INTRODUCTION

Democracy in the public imagination has all too often been conflated with elite democracy, which gives nominal legitimacy to capitalism while failing to give a meaningful voice to exploited social groups. In South Africa, one of the most unequal countries in the world yet still largely a democracy, this tension between the democratic ideal and the reality of social exclusion, exploitation and oppression is stark. In fact, it seems fair to say that despite the trappings of formal democracy – such as the extension of franchise rights to all South Africans and reasonably independent democratic institutions – the unemployed and even sections of the working class (such as casual workers) lack a meaningful voice in the post-apartheid social order. South African society remains highly volatile and susceptible to social explosions (Alexander et al. 2018), but the ruling hegemonic bloc – with the African National Congress and its alliance partners at the apex – still remains in power, albeit with a significantly reduced majority. It has also become clear that the ruling bloc does not have answers to South Africa’s systemic problems of inequality and unemployment and, in fact, these problems are worsening.

The post-apartheid state has struggled with how to respond to worker and community struggles, moving between using coercion and concessions coupled with
limited incorporation into the political system. Furthermore, South Africa’s constitution and reasonably robust institutions (such as the media and the judiciary) make outright coercion very difficult. However, this point must be made with the caveat that South Africa lacks a media system characterised by decommodified, alternative media, resulting in distorted representations of the socio-political and economic landscape (see Radebe, this volume, for more details). The country has experienced a sharp upturn in struggles in the past decade, as has the entire sub-Saharan African region. These struggles need to be understood – but often are not – in the context of the global wave of anti-austerity protests triggered by the 2008 capitalist crisis (Branch and Mampilly 2015: 1–13; Duncan 2016; Paret 2017: 4). This failure to locate these protests in their proper historical context impoverishes our understanding of their world-historical significance. Furthermore, a purely regional or local focus on these dynamics will miss the shifting modes of social control, and how they are transmitted as purported security ‘best practices’ around the world.

This chapter explores how the capitalist downturn and subsequent anti-austerity protests in South Africa have changed the forms of social control used by the security agencies of the state. To the extent that there have been changes, the chapter questions whether they have led to South Africa becoming more or less democratic in a global moment when even liberal democracy is under threat. These issues are explored through an analysis of security responses to the most recent wave of protests in South Africa following the historic strikes in the platinum belt. I am particularly interested in the period commencing in 2015, and including (but not confined to) the #FeesMustFall student protests that engulfed university campuses. This strike and protest wave led to the state identifying domestic instability as a major security threat alongside other serious crimes, and responding accordingly. I look at the police and prosecutorial responses to the protests in the post-Marikana period, and what they tell us about the extent of political space and democracy more broadly in South Africa. This chapter complements those in this volume by McKinley and Radebe, respectively, on struggles around access to information, and media transformation in South Africa. Both are important indicators of substantive democracy that allows for a genuine incorporation of the masses into the political process.

ASCENDANCE OF INTELLIGENCE-LED POLICING IN SAPS

Far from discouraging protests, at a certain point repression can, in fact, escalate protests (Della Porta 2013: 32–69). South Africa is no exception in this respect. Politically, the South African Police Service (SAPS) cannot risk many more
high-profile shoot-outs with protestors, as the long-term political costs will simply be too great. In fact, popular agency often places far more enduring limits on the capacities of the state for organised violence than legislative or policy reforms (Cox 2014). The Marikana massacre contributed to important shifts in popular politics; for instance, it was a factor in independent trade union growth, culminating in the breakaway of several trade unions from the Congress of South African Trade Unions, and the formation of a new federation, as well as the establishment of the Economic Freedom Fighters. Police militarisation, which was identified by a commission of enquiry chaired by retired judge Ian Farlam as being a key factor in the massacre, has become a highly politicised issue. The commission recommended reforms to public order policing, including demilitarisation and professionalisation of the police in line with the fairly vague recommendations of the National Planning Commission, and a review of the uses of police equipment in public order situations (Farlam et al. 2015: 551–552).

