 'white' heritage."¹⁸ The emergent legislation devolved the responsibility for heritage selection, interpretation, grading and declaration along national, provincial and local lines¹⁹, attributing different levels and loci of protection aimed at engaging local communities more closely with heritage objectives and processes. The national heritage council was renamed the South African Heritage Resources Agency (SAHRA), and the NHRA provides for the establishment of analogous provincial legislation and provincial heritage resources authorities (PHRAs) and municipal or local agencies to manage the national estate, "allowing (previously excluded) communities a voice within a process" and to "foreground" their accounts "within the broader political narrative of nationhood."²⁰ Importantly, the legislation invites all South Africans to promote aspects of their cultural history through a process that is both questioning the legitimacy of and educating the nation about what constitutes a collective cultural heritage, and strives to ensure their access to its diverse "national estate."

¹⁷ Fundamental Principles of the WHCA

¹⁸ Harriet Deacon: Robben Island 2007 at p314

¹⁹ This system of heritage management stems from provisions of South Africa's 1996 Constitution which determines that heritage conservation is a shared competency of the national and provincial spheres of government. (Check Constitution for citation)

²⁰ Meskell and Scheermeyer 2008 at p155.

The reorientation and reconstruction of cultural heritage protection and conservation in the new heritage legislation represents a major shift in South Africa's approach to heritage denotation and practice. Heritage has moved beyond the mere "memorialization of sites"²¹ to become a potential agent of transformation, "a form of therapy, as the past laboring in the form of a better future, a progressive and productive benefit for all, but specifically for the disempowered, dislocated and disadvantaged." While remarkably comprehensive, the objectives and aspirations underlying the legislative framework are perhaps ambitious given the enormity of the task of heritage transformation and the nation's competing socio-economic imperatives and urgent call on the allocation of resources. By reference to four sites of heritage – with varying and ambivalent degrees of significance and divergent histories - the next section considers whether these changes in the formal law have had a material transformative impact in practice.

Redressing an imbalance: revising a narrative in the service of (the) rainbow nation²²

The idea of "heritage as a binding force" speaks to the South African Constitution's opening declaration that "South Africa belongs to all who live in it, united in our diversity."²³ In the South African context, the principle of reconciliation is invoked not only to foster racial integration in a country founded on exclusion and segregation, but also to attempt a resolution between the legacies of a repressive past²⁴ and the aspirations of a democratic future. The nation's commitment to these dual objectives has meant that monuments from the past have had to jostle for a place in South Africa's heritage future and hidden histories have attained visibility. The new heritage legislation provides for both development and assessment of new heritage and the re-evaluation or re-interpretation of existing sites and memorials based on their alignment with the principles or values of the nation's post-apartheid narrative.²⁵ Each of the following small site studies seeks to illustrate the role of cultural heritage in serving the competing complexities of compromise, reconciliation and transformation.

Jan van Riebeeck's wild almond hedge: a persistent presence from a painful past

Now we want to throw off the psychological burden of our painful past; now we want to hold on to it.²⁶

²¹ Andrew Hall, CEO Heritagae Western Cape (second respondent) in *Kothuis (Pty) Ltd v MEC for Cultural Affairs and Sport, Western Cape and Others* (22784/12) [2013] ZAWCHC 144.

²² Meskell and Scheermeyer p156

²³ Preamble

²⁴ The preamble to the NHRA speaks of encouraging "communities to nurture and conserve their legacy."

²⁵ Sabine Marschall, "Reordering the Past" p3?

²⁶ Ndebele quoted in Meskell and Scheermeyer p156

The apartheid history of South Africa starts with the arrival in 1652 of Jan van Riebeeck, Administrator for the Dutch East India Company (DEIC), at the Cape of Good Hope at the southern tip of Africa. Recognizing its potential as a way station to supply produce to ships undertaking the arduous voyage from Europe to the East Indies (primarily, Indonesia), the DEIC dispatched van Riebeeck to the Cape to establish a ship refreshment and trading post and create and command the first Dutch settlement in South Africa. The semi-nomadic Khoikhoi people had been using the land around the Cape for the grazing of their herds of cattle and sheep. Van Riebeeck and the DEIC's primary objective was to build a fort and cultivate vegetable gardens, crops and vines to replenish passing ships; meat and milk would be secured from bartering for cattle with the indigenous Khoikhoi people. The DEIC had no intention of establishing a permanent presence at the Cape. The limited supply from the initial gardens and resistance from the Khoikhoi to trade and so deplete their own supply of livestock, prompted the expansion of the trading post, with a few DEIC servants ("free burghers") being granted small plots along the Liesbeeck River on which to cultivate supplies. The expanded settlement encroached on important grazing routes of the Khoikhoi and as clashes over these routes increased in frequency between the Dutch settlers and the indigenous inhabitants, the settlers erected a wooden fence with watchtowers, taking advantage of the deeper sections of the Liesbeeck River as a natural barrier.²⁷ The prohibitive cost of the fence however prevented its completion and consequently, Van Riebeeck ordered the planting of a wild almond tree hedge and thorny scrub barrier, excluding the Khoikhoi people from accessing grazing land and water supplies²⁸ they had traditionally used and inscribing the apparent "civilized order on the Dutch colony by distinguishing it from the expansive, uncharted continent occupied by indigenous African populations."²⁹

Van Riebeeck's contribution to drawing the lines of racial segregation in the Cape – "the cradle from which the South African nation of the future was to rise"³⁰ – represented the original physical demarcation of colonial South Africa, the pre-cursor to the formalization of segregation through law. The subsequent implementation of apartheid policy significantly extended Van Riebeeck's boundary as "categories of race written into legislation were also used to redraw the map of the country."³¹ Van Riebeeck's foundational role in the establishment of Cape Town is

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²⁸ South African National Biodiversity Institute (SANBI), History of Kirstenbosch, at <http://www.sanbi.org/gardens/kirstenbosch/history-kirstenbosch-nbg>

Interestingly, Khoikhoi people who resisted and transgressed the administration of Van Riebeeck and his successors, were banished to an island off the coast of Table Bay, west of Cape Town which the Dutch named Robben Island, later to become the notorious prison which housed political prisoners during the apartheid regime.

