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The #FeesMustFall protest: when the camp(u)s becomes the matrix of a state of emergency

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The paper examines the state's response to students' claim for free education that has rocked South African tertiary institutions since 2015. These responses have been characterised by the enforcement of a *de facto* state of emergency materialised by an extreme securitisation/militarisation of campuses and other public spaces, resulting in human/student rights and the rule of law being brought to a standstill. The paper further discusses the background to the #FeesMustFall protest and attempts to understand why the crisis was addressed only more than two years after it erupted. The article proceeds by looking into the aftermath of the fees must fall campaign characterised by an escalation of security mechanisms which succeeded in turning the campuses into camps where fact and law are merged into one another and where a state of emergency has lost its exceptional character and became the new normal.

Keywords: #FeesMustFall, state of emergency, state of exception, Agamben, securitisation of campuses, higher education, human rights, student rights

Introduction

Since 2015 South African universities have been rocked by repeated strikes and disruptions by students demanding free and quality tertiary education. In the present paper, I assess the state's immediate response to students' demand for free education. The state's response has been characterised by the deployment of exceptional measures through an extreme securitisation/militarisation of campuses and other public places, resulting in the blatant violation of human/student rights. Assessing the camp(u)s as the matrix of a state of emergency is an analogy to Agamben's conception that considers the concentration camps to be the 'hidden matrix' of the politics where the exception becomes the rule (Agamben 1998: 99). It is not my intention in this paper to (re) account for the occurrences in the camps before, during and after Hitler's era in Nazi Germany. Instead, I will emphasise how in modern politics, the camps are no longer confined to some isolated and secured areas framed by walls and barbed wire fences where humans have literally been deprived of their humanity. Nowadays, the camps appear to have shifted from their historical/geographic location and have expanded all over the place including public and private spaces. As I will show, there seems to be a parallel between the atmosphere prevailing in the camps and what happened on campuses following the fees must fall movement: incidents were characterised by a disregard for human rights and the rule of law, and resulted in students' death, arrest and exclusion from universities. For the purpose of my argument, it is important to note the main peculiarity of the camps, namely, that it is a space located outside and beyond the legal sphere, a space where 'everything is possible'. The state's response to students' demand in South Africa led to nothing but chaos, human rights infringement including freedom of expression, movement and the right to protest enshrined in the constitution of student rights and the constitution of the Republic of South Africa.¹ Measures deployed by the government in response to the fees must fall campaign are reminiscent of those enforced during the apartheid era at the peak of the liberation struggle.

The crackdown within and outside the premises of universities clearly resemble the implementation of what is known as a state of emergency. A state of emergency is generally understood to be a process through which states suspend human rights and the rule of law in order to cope with exceptional circumstances such as war, foreign invasion, insurrection, revolution, or natural cataclysms threatening their existence. A state of emergency highlights the tension between the freedoms of individual citizens and the collective security of the society. It vests the government with special powers and allows for the possibility to rule

1 Act N01 of 1996

by decree, establish curfews, restrict the movement of person and property to administrative permission, arrests without warrant and monitor meetings and publications (Rossiter 1948; Gross and Aol'ain: 2006; Dicey: 1959; Dyzenhaus 2006). A state of emergency therefore has the capacity to legalise facts that would normally appear to be illegal in a time of peace. In the following I will show how as a result of the fees must fall campaign, many of these characteristics were and are still evident in the measures taken by the authorities to cope with the crisis within and outside campuses. The brutal response to the fees must fall protest by the government and/or the universities reaffirms a specific character of sovereignty, that is its capacity to expand, transcend all borders and enforce the exception. The exception is the raw material of the camps, which are isolated areas subject to their own specific set of rules while the ordinary legal sphere is subject to suspension. In other words, within the camps, a state of emergency loses its exceptionality and becomes the norm (Agamben 1998, 2005; Schmitt 1985). The camps operate based on a parallel and autonomous body of laws which are alien to the general legal normativity of the state. The idea of the campus as the matrix of a state of emergency is echoed by the introduction and normalisation, since the start of the fees must fall campaign, of extreme security mechanisms and exceptional procedures that did not exist until recently. Yet despite the fact that the crisis has since died down, the University of Pretoria for instance has become a genuine space of emergency on lock-down with new and high-tech security upgrades being introduced steadily. The access to campus, which is a public space, is currently subject to requirements similar to those of high security and sensitive areas. In addition to the traditional access card, both student and personnel intending to access the campus must perform biometric authentication by submitting their fingerprints every time, a process subject to much repetition depending on the frequency with which people decide to access and/or exit the campus. This is an exceptional process which has been successfully integrated into normal daily life across various campuses of this tertiary institution. The whole process strongly echoes Michel Foucault's approach to governmentality; an approach centred around the concept of biopower or biopolitics, a concept at the intersection of biology and politics which accounts for the technologies of power to process, control and dominate human life and populations (Foucault 1978, 2003).