In view of the public backlash against police militarisation, the police sought a policing model that allowed them to practise less visible forms of social control, and intelligence-led policing provided them with just that. This model contributed to the state’s efforts to increase surveillance powers more generally across society (for a fuller discussion of these efforts, see McKinley, this volume). Intelligence-led policing was conceptualised in the United States and the United Kingdom in the 1990s, but only really gained currency after the terrorist attacks on those countries in 2001 and 2005 respectively. As its name suggests, this form of policing is based on the assessment and management of risk, and the targeting of these risks by the police. Intelligence-led policing is meant to ensure more efficient uses of policing resources, and is closely related to predictive policing, which uses data analytics to predict likely occurrences of crime based on historic patterns (Bezuidenhout 2008).

Intelligence-led policing relies on paid informants and surveillance techniques, including physical surveillance; surveillance of electronic signals, including communication signals (a form of intelligence that is known as SIGINT, or signals intelligence); and other forms of data-driven surveillance. The intelligence gathered from these sources becomes integral to policing operations. It has a proactive element in that the police use intelligence sources and surveillance methods to profile actual or potential criminal suspects, rather than responding only when criminal incidents take place (Bezuidenhout 2008).

However, intelligence-led policing blurs the line between domestic policing and civilian intelligence, which can lead to a securitisation of policing where social problems are treated increasingly as security threats. As a policing model,
intelligence-led policing is particularly predisposed to abuse given the high levels of secrecy attached to intelligence work. The police have also been known to disrupt social movements they consider to be security threats, including by employing agents provocateurs in public order situations to delegitimise and criminalise the movements (Savage 2011). The ‘spycops’ scandal in the UK – where police officers infiltrated social movements and formed abusive relationships with women ostensibly as part of their undercover work – points to some of the dangers (Choudry 2019). For SAPS, intelligence-led policing is key to enabling them to ‘disturb, disrupt and erupt on crime’ (South African Police Service 2014, 2018). The Crime Intelligence Division of SAPS has become central to this new policing strategy, which has put it in a very powerful position.

**EARLY POLICE RESPONSES TO PROTESTS**

If police and prosecutorial responses to unlawful protests were proportionate to the levels of threat to public safety and national security, then it could be expected that the number of convictions relative to the number of arrests and prosecutions would be high, as the evidence of crimes having been committed would have been tested in open court and found to be credible. Conversely, high levels of arrest and prosecution, coupled with low levels of conviction, would suggest more securitised responses as flimsy cases that may even have been designed to crush protests are thrown out. Therefore, it is instructive to look at patterns of arrests and convictions, especially in view of the ‘talk-tough’ approach the state adopted towards violent protests over the period commencing in 2015. This approach was informed by the Medium Term Strategic Framework of 2014–2019, which included ensuring domestic stability as an objective. This objective included the sub-objective of contributing to domestic stability through the successful prosecution of criminal and violent conduct in public protests’ (National Prosecuting Authority 2016: 18).

Building on this objective, the Justice, Crime Prevention and Security (JCPS) cluster applied a four-pillar approach to addressing domestic stability, and these four pillars guided the police responses to the protests: community and stakeholder engagement; legal and regulatory interventions; safety and security interventions; and mass communication (South African Police Service 2017a: 14). In relation to the #FeesMustFall protests, SAPS sought to have the protestors prosecuted in normal courts, but in a prioritised manner. As a general rule, they also opposed the granting of bail while investigations were under way, and sought prosecution-guided investigations to increase their chances of securing successful prosecutions by the
National Prosecuting Authority (NPA). SAPS advocated for civil remedies to be followed, including claims against organisers and those who caused damage (South African Police Service 2017a). SAPS also activated an intelligence-gathering network and dedicated investigation teams, conducted analyses and risk assessments, prepared and distributed early warnings, coordinated safety and security inside the universities, and appointed liaison officers at institution level to engage with relevant stakeholders. The civilian intelligence agency, the State Security Agency (SSA), also became interested in the protests, suggesting that they had been escalated from being framed as a public safety threat to a national security threat.