²⁹ Richard Marback, 'A Tale of Two Plaques: Rhetoric in Cape Town', 23(3) *Rhetoric Review* 253-268 (2004), 254-255.

³⁰ Lord De Villiers, Chief Justice of the Cape Colony, quoted in Peter Merrington, 'Masques, Monuments, and Masons: The 1910 Pageant of the Union of South Africa,' *Theatre Journal*, Vol. 49, No. 1, Performing (In) South Africa (Mar., 1997), pp. 1-14

p8

³¹ Marback p 255-256

reflected in the existence (and continued heritage protection) of the four-pointed clay and timber fort erected soon after his arrival, the Company garden planted under his direction, his bronze statue (donated to Cape Town by Cecil John Rhodes in 1899) and that of his wife, Maria de la Quellerie, and a section of the almond tree hedge housed in Cape Town's botanical gardens, Kirstenbosch.³² In addition, the "founder of South Africa", a title reinforced by former President Nelson Mandela at the van Riebeeck celebrations in 1996³³, appeared on stamps and the South African currency from the 1940's until 1993, when the South African Reserve Bank changed the design to fauna and flora.³⁴

Almost 300 years after Van Riebeeck's arrival at the Cape of Good Hope, the two segments of his almond tree hedge that escaped destruction, were declared national monuments, the first located in Kirstenbosch, on 6 April, 1936 by Government Notice No. 529,³⁵ and the second portion in Bishopscourt, in 1945. This declaration has persisted in post-apartheid South Africa, despite Van Riebeeck's act of separation, the planting of a "bitter almond hedge (that) grew into the apartheid divisions that ran through every aspect of life in South Africa, and that invaded the psyche of the nation."³⁶ The existence of the hedge as a designated symbol of South Africa's cultural heritage has not been without controversy: its "founder" being revered by those who celebrate the settler pioneering spirit or support "the political project of white domination and created and perpetuate the Van Riebeeck icon as the bearer of civilization to the sub-continent and its source of history" or scorned and dismissed by "(o)pponents of racial oppression (who) have portrayed Van Riebeeck as public (history) enemy number one of the South African national past."³⁷

Perhaps illustrative of this crafting and contesting of history post-South Africa's democratic elections in 1994, is the apparent resolution that followed the damage of the Van Riebeeck hedge plaque, affixed to a stone adjacent to the hedge. The original plaque read:

This hedge of wild almonds was planted in the year 1660 A.D. by order of
Commander Jan van Riebeeck to mark the southern frontier of the Cape
Colony, from Kirstenbosch along Wynberg Hill, to a point below the Hen

³² Mention that the gardens were segregated as per LL section

³³ Speech by Mandela at the JvR Centenary celebrations – see Leslie Witz, *Apartheid's Festival: Contesting South Africa's National Pasts* p251

³⁴ Giliomee, H and Mbenga, B.K. (2007). *New History of South Africa*. Tafelberg, Cape Town.

³⁵ New legislation passed in 1934 altered the previous legislation in creating a register of protected monuments, as well as the category of "national monuments". It also overall extended the types of heritage that could be protected under the law.

Ndukuyakhe Ndlovu, 'Legislation as an Instrument in South African Heritage Management: Is It Effective?', 13(1) *Conservation and Management of Archaeological Sites* 31-57 (2011), 34.

³⁶ Martin, M., 1996. The Rainbow Nation: Identity and Transformation. *Oxford Art Journal*, 19: 3-15 at 3
http://www.geocaching.com/geocache/GC25FXK_van-riebeecks-hedge?guid=2867abc4-6679-4a63-9cb8-ef465c9d5a6f

³⁷ Rassool and Witz p 448

and Chickens Rocks. Thence the hedge was continued by a fence of poles across the camp ground to the mouth of the Salt River.³⁸

The old plaque was removed by SAHRA in 2001 after being defaced.³⁹ While the stone framing the original plaque remains, a new site for the new plaque with revised text – the outcome of community consultation - was erected. It now reads:

This wild almond hedge was planted in 1660 by order of Com
Riebeeck as a barrier prote
the Indigenous Koisian inhabitants of the Cape. The barrier stretched from
Kirstenbosch along Wynberg Hill to a point below t
rocks. Beyond this
mouth of the Salt River hedge has come to be a symbol of
exclusion. Apartheid's

South African Heritage Resources Agency⁴⁰

The significant re-writing of the plaque – without dismantling the hedge or toppling a Van Riebeeck statue - allowed a community opposed to Van Riebeeck’s national standing to assert a truth about the apartheid nation’s claim for Van Riebeeck’s “pride of place in South Africa’s public history.”⁴¹ Finally, through the process of resisting and redefining cultural heritage, Van Riebeeck’s enduring influence on the policy of apartheid was proclaimed.

