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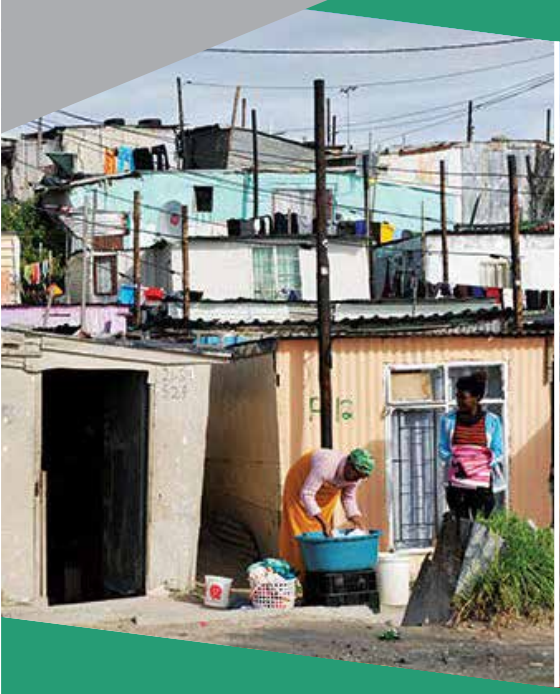

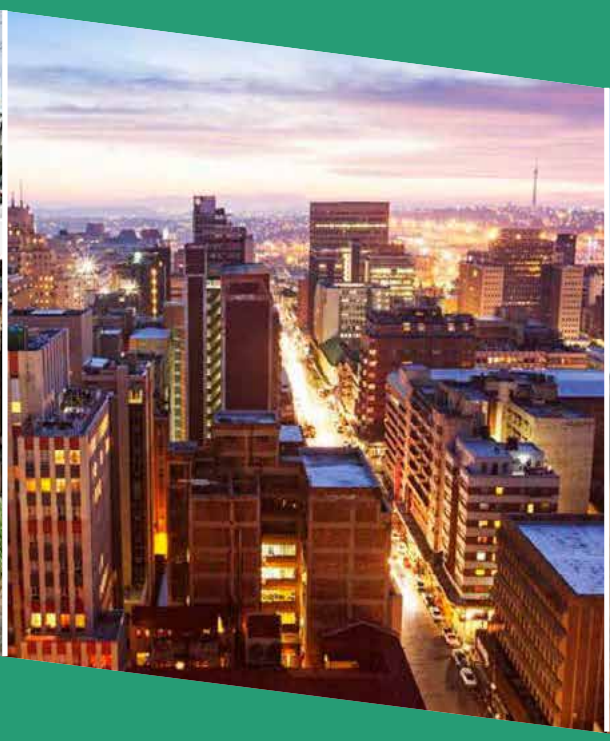

ESR REVIEW

Economic & Social Rights Review in Africa

ENSURING **RIGHTS** MAKE REAL **CHANGE**

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Editorial

Welcome to the *ESR Review 2*, the second of two issues in 2024 focusing on gender-based poverty, women and housing in urban areas.

The first issue contextualised the issue from a South African perspective. It highlighted the challenges of intersectional discrimination, and demonstrated the importance of participation and inclusion in the process of finding adequate and sustainable solutions to the right to adequate housing and gender-based poverty in urban areas.

This second issue puts the spotlight on housing's social function and its role in urban areas in regard to social inclusion and exclusion from the city.

It begins with a contribution by Andile Manyangaza that offers an overview of the South African historical context and how it affects the right to housing and, in particular, the component of location. Thereafter, Paul Mudau and Nomzomhle Kona discuss spatial discrimination and how it affects the component of location in the realisation of the right to housing in detail.

The third contribution, by Nduduzo Majozi, discusses spatial struggles and climate vulnerability. It examines resistance strategies that have revolutionised women's role in climate justice movements and therefore strongly links to the social function of housing as well. Next, Nobukhosi Ngwenya turns to look at the missing rungs on South Africa's housing ladder, with a focus on gender-based violence (GBV). The article examines the 'housing first' approach which addresses not only housing for survivors of GBV, but also homelessness more broadly.

Lastly, Favour Funke Akanbi, applying a gender lens discusses ending the criminalization of homelessness, a 2024 report of the United Nations Special rapporteur on extreme poverty and huamn rights. Arguably the most extreme form of social exclusion manifests itself in the criminalisation of life-sustaining activities such as sleeping, eating, and begging in public spaces, which disproportionately affects racialised minorities, women, children and people with disabilities.

As the articles in this issue suggest, there are various reasons for inequality in regard to the question of location within the city. From a South African perspective, the legacy of apartheid has certainly been fundamental in its impact. However, along with these historical inequalities, urbanisation has created new patterns of discrimination and inequality, leading to additional spatial and socio-economic marginalisation, spatial segregation, and unequal access to basic services.

For example, structural changes in housing and financial markets have given housing an increased economic function, leading to the financialisation and commodification of housing. According to the Special Rapporteur, *Leilani Farha, the social function of housing has been challenged by the private developers and investors that dominate housing systems in order to park, grow, and leverage capital – all of which has made housing a key driver of growing socio-economic inequality and poverty (Special Rapporteur 2019: paras 3–4; Special Rapporteur 2015: paras 53–56).*on the light to adequate housing (former)

Benito Sanchez (2020) states that, through the financialisation of housing, housing and urban policies lose their rights-based function in that housing is no longer considered a social good which is provided to those with less resources, but becomes a mechanism for rent extraction, financial gain, and wealth accumulation. An analysis of inequality in the realisation of the right to housing therefore needs to take into account these additional processes linked to the economic system and urbanisation.

There is a need for further analysis of these processes, with a focus on the South African context. Central questions remain. To what extent do current South African economic policies contribute to housing inequalities? Are urban development strategies effectively addressing the needs of low-income and marginalised communities? As cities like Cape Town experience urbanisation, it is essential to assess whether housing development is keeping pace with population growth. What steps are being taken to ensure that the growing demand for affordable housing is met, particularly for those most affected by socio-economic exclusion?

Additionally, the role of the private sector in either exacerbating or alleviating housing inequality warrants closer scrutiny. In cities with soaring real estate prices, how do private developers affect housing availability for lower-income households? Could public-private partnerships offer a viable path toward affordable housing solutions, and if so, how could they be structured to promote inclusivity?

Understanding these dynamics is critical to shaping policies that address both current challenges and long-term sustainability in housing development.

The international human rights framework envisages inclusive urban planning that promotes integrated communities and ensures affordability of housing for people living in poverty (Special Rapporteur 2013: paras 46–47). The Special Rapporteur also proposes addressing housing financialisation through housing strategies and taxation, which can encourage or discourage certain types of housing investments and prevent speculation. This approach can create revenue for states that influence the affordability of housing for people in need, affirming the social function of land and housing (Special Rapporteur 2023: para 91; Special Rapporteur 2018: paras 49–50, 54, 74, 77–84; Special Rapporteur 2013: paras 41–49).

These potential solutions offer significant promise, particularly when adapted to the South African context, and I look forward to continuing these critical discussions.
The articles in this special issue of ESR Review deepen our understanding of the intricate links between housing, gender, and socio-economic rights. I believe that the contributions not only enhance our understanding of these issues within the South African context but also hold the potential to shape international policy developments. Inspired by these invaluable insights and drawing on both my Swiss socialisation and my academic background in international and human rights law, I have sought in this editorial to provide a different perspective on the topic of gender-based poverty, women and housing in urban areas.

I am immensely grateful for the opportunity I have had to learn from the numerous experts, academics, and practitioners who contributed to this special issue of the ESR Review. I also extend my thanks to the Socio-Economic Rights Project at the Dullah Omar Institute for their trust and support throughout this process.

Kelly Bishop
Guest Editor

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Kelly Bishop is a visiting doctoral researcher at the Dullah Omar Institute (DOI) of the University of the Western Cape. The research visit was made possible through the LoGov project funded by the European Union's Horizon 2020 research and innovation program and the support of Ximpulse.