By 2015, when the #FeesMustFall protests started, SAPS was concentrating on ‘[improving] the detection rate and trial ready case dockets towards successful prosecutions of criminal and violent conduct in public protests’ (South African Police Service 2015: 26). Despite being a priority area, they did not achieve their target for convictions (74 per cent), as only 68.2 per cent of the cases finalised resulted in convictions. However, the conviction rate increased towards the end of the financial year as a result of a more strategic focus and improved technology. Consequently, the conviction rate during the last five months of 2015 rose to 78 per cent, as 32 convictions were obtained from the 41 trials conducted. SAPS noted that the #FeesMustFall protests especially had involved cases of arson. Yet, in the same breath, it noted that the number of arson cases reported more generally had decreased year on year, and in fact had declined 4.6 per cent from the previous year, before the student protests had started (South African Police Service 2016: 49).

SAPS also noted that cases of public violence had increased, yet conflated these in their annual crime report with unrest incidents – a much broader category which records whether there has been police intervention in crowd incidents, itself a much broader category than protests. While it cannot be disputed that the number of community protests using turbulent means, including disruption and violence, is on the increase, the extent of the increase in the number of violent protests (the threshold of which is meant to trigger the security cluster’s interest in protests) is almost certainly being overstated (Alexander et al. 2018).

The National Joint Operations Centre increased its capacity to coordinate and monitor all public order-related incidents 24 hours a day, seven days a week. SAPS also assigned dedicated detectives to focus on public violence-related incidents, and trained legal officers to ensure strict compliance with all by-laws and regulations applicable to traffic management. Dedicated crime intelligence gatherers were allocated to work closely with the Public Order Police (POP) units in the provinces (South African Police Service 2016: 153). Crime Intelligence generated a huge number of intelligence products despite disarray in the division, generating
386 732 operational analysis reports during the 2015/16 period, well above the planned target of 158 283. The vast majority of these were intelligence analysis reports, with 10 660 being generated from communication analysis reports\(^1\) and 12 729 being generated from communication interception analysis reports\(^2\) (Table 10.1). They also generated more strategic intelligence reports than their target, including for the National Intelligence Coordinating Committee (Nicoc, a government entity that coordinates intelligence across the security agencies), citing an ‘increased need for strategic intelligence reports due to the increased incidence of protest action at institutions of higher learning throughout the country’ (South African Police Service 2016: 218).

### Table 10.1 Number of Rica warrants, number of SAPS communication interception reports and number of SAPS communication analysis reports, 2014–2017

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Number of Rica warrants issued to SAPS (including new applications, reapplications, extensions and amendments)</td>
<td>386</td>
<td>422</td>
<td>*</td>
</tr>
<tr>
<td>SAPS communication interception reports</td>
<td>5 254</td>
<td>12 729</td>
<td>1 704</td>
</tr>
<tr>
<td>SAPS communication analysis reports</td>
<td>8 181</td>
<td>10 660</td>
<td>11 948</td>
</tr>
</tbody>
</table>

Sources: SAPS and Joint Standing Committee on Intelligence reports, 2014/2015, 2015/2016 and 2016/2017
Note: * Statistics unavailable

LATER POLICE RESPONSES TO PROTESTS

In 2016/2017, SAPS’s intelligence-led approach towards the protests matured. They continued to prioritise improvements in the investigation and prosecution of criminal and violent conduct in public protest. They set a new performance indicator of 47 per cent for detections, and underachieved slightly on this rate. SAPS explained the deviation by saying that protest incidents are usually committed in large groups and under circumstances that make it difficult to identify and arrest perpetrators, as many of the incidents are spontaneous and simultaneous. They also struggled with the poor quality of video footage to identify suspects, and the fact that members of the public were loath to come forward out of fear of retaliation. SAPS also set new performance indicators for prosecutions, to ensure trial-ready case dockets in
70 per cent of cases and a conviction rate of 71 per cent. In the case of trial-ready case dockets, it exceeded its new target by using focused investigations to finalise court cases and improving data integrity, but failed to exceed its target on prosecutions owing to the difficulties in identifying perpetrators (South African Police Service 2017a: 153).