The response to the #FeesMustFall protest helped to generate severe tensions between students and authorities who did not hesitate to retaliate by taking drastic measures. It is a unique situation to address students' strikes and calls for free education by resorting to emergency powers - as if these demands were a matter of national security. Yet the peculiarity of the situation in South African universities is that a state of emergency has never been formally proclaimed in terms of the provisions of section 37 of the constitution even though students

have been subject to violence without these transgressions being considered a crime. I still have in mind the image of a student who was dragged, on campus ground, by three policemen before being forcibly shoved into a police van. Such an image attests to the shift in the nature of the campus, turning into that of a camp, that is the matrix of a state of emergency where the protection of students rights suddenly collapsed. It remains incomprehensible why emergency powers were deployed in response to the #FeesMustFall movement. Can student protests for free education amount to an issue of national security or be seen as a threat to the nation's integrity? The issue is to know whether students' demands could only be addressed through violence, exceptional and brutal measures. If so why was a commission of inquiry into higher education and training set up afterwards? What was the rationale behind students' demand and why did the president (finally) announce fee-free education for first-year students more than two years after the #FeeMustFall protest was initiated? The answer to these questions firstly requires a brief overview of the critical approach to the doctrine of emergency; secondly, an understanding of the background to the #FeesMustFall protest; thirdly, a chronological account of the #FeesMustFall protest and the rise of a *de facto* emergency on campuses; and, lastly, the aftermath of the #FeesMustFall protest and the escalation of security on campuses.

A brief overview of the critical approach to the doctrine of emergency

This approach posits that not only is a state of emergency (or a state of exception) to be located beyond the sphere of law, but it also represents a political nihilism and a vicious circle of violence. In this section, I examine the critical approach to the doctrine of emergency through a review of Schmitt's decisionism, Benjamin's messianism and Agamben's political nihilism.

The first idea from the critical approach is presented by Carl Schmitt who, through his doctrine of decisionism, considers a state of exception to be the limit not only of law but of the entire doctrine of liberal democracy. Schmitt's decisionism suggests that the occurrence of an exception is proof enough of the rule of law's weakness and inefficiency to frame human life (Schmitt 1985: 6-7). Against Hans Kelsen's normativism that seeks to establish a theory of law that would be universally valid for all times and all situations, Schmitt contends that all law applies to a particular situation. According to him the state suspends the law in the exception on the basis of its right of self-preservation (Schmitt 1985: 12). Therefore a fundamental relation between politics and the limit needs to be established. The norm is made for man and not vice versa and this justifies why "sovereign is he who decides on the state exception" (Schmitt 1985: 5). He further

considers a state of exception to be a space in which the true structure of the legal order is revealed via the separation of norm and decision. In such an instance the decision frees itself from all normative ties and becomes in the true sense absolute as the norm is destroyed (Schmitt 1985: 12).

The second argument from the critical approach to the doctrine of emergency appears in Walter Benjamin's essay 'Critique of violence' (Benjamin 2003). The issue is to know whether violence in the social and political realms can be justified as a pure means in itself, independent of whether it is applied to just or unjust ends (Benjamin 2003: 115). The starting point is that any legal system is essentially defined by the relationship between means and ends, and if violence is then not an ethical or legal goal, it can only belong to the realm of means as an effective force that aims to sanction violence, whatever its justification might be.

Following an analysis of what he refers to as the mythical form of violence and pure or divine violence, Benjamin considers a state of emergency in which we live as a fiction. According to him a real state of emergency is the one which can improve the struggle against oppression and affirm the possibility of a human existence outside the law.

The third idea from the critical approach to the doctrine of emergency is developed by Giorgio Agamben. He portrays the state of exception as the suspension of law in which application and norm reveal their separation. Accordingly, fact is converted into law and law into fact with a zone of indistinction being established between the two. This process is set to happen in a particular space, namely the camp. It is a space that is opened when the state of exception begins to become the rule. As he puts it, the camp is a piece of land placed outside the normal juridical order, but it is nevertheless not simply an external space, because what is excluded in the camp is, according to the etymological sense of the term 'exception', taken outside, included through its own exclusion (Agamben 1998: 96). But what is first of all taken into the juridical order is the state of exception itself which is not to be perceived as a special kind of law such as the law of war but rather a mechanism of suspension of the legal order itself (Agamben 2005: 4).

Overall, the critical approach to the doctrine of emergency clearly provides justifications and explanations for fundamental rights and the rule of law being subject to suspension. On the one hand, Schmitt's approach justifies such violations by reaffirming the superiority of the state over individuals, by attesting the primacy of the rule of man over the rule of law and by confirming that there are no objective causes for the deployment of exceptional measures. This explains why in such a context the suspension of law appears to be a matter of sovereignty (Schmitt 1985). On the other hand, contrary to Schmitt, Benjamin

and Agamben explain the processes that result in human oppression in modern politics. Benjamin is of the view that violence cannot be part of the means to address issues in the social and political realms and will only lead to brutality and retribution (Benjamin 2003). For Agamben, a state of exception brings about a political nihilism, that is a combination of norm and anomie where rights are violated only because the norms that protect them remain valid but are simply deactivated (Agamben 1998, 2005).