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FEATURE

Land and Housing Crises in South Africa: Possible Strategies for Change

Andile Manyangaza

Introduction

This article examines the strategies women use to address land and housing crises in South Africa. It explores some of the achievements and challenges that community-based organisation and grassroots movements face in their struggle for land and housing in urban areas.

The article makes several arguments. The first is that the land question should not be thought of as simply a rural or agrarian issue – it is as much an urban issue as it is a rural one. The demand for housing should be seen in terms of the unresolved land question in urban areas and the many forms of inequality it engenders.

Secondly, although the policy of native reserves prohibited indigenous people from buying or renting land in urban areas, they have always resisted their exclusion from the polity and territory of South Africa. Owing to the state's repressive response, squatting or land occupation became the most effective strategy for challenging racialised land inequality both in rural and urban areas. This practice has continued in the post-apartheid era, despite government reforms.

Finally, women, who historically have been the most excluded in urban areas, have been central if not at the forefront in the struggle against spatial segregation. From the anti-pass and anti-eviction campaigns of the late 1800s and early 1900s to the beer hall boycotts, the various squatter movements of the 1940s, the 1950s women's movements, and the events of the 1970s, women have been central in the struggle for South Africa's cities. Such movements, in most cases, have been characterised by legal, financial, and organisational challenges when confronted with the power of the state.

From rural to urban landlessness: Historicising the urban land question

It has become commonplace in South Africa to reduce the land question to a rural one, such that land reform is usually thought of as restricted to rural and farm areas. In urban areas, it is assumed that people will

The demand for housing should be seen in terms of the unresolved land question in urban areas and the many forms of inequality it engenders.

buy houses and that those who cannot afford them will benefit from government housing subsidies. This absolves the state of the responsibility to redistribute land in urban areas. The government's task is then reduced to housing delivery (measured in terms of the number of houses built), and popular protests are reduced to questions of service delivery.

This technocratic framing of the urban land question is dangerous not only because it diverts attention from the land question in urban areas, but also because it ignores the multiplicity of land needs in urban areas, which is where most people live. Thus, it demonstrates a lack of critical understanding of how unique the processes of proletarianisation and urbanisation are in Southern Africa (where there was settler colonialism) relative to the rest of the continent (excepting Algeria and Ethiopia, where there was no settler colonialism), and how these processes shape land questions in South Africa.

A critical reading of Southern Africa's settler colonial history shows that both the processes of proletarianisation (separating peasants from the means of production and turning them into wage workers) and urbanisation were intermediated by extra-economic coercion by the colonial regime (Mafeje 2004). In other words, the system of racial domination was a key factor in the development of these two processes.

This was accomplished with the policy of native reserves. The aim thereof was to restrict indigenous people's access to land and turn them into a 'reserve' of cheap labour, a process known in Marxist literature as 'primitive accumulation'. In South Africa, this was given effect by the infamous Natives Land Act of 1913 (which restricted people raced as black to only 7 per cent of the total land area), despite earlier attempts through the Glen Grey Act of 1894. This was also aided by subsequent laws enacted in the segregation era and by the apartheid regime, such as the 1936 Native Trust and Land Act, the Group Areas Act of 1950, and the Bantu Authorities Act of 1951.

The native reserves policy had the effect of alienating most of the land to white settlers and destroying black farmers' self-sufficiency. The latter were then forced into wage labour in urban areas and white commercial farms to supplement their livelihoods. Mafeje (2004) argues that the policy of native reserves formed the material base for the institutionalisation of the migrant labour system in Southern Africa. It is in this context of racialised capitalism that we must read the processes of proletarianisation and urbanisation in South Africa. As Hendricks et al. (2015: 108) argue, '[S]egregation and then apartheid sought to drive a wedge between the processes of proletarianisation and urbanisation.' That is, while the indigenous populations were allowed to migrate and become workers in urban areas and white farms, they were not allowed to be permanent residents in urban areas. This was heavily enforced through the system of influx control and pass laws. Thus, consistent with the dual economies' thesis, the native reserves – later called Bantustans – were seen as 'reserves of unlimited labour' and as providing subsistence funds to migrant workers (Mafeje 2004). As a result, black farmers in the 'reserves' were deprived of investment in favour of white commercial farmers, a process which ensured a steady supply of cheap labour in urban areas and white farms.

Two things are to be noted so far. First, the migrant labour system is what constitutes the essential link between the rural and the urban; and, secondly, insofar as this is true, circular migration is as old as the institutionalisation of the migrant labour system itself through the policy of native reserves. The significance of this (as will become clear later) is that the post-apartheid state inherited a dual process of circular migration and rapidly increasing urbanisation without having resolved the land question.

The native reserves policy had the effect of alienating most of the land to white settlers and destroying black farmers' self-sufficiency.

Urban struggles for land: The rise of civic movements

Despite colonial spatial segregation, black South Africans have always asserted their presence in urban areas, and women were central to this process. A well-known example is the 1956 women's march against the pass laws (despite black women's history being under-represented in urban studies). But this history of black South Africans contesting their existence in urban areas does not start there. For example, Bundy (2000) recalls the first resistance against forced removals in East London led by Mrs Rubusana in 1890 – by the turn of the century, mass mobilisation by women against pass laws had taken shape, in what is now the Free State, under the leadership of Charlote Maxeke, who became the first president of the Women's League of the African National Congress (ANC).

As early as 1834, the first shack settlement in Cape Town had already emerged after the abolition of slavery, and by 1901 the first townships, then called 'locations', were being built by the state. An example is the establishment of Ndabeni township in Cape Town and Klipspruit in Johannesburg. After the introduction of the 1913 Native Land Act and the 1923 Native Urban Areas Act, town councils and municipal authorities started to play an active role in establishing townships.

The establishment of townships did not, however, mean an acceptance of black South Africans in urban areas or specifically in cities; rather, it was a strategy to segregate them and control their existence in urban areas, consistent with the policy of native reserves. As a result, almost all 'locations or townships were built on the outskirts of the city in urban peripheries, usually near dumping sites. They were established to serve two functions: to exclude black South Africans from urban land (territorial segregation) and to ensure labour supply in urban areas. To this end, influx control and pass laws were heavily applied.

Nevertheless, the period from the 1930s to the late 1940s saw a rapid increase in African migration to urban areas, partly due to the demand for cheap labour in industries during and after the war years. For example, in Johannesburg the population grew from 229,000 in 1936 to 371,000 by 1946 (CoGTA 2009). Cape Town already had about 150,000 squatters by 1948 (Hendricks et al. 2015). The rapidly growing proportion of women and children in the townships put a strain on existing resources, and owing to little investment by the government, living conditions were extremely poor.

This rapid urbanisation resulted in townships becoming overcrowded. Soon people started occupying adjacent plots of land, with shack settlements – so-called 'squatter camps' – beginning to mushroom around urban centres. By the 1930s, occupation of land by black South Africans had been a well-known political action or strategy. For instance, as far back as the late 1800s, there had been squatter movements in East London, while in the early 1900s a series of occupations took place in Cape Town and Johannesburg (Bundy 2000; Hendricks et al. 2015); by the 1940s, a wave of squatter occupations of land around urban centres had occurred.

> **"...the policy of native reserves formed the material base for the institutionalisation of the migrant labour system in Southern Africa.**

In the late 1930s, there was also a wave of protests by women nationwide against police raids and municipal brewing monopolies (when the state implemented the 1908 Native Beer Act which prevented African women from brewing beer). These sometimes turned into violent collective action, such as the case of Langa in Cape Town, where in 1939 women attacked township police in defence of their right to brew (Bundy 2000).

By the late 1930s, as Bundy (2000) notes, Africans in urban areas managed to organise themselves politically and formed civic bodies to represent their grievances to the state. The earliest such civic organisations were the 'location' committees (later turned into advisory boards) and the vigilance associations or Iliso lomzi. These formed the organisational base for radicalised

civic politics in urban areas and after World War II became entangled in nationalist politics. Their main strategies were petitions and deputations, but, through their involvement with the ANC and the Industrial and Commercial Workers Union, they later adopted mass meetings.