The SAPS Crime Intelligence Division was also hard at work monitoring community and student protests, generating intelligence reports to counter ‘an increase in the number of violent community protests, [as well as] protests at institutions of higher education, as well as an increase in violent and syndicated crimes … [placing] a higher demand on the generation of tactical and operational intelligence reports’ (South African Police Service 2017a: 220). SAPS also provided more strategic intelligence products to Nicoc as a result of what it claimed to be an increase in security threats, including ‘an increase in the threats to the authority of the state’ (South African Police Service 2017a: 221). In relation to that performance indicator, it overperformed significantly by producing 38 reports rather than its planned 22. SAPS also overperformed in producing operational reports, producing 278 187 tactical and operational reports against the planned target of 166 197 reports. Yet the number of communication interception analysis reports reduced massively to 1 704 over the same period (Table 10.1), suggesting that well-publicised instability in the Crime Intelligence Division had caught up with it. In spite of the overall increase in the number of intelligence products, SAPS was unable to meet its targets for convictions of those responsible for violence in protests and industrial action. While it set a target of 49 per cent for the detection rate, 44.55 per cent was achieved. A target of 70 per cent was set for the trial-ready case docket rate and 84.07 per cent was achieved, suggesting that SAPS was responding to considerable pressure to make these cases trial ready. Yet, of those cases, convictions were achieved in only 60.56 per cent, as opposed to the target of 71 per cent, representing the largest deviation from target of all categories of conviction. SAPS acknowledged that the difficulties in identifying suspects in protests led to mass arrests, in spite of evidence having to be provided in respect of each and every suspect – an onerous evidentiary requirement that led to many of their public order cases unwinding. Owing to the difficulties of achieving prosecutions in protest cases, going forward, SAPS decided to do away entirely with performance indicators relating to criminal and violent conduct in protests and industrial action (South African Police Service 2017a: 43). Tellingly, the one case SAPS defended with vigour involved the prosecution of 275 mine workers arrested in Marikana, who, bizarrely, were accused of the murder and attempted murder of their own comrades on the basis of the common purpose doctrine. These charges were withdrawn after public controversies.
By 2017, frustrated at the inability of government departments to address the issues giving rise to protests, SAPS requested that government departments find ways of reducing the number of protests. According to SAPS, ‘Related departments are requested to ensure that service delivery protests are avoided through other means rather than end up in crime. These also put a strain on both our human and physical resources which are redirected to address crime caused by service delivery’ (South African Police Service 2018: 19). However, in relation to the #FeesMustFall protests, SAPS pursued a unified command system and enforcement strategy at all the universities and further refined a strong evidence-gathering approach to its investigations in an attempt to ensure successful prosecutions. By then, SAPS had opened 51 cases and effected 207 arrests during the #FeesMustFall protests (Parliamentary Monitoring Group 2017).

This focused approach raised SAPS’s performance slightly, in that while their detection rate decreased from 44.55 per cent in 2016/2017 to 42.73 per cent in 2017/2018, their trial-ready rate increased from 84.07 per cent in 2016/2017 to 86.36 per cent in 2017/2018. Nevertheless, SAPS’s frustrations with the evidentiary requirements in these cases remained. The number of intelligence reports generated for early warning proactive interventions, as well as tactical interventions, including in relation to protests, was above the target, although the number of strategic intelligence reports was well below target. However, only about half of proactive and reactive intelligence reports were operationalised.

Possibly the most significant intelligence failure over this period was around the indisputably violent protests in Vuwani in 2016. In 2015, the Municipal Demarcation Board decided to demarcate eight wards into the Vhembe municipality, which caused great unhappiness in the area. Members of Vuwani challenged the decision in court, but the court dismissed the application, resulting in protests shutting down the area in May 2016 (South African Police Service 2017b). A total of 29 schools were burnt down, making it the single largest act of public violence in recent history, suggesting high levels of organisation on the part of those responsible. SAPS used the same four-pillar approach it had used in responding to the #FeesMustFall protests to respond to Vuwani. A total of 125 cases were opened in 2016 and, of 75 suspects, 23 were referred to the senior public prosecutor. In 2017, seven cases were opened, four of which were taken to court. To date, there have been no successful prosecutions of those responsible, despite former minister of state security David Mahlobo indicating a year before the protests took place that the SSA was aware of unhappiness about demarcation issues (Shazi 2017). The SSA and SAPS would no doubt also have been aware that protestors resorted to violence in neighbouring Malamulele, which attracted the attention of the authorities, and
that it was likely similar tactics would be used in Vuwani as they had been shown to work. SAPS put their lack of success down to the fact that witnesses did not want to testify as they had been intimidated, but an intelligence-led approach should have yielded actionable intelligence. Given the obviously high levels of organisation of the arson attacks, coupled with the element of forewarning, it stretches the bounds of credibility for SAPS to argue that nothing could have been done to ‘detect and disrupt’ those responsible.