Understanding the background to the #FeesMustFall protest

It might be seen as pretentious to attempt to understand or circumscribe the exact causes and background to the #FeesMustFall protest that rocked South African tertiary institutions for more than two years. Nonetheless the apartheid legal system may hold some answers. Apartheid was a policy of racial segregation initiated by the National Party following its 1948 electoral victory. It institutionalised a stratified society where the black majority were politically, economically, and socially dominated by the white minority. The stigmas of this system remain very perceptible across modern-day South Africa. The end of the apartheid regime brought hope of building a South African society where poverty, marginalisation and inequalities were to be substantially addressed. However, 24 years since the advent of democracy the ghosts of the past still persist. World anti-apartheid icon Nelson Mandela reaffirmed the importance of education in breaking all barriers and overcoming various challenges. Yet today, in terms of primary education, South Africa is said to have one of the world's worst education systems (South Africa has one of the world's worst... 2017). In a league table of education systems drawn up in 2015 by the Organisation for Economic Co-operation and Development (OECD), a club of mainly rich countries, South Africa ranks 75th out of 76. South African children fall behind those in poorer parts of the continent. It is reported that 27% of pupils who have attended school for six years cannot read compared with 4% in Tanzania and 19% in Zimbabwe. Only 37% of children starting school go on to pass the matriculation exam and just 4% earn a degree (South Africa has one of the world's worst... 2017). The root of this poor performance can be traced back to the apartheid system, notably with the Bantu Education Act of 1953.² This Act, which compartmentalised the education system, was aimed at ensuring that the whites received a better education than the blacks. The apartheid government insisted that Bantu Education was designed to teach African learners to be 'hewers of wood and drawers of water' for a white-run economy and society, regardless of an individual's abilities and aspirations (South Africa Overcoming Apartheid Building Democracy n.d.). The 1953 Act also

2 Act N° 47 of 1953

separated the financing of education for Africans from general state spending and linked it to a direct tax paid by Africans themselves, with the result that far less was spent on black children than on white children. As a result, in 1961 only 10% of black teachers held a matriculation certificate as black education was essentially retrogressive, with teachers being less qualified than their students (South African History Online [SAHO] n.d.).

Connecting the above developments to the idea of exception, it is noticeable how the largest portion of the population was subjected to legislation applicable only to them. This particular context is in line with Benjamin's approach to emergency that considers the law as a tool of dissemination of violence. In that situation, the law, that is the Bantu Education Act, was used not as an instrument of protection but instead as a tool of economic and social oppression of the black majority. In that case, the violence was perpetrated neither by the use of weapons nor by the state's coercive agents, that is the military, but by legislation purposely designed to target the largest section of society. In terms of education, the black majority subject to the apartheid regime was forcefully propelled into a legal sphere subdivided into smaller discriminatory legal spheres not homogeneously applicable to its subjects. The approach to Schmitt's decisionism as examined previously could find a breakthrough in such a situation. By 'legally' discriminating on black education, the apartheid government proved that the rule of man effectively transcends the rule of law. Such a toxic rule (or decision), specifically designed to manufacture black pauperisation and illiteracy, resulted in the gruesome consequences that are still overwhelming in modern-day South Africa. This successful enterprise by the apartheid machine could only be achieved by generating a crack within the legal structure of the time. In so doing, an exception was established through the setting up of a parallel sphere of law with the aim of paralysing the general legal architecture and justice system of the state to the extent that it could not function when it came to the black majority. As a result, the artificial process of manufacturing black illiteracy through a mere decision appeared to be clothed with the illusion of legality.

In addition to the Bantu Education Act, another exceptional measure, the government's 'homelands' policy, prohibited new high schools from being built in Soweto between 1962 and 1971. For nearly a decade, no new school was built there and students were compelled to move to their relevant 'homeland' to attend schools there (SAHO n.d.). As time went by, this racial compartmentalisation of education had serious effects on primary, secondary and even tertiary education. This was the case with the Extension of University Education Act that put an end to black students attending 'white universities' (mainly the Universities of Cape Town (UCT) and Witwatersrand (Wits)). Organising tertiary institutions based on race, the Extension of University Education Act set up separate 'tribal

colleges' for black university students who were then compelled to attend the so-called 'bush' universities such as Fort Hare, Vista, Venda, and Western Cape (SAHO n.d.). In the 1960s, further racial divisions of the education system occurred with the introduction of the Coloured Persons' Education Act of 1963 that put control of 'coloured' education under the Department of Coloured Affairs, and the 1965 Indian Education Act to separate and control Indian education, placed under the Department of Indian Affairs (SAHO n.d.). By this time the (in)visible demarcation lines between the races and inhabitants of the same country had successfully been achieved. The quality of education and training as well as the resources allocated were subject to substantial variations depending on whether it was a 'black' or so-called 'bush university' or 'white university'. In any case the education system under apartheid managed to achieve a new dimension to the extent that the education system became symbolised by nothing but race or the skin colour of their students.