The 1940s saw a radicalisation of township politics, mainly through industrial action and squatter movements. This was partly due to poor living conditions in the townships. This period was characterised by a series of squatter movements 'which saw land occupied and people housed and organized in impromptu but highly effective forms of collective action' (Bundy 2000: 46). Although limited by the repressive state apparatus, squatter movements became an effective strategy to direct the state's attention to township issues.

From urban to peri-urban: Governmental response to the housing crisis

Governmental responses to land occupations have ranged from 'relocation' in the segregation era and forced removal under apartheid to post-apartheid efforts to ensure 'orderly urbanisation'. Essentially, the official response has not changed the racialised practice of spatial segregation.

In 1948 when the National Party came to power, it began to implement its policy of apartheid. In 1950 it passed the Group Areas Act, which designated separate residential and business spaces for different racialised groups. In 1951, it passed the Bantu Authorities Act which established Tribal Authorities as pseudo-governments for blacks in the 'reserves'. In the same year, the Prohibition of Illegal Squatting Act was passed. This Act gave powers to the state to demolish people's shacks without a court order.

Consequently, the next two decades witnessed more forced removals than the country had ever seen before. In the mid-1950s, more than 60,000 people were forcefully removed from Sophiatown, and in the 1960s about the same number were removed from District Six to the Cape Flats. This trend was replicated in all areas designated as white under the Group Areas Act. A total of 3.5 million people were forcefully removed from white rural areas by the state between 1960 and 1983 (Platzky & Walker 1985).

In this period, local political organisations, or civic movements, had declined, largely due to the increasing brutality of the state in repressing such movements. Another reason is that most of the civic organisations had been adopted into national struggles (most were part of the Congress Alliance, which was, at the time, the centre of gravity of nationalist politics). Nevertheless, material conditions dictated local resistance and the type of strategy or tactic used. An example is the Alexandra bus boycotts of 1957, which lasted for months due to high transport costs. The land struggle in this period had also taken on a largely rural character, as the case of the Mpondo revolts suggests (Kepe & Ntsebeza 2011).

However, in the 1970s there was again a rise in massive land occupations in urban areas. In Cape Town, matters became highly politicised, as Hendricks et al. (2015) point out, in the cases of the Modderdam shack settlement near the University of the Western Cape and the establishment of Crossroads.

The Modderdam shack settlement grew from 400 people in 1973 to 10,000 in 1976. Here, the squatters formed connections with students, the clergy, and lawyers, and with their assistance managed to win a few battles in court. Initially the state used divide-and-rule tactics, such as differentiating between 'legals' and 'illegals', before eventually demolishing the settlement in 1977 (Hendricks et al. 2015: 112–113). The case of Crossroads was even more politicised and drew international at-

Governmental responses to land occupations have ranged from 'relocation' in the segregation era and forced removal under apartheid to post-apartheid efforts to ensure 'orderly urbanisation'.

tention. The squatters were again highly organised, reflecting the strong tradition of civic movements since the 1800s. There was, for instance, an elected Women's Committee, led by Regina Ntongana. Initially, in 1975, the government tried to evict squatters, but from 1978 sought to contain the situation through reform.

According to Hendricks et al. (2015), this was a sign of state acceptance of black people in urban areas. Indeed, in the late 1980s, the government ended influx controls and the pass laws. This was followed by a new wave of urbanisation. The trend was compounded by a decline in farm employment and an increase in farm evictions since the 1980s. While some of those evicted moved from farm to farm in search of better livelihoods, most moved from farms to urban areas (Wegerif et al. 2005). This also contributed to rapid urbanisation and the mushrooming of shack settlements in urban and peri-urban areas.

In the early 90s when the ANC was unbanned, it encouraged land occupations, but after it came to power started to criminalise land occupiers and portray them as driven by political opposition rather than regard them as an expression of people's agency and frustration at the lack of change in regard to racialised land inequality and spatial segregation.

Struggles for land and housing in the post-apartheid era

As argued in the first section, when the ANC government came to power it inherited a dual process of circular migration and rapid urbanisation without having resolved the land question. After negotiations were held to end apartheid and institute a government of national unity, the new constitution adopted by the ANC in 1996 served to protect private property rights by enshrining them under section 25. It has been argued by others that this has prevented meaningful redistribution of land in South Africa (Ntsebeza 2007).

The government initiated a market-led land reform programme which aimed to redistribute 30 per cent of agricultural land by 2014. This has not happened – in fact, according to 2017 estimates, only about 9 per cent has been redistributed (Hornby et al. 2017). Land reform has focused on rural or agricultural land, thus neglecting the urban land question. In urban areas, the government has focused on building subsidised housing through its Breaking New Ground policy. This reduction of the urban land question to a problem of housing is common in liberal scholarship and advocacy work. It masks the politics of racialised land inequality in urban areas and the questions of who belongs and who does not. Although the government has indeed built many houses since 1994 (more than 2 million), this has not kept up with the housing backlog, which keeps on growing.

The post-apartheid era has also seen a wave of land occupations in urban areas, showing the extent of land demand and the importance of resolving the land question in these areas. An example is the 2001 land occupation in Bredell near Johannesburg, led by the Pan Africanist Congress (PAC), where more than 1,200 shacks were built. In Cape Town, there were occupations too in Grassy Park, Joe Slovo, Delft, and many other areas.

The state response has not changed much since the apartheid era. It ranges from 'temporary relocations' (forced removals) to brutal evictions involving violent action by the police. In 2008, the City of Cape Town established an Anti-Land Invasion Unit. The unit's task was to demolish any shacks erected without the city's approval. The unit conducts its work violently, as seen in the many videos and photographs that have circulated in the media.

Since then, anti-land invasion units have been established in many parts of the country; for instance, there is now one in Johannesburg. The unit skilfully uses spoliation as a legal tool when taken to court for the unconstitutionality of its actions. Nonetheless, occupation still happens at a large scale, as is evident in the sprawling shack settlements seen in cities and their outskirts. Occupations in urban areas target not only land but dilapidated and abandoned buildings. Many such cases have been documented in Johannesburg, Cape Town, and other areas.

Conclusion

It seems, as this reading has demonstrated, that occupations have been the most effective strategy of all in getting the attention of the state. Yet from this reading and from observations made in the author's involvement with squatter and land movements – such as Reclaim the City, *Singabalapha Intlungu yase Matyotyombeni,* and many others – these movements face serious challenges.

One of the biggest is state violence. Moreover, where the state does not choose to act violently, the battle is lost in the courts, as legal processes are expensive. Another challenge for occupiers is the lack of knowledge of legal processes and constitutional rights. Finally, there are internal organisational challenges whilst waiting for the government's response or court proceedings.

Advocacy work in this regard needs to aid these movements by giving them legal and financial support. There is also a need for education in organisational discipline to avoid internal squabbling. Such assistance would indeed help strengthen these movements in fighting for their constitutional rights to land, housing, and dignified living conditions.

Andile Manyangaza is an MPhil candidate at the Centre for African Studies at the University of Cape Town.

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FEATURE

The Missing Rungs on South Africa's Housing Ladder

Nobukhosi Ngwenya

Introduction

South Africa is in the throes of a housing crisis, despite having implemented what is arguably one of the largest national housing programmes in the Global South. Bearing the brunt of this crisis are women, particularly survivors of gender-based violence (GBV). Effectively rendered homeless as they flee from abuse, survivors of GBV, mainly women (and oftentimes their children), are thrust into a system that requires them to leap from emergency shelter to permanent housing even though they might not be financially ready to do so.

This requirement, as the article argues, points to the fact that the South African housing ladder is missing several rungs – and these rungs are crucial for the fulfilment of women's housing rights.

The article begins with a discussion of the scourge of GBV which highlights that the manner in which key policies and pieces of legislation are implemented gives rise to siloed responses to GBV. The result of this siloing is that women, the primary victims of GBV, do not receive timeous access to key services, including housing.

The article goes on to discuss the missing rungs on South Africa's housing ladder, before concluding with a discussion on the 'housing first' approach – an alternative approach to addressing not only housing for survivors of GBV, but also homelessness more broadly.