The above discussion shows that in spite of SAPS consolidating their intelligence-led approach during 2016 and 2017, there were clearly inefficiencies in the system. This approach failed to raise the conviction rates to their hoped-for levels, and failed spectacularly in relation to the most significant incident of organised public violence in recent history.

PROSECUTORIAL AND JUDICIAL RESPONSES

Despite instability and political meddling, the NPA achieved an extremely high overall conviction rate of 93 per cent by 2015/2016, so it was to be expected that it would only prosecute cases that it had high expectations of winning (National Prosecuting Authority 2016: 6). Like SAPS and in line with the JCPS cluster directive, the NPA also identified violent protests as one of the crimes for prioritised prosecution. However, according to the NPA, there have been hardly any prosecutions under the Regulation of Gatherings Act, a case involving the Social Justice Coalition, a Cape Town-based social movement, being an exception (pers. comm. Bulelwa Makeke). As shown in Table 10.2, in 2015/2016, 73 convictions were obtained in cases of violent protests and industrial action, with a conviction rate of 68.2 per cent, well below the overall rate (National Prosecuting Authority 2016: 30). By then, prosecutors were tracking violent protests as a special project for reporting (pers. comm. Bulelwa Makeke). In 2016/2017, the conviction rate dropped even further to 55.9 per cent or 57 cases (National Prosecuting Authority 2017: 26). In 2017/2018, the conviction rate improved significantly (68.8 per cent, or 88 cases), although it still remained under target. This could be attributed in part to the fact that prosecutors were assisted by advocates from the office of the Director of Public Prosecutions (National Prosecuting Authority 2018: 21).

The NPA claimed that it achieved notable successes in some #FeesMustFall cases, such as that involving Kanya Cekeshe, who pled guilty and was convicted of public violence and malicious damage to property after a SAPS vehicle was burnt. He was sentenced to eight years, imprisonment, of which two years were
Destroying Democracy

After appealing to the Constitutional Court, Bonginkosi Khanyile was convicted of public violence, failing to comply with a police instruction and possession of a dangerous weapon; he was sentenced to three years’ house arrest (Broughton 2019). Masixole Mlandu (University of Cape Town) was ordered to conduct community service (Evans 2018). Others making their way through the criminal justice system at the time of writing included Amla Monageng (University of Pretoria), who was put under house arrest for public violence and assaulting a fellow student, and Mcebo Dlamini (University of the Witwatersrand), who has made multiple court appearances.

Protestors who have legal representation generally find it much easier to navigate the police and prosecutorial system, and the experiences of public interest law clinics in representing those accused of assembly offences are instructive in this regard. According to the Right2Protest Project (R2P) – an advice and referral service representing a coalition of civil society organisations focusing on freedom of assembly – most of the cases they have dealt with involved public violence charges, followed by damage to property and contempt of interdicts. In its advice and referral work, R2P has noticed that the police often target conveners, as the most visible participants in protests. They have also noticed a tendency on the part of the police to keep accused people in jail for as long as possible, and to change charges depending on which ones have the greatest prospects of success.

According to the Socio-Economic Rights Institute’s (SERI) director of litigation, Nomzamo Zondo, they have handled 40 protest-related cases since 2014, and only one of those led to a successful conviction. Most cases were withdrawn once SERI made representations to the NPA. Protestors who were not represented or who received inadequate representation were more likely to plead guilty (even if they were not), simply to bring the matter to a close given the arduous nature of the prosecutorial process. Like R2P, SERI has observed that the police use public