Moving from the apartheid period to a democratic South Africa appeared to be a major step forward, even if the problems remained persistent. With this set of exceptional and discriminatory laws enacted on purpose to prevent the black majority from being empowered intellectually, economically and socially, the main issue remains as to how to redress these past injustices that have successfully crossed the boundaries of space and time and are now expanding into the current reality. It is a fact that apartheid laws were used as a tool of brutal oppression and it is already a remarkable experience that despite the persisting traumas and painful memory of the past, there are so many black South Africans who are (still) willing to complete not only a primary and secondary education but also a tertiary qualification. However, in a challenging environment where everything is for sale, where universities seem to be operating on a business model and where students are perceived as clients, consumers, or customers, there could not be better circumstances to generate further frustrations. How can a particular group of people who have wilfully and legally been dehumanised and subjected to a systemic and systematic process of mass illiteracy and pauperisation expect to suddenly reach or acquire the same level of instruction and qualification as that of their peers in other parts of the globe if they are still stuck within the socio-economic conditions of the past? How can they afford the price and cost of education in a society bogged down by profit and capitalist calculations? In the current education arena, there are so many 'items' for sale. The so-called 'Client Service Centre (CSC)' full of cashiers was set up a long time ago and is fully operational just like those in any business and shopping centre. Its name recently shifted to that of 'Student Service Centre (SSC)'. It would have been great had renaming a thing succeeded in changing the nature of that thing but fortunately or unfortunately that is not yet the case. This explains why the

renaming seems to have failed to change much about the intrinsic capitalist nature of what is now the former CSC. The 'service' per 'offer' in the brand new SSC has remained exactly the same as before. Whether it is about subjects, dissertations, mini-dissertations or theses, their prices seem to be synchronised across the system similarly to that of any commodity in supermarkets and shopping malls. Students, just like consumers, customers or clients must pick and pay for some of these commodities in exchange for (a probable) qualification and it is their responsibility if they cannot afford them. Fortunately, given that the right to education has long been supplanted by the right to access educational loans, the system was built in a such a way that there are available 'generous and providential' financial institutions and banks always ready to lend money to those who are broke in exchange for a reasonable interest rate; even though no one really knows how this interest rate is determined and when the last payment will be due in a tricky financial environment where it is no longer possible to clearly distinguish between the interest itself and the capital amount. In any case, whether one likes it or not, sooner or later, it is my contention that if this matter is to be resolved once and for all, there is no other option but to sincerely question the true nature of the university today. Of course, the university is obviously a tertiary institution, but my actual concern is to know whether it is an institution of learning or instead a professional training industry grounded on profit and where everything especially the acquisition of knowledge is for sale. This issue has been pending for too long and this may explain why in 2015, frustrations reached their peak and the March 9 protest was initiated at UCT. According to the report of the commission of inquiry into higher education and training, the issue raised by students was the lack of institutional transformation, and the focal point was the prominent statue of Cecil John Rhodes on the UCT campus. Even though the #RhodesMustFall movement led to the removal of the statue, deeper tensions remained (Commission of Inquiry Into Higher Education and Training [Fees Commission] 2017). This was the beginning of a crisis in which students were to become the target of exceptional and retaliatory measures by the state and/or universities as analysed in the following section.

The #FeesMustFall protest and the rise of a *de facto* state of emergency

From the outset, most of the information in this section pertaining to the sequence of the crisis comes from the report to the president of the Republic of South Africa of the commission of inquiry into higher education and training, headed by former Judge Jonathan Heher, released on November 13 2017. The report is available on the presidency's website and is accessible to the public (Fees Commission 2017). It is also worth specifying that the report appears not to mention some crucial

information such as, for instance, the death of a student at Tshwane University of Technology (TUT), the death of another student at the University of Johannesburg, Soweto campus, and the case of another student who was blinded as a result of police brutality during protests at the Union Buildings in 2016.

Following the start of the protest in March 2015 at UCT, another campaign called 'Open Stellenbosch' emerged at the University of Stellenbosch to counter the lack of transformation at that institution, with the language issue at the heart of the contestation. As these protests subsided, tensions on university campuses continued through 2015. There was renewed concern regarding university fees, and in September 2015 Universities South Africa (USAF), the forum for university vice-chancellors, and the University Council Chairs Forum (UCCF) requested a meeting with former president Jacob Zuma to discuss the crisis at universities. Emanating from this meeting, a Presidential Task Team was established to look at measures to mitigate possible student protests and unrest at the start of the 2016 academic year. On October 2015, protest action was initiated at Wits under the banner 'Wits Fees Must Fall'. This followed the announcement by Wits of a fee increase of 10.5%. The #FeesMustFall campaign gained momentum a week later and spread to other universities across the country. During another meeting, the then Minister of Higher Education and Training, Blade Nzimande, attempted to broker a deal between universities (represented by USAF and UCCF executive committees), students (represented by the South African Union of Students (SAUS)), and staff unions. An agreement was reached that fees should increase by no more than 6%; this agreement was immediately rejected by students, who reaffirmed their demand through the #FeesMustFall protest for a 0% increment across all universities. It is noticeable how at the beginning of the movement, authorities swiftly responded by setting up meetings to address students' demands. Yet despite these meetings, tensions remained perceptible as the strike became more persistent. Questions arise as to whether demands from students were given due consideration. The answer is not clear, for the solutions proposed by the government failed to address the calls for free education raised across campuses. It seems the dialogue initiated by the government appeared to be nothing but a dialogue of the deaf. It is hardly comprehensible that, facing demands for education fees to be purely and simply scrapped, the government managed to come up with the suggestion of not only maintaining such fees, but also by allowing a 6% increase. The situation ended by bringing together all the ingredients that were to contribute to the escalation of the peaceful movement, with dreadful consequences. On Wednesday October 21 2015, demonstrations reached a new height as students and workers joined together to protest at Parliament in Cape Town, with the protestors bringing together demands for free education, the insourcing of workers and calls for more money to be allocated