Despite the decades of European invasion and colonization and their brutal execution that Van Riebeeck’s hedge precipitated, his legacy has continued to assert (and insert) itself for more than 20 years into the post-apartheid narrative and the hedge, now publicly acknowledged as “a symbol of exclusion,” remains on the register of post-apartheid national monuments. Its continued recognition and tenacity can perhaps be attributed to a bold recognition of the nation’s need to beat back the temptation to banish a racist past and instead, to foster heritage “as a binding force.” In keeping with the principles underlying South Africa’s transformation through truth and reconciliation, the simple but significant act of reinterpreting the history of the almond tree hedge in now “built into the landscape, memorialized in monuments, and expressed in words.”⁴²

The Voortrekker Monument: repositioning Afrikaner nationalism in post-apartheid South Africa

³⁸ Marback p 254

³⁹ For details of this history, see Richard Marback, ‘A Tale of Two Plaques: Rhetoric in Cape Town’, 23(3) *Rhetoric Review* 253-268 (2004).

⁴⁰ Citation

⁴¹ Rassool and Witz p 452

⁴² Marback p 258

(T)he world around the monument is never fixed. The movement of life causes monuments to be created, but then it changes how they are seen and understood.”⁴³

While Van Riebeeck’s hedge, the colonial symbol of racial segregation and exclusion which spawned apartheid, succeeded in maintaining a relatively undisturbed place in the register of post-apartheid cultural heritage, the Voortrekker Monument, “unquestionably the most infamous site of memory linked to apartheid,”⁴⁴ has had to battle to retain its cultural and political hold as “the centerpiece of ... Afrikaner unity and power”⁴⁵ and gradually adapt its narrative to align with aspirations of diversity and reconciliation.

Built in 1949 to commemorate the defeat of over 3,000 Zulu warriors by less than 500 Afrikaner Voortrekkers (pioneers) in 1838, the imposing 40 metre granite square monolith stands on a hill guarding over the former capital city of Pretoria, as a tribute to descendants of the Dutch settlers who migrated north from the Cape colony to lay claim to new land and escape British rule. This “Great Trek” (journey), the genesis of Afrikaner nationalism “imbued with religious morality”⁴⁶, was encumbered by clashes with indigenous communities who resisted Boer colonization of the interior of the country. The Voortrekker Monument pays tribute to this harsh and heroic history, the Voortrekker’s “God-given” or ordained victory at the 1838 Battle of Blood River and their assumed divine (and white) right to rule the nation. The fortress-like exterior of the monument, surrounded by statues of Boer leaders, a Voortrekker woman and her two children and stone wall carvings of sixty-four ox wagons representing the great migration, is complemented by an interior “Hall of Heroes” and an expansive frieze in white marble depicting a Zulu attack on a laager (an encampment of ox-wagons) and the fated retaliatory conquest by Boers over savagery and treachery. Adorning the gates to the monument are assegais, the weaponry of the Zulus, evidently blocking the path to civilization.⁴⁷

The monument also houses a cenotaph with tapestries and paintings and an eternal flame that burns in memory of Great Trek heroes lost in battle. Its remarkable design facilitates a shaft of sunlight through an aperture in the dome on an annual day of commemoration that lights up an inscription: “We are for you, South Africa.” South Africa’s 1994 elections and the nation’s democratic transition to a black majority government were to test the conviction underlying this inscription and the stronghold of Afrikaner nationalism symbolized by the monument. The continued standing of the Voortrekker Monument post-apartheid – in both a cultural and physical sense – was endangered by the possibility of marginalization or insignificance at best, and

⁴³ Kirk Savage quoted in AM Grundlingh, *Radical History Review*, p 98

⁴⁴ Autry, *The Monumental Reconstruction of Memory in South Africa: The Voortrekker Monument* p

⁴⁵ Annie E Coombes, *Visual Culture and Public Memory in a Democratic South Africa*, p 25

⁴⁶ Lynn Meskell, *The Nature of Heritage: The New South Africa*, p2

⁴⁷ coombes. P 37

demolition – “or painted pink and turned into a gay nightclub”⁴⁸ - at worst. The transformation of the world around the monument required its cultural reconstruction as a mechanism for its legitimacy and survival.

The perceived risk by the ruling Afrikaner nationalists that the ANC’s “process of remembering and commemorating the pain and victories of the past”⁴⁹ might entail a “leveling or reworking”⁵⁰ of the Voortrekker Monument (despite cultural policy makers within the new ANC government determining that most Afrikaner monuments would remain intact), prompted the acquisition in 1993 of the monument by a private, non-profit company established by the Federation of Afrikaner Cultural Organizations to ensure its long-term control and management and counter any attempts to diminish its stature by the new government. But any fears of the monument’s diminution were superseded by an accommodation of two interpretations of the monument that seek to justify its post-apartheid presence.

Gert Opperman, a retired South African general who became chief executive officer of the monument in 1999, believed that the monument “had to become legitimate” and to this end, transformed the sacred site of Afrikaner power into a “more mundane museum of Afrikaner culture and history, ... a professional, hospitable organisation that welcomes everybody.”⁵¹ As Afrikaner nationalism under apartheid has had to adapt to a new world of non-racial democracy, its public representations have had to align with a dramatic shift in political power and embrace the offerings of reconciliation. The address by opposition United Party leader (and supporter of white minority rule), Jan Christiaan Smuts to thousands of Afrikaners who gathered at the newly constructed monument for its inauguration on 16 December 1949, held some prophetic significance:

May this monument of our historic beginnings be a symbol...not only of our past strife, but also of our reconciliation and eternal peace—and of our vow always to pursue, in our race and colour relations as well, the just, the good and the beautiful.⁵²