South Africa's scourge of GBV

At the dawn of democracy, South Africa was facing a housing backlog of about 1.5 million households (Mngeni & McKinley 2021). This inherited backlog stemmed from centuries of land dispossession and displacement, which was often enacted violently both by the colonial and apartheid governments. The backlog has been compounded over the years since then by steadily increasing population growth, by slowing rates of affordable housing delivery, by housing financialisation – that is, the treatment of residential properties as investment vehicles (Cook & Ruming 2020) – and by a continuingly siloed policy response to GBV.

President Cyril Ramaphosa has described the prevalence of GBV in South Africa as a 'second pandemic'. According to UN Women (2023), one in five women in South Africa have experienced intimate partner violence; countless others have experienced violence by men they do not know. These statistics make South Africa one of the countries with the highest rates of GBV in the world.

Whilst some strides have been made towards comprehensive strategies, such as the National Strategic Plan on GBV and Femicide, responses to GBV remain largely the responsibility of the Department of Social Development and the Department of Justice, despite the failure of the Domestic Violence Act 116 of 1998 to allocate these departments specific responsibilities (see Mpani & Nsibande 2015).

This has resulted in GBV survivors not being able to access key services, such as housing, timeously. This is also true for the question of access to alternative, short- to medium-term accommodation by GBV survivors.

According to UN Women (2023), one in five women in South Africa have experienced intimate partner violence; countless others have experienced violence by men they do not know.

Short- to medium-term accommodation: The missing rungs

There are varying levels of housing access. These range from no access, (that is, homelessness) to informal access, be it either through rentals in backyard dwellings or in informal settlements. The next level is that of rental in the formal housing market. The highest level is housing ownership. Each of these levels is a rung on the housing ladder, as it is sometimes referred to. The premise of the housing-ladder theory is that as a household's economic circumstances improve it will be able to move up to a higher rung on this ladder. That is, as a household's income improves, it will be able to trade up from cheaper to more expensive housing options (Lemanski 2011). Conversely, as its income decrease, the household moves down the ladder (Morrow-Jones & Wenning 2005).

It bears noting that the housing-ladder approach is one that has not been explicitly adopted in South Africa's housing policy environment. Rather, it is implicitly alluded to in the aforementioned pieces of legislation, frameworks and policies, which make provision, to varying extents, for the establishment of shelters. It is also alluded to in these documents' insistence that people be moved through different types of temporary housing – safe spaces, emergency shelters, secondary shelters, transitional housing – and ultimately into permanent housing, even though some of these rungs are missing.

> **The premise of the housing-ladder theory is that as a household's economic circumstances improve it will be able to move up to a higher rung on this ladder.**

The inherent value of shelters, as the second-lowest rung on the ladder, cannot be understated, as a report by Shukumisa (2016) on Thuthuzela Care Centres found. Shelters offer 'women with emergency accommodation, shelters met women's basic needs, provided physical and psychological safety, meeting much needed care and support for women and their children' (Department of Women, Youth and Persons with Disabilities 2020: 31). However, there are not enough shelters to meet demand (The Cradle of Hope 2023). Furthermore, there is not enough alternative accommodation, namely in the form of transitional housing, to accommodate women once they leave shelters.

This is concerning, as 75 per cent of women who leave shelters, particularly those in rural areas, have to return to live with their abusers due to the unavailability of alternative accommodation (Shukumisa 2016) or to the desire not to lose tenure security in social housing (Domestic Abuse Housing Alliance 2020). Whilst some countries have programmes that enable women who choose to remain in their homes to do so safely, in South Africa no such programmes exist. Neither the South African Police Services' family violence, child protection and sexual offences units, nor housing providers (read 'landlords') have the capacity to remove perpetrators from properties even in instances when women have obtained protection orders. However, as Artz & Jefthas (2011) note, magistrates do not always grant all the conditions that survivors ask for in court orders, particularly ones to do with the removal of a perpetrator from the home.

Thus, there are several gaps in the response that impede the country's ability to move from the initial emergency response (that is, shelter placement) to placement of women in longer-term, safe, and permanent accommodation. This gap stems, broadly, from the lack of a policy on homelessness at the national level.

Social development policies provide for the development of safe spaces, including shelters, to which survivors of GBV and, generally speaking, those who are homeless, can be accommodated. These spaces offer short- to medium-term accommodation of approximately 3–6 months at most. But once women leave these shelters, there is not enough transitional housing where they can live until they can access permanent accommodation through the Department of Human Settlements.

Transitional (read 'temporary') housing is 'temporary accommodation for people who are in transition between homelessness and permanent housing' (Chenwi 2007: 4). Considered internationally to be a form of special-needs housing, transitional housing arrangements typically consist of short-term rental accommodation. They are designed to accommodate individuals who are at risk of becoming homeless until such time as they are able to secure permanent accommodation through housing-subsidy programmes that facilitate individual housing ownership. However, as noted, this type of housing is scarce in South Africa.

Considering that many women are at their most vulnerable point in life financially when they leave shelters, what this means is that the majority cannot afford to move

into market-priced rental accommodation whilst they 'wait their turn' to secure their own permanent housing through the national housing programme. As there is not enough subsidised or affordable secondary shelter or transitional housing, most women are left with the stark choice between accepting homelessness or returning to the unsafe homes from which they tried to flee. Women's rights to adequate housing are thus significantly undermined in the process. This is a status quo we can reasonably expect to continue in the light of both the fiscal crunch and a revealing comment made by the Minister of Human Settlements, Mmamoloko Kubayi (2024), during a televised interview: 'When the Constitution says people have a right to shelter, it's not because it says it must be done by the government.'

An alternative approach: The 'housing first' model

Given the urgency of the two crises – the GBV crisis and the housing crisis – and the realisation that South Africa's housing ladder is missing several rungs, we are presented with an opportune moment to reflect on alternative approaches.

The 'housing ladder' model is to be contrasted with the 'housing first' approach, the origins of which can be traced to the Beyond Shelter programme in Los Angeles in the United States. This programme, which began in 1988, coined the term 'housing first' to refer to the 'rapid re-housing of homeless families by minimising the use of shelter and transitional housing in order to quickly place families into permanent housing' (Waegemakers & Rook 2012: 5).

In brief, the housing-first model seeks to move individuals, particularly those who have been homeless for long periods, into subsidised permanent housing; such housing is linked to either on- or off-site social support services. At the heart of the approach is the belief that individuals should have access to permanent homes first, without any preconditions attached. This moves us away from the prevailing line of thought which holds that most individuals who are in need of housing are in that position because they lack the skills or mental wellness to participate gainfully in the economy and access housing on their own (Waegemakers & Rook 2012).

The approach has been adopted in New York and Finland, where the number of individuals experiencing long-term homelessness dropped significantly. In Finland, for instance, the number of individuals facing long-term homelessness dropped from 3,500 to 1,000 between 2008 and 2020 (Juhila, Raitakari & Ranta 2022). The majority of those who were housed through this approach have remained stably housed, and their overall health has improved. These cases also illustrate that moving individuals into permanent housing – as opposed to shelters – as a first step is less expensive than initially housing them in shelters and safe spaces.
Thus, given that South Africa's current housing-ladder model is impaired by the fact that the 'ladder' is missing a few rungs, the housing-first approach is appealing. The question then is: What would it take to shift to such an approach?

The first step is to develop a comprehensive national policy on homelessness. This policy should explicitly adopt a housing-first approach. It would also be the basis for coordinated effort between the departments of Human Settlements and Social Development to ensure that their respective budgets and projects are aligned to improve delivery of housing for vulnerable women as they make move out of safe spaces into permanent housing. Of course, this speaks to broader questions about the pace of housing delivery in the country and, inter alia, the quality of housing. However, such a discussion lies beyond the scope of this article.

Conclusion

As Minister Kubayi noted during the debate on the 2024 State of the Nation Address, the South African government has delivered approximately 4.8 million housing opportunities since 1994 and made significant strides in addressing the country's inherited housing backlog. However, many people remain at the bottom rung of the housing ladder by virtue of being homeless. In turn, many of them people are women, and, of these individuals, one out of five has experienced GBV.

"...once women leave these shelters, there is not enough transitional housing where they can live until they can access permanent accommodation through the Department of Human Settlements.