to higher education. Police, armed with stun grenades and teargas, attempted to block students from accessing the area. This failed as students and workers managed to enter the Parliamentary precinct, with calls for 'fees must fall' and 'end outsourcing'. The protest resulted in the arrest of 23 protestors and injury to others. This only led to yet further protests at campuses across the country; for two days after the demonstration at Parliament, thousands of students from across Gauteng, joined by school pupils, marched on the Union Buildings, expecting an announcement from Zuma, who instead chose to remain silent. Frustrated, they then tried to push through the barricades as police responded with teargas and rubber bullets. Fires were started and a battle between police and students ensued, with a police van being overturned and students being forced out of the Union Building grounds. By this time the situation had completely shifted from normalcy to emergency with control and militarisation of various areas, restriction of movement, arrests and an expansion of violence. A *de facto* state of emergency was being fully implemented with the deployment of police all over the place who, through intimidation, retaliation or dissuasion, arrested a number of protesters. Meanwhile, police brutality did not solve the problem and the unfolding of the crisis appeared to be guided by the logic, tactics and especially the confrontation between power and resistance well described by Foucault as follows:

Power and resistance confront each other, and use multiple, mobile, and changing tactics, in a field of relations of force whose logic is not so much the regulated and codified logic of right and sovereignty, as the strategic and warlike logic of struggle (Foucault 2003: 221).

The fact that students left the campuses and walked to the precincts of power such as Parliament and the Union Buildings was symbolic. Unfortunately, no one seemed to realise the symbolism. In fact, these spaces (Parliament and the Union Buildings) are the very same spaces that witnessed the (legal) process of manufacturing black illiteracy and poverty during the apartheid period. The Bantu Education Act, and other cynical and discriminatory legislation/decisions previously analysed, came into being in these spaces. Therefore, it was not a surprise that those who have been the primary victims of a system of oppression conceptualised in those spaces return there in an attempt to make things right. It was just a matter of time for that to happen and until these issues are resolved in a sustainable manner, it may happen again. Unable to provide students with a satisfactory solution to their demands, the state undertook to use emergency powers to retaliate. Many of them were arrested and jailed and many others were injured as a result of the police use of teargas, rubber bullets and their ignorance of human rights protection and any legal mechanisms in place. These did not

constitute a crime because in such instances, the sovereign power of the state confronted nothing but bare life, that is a life that can be killed without constituting a crime. This justified the fact that not only was no investigation opened, but also no one was held accountable and some arrested students were denied bail by the justice system. During the #FeesMustFall campaign, campuses became the camps in the sense that in this space, the rule of law was, as Agamben put it, deactivated. The suspension of law and human rights on campus amounted to nothing but a genuine state of emergency.

The #FeesMustFall protest unveiled the impossibility of public authorities and universities reconciling (or their lack of will to reconcile) the use of emergency powers with freedoms of expression, movement, assembly, demonstration, picket and petition guaranteed by the constitution of South Africa.³ The only circumstances when such use of force is allowed is in the case of necessity or exceptional circumstances such as war, foreign aggression and invasion, natural cataclysms and threats to the existence and security of the state. When this occurs, the president should declare a state of emergency as provided for by section 37 of the constitution of South Africa. I have already provided elsewhere detailed clarifications regarding the starting of the emergency process in the country.⁴ The first paragraph of section 37 reads:

A state of emergency may be declared only in terms of an Act of Parliament, and only when

- (a) the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
- (b) the declaration is necessary to restore peace and order.

In the current situation, students' demand for free and quality tertiary education was treated by the government as if it were a threat to the life of the nation. Authorities chose to enforce a *de facto* state of emergency at the expense of the rule of law and individual rights. Yet despite the use of exceptional powers and the crackdown on students, the #FeesMustFall protests persisted across the country.

The 2016 academic year started with renewed protests, sarcastically branded by some as '#FeesMustFall 2.0', as it clearly appeared that students' discontent

3 For more on this, see the Bill of Rights in the constitution of the Republic of South Africa 1996, (Act N° 108 of 1996).