While the contemporary guardians of the monument may not have ventured as far as Smuts, they have sought to project a revised image of the monument, in keeping with its religious foundations, as epitomizing “the spirit of self-sacrifice and compromise of their heroic predecessors” and so advocate the notion of “power-sharing.”⁵³ The process of depoliticizing the monument (including removing its control from an ANC government) has also required ensuring

⁴⁸ <http://www.iol.co.za/news/south-africa/voortrekker-monument-changes-with-the-times-1.105986#.VAcPbUukZ4M>

⁴⁹ TRC report 1998 vol 5 chap 5, 175 <http://www.justice.gov.za/trc/report/index.htm> (accessed xxxx)

⁵⁰ Meskell and Scheermeyer: *Heritage as Therapy* p 159

⁵¹ <http://www.iol.co.za/news/south-africa/voortrekker-monument-changes-with-the-times-1.105986#.VAXILEukZ4N>

⁵² Alex Lichtenstein, <http://bourkewhite.wordpress.com/galleries/afrikaners/voortrekker-monument/>

⁵³ Coombes p31

its cultural and economic viability, and aside from assuming a key role as the nation's repository for Afrikaner cultural artifacts, heirlooms and artworks, the "mausoleum-like edifice has a snack bar, a souvenir shop and a trove of ambitious plans to attract foreign tourists, blacks, even the dead, in a bold effort to stay in business and ensure it does not become a forgotten relic of an embarrassing past."⁵⁴ The heritage site has expanded to include a Garden of Remembrance that offers patrons the opportunity to purchase "niches" in memory of loved ones, hiking and biking trails, picnic spots and a heritage centre that exhibits aspects of Afrikaner history in the twentieth century. A recent exhibition in the centre sought to downplay the brutal manifestation of apartheid, with curator notes describing it as "the consequence of the Afrikaner's political struggle to retain his independence" and conceding that in its execution, "many mistakes were made."⁵⁵

These concessions to the pull of transformation have not necessarily sought or achieved a reconciliation between those who once ruled and those who now govern. Rather, the reframing of Afrikaner history and the repositioning of Afrikaner identity within a post-apartheid state has permitted a necessary co-existence between equal citizens. The adjustment to a new political dispensation and the cultivation of commercial heritage opportunities has seen an accommodation of minority (Afrikaner) heritage by an ANC government and the rehabilitation and demystification of the primary historical site through which Afrikaner nationalism and power found expression. The decisive shift in political power has allowed black South Africans "to disinvest the monument of its oppressive legacy as a linchpin in the armory of apartheid"⁵⁶ and interpret the existence of a symbolic relic from a bygone era as an important reminder of the imperative to recognize, as President Mbeki declared in his address on National Day of Reconciliation in 2006, that "it would be impossible to build a non-racial and non-sexist nation if we were to become indifferent to our past."⁵⁷ Perhaps stripped of its potency and associations, the Voortrekker Monument can eventually stand as a tribute to the nation's "future that will know the past deeply but will not be paralyzed by its darknesses."⁵⁸

*Delta Farm and Museum van de Caab: "staking a claim in the interpretation of the past"*⁵⁹

⁵⁴ <http://www.iol.co.za/news/south-africa/voortrekker-monument-changes-with-the-times-1.105986#.VAcPbUukZ4M>

⁵⁵ Sean Jacobs, The Voortrekker Monument and "the many mistakes" of the Afrikaner past **13 March, 2013** at <http://africasacountry.com/the-voortrekker-monument-and-the-many-mistakes-of-the-afrikaner-past/>

⁵⁶ Coombes, p 37

⁵⁷ Address of The President of South Africa, Thabo Mbeki, on the occasion of the ceremony to hand over to the nation, Isikhumbuto: Freedom Park – Salvokop, Tshwane 16 December 2006 at <http://www.thepresidency.gov.za/pebble.asp?reid=3241>

⁵⁸ Interview with Marianne Hirsch, author of *The Generation of Postmemory: Writing and Visual Culture after the Holocaust* at <http://www.cup.columbia.edu/static/interview-marianne-hirsch>

⁵⁹ Judith Lütge Coullie, 'The ethics of nostalgia in post-apartheid South Africa', *Rethinking History* 195-210 (2014), vol 18 issue 2 at p196

(T)hat poverty and homelessness still plague many South Africans is a painful reminder of the chasm that still needs to be bridged before the constitutional ideal to establish a society based on social justice and improved quality of life for all citizens is fully achieved.⁶⁰

In her book, *The Nature of Heritage: the New South Africa*, Lynn Meskell argues that the discipline of archaeology was invoked in apartheid South Africa to legitimize “the buttressing of ethnic identity and the maintenance of Bantustans” and to prove that “communities which were settled in artificially created areas had, in fact, always lived there.”⁶¹ The excavation of South Africa’s political past under apartheid during the term of the Truth and Reconciliation Commission (TRC) revealed, in many respects, the multiple levels of deceit, brutality and destruction underlying and perpetrated by a complex system designed to deny life to the majority of the country’s inhabitants. The development of this system had its origins in slavery and colonialism and the excavation of the layers of this history in relation to a farming community in the Western Cape, has not only permitted all those who have farmed the land - “from the very beginnings of human settlement on the farm, through pre-colonial pastoral usage of the land, (to) the establishment of private ownership through colonial viticulture”⁶² - to stake a claim in an objective interpretation of its past, but also to generate new possibilities for its post-apartheid future.