Although measures are in place to provide short-term accommodation for survivors of GBV, the allocation of responsibility for short-term accommodation to the Department of Social Development and for medium- to long-term accommodation to the Department of Human Settlements has given rise to a significant gap in the state response – a gap that requires GBV survivors to leap from short-term to permanent accommodation. This is a leap that too many women cannot make.

As Rust (2006) notes, the South African housing ladder is also missing several additional rungs. Whilst the focus of this article has been on the lower rungs on the ladder, it must be highlighted that should women manage to make the leap into home ownership and move into the middle-class, there are further gaps they need to overcome at that level. This is due to supply shortages in the formal housing market, which caters primarily for the high and luxury end of the market. This means that women will continue to face challenges even as they move up the property ladder once their salaries increase and their households grow.

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“...there is not enough alternative accommodation, namely in the form of transitional housing, to accommodate women once they leave shelters.

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FEATURE

Women, Housing, and Well-Located Urban Land: Gender-Based Spatial Discrimination in South Africa

Paul Mudau and Nomzomhle Kona

Introduction

The United Nations estimates that, by 2030, 71.3 per cent of South Africa's population will be living in urban areas, reaching nearly 80 per cent by 2050 (Department of Cooperative Governance and Traditional Affairs 2020). In this projection, women will comprise the majority of people living in cities (Chant 2013). UN-HABITAT (2020) notes that '[f]or women and girls, moving from a remote rural setting to an urban area can be a source of liberation, particularly in the context of rigid gender norms'. However, women's prospects of being integrated into urban areas are hindered by gender-based spatial discrimination and housing inadequacies in these same areas.

Gender-based spatial discrimination refers to patterns of access to, use of, and control of physical space that perpetuate gender inequality. Housing in well-located urban land plays a vital role in addressing this malady. Among other things, it affords benefits such as proximity to public transport, essential services, and other amenities that boost women's mobility and ability to access social and economic opportunities.

The intersection of gender-based spatial discrimination, women, and housing in well-located South African urban land is, however, a complex subject. This intersectionality brings to light numerous pressing issues, all of which relate to the consequences of apartheid spatial planning in which black women were marginalised from accessing well-located urban land by means of housing.

Although many years have passed since the advent of constitutional democracy, 'South Africa remains deeply divided in terms of race, gender, and space' (Phaswana 2021). The country has impressive housing legislation and policies that incorporate a gender lens and provide for women's participation in housing delivery (Chenwi & McLean 2009). Yet, for various reasons, the government-subsidised housing programmes have not improved women's access to housing (Sobantu 2019).

Stagnation in the project of transformation is undermining the effort to transform society (Phaswana 2021), with gendered dynamics perpetuating discrimination against women in access to housing and urban land. The intersection of factors such as race, socio-economic situation, sexuality, and disability influences women's opportunities for, and challenges to, thriving in South Africa's cities, and in turn exacerbates spatial discrimination and marginalisation.

The three most familiar factors that shape spatial discrimination in towns and cities are class, race, and gender (Soja 2009). As Rodny-Gumede (2022) notes, women face 'the triple oppressions' of race, class, and gender – 'class' here refers to issues of socio-economic situation, status, and difference that can lead to unequal access to resources, amenities, and opportunities, resulting in spatial segregation and discrimination. A vast literature examines spatial discrimination based on race and class; however, this article delves into the aspect of gender.

In particular, it argues that achieving spatial justice and substantive spatial equality requires that local government exercise its spatial planning and housing powers or functions through a gender lens – its aim should be to eliminate systemic barriers of gender-based spatial discrimination while also addressing all forms of discrimination based on race and class.

'[f]or women and girls, moving from a remote rural setting to an urban area can be a source of liberation, particularly in the context of rigid gender norms'.

Contextual background

Literature on housing in South Africa focuses on race- and class-based inequalities in the distribution of resources, opportunities, and services, and the emphasis is typically on economic reform and social infrastructure (Luckan & Pillay 2019). Generally, the requirements for renting or buying houses in urban centres, particularly as regards affordability and accessibility, do not address the housing needs of diverse social groups (Wilson & Barton 2019). Spatial segregation is also intensified by systemic barriers to accessing social housing programmes (UNHRC 2022).

In this regard, the imposition of stringent eligibility requirements to qualify for housing limits the ability of certain social groups that cannot meet minimum criteria in relation to income, credit scores, formal employment, residency permits, and the like. Housing is deemed affordable when the dwelling is of an acceptable standard and its associated financial costs permit households to satisfy other basic needs or meet essential non-housing expenditures (CESCR 1991; Anacker 2019).

Although a steadily increasing number of middle-class black households are breaking the barriers of spatial discrimination based on race and class (Selzer & Heller, 2010; Mattes, 2014) – with the result that the logic of spatial inequality is shifting from racial to class segregation – gender-based spatial discrimination remains a critical factor. As in the case of race, a critical approach is needed so as to address the structural barriers that women encounter when attempting to access adequate housing in well-located areas. Indeed, contemporary literature neglects to explore the prospects that a poor or low-income black woman has in accessing well-located urban land by obtaining housing.

The process of urbanisation may well hold great opportunities for women (Tolhurst et al. 2022), but the gender-based disparities, inequalities, and exclusions faced by low-income black female urban residents represent serious obstacles to any enjoyment of these opportunities. Therefore, it is crucial to address all forms or forces that shape spatial discrimination in order to achieve substantive spatial equality in the society.

Legal and policy frameworks

Both spatially and legally, South Africa's post-apartheid transition has impacted immensely on how cities function. The reconfiguration of the local governance system requires that this system directly address the socio-economic challenges of various groups within society and strive to achieve spatial transformation of urban life (see *Port Elizabeth Municipality v Various Occupiers 2005 (1) SA (CC)*). In short, socially disadvantaged groups should also enjoy access to housing in well-located land. Thus, local government should direct sufficient resources for ensuring that government-subsidised housing promotes everyone's access to adequate housing (Manomano 2022).

“ The process of urbanisation may well hold great opportunities for women (Tolhurst et al. 2022), but the gender-based disparities, inequalities, and exclusions faced by low-income black female urban residents represent serious obstacles to any enjoyment of these opportunities.

The South African government has adopted progressive laws and policies aimed at addressing gender inequality, discrimination, and disparity in housing and land ownership. To begin with, the requirement of gender equality is entrenched in section 9 of the Constitution of the Republic of South Africa, 1996. The provision gives everyone the right to equal protection and benefit of the law, and prohibits unfair discrimination on several grounds, including race, gender, sex, and disability. To promote equality and eliminate unfair discrimination, the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 was promulgated to give effect to section 9 of the Constitution. The Act, in section 25, provides that the state must promote equality.

In section 26(1), the Constitution stipulates that everyone has the right to access adequate housing. The state, made up of the national, provincial, and local spheres of government, must take reasonable measures to ensure the progressive realisation of the right of access to adequate housing. The Constitution, in section 25(5), provides furthermore that '[t]he state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis'.

When considered in conjunction with sections 9(2), 25, and 26(2) of the Constitution, the rights to equality, to access to land and property, and to access to adequate housing appear to work together to place specific positive obligations on all levels of the government to realise substantive spatial equality. Indeed, the constitutional clauses in regard to property, equality, and housing refer to the rectification of past spatial inequality and discrimination (Botha 2020). The housing clause, which integrates planning, 'promotes the redistribution of land through the greater and more speedily availability [sic] of land' (Botha 2020).
Section 2(e)(vi) of the Housing Act 107 of 1997 requires that all three spheres of government must take measures to prohibit unfair discrimination on the grounds of gender in housing development. As part of the process of integrated development planning, every municipality must ensure that the inhabitants of its area of jurisdiction have access to adequate housing on a progressive basis (section 9(1)(a)(i) of the Housing Act).

Among the municipality's key functions are the identification and designation of land for housing development (section 9(1)(c) of the Housing Act), and the planning and management of land use and development (section 9(1)(h) of the Housing Act). These functions are crucial for ensuring that women beneficiaries of housing are placed in well-located urban land.