4 See Kamdem Kamga GE (2016) Starting the emergency process: some reflections on presidential prerogatives in South Africa and Cameroon in time of turmoil. *VRUe/Law and Politics in Africa, Asia, Latin America* Vol. 49 (1).

was no longer confined to a single issue. Claims were no longer limited to free education but included the scrapping of all student debt, an end to the outsourcing of service workers at universities, a curriculum transformation, the availability of decent and affordable student accommodation, and an end to the rape culture on university campuses. Left with no satisfactory answer, tensions flared again in an atmosphere of generalised violence across universities. Protests resumed and led to the destruction of property on some campuses, with the estimated cost of this between October 2015 and June 2016 at R500 million. By September 2016, in another attempt to broker a deal, Nzimande came up with yet another suggestion that did not bring an end to the crisis but instead contributed to deepen divisions among students on the one side, and universities and public authorities on the other. He announced that fee increases for 2017 would be decided by university councils but would not exceed 8%. He also provided for a 0% increase for all those from families with a household income of less than R600 000 per annum. This suggestion was *déjà vu* in the sense that students' concerns were yet to be effectively addressed. It was difficult to understand the rationale behind the 8% increase in a context where students had been fighting for the fee itself to be removed. As a result, protests resumed and led to further damage to university property across the country with many institutions closing down. Examinations were cancelled or postponed at some institutions while others chose the online option in an attempt to complete the academic year. The deployment of police and security agents all over the place confirmed the complete shift of the nature of the campus to that of a camp, that is a piece of land placed outside the normal juridical order in which the norm becomes indistinguishable from the exception (Agamben 1998:96). The confrontation between the police and students continued with several arrests being made. The gates remained locked and students were barred from entering the university premises, an institution with which, from legal and technical perspectives, they were still affiliated. Similarly to what happened within the camps, administrative authorities undertook to tighten the security inside and outside campuses by restricting, controlling, monitoring and authorising the movement of people. To this end, a 'curfew' was established and university premises suddenly became overcrowded by security agents. At the University of Pretoria, for example, in order to pursue their academic endeavours, some students could exceptionally enter the campus after submitting a signed letter from either their supervisor or head of department. Supervisors and heads of department reluctantly found themselves embarked upon the process of securitising and monitoring the movement of students on campuses. All legal mechanisms and rights, especially those granting students automatic access to campus, were put on hold. The brutal response to the fees must fall movement had successfully turned the campus into a camp; in other words, into a space with

a hybrid of law and fact in which the two terms had become indistinguishable (Agamben 1998: 97).

In an attempt to address students' demand for free education, on January 14 2016 Zuma set up a Commission of Inquiry into Higher Education and Training. The terms of reference included the feasibility of making higher education and training fee-free in South Africa, having regard to:

- The Constitution of the Republic of South Africa, all relevant higher and basic education legislation, all findings and recommendations of the various presidential and ministerial task teams as well as all relevant educational policies, reports and guidelines;
- The multiple facets of financial sustainability, analysing and assessing the role of government together with its agencies, students, institutions, business sector and employers in funding higher education and training;
- The institutional independence and autonomy which should occur vis à-vis the financial funding model.

On November 13 2017 the report was released with the commission being in favour of fee-free tertiary education in the country. The commission not only recommended that all undergraduate and postgraduate students at both public and private universities and colleges, regardless of their family background, be funded through a cost-sharing model of government-guaranteed income-contingency loans sourced from commercial banks but also recommended that the government should consider the introduction of a university fee-capping mechanism to avoid the cancelling-out effect. A month later in December 2017 Zuma announced that all first-year students from poor working-class backgrounds with a combined annual income of less than R350 000 would qualify for free tertiary education. What really drove the former president to (finally) come to such a decision? The announcement was met with mixed reaction across the country with some students welcoming the news while others were concerned about implementation of the measure. One may legitimately question the timing and the political context surrounding this decision. Indeed, Zuma's announcement came only a few days prior to the African National Congress (ANC) conference that was set to choose a new president of the party who would be the party's candidate for the 2019 presidential elections. In addition, there were then strong criticism, and calls for the resignation, of Zuma in an environment tainted by allegations of corruption and so-called state capture. The decision to grant fee-free education could well be perceived as both the willingness to solve a genuine problem but also as an initiative to gain support from people, civil society and especially from ANC elective members who were about to choose between several candidates

including among others Nkosazana Dlamini-Zuma (strongly endorsed by the then president) and the deputy president of the time, Cyril Ramaphosa, who came out as victor. On February 14 2018 Zuma resigned after been recalled by the party. That was quite a strange and unusual Valentine's day, tinted by other events including the death of Morgan Tsvangirai, the long-time Zimbabwean opposition leader, the Florida school shooting in the United States that resulted in 17 students being killed and the resignation of the Ethiopian Prime Minister the following day. Despite these events what is certain is that the year 2018 did not witness any demonstration on campuses. Protests have died down and currently it is problematic to know whether the crisis is gone for good. The situation has now moved into what seems to be the aftermath of the #FeesMustFall protest, yet it is still characterised by an escalation of security on campuses.

The aftermath of the #FeesMustFall protest and the escalation of security on campuses

When reflecting on the title of this section of the paper, I hesitated between two possible formulations. The first one was 'the aftermath of the #FeesMustFall' and the second possible formulation was 'the afterlife of the #FeesMustFall'. I ditched the latter due to the fact that despite Zuma instituting free tertiary education for first-year students, I was not (and I am still not) certain that the crisis is completely over and has moved to its afterlife stage. I then chose the concept of 'aftermath' generally defined as 'the period that follows an unpleasant event or accident, and the effects that it causes'. From this definition it is evident that the 'unpleasant event or accident' may or may not recur depending on how it is handled. This probably explains why security has been drastically stepped up at some universities, confirming a shift in the nature of campuses which have since been turned into camps where movements are now subject to scrutiny and monitoring. At the University of Pretoria, for example, point 7.7 of the Security Policy, entitled 'Investment in systems and technology', reads:

The Department will introduce systems, technology and procedures that support modern security practices and will continue to identify technology and solutions that can contribute to improved security (Department of Security Services University of Pretoria 2018b).