### Table 10.2 Conviction rates achieved by the National Prosecuting Authority, 2015–2018

<table>
<thead>
<tr>
<th>Conviction rate in violent protests and industrial actions prosecuted</th>
<th>2015/2016</th>
<th>2016/2017</th>
<th>2017/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of convictions</td>
<td>73</td>
<td>57</td>
<td>88</td>
</tr>
<tr>
<td>Conviction rate (%)</td>
<td>68.2</td>
<td>55.9</td>
<td>68.8</td>
</tr>
</tbody>
</table>

violence as a nebulous, catch-all charge to justify arresting protestors, even if there is no cause to do so. In Zondo's experience, the police seem to consider protests per se as being public violence; they order a protest to disperse and then arrest those who run away. In one case, after a #FeesMustFall march on the Union Buildings, the seat of government, the police arrested seven people (six students and an informal trader who happened to be on the scene at the time) as the protest dispersed. After making representations to the chief prosecutor, they were released – this after the police had taken 20 hours to charge them, and the prosecutor had initially refused them bail (Zondo 2015). These trends in the policing and prosecution of protests suggest security responses to violent protests have been limited in their success. Nevertheless, these responses provide the pretext for overpolicing legitimate protests, thereby limiting spaces for the expression of dissent and practices of direct politics that use disruption to challenge and change how society is organised.

**CONCLUSION**

Contemporary society has seen a massive expansion of policing powers beyond crime control to cover all manner of social ills, including drug addition, sex work, migration and political dissent (including protests). Modern capitalist states have attempted to secure the consent of the policed, convincing them that the police’s actions are necessary to secure the interests of the majority domestically. Yet, this expansion has made the overly political role of policing more visible as an institution tasked with maintaining social control, controlling dissent and reproducing inequality. The involvement of the police in political management more generally is particularly contentious, as the policed may come to experience policing as repressive and governments may lose whatever legitimacy they still enjoy. Consequently, political policing has benefited from reducing reliance on potentially controversial visible policing methods and incorporating more sophisticated, less visible (and hence less accountable) intelligence-based social control methods, including surveillance, infiltration of social and political movements, entrapment of protest leaders and targeted repression of protests. However, despite this expansion, a persistent and systemic feature of contemporary policing is its ineffectiveness in controlling crime, which can spiral out of control as the police busy themselves with disrupting movements that threaten the political and economic status quo, regardless of whether criminality is present (Vitale 2017: 197–201). In fact, in countries that consider themselves democracies, the expansion of policing into political management has been possible only through an intelligence-led approach. Typically, policing reforms
have focused on increasing nominal accountability, but have largely failed to address the broader political role of the police under capitalism, and the massive expansion of policing powers more generally. This expansion is having a de-democratising effect, eroding even the narrow foundations of liberal democracy as these democracies take on more of the characteristics of dictatorships that spy on and harass their political opponents. It is also contributing to the rise of authoritarian nationalist populism by legitimising a more authoritarian state form in the name of protecting democracy and separating ‘us’ from ‘them’. The rise of this form of populism is evident across the BRICS (Brazil, Russia, India, China, South Africa) countries in the wake of the 2008 global capitalist crisis, and involves the hijacking of popular dissent by charismatic right-wing politicians to gain legitimacy for a more authoritarian form of neoliberalism. While elements of authoritarian populism are apparent in South Africa – notably in relation to the state’s treatment of foreign nationals – this form of neoliberalism is much more advanced in Brazil (see Saad-Filho, this volume) and India (see Nilsen, this volume). As things stand, though, there is no right-wing populist movement ascendant in the country to the point where there is an imminent danger of it taking over the levers of government. Nevertheless, elements of authoritarian populism are already worryingly visible in areas of the state and society, notably in the JCPS cluster. If the Left is not vigilant, then Brazil’s and India’s present may well become South Africa’s future. In other words, we could see greater social acceptance of police violence and surveillance, and growing security powers more generally, as being necessary to secure the country from perceived ‘foreign threats’ and restore order domestically, as neoliberal accumulation strategies weaken more and more social institutions.