In 2001, South African born professor of neuropsychanalysis, Mark Solms, returned to his homeland to assume custodianship of a family farm, Delta (originally named Zandvliet), in the Western Cape town of Franschoek and transform a history of land dispossession and labour exploitation that had been inflicted upon the farm’s workers and tenants since settlement. Built in 1690, the farm consisted of a collection of Cape-Dutch buildings, vineyards, trees and fruit orchards “and (came) with the people who live on it” – initially seven families who were “beholden” to the farmer as their owner:

(T)he relationship between employee and employer on a South African wine farm with this history ... is perverted. The people who come with the farm don’t chose to be there. They are not selling their labour to you willingly.⁶³

Determined to break the cycle of poverty and dependency endemic to the farm residents and employees and address historical (and enduring post-apartheid) disadvantage, Solms, whose family had owned the land for six generations, set about charting “a new course for the place – to find a different way forward from the past.”⁶⁴ His decision to actively engage archaeologists and

⁶⁰ Langa ACJ in *President of the Republic of South Africa and Others v Modderklip Boerdery (Pty) Ltd*, 13 May, 2005

⁶¹ Meskell 169

⁶² Intro note to Museum van de Caab Drakenstein Valley Social History Museum

⁶³ Mark Solms, “Land ownership in South Africa: turning neuropsychanalysis into wine”, TEDxObserver (TEDx Talks), London, uploaded 1 April 2011 at <http://www.youtube.com/watch?v=pX17iQbLpQM>

⁶⁴ *ibid*

historians to “dig up the past” on his farm and uncover “what had happened on this one little piece of South African land,” lead to a discovery that validated the existence of indigenous inhabitants and communal land use and the development of a collaborative wine-making venture, where the interests of worker, farmer and land-owner have aligned. As noted above (see *Jan van Riebeeck’s wild almond hedge: a persistent presence from a painful past*), the first vines in the Western Cape were planted by Jan van Riebeeck in the mid-1600s, the grapes and their by-products aimed predominantly at “sailors staving off scurvy on the arduous route around the Cape back to Europe.”⁶⁵ Some twenty years later, Van Riebeeck’s successor, Simon van der Stel, recruited French winemakers to the settlement and the Cape wine industry began to take hold requiring additional labour which came in the form of slaves imported largely from Batavia, Sulawesi and Mozambique. The abolition of slavery in 1838 was replaced with apartheid which saw wine-farms continue to be run along feudal lines and the introduction of the wine-for-work or “dop” system (an Afrikaans word for a drink of alcohol) that institutionalized alcohol consumption with significant damaging long-term health and social consequences.

Through the process of archaeological excavation of Delta farm and oral history compilations, collectively undertaken with the participation of farm-workers and residents and the Solms family, a history, replicated across the Cape and beyond, was confirmed - that the San and Khoikhoi pastoralist economy had been destroyed soon after the arrival of the Solms family forbears in 1652 with the “generous granting or taking” of farm land:

The hunter gatherers and nomadic pastoralists didn’t even believe in land ownership and those who were left (following) a veritable genocide ... had no choice but to remain on these now privately owned farms ... and work the land. (T)here were not enough left of Khoi and San (and) slaves (were brought in) in vast numbers ... and on my farm today the descendants of those slaves were still living ... through no choice of their own.

... But more important than establishing this history and confronting it together was the purpose of it all - which was what are we going to do about it? ... It wasn’t an abstract history lesson that we were engaged in. ... (F)acing the things that we didn't want to look at and ... accepting your responsibility and complicity, enables you to think clearly again. And so with a minimum of discussion we came up with a plan.⁶⁶

Solms and his neighbour put up their respective farms as collateral to enable farm-workers to purchase a third adjoining farm. The three properties have been consolidated into a major wine-farming enterprise, Solms-Delta, with profits being equally shared. The farm-workers have

⁶⁵ Matt, Goulding, ‘The Last Harvest: South African Vineyard Yields Much More Than Grapes’, *Roads and Kingdoms*, Time, 28 December 2012 at <http://world.time.com/2012/12/28/the-last-harvest-south-african-vineyard-yields-much-more-than-grapes/>

⁶⁶ *ibid*

established the Wijn de Caab Trust which owns 33% of Solms-Delta and supports all people who live and/or work on the farm, and their direct dependents, providing upgraded housing, health care, primary and secondary education and access to bursaries for tertiary education. The Museum van de Caab, established “to memorialize the ... thousands of ordinary people who over the centuries had given their own lives often unwillingly to the establishment of (the) farm”⁶⁷ is filled with artefacts from the excavation which date back to a Later Stone Age settlement approximately 7000 years ago and “attest to an extended period of habitation of the site by the indigenous San”⁶⁸ and later, by the Khoikhoi people.

In contrast to the preservation of the Voortrekker Monument post-apartheid, albeit with some literal modification, the excavation and revelation of the Delta farmland offers a unique illustration of “past mastering, or the struggle to come to terms with the past.”⁶⁹ In addressing the complex process of reconciliation that can emerge from a history of conflict, TRC Deputy Chairperson, Alex Boraine observed that “you first have to read the page before you turn it” and “come to terms with our history so that we can together develop a better future for all of us.”⁷⁰ Perhaps in confronting a collective “loss of the order and ordering principles of apartheid,”⁷¹ those who clung to the centerpiece of Afrikaner nationalism displayed a logical imperative to preserve rather than excavate the past, to safeguard “memory without pain.”⁷² The re-interpretation of Delta farm through archaeological practice has, in a limited but remarkable way, addressed two key aspirations underlying post-apartheid transformation: Museum van de Caab stands as validation of the history of the occupation of the land from its indigenous inhabitants to workers who tilled the soil under slavery, colonialism and apartheid; and the exposure of this history and the consequent restoration of the land and innovation of a shared enterprise,⁷³ demonstrates an unequivocal acknowledgement of “the grim and brutal deaths of (the) country’s colonial past,”⁷⁴ and a commitment to dismantle and ameliorate historical and enduring inequities.