In paying close attention to the above quote, it seems that the title of the current section of the study is somehow contradictory because joining the concept of 'aftermath' with that of 'escalation of security' conveys the idea that dust has not (yet) settled. At the University of Pretoria, prior to the #FeesMustFall protest, an access card was the main security feature required to enter the campus.

Currently, in addition to the access card, a biometric authentication system has been set up. Both students and personnel must now submit fingerprints when entering and exiting the campus. The submission of fingerprints is a relatively new procedure that appears in point 6 on the principles provided by the Access Control Policy of the University of Pretoria. It reads as follows:

Students, personnel, contractors and other UP access card users are allowed access to UP premises by presenting the smart access card at the proximity reader, as well as presenting a fingerprint on the biometric reader at the turnstiles/boom gates to campus (Department of Security Services University of Pretoria 2018a).

These access procedures to the university premises are subject to ceaseless repetition irrespective of the frequency with which students and personnel decide to enter or exit the campus. It is worth noting that the submission of fingerprints remains an exceptional procedure required to access very sensitive areas such as military sites. Yet such a procedure has been incorporated within the daily life of the University of Pretoria, a public space supposed to remain fully accessible. Within this context, fingerprints and access card constitute a pass in a space where freedom of movement are now subject to permanent drastic restrictions. For the past few years, biometric authentication has been a critical and controversial issue around the world owing to intense surveillance and spying activities (even among friends) by some nations that are no longer able to distinguish between public and private, legal and illegal. With the recent introduction of biometrics at the University of Pretoria, people find themselves in a similar situation given that “whoever entered the camp moved in a zone of indistinction between outside and inside, exception and rule, licit and illicit in which the very concepts of subjective right and juridical protection no longer made any sense” (Agamben 1998: 97). Visitors or students who have not yet registered and who are not able to perform a biometric authentication at the gates can still access the campus provided they comply with a particular procedure. Such a procedure was emphasised in an email on 30 January 2018 by the marketing division of the University of Pretoria with the subject line ‘strict access to Hatfield campus’ as follows:

This message serves as a reminder of the existing procedures for receiving visitors on campuses. Staff who have appointments with visitors (including students who have not registered yet) who wish to enter the campus must notify Security Services in writing at least one day before the visit and provide the following information in writing: name and surname of visitor(s), and the date and time of the visit. No visitors will be allowed to enter

the campus without written acknowledgement of their visit by Security Services.

This email matches the requirement of Point 9 of the access policy on day visitors that invests deans and directors with the power to nominate authorised personnel to apply via the UP Portal Visitor Management System and approve visitor access for meetings, workshops, etc. The access policy further states that invited/announced visitors will receive a one-time pin code via SMS for a particular day, which will be scanned together with an ID or passport for access to the campus. This procedure for day visitors is different from the one that applies to visits longer than three days. There exists another particular set of procedures for accessing the university premises depending on how events to be hosted on campus are rated according to the amount of risk they represent. When it comes to events such as workshops, conferences, seminars and other public events organised on the campus, organisers of these events must spend time uploading speakers' and participants' details along with their identity numbers into the system days before the event; otherwise they will not be able to access the campus. Authorities at the University of Pretoria might not be aware of the impact and burden, as well as the psychological effect, of such exceptional security checks and procedures, which add to an already overwhelming workload. Most of the time, these processes reduce in one way or another the number of participants at these events, which end up being tarnished and losing their prestige. In addition to this, no matter the event or the procedure to gain access to the university premises, ordinary employees who have not been nominated by deans or directors cannot welcome a visitor on campus. The subjugation of personnel of a tertiary institution to such micromanagement definitely conveys the idea of suspicion and crisis of trust. Moreover, as specified in the above email, the request must be lodged "at least a day prior to the visit". The rationale behind such an excessive procedure is hardly understandable. I do not intend to question emergency security measures across the campus but I believe that authorities seem to have failed to properly appreciate the amount of frustration experienced by numerous people who the university claims they protect through the extreme securitisation of campuses. These exceptional measures were put in place to cope with a temporary and factual situation, the student protests. However, when these measures become normalised, to the extent that students and personnel feel burdened by the daily inconvenience of them, it may quickly become counterproductive. Even at OR Tambo International Airport of Johannesburg, which welcomes thousands of people on a regular basis including aliens and potential terrorists, the requirement of fingerprints remains an exceptional procedure and not a normal one as currently the case on campus. Recently a colleague of mine at work fell sick and could not drive home. She called a cab

that was denied entry at the campus gate on the ground that there was no access pin nor any written receipt from the security services authorising access to the university. It would have been great if my colleague had known the previous day that she was going to be sick the next day. She would have therefore been able to send an email to security services 'at least one day before' and provide 'the name, surname, email address and cell phone number' of the uber driver she was intending to 'welcome' on campus the following day. In any case, she failed to comply with the procedures and therefore was guilty of not being able to foresee what was not foreseeable. There can only be thousands of scenarios that will not conform to these procedures, which in fact only confirm the *de facto* state of emergency that currently characterises the camp(u)s. In the introductory section to this paper, I mentioned that the imposition of curfews, restriction of freedom of movement, administrative permissions and the monitoring of people constitute some of the major peculiarities of a state of emergency. These portray the current situation across the campus of the University of Pretoria where the escalation of security measures clearly amounts to nothing but that human rights and the rule of law have been put on hold. In sum, when it is no longer possible to make a clear distinction between fact and law within a space, it means that such a space has vanished from a legal sphere and has espoused the characteristic of camps.