South Africa has embraced this expansion of policing powers, with the domestically focused security services playing a more explicit role in monitoring and policing protests. What has the JCPS cluster’s framing and subsequent prioritisation of violent protests as serious crimes and domestic (even national) security threats led to? While the available evidence points to some successes overall, it also points to troubling patterns in the recent interventions of the cluster, and ones that are not politically neutral. Intelligence-led policing has led to a national police capability that is less rather than more publicly accountable for its actions than it was before Marikana, and one that still considers itself to be a force rather than a service. It has also led to lopsided priorities and a focus on the very politically charged domestic stability part of its work, at the expense of other serious crimes. It is no small wonder that in 2015/2016, SAPS failed to meet targets in relation to serious crimes and the contributors to them, including crimes against women and children, while achieving targets in relation to ‘public incidents of a public disorder or security nature,
which are not deemed to be “normal crime” using their paramilitary and POP units (South African Police Service 2017a: 92). The justice and security cluster has also pursued a very narrow definition of social stability: one equated with crimes against the state. The police must focus on violent conduct in protests. According to Alexander et al. (2018: 31), a clear definition of violence should involve serious damage to buildings and/or injury to persons, but exclude disruptive tactics such as road blockades.

The elevation of violent protests, broadly defined by the security cluster, to the level of a priority crime has also occurred as priority crimes impacting on social stability more broadly recede into the background, with a disproportionately heavy impact on women and children. Intelligence-led policing can be particularly useful for detecting and disrupting organised crime, yet grand corruption on an industrial scale has blighted South Africa and organised crime continues to flourish. The large number of intelligence reports generated and the arrests effected have not translated into significant numbers of successful convictions, raising the question of what the intelligence has been used for. The inefficiencies in the criminal justice system – despite being intelligence-led – are difficult to ignore.

Those convictions that have been obtained from the #FeesMustFall protests have helped to identify some of those responsible for violent incidents, but the vigour shown in bringing these individuals to book has not been matched by the vigour shown towards policing other serious crimes. Several of these crimes have turned out to be not serious at all, evident from the fact that SAPS and the NPA have been willing to negotiate around these cases and agree to alternatives to incarceration. Yet there are cases of grand public violence that remain unsolved. The intelligence failures in relation to Vuwani need further investigation, as the arguments that have been given are difficult to fathom, and are even suspicious. It is difficult not to conclude that these blind spots are systemic rather than episodic. Certainly, they benefited former president Jacob Zuma and the corrupt networks around him at a time when they had captured the security cluster for their own ends. Commenting on these intelligence blind spots, Blade Nzimande, former minister of higher education and secretary general of the South African Communist Party, made the following observation:

There are certain things that don’t make sense to me, to us [South African Communist Party]. Why wouldn’t you pick up the burning of so many schools in Vuwani? Even with the #FeesMustFall, some of the destruction that was happening. You know, in one of the universities, I was told that the people who were doing this damage and burning of things, including the library at one institution, were outsiders. They were not students. But they
did not pick it up. Does it mean, could it mean . . . Even now you can see now with the burning of trucks and the blocking of the toll road in Mooi River . . . I don't know, but you could hypothesise that the increasing capacity of state security has got more to do with issues of state security than the safety and security [of the people]. (Interview, Blade Nzimande)

As Alex Vitale (2017) has observed, perhaps the problem with the police is not the lack of training or weaknesses in oversight or other problems that require technocratic solutions, but a massive expansion of policing powers into areas that should not be policed. This expansion is leading to the overpolicing of racial and class inequalities, and administrative overreach designed to enforce austerity policies. Such policing can (and does) contribute to the reproduction of inequality as protests are a highly accessible means for the poor and excluded to voice dissent and challenge unequal wealth and power relations. This expansion of policing is having massive, negative consequences for any attempts to incorporate workers and the unemployed into the political system on their terms, thereby expanding democracy from below. Consequently, the conversation should not only be about the pros and cons of different policing models, oversight and internal controls. Rather, it should be about policing itself, and that is a conversation that has not even begun in South Africa. For a start, social (in)stability should not be a policing concern at all.

NOTES
1. Analysis of archived communication metadata acquired from communication service providers through section 205 of the Criminal Procedures Act.
2. Analysis of real-time communication-related information and communication content, intercepted in terms of the Regulation of Interception of Communications and Provision of Communication-Related Information Act, or Rica.

INTERVIEWS AND PERSONAL COMMUNICATION
Email correspondence with Bulelwa Makeke, Head of Communication, National Prosecuting Authority, 8 February 2019.
Interview with Blade Nzimande, South African Communist Party offices, Braamfontein, 14 May 2018.

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