Section 2(1)(a) of the Social Housing Act requires that the housing programmes of the national, provincial, and local spheres of government and social housing institutions be responsive to local housing demands and give special priority to the needs of women, among others. Moreover, section 2(1)(d) of the Act prohibits housing programmes from discriminating against residents on any of the grounds set out in section 9 of the Constitution.

Given the societal exclusion of women in the planning and development of housing, section 2(1)(g) of the Social Housing Act requires the three spheres of government to empower all residents by facilitating the involvement of residents and key stakeholders through consultation, information-sharing, education, training, and skills transfer. They also need to promote the social, physical, and economic integration of housing development into existing urban and inner-city areas through the creation of quality living environments (section 2(1)(i)(iv) of the Social Housing Act).

The Spatial Planning and Land Use Management Act (SPLUMA) 16 of 2013 is aimed at redressing past spatial planning and land use laws and practices that were based on racial inequality, segregation, and unsustainable settlement patterns. Section 7 of the Act enumerates six principles that apply to spatial planning, land development, and land use management. Importantly, SPLUMA states that the principle of spatial justice entails addressing spatial and other developmental imbalances so as to improve access to and use of land.

Bearing in mind women's right to access land, property, and housing on an equitable basis, SPLUMA thus has to be implemented in such a way that this leads to equitable spatial patterns and sustainable human settlements. Housing development is key to the attainment of substantive spatial equality and in turn to the social, physical, and economic integration of women into existing urban and inner-city areas.

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The significance of location and accessibility

Theoretical perspectives on urban service delivery refer to 'locational amenities', a term that relates to easy access to basic amenities based on the geographic relationship between an area and service provision (Van Duijn et al. 2014). Urban planning should ensure that all groups have adequate and equal access to essential services (Parry et al. 2012). 'Location' is linked to other elements of housing adequacy, such as legal security of tenure, the availability of services, and affordability (Marnane & Greenop 2023). Thus, there is a close link between location and accessibility when it comes to redressing gender-based spatial discrimination and women's access to well-located urban land through housing.

Accessibility involves the barrier-free design of housing and related public services, materials, facilities, and infrastructure; it refers to the degree to which residents can easily reach certain areas and interact with social services (Du Plessis 2015). For example, land uses and densities in urban structures should be compatible with people's social well-being and provide everyone with a full range of urban utilities such as housing, employment, and services (Economic Commission for Europe 2008). The resulting spatial arrangement is one that reduces travelling distances to work, clinics, shops, and so on.

Here, measures are taken to ensure that people have substantively equal access to the physical environment, transportation, and other public facilities and services that are available in both urban and rural areas. The right measures are ones that identify and eliminate obstacles to accessibility that disconnect marginalised social groups from access to adequate urban infrastructure. So, 'accessibility leads to independence, increased mobility, access to the labour market and consequently a better quality of life' (UN-HABITAT 2014).

With South Africa's constitutional democracy having entered its thirtieth year, there is a clear need to address gender-based spatial discrimination while promoting and protecting the rights of women within society. Housing ownership can be a valuable asset, providing women with economic security and bargaining power. However, women face barriers in accessing housing finance, ownership, and control, which perpetuates their vulnerability and insecurity. Due to spatial injustice, women are often relegated to peripheral, underserved areas, limiting their access to the resources, opportunities, and services that are available in well-located areas in the country's urban cores.

In the face of these obstacles, women are demonstrating their resistance and resilience by increasingly mobilising in order to claim their rights to access urban land and housing and, in so doing, challenge the patriarchal and capitalist systems. The court in *Adonisi and Others v Minister for Transport and Public Works Western Cape and Others* held as follows:

> In light of SPLUMA's commitment to give effect to ss25 and 26 of the Constitution, the development of adequate, affordable housing on well-located land thus represents an appropriate mechanism for advancing and realising the legislative imperative of spatial justice.

Housing can serve as a platform for delivering resources and services, such as health care, education, and legal aid. Inclusive housing design can subvert traditional gender roles, promote gender equality, and challenge patriarchal norms. Housing design that fosters community and social connections can combat isolation and promote women's empowerment. In addition, affordable housing options reduce economic burdens, enabling women to allocate resources to education, health care, and personal development.

...women face barriers in accessing housing finance, ownership, and control, which perpetuates their vulnerability and insecurity.

Transformative approaches

Feminist and inclusive urban planning, community-led development, and co-operative housing models offer alternative solutions for addressing gender-based spatial discrimination. These transformative approaches prioritise the needs and perspectives of women who are historically marginalised or excluded. As Chenwi & McLean (2009) explain,

> [a] gendered, or feminist, perspective on women and housing focuses on the lived reality of poor women and women-headed households, and the survival strategies employed by these women. It also provides a critique of the ways in which existing laws, policies and social practices perpetuate their situation.

Achieving gender equality involves addressing gender-based discrimination and promoting women's equal access to resources and opportunities. A key principle in attaining this goal is to ensure efficient and effective women's participation and inclusivity in housing and urban planning processes so as to strengthen their voice and representation in such processes. Given the rampant scourge of femicide and violence against women and children, it is necessary to design public spaces that prioritise safety and address gender-based violence.

Conclusion

Overcoming gender-based discrimination in women's access to housing in well-located urban land requires a nuanced understanding of the intersection of gender, power, and spatiality, one which is geared to addressing systemic inequalities and promoting inclusive, equitable urban development. Part of the solution is to question and dismantle gender stereotypes and biases in urban planning and design; to undertake urban planning that emphasises human rights, social justice, and substantive spatial equality; to ensure secure and affordable housing options, including cooperative and community land trust models; and to provide safe, reliable, and accessible transportation options. These principles are key to feminist and inclusive urban planning, which seeks to create cities that are more just, equitable, and supportive of all individuals – regardless of gender or background.

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FEATURE

Women's Spatial Struggles in a Climate Vulnerable Era: The Case of eKhenana

Nduduzo Majozi

Introduction

Throughout the cities of South Africa, women face a variety of threats, such as landlessness, climate hazards, unemployment, and a lack of basic necessities. Due to a gendered division of domestic and care work, they are made even more vulnerable, since they are expected to carry additional responsibilities such as domestic work, child care, and caring for the elderly (Saloshni & Nithiseelan 2022). This article explores discourses around gender, urban development, and climate change; in particular, it draws on fieldwork I conducted for my doctoral research on the challenges facing women in the eKhenana community in Durban.

EKhenana is an example of a rapid occupation in which occupants illegally occupied a portion of an empty forest adjacent to Cator Crest sportsfields and Glenmore middle-class housing. Since then, the occupiers have faced a series of climate catastrophes – challenges, I argue, which reflect the complex, historically gendered nature of urban spaces in South Africa.

This occupation began towards the end of 2018, and was initiated by urban dwellers with a common goal of creating a space to call home. At first glance, it appears as if it might provide a support system for agrarian life, with the possibility of stock and crop production. In the absence of basic urban services, one cannot clearly say whether eKhenana represents an urban agrarian revolution introducing agricultural livelihoods, or whether it is just another example of climate change and urban housing crises at play.

Gender and ecological struggles in urban areas

The social and spatial structures of cities are interrelated to each other (Spain 2014), so exploring cities from a gender perspective reveals the ways in which spatiality reinforces gendered relations. As Lefebvre (1991) has noted, spaces are produced by those who use them every day, and it is in this way that spaces reflect social norms, including gender relations (Nusser & Anacker 2013).

Thus, I draw from narrative accounts of women occupiers to understand the ways in which women interact with (and within) the occupied urban spaces and to detail their role in shaping the struggle against spatial injustices. Such work draws inspiration from the writings of Irazàbal & Huerta (2016), who emphasise the ethical and critical role of 'contribut[ing] to progressive struggles for greater rights to the city and socio-spatial justice for minoritized people' (p. 725).

In many reports, land occupations are viewed as struggles for basic necessities, including housing (Ngwenya & Cirollia 2021), income, and employment, with some focusing on the legal ramifications of these occupations (Mpofu 2017); yet little attention has been paid to the climate-resilient struggles emanating from these sites. Residents of these areas remain trapped in hazardous zones where, due to a lack of planning, freedom, and resources, they find themselves without drainage systems or buffers from flooding. In the light of this, the case of eKhenana allows us to understand South African cities' ongoing vulnerabilities beyond the often-overstated socio-economic discourses.