⁶⁷ *ibid*

⁶⁸ *Solms-Delta Museum van de Caab National Heritage Site Nomination to the South African Heritage Resource Agency (SAHRA) for accreditation as a National Heritage Site* (date) (originally named Zandvliet)

⁶⁹ Meskell, p1

⁷⁰ Transcript from Truth and Reconciliation Commission Armed Forces Hearing South African Police, Day 3, 9 October, 1997, Cape Town, <http://www.justice.gov.za/trc/special%5Cforces/sap.htm>

⁷¹ Truscott, R. 2011. “National Melancholia and Afrikaner Self-parody.” *Psychoanalysis, Culture & Society* 16 (1): 90–106 at 93 quoted in Eric Worby and Shireen ‘The disappointment of nostalgia: conceptualising cultures of memory in contemporary South Africa’ in *Social Dynamics: A journal of African studies*, vol 39 no 3, 457-480, DOI: 10.1080/02533952.2013.852371 at469

⁷² Abbas, A. 1997. *Hong Kong: Culture and the Politics of Disappearance*. Minneapolis: University of Minnesota Press at 83 quoted in Worby (above) at 473.

⁷³ The Solms-Delta equity share scheme model has been successfully rolled out on 90 Western Cape farms – see Redi Thlabi ‘White farmer to save land reform?’ at <http://mattr.biz/articles/57/white-farmer-to-save-land-reform>

⁷⁴ Paul Gilroy, *Postcolonial Melancholia*, 2005 quoted in Meskell 2012, p1

The South African Constitutional Court: restoring justice through law

Virtually every encounter with the law for blacks in the old dispensation was one calculated to develop in us a contempt, indeed a hatred for the law because every such encounter was virtually designed to demean, to humiliate, to dehumanise the black person.⁷⁵

The legacy of law in South Africa is predominantly the history of repressive state action that systematically excluded and humiliated the majority of its citizens, for the most part, via the mechanism of the law.⁷⁶ For decades, and particularly as resistance to the apartheid regime intensified, the South African state constructed and enforced laws to shore up the reach of apartheid and law was overtly “implicated in the maintenance of inequality rather than its amelioration.”⁷⁷ The law, despite its noble “aspiration toward justice,”⁷⁸ was increasingly invoked by the state to deny, to banish, to imprison, to silence and even to kill. The “legitimacy of law itself was deeply wounded”⁷⁹ and the institutions through which it was realised, were undermined and eroded in the eyes of the majority of South Africans whose experience of the law bore no relationship to justice. Any tenuous belief in justice was increasingly replaced by a deep suspicion and cynicism of its promise.⁸⁰

Rebuilding a national confidence in the law “so that justice might eventually recover its soul and return to do its intended work”⁸¹ began to emerge with negotiations that committed South Africa “to a transition towards a more just, defensible and democratic political order based on the protection of human rights”⁸² – a transition which carried with it an ambitious imperative: that South Africa’s survival required the nation to transcend a legacy of hatred, fear, guilt and revenge and make way for a society “founded on the recognition of human rights, democracy and peaceful co-existence.”⁸³ The physical manifestation of the restoration of law’s legitimacy would be most visibly attempted through the institution that would apply and interpret South Africa’s new Constitution and Bill of Rights – the development of the South African

⁷⁵ Archbishop Desmond Tutu, Chairperson, Truth and Reconciliation Commission, Legal Hearings, Johannesburg, 27 October 1997

⁷⁶ Richard Abel, in his book, *Politics by Other Means: Law in the Struggle against Apartheid, 1980-1994*, writes that although the South African government “purported to rule through law (it) became constrained by that ideal.” (Routledge, New York, 1995, p.541)

⁷⁷ 7. Bryant G. Garth & Austin Sarat (eds), ‘Justice and Power in Law and Society Research: On the Contested Careers of Core Concepts’, in *JUSTICE AND POWER IN SOCIOLEGAL STUDIES* 1, 3 quoted in

⁷⁸ Above at p. xv

⁷⁹ Mahomed, DP in *AZAPO v The President of the Republic of South Africa*, CCT 17/96, 25 July 1996 at para 1

⁸⁰ Andrea Durbach, ‘If you want peace, forget justice’, Festival of Dangerous Ideas, Sydney Opera House, 2 October 2010 – *Human Rights Defender*

⁸¹ Durbach above

⁸² above

⁸³ Epilogue to the Interim Constitution quoted in *AZAPO* at para 3

Constitutional Court, completed in 2004⁸⁴, the country's "first major post-apartheid public building."⁸⁵

The Constitutional Court was built on a hill above central Johannesburg as part of a multi-purpose heritage precinct that was envisaged as a human rights "campus" housing government agencies and nongovernmental organisations "whose job it was to protect and interpret the Constitution."⁸⁶ The site was originally that of the old Johannesburg Fort, which incorporated the Number Four "native" prison, the Awaiting Trial Block and the Women's Gaol. The Old Fort, built by the Boers in the late 1900s, became a prison for white men, Number Four housed black male prisoners, as did the Awaiting Trial Block, and the Women's Gaol held white and black women in racially segregated sections. Although political prisoners were held at the Old Fort, primarily in the Awaiting Trial Block, the majority of prisoners were incarcerated for breaches of colonial and apartheid race laws; they were pass offenders, curfew breakers, people arrested under the Immorality Act, beer brewers—all people who in a just society would never have been imprisoned. ... If there's a constitutional clause that says, "Everyone has the right to freedom of movement," this has to be interpreted within the context that tens of thousands of people were held here for breaking the pass laws, which denied them that freedom."⁸⁷