The security across the campus has been tightened to the extent that the administration's perception of students has radically changed. Students are no longer perceived as students but as 'crowds that must be controlled'. This is the content of an invitation to tender recently released by the University. Tender N°: sec ADHOC-2017- 016 was issued 'for the supply of specialised ad hoc crowd control services to the University of Pretoria'. In the camps humans were stripped of their humanity and today students on campus may no longer enjoy their identity as students but only as crowds to be monitored by a 'specialised ad hoc crowd control services'. This tender reads as follows:

The University of Pretoria (The University) is committed to maintaining a stable and safe environment for students to study, participate in a variety of cultural, sporting and other student activities. The university of Pretoria seeks to appoint a suitable service provider for the provision of specialised ad hoc crowd control services on all campuses of the university. Suitably qualified service providers are invited to make submissions for ad hoc crowd control services at the university.

This invitation to tender for security purposes strongly suggests the idea that students on campus represent a particular threat, even though it remains unclear against whom such a threat might be directed. Moreover, this threat is so unusual to the extent that it can no longer be monitored and handled by existing ordinary security

mechanisms but only by specialised agencies. This implies that the implementation of a state of emergency on campus is a fact even though it has not been formally proclaimed. The deployment of this security arsenal has resulted in human rights and the rule of law being brought to a standstill. The illusion of normality is comparable to that of a camp given that “the camp is the space that is opened when the state of exception begins to become the rule. In the camp, the state of exception, which was essentially a temporary suspension of the rule of law on the basis of a factual state of danger, is now given a permanent spatial arrangement, which as such nevertheless remains outside the normal order.” (Agamben 1998: 96)

The campus of the University of Pretoria is crowded by security agents who operate behind closed gates. Since the #FeesMustFall protest in 2015 some of the gates into the campus are still closed, for example, entrance N° 9 located at the corner of Prospect and Festival streets in Hatfield. Another consequence of the heavy security checks, the biometrics authentication and the still-closed gates is traffic congestion across the campus. At rush hour, drivers may spend up to 15 or 20 minutes in campus traffic; that is to say before exiting the campus. In the same vein, the ‘main entrance’ of the university is paradoxically the one that is generally closed from 6pm and also all weekend. One would have expected the main entrance of an institution to stay open all the time and thus stop people from accessing the premises through the ‘back door’. But just as in emergency situations, the main places, the main roads must stay closed to allow for the efficient monitoring, control and restriction of people’s rights.

Conclusion

At the end of this analysis, I am still trying to figure out whether the demand for free education was so unique and strange. If that were the case, what about countries such as Finland, Sweden, Denmark, Germany, France or even the Cooper Union in the United States that have been functioning on a fee-free education model? The #FeesMustFall protest in South Africa erupted as a result of frustrations accumulated over decades. The causes are known and it is possible to prevent the recurrence of such events. In my view, I do not believe that students’ claim for free education was aimed at destroying universities. It was an expression of their will to actually join and become part of these institutions so that they could acquire skills and forge themselves into a person who would be profitable to society. The whole crisis was an attempt to break the chains of socio-economic injustices and inequalities inherited from the past that are still impeding their current conditions. During their presentations to the commission of inquiry into higher education, some echoed the White Paper (1997), which starts from the idea that in South Africa the challenge is to redress past inequalities and

to transform the higher education system to serve a new social order, to meet pressing national needs, and to respond to new realities and opportunities. In the same vein, USAF asserted that South Africa's higher education system is a fundamental ingredient in the development strategy that has been adopted and therefore universities are "key social institutions in addressing the social justice agenda of one of the most unequal societies in the world". Other institutions such as the University of Mpumalanga, Wits, and the Council on Higher Education, after dealing with the basic question as to who should benefit from higher education, and who should fund it, agreed on the idea that higher education is both a private good and a public good that contributes to overall national socio-economic development, and the creation of high-level human resources and knowledge.

The policy of normalising emergency security procedures that have turned campuses into camps needs to be reconceptualised. Both the access policy and the security policy say they should be reviewed every three years or sooner if deemed necessary. I am of the view that time has come to substantially review these policies before accumulated frustrations grow even more. Trust needs to be restored between students, personnel, the public in general and the university administration. By escalating security procedures on campuses and restricting rights, authorities are actually working on the effects of the crisis instead of focusing on its causes. These causes need to be scrutinised and seriously addressed, otherwise another #FeesMustFall or a similar crisis may pop up sooner rather than later.

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