...exploring cities from a gender perspective reveals the ways in which spatiality reinforces gendered relations.

One of the movements championing urban issues is Abahlali baseMjondolo, also known as the 'shack-dwellers movement' of South Africa; this is a socialist movement founded in 2005 to fight for land, housing and urban services (Abahlali baseMjondolo 2024). Since its founding, it has gained traction to become South Africa's largest social movement, with more than 150,000 members. Its woman's wing is championing woman's issues such as gender-based violence and female unemployment. In many of Abahlali's occupied sites, the women's wing has established campaigns of fighting hunger through farming initiatives.

At eKhenana, the two projects include a community vegetable farm and a chicken poultry project. Inspired by their movement's socialist principles, residents share a common vision of living in a de-commodified, collectively owned community or 'commune'. They mobilise resources through fundraising and collectively share the profits from production.

Despite the residents' attempts to raise funds to buy an incubator for a hatchery, the climate gods have not always acted in their favour. The poultry project was recently hampered by extreme weather, which negatively impacts on chicken mortality and production rates; heavy rains also damaged the chicken house and harmed the birds. As a breed, Hy-Line Brown chickens need clean, warm conditions that are not affected by storms or violent weather. However, the chicken house is built only with corrugated iron sheets and other weak materials, leaving the birds vulnerable to heat and rain.

Clearly, climate change is not blind to one's socio-economic status, given that it affects one's capacity for forging meaningful climate-resistance strategies to shield one's livelihood from ecological shocks. So, who then are the real targets of climate shocks, in the context of a patriarchal political economy like South Africa's where women stand at the bottom of the economic ladder?

Gender and climate vulnerability: A page from eKhenana's struggles

Babazile Qwabe (27) is an activist from Abahlali baseMjondolo's women's wing a single mother of two children at a local school near Cato Crest, and an advocate of women's rights. She migrated from the rural Mzimkhulu area, but like many others urban migrants, she found herself unemployed and in need of housing. Similarly, like many other women in the area, she depends for her livelihood on subsistence farming and social grants.

The area faces many challenges, including extreme temperatures, flooding, and drought. Historical inequalities have been exacerbated by the COVID-19 pandemic and the unrest that occurred in 2021. Qwabe explained that, structurally, climate change has made eKhenana's residents vulnerable, since drought impacts their vegetable farming due to a lack of alternative irrigation systems. The lack of basic services, drainage systems, and refuse collection in the area makes the situation worse. Sometimes when it rains, solid waste blocks the river next to the homes, which worsens the effect of floods in the area. In view of the absence of basic infrastructure and other services such as proper sanitation, women are exposed to infections and health risks when solid waste is pushed back into their homes by floods.

The success of farming projects in the area gives residents greater resources with which to establish safer sanitary alternatives; the destruction of farming projects by extreme weather threatens their survival. Zukiswa Joja (49), another woman living in the area and a mother of two (who also works as a cleaner at the nearby university) said:

> You know, the money we used to make from the gardening when it was still functioning very well – it was great. We were able to build new toilets. I mean that many things we've achieved or done came from our own hands.

...climate change is not blind to one's socio-economic status, given that it affects one's capacity for forging meaningful climate-resistance strategies to shield one's livelihood from ecological shocks.

A leap of faith: From individual to collective resistance strategies

In the face of this climate plight, the question arises of what coping mechanisms women occupiers like Qwabe use to survive. Given the collective unity among the residents of this commune, are these resistance strategies able to engage in transformational ways with underlying structural issues such as urban resource distribution, spatial planning procedures, and relations between residents and city authorities? This raises the issue of whether the resistance strategies employed by residents here can lead to long-term sustainability in the face of floods, droughts, and heat waves.

In periods of extreme cold, people resort to making woodfires and using paraffin stoves, but this comes with several risks. Many settlements are ravaged by fire disasters during winter seasons due to the use of paraffin stoves and candles. Although eKhenana has not experienced shack fires, in November 2023, 150 homes were destroyed by such fires in the neighbouring Quarry Road Settlement. In short, while individuals' survival strategies – such as lighting a fire – might be fairly easy to carry out, they pose risks not only to the individuals attempting them but also to the community. Fieldwork reveals, too, that while some residents use solar panels for electrification, these cannot function well during lengthy rainfalls or other bad weather when there is little sunshine.

“In periods of extreme cold, people resort to making woodfires and using paraffin stoves, but this comes with several risks.

The most impactful resistance mechanism at the individual level is shifting the mode of survival livelihoods. As the seasons change, people in the community may add to or change their income-generating strategies, for instance by moving from formal to informal trading at the Durban Produce Market during harvesting season. Women in the area are increasingly using backyard gardening as an income-generating strategy. Backyard gardens serve as secondary food sources, particularly during the off-season when bad weather delays the harvesting of the communal garden. Climate change has also altered the political economy within households, in that many of these survival strategies have been initiated by women. However subtly, this has brought about a paradigm shift in which gender dynamics and roles are positioned at the centre of climate-change resistance.

Emerging transformative climate politics beyond the individual level

Collectively, people living in eKhenana have come up with a clean-up campaign to remove waste from the river in order to minimise flood damage to communal gardens. Likewise, new farming methods were introduced in which communal gardens were remodelled from old forms of cropping to use high beds instead so as to minimise flood damage To adapt to changing weather patterns, a new vegetable cropping cycle was established by delaying the farming season. Meanwhile, a fundraising event was launched to raise funds for rebuilding a chicken kraal using concrete, strong iron, and wood. In 2023, a solar-energy project was initiated as a means of migrating the commune to safer and more environmentally-friendly modes of energy generation.

During the observation of these strategies for resilience, it was noted that most of them were more focused on the individual than the collective level. This does not mean that these strategies are any less effective, but rather that they are less than political in their objectives. In other words, they aim to reduce climate change's impact on residents' lives, but not necessarily to change the underlying economic and political systems that facilitate it.

Another evident benefit of the struggle was the redefinition of occupation as a space for women's political awakening. It was observed that the mobilisation of women became a class and a politicisation of their struggles. Some of these achievements were described by Zukiswa Joja (49): 'The Landless Workers Movement of Brazil (MST)

took some comrades there and they learned about socialism and communism.' As a result, the Abahlali baseMjondolo woman's branch within the occupation was revived, championing women's struggles and mobilising women in response to emergent issues. Clearly, this also demonstrates Abahlali's success in gaining traction and forging relations beyond national borders with like-minded social movements, such as MST, which are inspired by Marxism and seek to fight for a just redistribution of wealth and the means of production.

Moreover, Abahlali adopted the new slogan of 'socialism or death', which calls for the abolition of private ownership of land and individualistic ways of life. To date, everything is done as a community, and profitable projects in the area are owned collectively by the community. Thus, women in this occupation are guaranteed an equal share of profits, which they can use to mitigate the impact of climatic extremes, for example by sourcing alternative forms of energy.
So, more and more initiatives are opening avenues for women's voices and political activities within the discourse on climate change, shifting the role of women in the process.

Conclusion

This article has explored the challenges facing women occupiers in South African urban spaces and elucidated them in ways that go beyond conventional socio-economic narratives. It shows that women cannot be expected to act as shock absorbers in the face of devastating crises like Covid-19 and flooding and yet do so without means. The fight against climate shocks requires economic resources, which is why the question of climate struggles in urban spaces should not be a void of socio-economic discussion of ownership.
If women like Babazile are to create resilient strategies in the face of climate shocks, it is necessary to reform underlying gendered political economic structures. This article has highlighted some of the experiences of women occupiers and the strategies of theirs that are revolutionising women's role in climate justice movements.

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POLICY ANALYSIS

A Gender Lens on the UN Special Rapporteur Report on Criminalisation of Homelessness

Favour Funke Akanbi

Introduction

The 2024 report by the United Nations Special Rapporteur on Extreme Poverty and Human Rights critically examines the impact of criminalising homelessness and poverty. It highlights that criminalising homelessness is an ineffective and rights-violating approach that perpetuates historical discrimination and stigmatisation. Criminalisation exacerbates the vulnerability of homeless individuals by subjecting them to punitive measures such as fines, arrests, and evictions – these measures undermine their dignity and ability to secure stable housing, and increases the risk of further rights violations.