The application of South Africa's new constitution and Bill of Rights demands an interpretation that recognises the injustice of the past in order to build the democracy of a new South Africa, "to understand that the one defines the other."⁸⁸ The exterior and internal architecture and the art collection within the Constitutional Court reflect a key objective of post-apartheid heritage and reconstruction: to create heritage projects that integrate historical narratives of injustice and the human rights values and constitutional principles underlying South Africa's non-racial, democratic evolution, striking "a fine and optimistic balance between memorialisation and constructive social intervention."⁸⁹ This intervention is acutely apparent in the location, architectural design and creative elements that constitute the Court. The Court is situated between the former Number Four ("native") prison and the Old Fort, signalling, like the Constitution, "a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence;"⁹⁰ features of the old prisons, including prison wall

⁸⁴ The Constitutional Court was established in 1994 in temporary accommodation across from the Old Fort.

⁸⁵ Federico Freschi, 'Postapartheid Publics and the Politics of Ornament: Nationalism, Identity, and the Rhetoric of Community in the Decorative Program of the New Constitutional Court, Johannesburg' *Africa Today*, Vol. 54, No. 2, Visual Experience in Urban Africa (Winter, 2007), pp. 27- 49 at 28

⁸⁶ Mark Gevisser and Sarah Nuttall, 'From the Ruins: The Constitution Hill Project', *Public Culture*, vol 16 no 3 2004, pp 507-519 at 507.

⁸⁷ Gevisser and Nuttall at p515

⁸⁸ Gevisser and Nuttall p 516

⁸⁹ Freschi p43

⁹⁰ Epilogue to the Interim South African Constitution – National Unity and Reconciliation, Act 200 of 1993

bricks and graffiti, are integrated or revealed in the new court structures and foundations, reminders of the rebuilding of the nation and the fragile principle of “never-again;”⁹¹ the expansive use of glass and permeable casings, speak to the constitutional values of openness, transparency and accessibility to all; and the Court’s expansive art collection, primarily featuring South African artists - many of whom were exiles - seeks to both “adorn and humanise”⁹² the court building, depicting “universal themes of loss, suffering, triumph”⁹³ and contributing to and clarifying an evolving national cultural identity.

The selection of the Old Fort as the site for the Constitutional Court was described by former Constitutional Court judge, Albie Sachs, as indicative of the “transformation of South Africa from a racist, authoritarian society to a constitutional democracy ... (a) centre of repression and hope.”⁹⁴ The creation of the Constitutional Court is an insistent representation of the role of law in the struggle “of redemptive over repressive justice,”⁹⁵ a reconstruction of a society based on laws made by and for the people of South Africa, with a Constitution that delineates the rights of all citizens and guarantees their dignity and equal protection by law. Although the Old Fort was declared a national heritage monument under the former National Monuments Act of 1969 (as amended),⁹⁶ the Constitution Hill complex is awaiting formal declaration as a national heritage site under the National Heritage Resources Act, no 25 of 1999. As with South Africa’s transformation to democracy, the heritage declaration of the Constitutional Court is a long-term project that will test the Court’s contribution to creating a post-apartheid narrative based on the rule of law, human rights and constitutionalism and its success in realizing those rights and restructuring South Africa’s “political and social institutions and power relationships in a democratic, participatory, and egalitarian direction.”⁹⁷ In the process, perhaps law’s “aspiration towards justice” has gained some ground.

Conclusion

Heritage - not only is it a strategic resource for our country but it is a DNA of our society. The apartheid government created the wrong impression about our heritage, that it was only about buildings, bricks and mortars. ... In dealing with

⁹¹ Freschi p38

⁹² Bronwyn Law-Viljoen and Karel Nel, *Art and Justice: the Art of the Constitutional Court of South Africa*, David Krut Publishing, Johannesburg, 2008, p113

⁹³ Freschi p41

⁹⁴ Debora Matthews and Mika Conradie, AL3295 - The Constitution Hill Collection (inventory), South African History Archives, October 2013

⁹⁵ Freschi p36

⁹⁶ Email from Heidi Weldon, Cultural Heritage Office: Grading and Declaration, South African Heritage Resources Agency, Pretoria dated 24 July, 2014: “Work on having the complex declared a national heritage site is progressing well and hopefully will be finalised soon.”

⁹⁷ Karl Klare “Legal Culture and Transformative Constitutionalism” (1998) *SAJHR* 146 at 150.

challenges facing the heritage sector it is important for us to ask ourselves, what is role of heritage in nation building and national identity?⁹⁸

The epilogue to South Africa's interim Constitution declared that a "secure foundation" for the people of the new South Africa required that the legacy of human rights violations "be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimisation."⁹⁹ The need for reparation, in accordance with the recommendations of the TRC's Reparation and Rehabilitation Committee, was to be informed by the core principles of redress, restitution, rehabilitation, restoration of dignity and the reassurance of non-repetition. The reparations recommended by the Committee took different forms: interim reparations, individual reparations, symbolic reparations, community rehabilitation programmes and institutional reform¹⁰⁰. Heritage is considered to be part of symbolic reparations which "facilitate the communal process of remembering and commemorating the pain and victories of the past."¹⁰¹ The Committee also advocated a reparations policy that had a broader focus than individual financial compensation and provided for whole communities that had been targets of violence and exploitation or required institutional transformation.¹⁰²

Measures of cultural heritage can combine with other reparative mechanisms to offer compensation that goes beyond the financial quantification of individual human rights abuses to acknowledge and redress collective harm in a broad therapeutic, rather than in an individual economic, sense. However, while the reinterpretation and reconfiguration of cultural heritage in post-apartheid South Africa has provided some key examples of transformative benefit, the claim of "past mastering" to "heal the state and its citizens economically, socially and spiritually"¹⁰³ is less convincing when the extent of harm and inequality requiring reparation in the form of compensation or redress (for harm suffered), rehabilitation and restitution (of land) remains a central feature of South Africa's recovery. The four sites considered above illustrate, in very different ways, how heritage in post-apartheid South Africa has been employed as both a process for and manifestation of the country's transformation. Some sites that have endured the transition, triggered a historical revision or truth-telling (Van Riebeeck's hedge) or a fundamental repositioning of key players in their primary narrative (Voortrekker Monument). Others have seen archeological excavation validate contested claims to land and yield a restructuring in land ownership and reorientation of economic participation (Museum van de Caab). The heritage objective underlying the Constitutional Court performs a critical role of

⁹⁸ Mancotywa quoted in Meskell 2012 p51

⁹⁹ Note 71

¹⁰⁰ Report of the Reparation and Rehabilitation Committee, vol 6, section 2, chapter 1 at http://www.justice.gov.za/trc/report/finalreport/vol6_s2.pdf

¹⁰¹ above at p95

¹⁰² above at p96-97

¹⁰³ Meskell, The Nature of Heritage at p2 and

integrating “intangible values like human rights (and) the built heritage of (former) prison buildings,”¹⁰⁴ leaving exposure to historical events that are “unjustifiable yet still graspable in their causes and effects”¹⁰⁵ and simultaneously, urging the country to engage with the language and practice of human rights and constitutionalism.

The demands of poverty and unemployment, social and economic instability, and the legacy of exclusion and violence in post-apartheid South Africa require that the process of creating or designating symbolic reparations such as monuments and museums should, where possible, be linked to the improvement of the socio-economic conditions of victims of apartheid and their communities,¹⁰⁶ as in the case of Museum van de Caab. Other sites, such as the Voortrekker Monument and Constitutional Hill, are resources for private funding and political tourism that have been able to generate funds to support the financial viability and enhancement of the respective sites (and the short-term needs of the makers and designers of heritage artefacts) and indirectly “help pay for the socio-economic deprivations of the apartheid regime”.¹⁰⁷ These ventures around heritage tourism are primarily small-scale and their capacity to generate economic benefits and transform or alleviate the socio-economic conditions of marginalized and impoverished communities, is limited.¹⁰⁸ In any event, to envisage poor communities as potentially benefitting from the process of heritage-making, risks history becoming “a likely victim in the pursuit of profit”¹⁰⁹ and the exploitation and commercialization of cultural assets and practices. Although the resignification and development of cultural heritage sites in South Africa might increasingly serve to draw tourists to towns and cities (Robben Island and the Voortrekker monument being two of the nations most visited sites), perhaps their significant contribution lies less in their transformative economic potential and more in their capacity to move the country towards rebuilding a nation - understanding past atrocities and their causes, remembering without “rekindling the divisive passions of the past” and carefully “haul(ing) ... up the waters of hope for a future of dignity and equality.”¹¹⁰

Twenty years in to the making of a new democracy, as the multiple challenges of the reality of post-apartheid transformation manifest, the grip on the ambitious aspirational values and principles underlying South Africa’s transformation is inevitably more tenuous. In a recent interview on the need to conserve, preserve and maintain the Constitutional Court art collection, Constitutional Court judge, Edwin Cameron, acknowledged the parallel “precarious” struggle to

¹⁰⁴ King and Flynn, *Heritage and the Post-Apartheid City: Constitution Hill, Johannesburg* at p65

¹⁰⁵ James E Young, “Daniel Libeskind’s Jewish Museum in Berlin: The Uncanny Arts of Memorial Architecture.” *Jewish Social Studies* 6, no. 2 (Winter 2000), 3.

¹⁰⁶ Reparations Committee Report p 4. Section 5(7)(d) of the SAHA requires that management of cultural heritage should contribute to socio-economic development.

¹⁰⁷ Meskell and Scheermeyer, *Heritage as Therapy* p156

¹⁰⁸ above

¹⁰⁹ Sonwabile Mancotywa, ‘Critical Conversations about Heritage: Popularising Contemporary Heritage Issues’, National Heritage Council of South Africa, 2014 at p71 (previously published as ‘Find balance between profits and country’s historic heritage’, *Daily Dispatch*, 1 February 2011)

¹¹⁰ Neville Alexander, *An Ordinary Country*, 2002 p 71

protect and maintain “the rule of law.” While the art works which represent the history of the “anguish of our apartheid past but aspirations of our democratic future ... (seep) into our deliberations (when) hearing argument on what our constitution means,” the need for their protection and maintenance corresponds with that of their underlying project – “the project of making a viable democracy in our country.” The Constitution, concludes Justice Cameron, “has had a practical impact on South African life in very moving and important ways - so we have achieved a lot – but we are nowhere near to where we ought to be.”¹¹¹

¹¹¹ Victoria Fleischer, ‘Protecting South Africa’s artwork of democracy and reconciliation,’ *PBS NewsHour* (interview with Jeffrey Brown), 17 October 2014 at <http://www.pbs.org/newshour/art/protecting-south-africas-art-work-democracy-reconciliation/>