The report delves into the historical roots of such punitive measures. It points out that these laws often stem from outdated and discriminatory practices that continue to have a disproportionate effect on racial minorities, women, children, and people with disabilities. By criminalising life-sustaining activities such as sleeping, eating, and begging in public spaces, these laws fail to address the root causes of homelessness and instead reinforce social exclusion and economic instability.

This article summarises key points of the report and focuses on the gender-specific concerns it raises.

The human rights perspective

Criminalising homelessness often involves enacting laws and policies that punish essential survival activities such as sleeping, camping, begging, squatting, or loitering in public areas. These regulations disproportionately affect those who are forced to live in public spaces due to inadequate housing and poverty. The report highlights that such policies breach several human rights.

For example, article 7 of the International Covenant on Civil and Political Rights (ICCPR) prohibits cruel, inhuman, or degrading treatment or punishment. Violations of this article occur when homeless individuals are repeatedly evicted or incarcerated, live in constant fear, or suffer from sleep deprivation due to arrests or eviction notices. They also lose personal belongings through confiscation or destruction, and face evictions without any alternative housing options. Similarly, article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides for the right to an adequate standard of living, including food and housing. Criminalising homelessness undermines this right by trapping individuals in poverty and creating additional barriers such as criminal records.

These regulations disproportionately affect those who are forced to live in public spaces due to inadequate housing and poverty.

Other rights are also violated:

- Article 6 of the ICCPR ensures the right to life, which is compromised by laws that obstruct efforts to live with dignity and lead to preventable deaths among the homeless population.

- Article 9 of the ICCPR secures the right to liberty and security, a right which is often violated by the arbitrary arrest and detention of homeless individuals.

- Article 12 of the ICCPR protects freedom of movement and of choice of residence, which is infringed by eviction orders and similar restrictions targeting the homeless.

- Article 17 of the ICCPR safeguards the right to privacy, which is breached by unwarranted searches and the frequent police interactions that homeless people endure.

- Criminalising homelessness also violates article 21 of the ICCPR (which guarantees the right to peaceful assembly) and articles 6 and 7(b) of the ICESCR (which provide the right to work and favourable conditions), by targeting the street-based income activities of homeless individuals.

The report finds that evicting homeless individuals from public spaces, imposing fines, or detaining them not only violates human rights but also worsens their situation. Such actions lead to the destruction of personal belongings, create unmanageable debt, and criminalise homelessness rather than addressing it as a social or economic issue.

Many countries have inherited vagrancy laws from colonial penal codes, which allow for arbitrary arrest and detention by classifying people under broad terms such as 'vagrants' or 'nuisances'. In at least 18 African countries, a 'vagrant' is defined as someone without a fixed home or means of support, resulting in harassment, arrest, eviction, and detention.

These laws reinforce social stigma and marginalisation, violating article 2(1) of the ICCPR read with article 2(2) of the ICESCR, and should be repealed. Additionally, criminalising homelessness perpetuates historical patterns of discrimination and exclusion, disproportionately affecting marginalised groups such as racial and ethnic minorities, people with disabilities, women, and children – who already face systemic barriers to housing, employment, and social services. Criminalisation makes it even harder for these individuals to escape poverty and social exclusion.

Gender-specific implications

Women and girls in particular who are experiencing homelessness face unique challenges and vulnerabilities. The criminalisation of homelessness aggravates these challenges by exposing them to heightened risks of violence and exploitation.

For instance, discrimination against women in housing is multifaceted, stemming from statutory laws, gender-neutral policies, and entrenched cultural practices that do not acknowledge women's specific circumstances. National laws often contain provisions that directly or indirectly discriminate against women (OHCHR 2012). Examples are inheritance laws that favour men, or marriage laws that grant husbands control of marital property, thereby limiting women's access to housing and land.

> **A critical gender-specific concern is the intersection of homelessness and gender-based violence.**

The Committee on the Elimination of Discrimination against Women, in its General Comment No. 21 of 1994, stated that many countries' laws and practices concerning inheritance and property result in serious discrimination against women, granting them smaller shares or less rights than men. These systemic inequalities leave many women without the means to secure stable housing, ultimately contributing to their homelessness.

The Special Rapporteur report further highlights that violence significantly contributes to women's homelessness. A critical gender-specific concern is the intersection of homelessness and gender-based violence. Many homeless women are survivors of domestic violence, and the lack of safe and adequate housing options forces them either to remain in abusive situations or face the streets.

Furthermore, women and girls are disproportionately affected by laws against public order offences such as loitering, vagrancy, and public indecency. These laws often target those engaged in life-sustaining activities in public spaces, including those who engage in sex work as a means of survival. Criminalising their survival strategies when they become homeless further victimises them, compounding their trauma and limiting their access to justice and support services. This criminalisation puts women at a distinct disadvantage by exacerbating their vulnerabilities and subjecting them to additional risks.

Policy developments

The report argues that criminalising homelessness is not only ineffective but an inefficient and costly approach to addressing social issues. It diverts resources away from more effective solutions such as affordable housing and social support services. In some countries, the cost of policing, prosecuting, and incarcerating homeless individuals often exceeds the cost of providing housing and support services that address the root causes of homelessness.

For example, a study on homelessness in Cape Town shows that providing proper housing for individuals would significantly reduce the financial burden associated with shelters, homelessness services, and indirect costs related to policing and the criminal justice system (Hopkins et al, 2020). Moreover, criminalisation does not deter homelessness but instead creates a 'revolving door' scenario where individuals cycle in and out of the criminal justice system without any long-term resolution to their housing needs.

Human rights law mandates that states take all possible measures to eradicate extreme poverty and prevent and end homelessness. Homelessness reflects the state's failure to guarantee the human right to adequate housing. Criminalising homelessness intensifies this violation by punishing people for behaviour they cannot avoid, further undermining their ability to survive or access housing.

The Special Rapporteur recommends that states ensure full protection of the right to an adequate standard of living, including the right to adequate housing, for everyone within their jurisdiction. This includes eradicating poverty, ensuring access to affordable housing, and preventing and ending homelessness.

Legal reforms should repeal criminal or administrative provisions that sanction individuals for living, surviving, or working in public spaces. Laws prohibiting begging and informal economic activities should also be repealed, especially when non-compliance is due to homelessness or poverty. States should abolish fine and debt-related imprisonment, declare amnesties, expunge criminal records, and establish fine and debt relief programmes that consider individuals' ability to pay.

Importantly, women and children, along with other groups at risk of discrimination, require specific attention in addressing homelessness.

Gender-responsive approaches to public space management should be developed to promote substantive justice for all disadvantaged groups. Interventions should focus on community-based support mechanisms to prevent homeless individuals from encountering the criminal justice system. Alternatives to imprisonment for life-sustaining activities should be implemented, especially for women and girls who have experienced gender-based violence. Adequate and gender-responsive housing options must be provided for these individuals.

Criminalising homelessness intensifies this violation by punishing people for behaviour they cannot avoid, further undermining their ability to survive or access housing.

Conclusion

The Special Rapporteur Report highlights the profound flaws in criminalising homelessness, revealing it as a violation of human rights that perpetuates historical discrimination and stigmatisation. This approach fails to address the root causes of homelessness and poverty, instead subjecting already vulnerable individuals to measures such as fines, arrests, and evictions, which further perpetuates the cycle of poverty.

Women and girls are particularly affected due to compounded discrimination from statutory laws, cultural practices, and gender-neutral policies, making them more susceptible to violence and exploitation. Additionally, women experiencing homelessness are frequently survivors of domestic violence, and the lack of safe and adequate housing options forces them to remain in abusive situations or face the streets. The criminalisation of their survival strategies not only compounds their trauma but also restricts their ability to escape the cycle of poverty and violence.

The report, therefore, calls for comprehensive legal reforms to repeal discriminatory laws and ensure access to affordable housing, alongside gender-responsive policies that provide adequate support and protection.

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