

ICLD

Facilitator's guide



Securing the Right to Housing and Services in eThekweni's

Informal Settlements

Authors: Kristi Heather Kenyon, Associate Professor, University of Winnipeg

Photos: Ponderosa Templeton

Summary of the Case

Like other major cities in South Africa, Durban's eThekweni Metropolitan Municipality is faced by a growing population fuelled by migration from both rural areas and neighbouring countries. People come to the city for jobs, resources and opportunities. Many new residents find shelter in informal settlements. Indeed, "[t]he city says there are about 300,000 shacks in Durban, each home to an average of four people, which means over 30 percent of Durban residents live in a shack" (Arde 2014).

Although these settlements are real communities, they are also often overcrowded and unsafe, lacking critical infrastructure like plumbing and safe electrification. Some eThekweni residents were concerned by the growth and persistence of these informal settlements, with city reports noting that each year, the number and size of informal settlements kept growing.

The municipality has a Human Settlements Unit (HBU), which endeavoured to create a "quality living environment" by building new fully subsidized homes, renting and selling older housing stock, and upgrading and refurbishing existing housing (eThekweni Municipality, "Human Settlements" n.d.). The HBU, however, was struggling to keep up with the growing number of people needing housing, and the often precarious locations they chose to build homes, amid very limited options, complicated the problem.

The HBU chose to change its strategy and undertake an "incremental informal settlement upgrading" program, which included the provision of services such as access to communal water taps and communal sanitation blocks, provision for emergency access and removal of solid waste, basic road and pedestrian access, pre-paid electricity, and improved drainage (eThekweni Municipality, "Incremental" n.d.). This approach was considered more cost-effective, but also excluded some communities in precarious locations, did not directly improve the quality of housing, and failed to fully engage with the city's active shack dwellers' associations.

How to introduce and explore the case

The case of eThekweni can be introduced as one where a municipality is responsible for addressing an ongoing and growing problem that is beyond their financial and infrastructure capacity. Additional angles to include in your introductory discussion are the ideas (discussed below) of spatial inequality (particularly apartheid's legacy), and the legal codification of the right to housing. Combined, these present a conundrum: there is a legal duty to provide housing and services, this duty is tied to a history of inequality, and this duty falls primarily on municipalities, including municipalities like eThekweni who struggle to locate the resources to meet these duties.

Key concepts and tools

There are two concepts that can be useful in contextualizing the discussion:

- 1) Spatial Inequality is the idea that different populations have unequal access to areas that are desirable for their location and access to services and amenities. In South Africa, the apartheid regime legislated unequal access to land and forced many, mostly black, people to land that was remote from urban centres (South African History Online, "Native Land Act" 2021, "Group Areas Act" 2021). Although apartheid has been abolished, legacies of unequal access to land remain. Mbanga (2020) identifies the desire to live nearer to urban services and amenities (such as health and education), and an impetus to force land redistribution through occupation as critical 'push' factors for the development of informal settlements.
- 2) The Right To Housing: The International Covenant on Economic, Social and Cultural Rights, refers to the "right of everyone to an adequate standard of living [...] including adequate food, clothing and housing" (Article 11, United Nations General Assembly 1966). In South Africa, the importance of this right is further affirmed, as section 26(2) of the nation's constitution states, "everyone has the right to have access to adequate housing" (Government of South Africa 1996). The South African Constitutional Court further explained, "for a person to have access to adequate housing all of these conditions need to be met: there must be land, there must be services, there must be a dwelling" (Government of South Africa v Grootboom).

Application

Begin by reviewing the case with the group, suggesting that participants read it as if considering what they might do as an employee of eThekweni Municipality approached by the city council and asked to draft a proposal of how to address the growing need for quality housing and services for residents of informal settlements. Those from countries with similar migration patterns and informal settlements may also consider how they might respond to a similar request in their contexts. In responding to this request, encourage participants to reflect on who the stakeholders are for this project (Who do you consult? Who is affected? How do you address conflicting perspectives?).

References and Further Reading

Arde, G., 2014. "Durban Moves Its Slum-Dwellers into Converted Office Buildings," 17 March 2014, Next City, <https://nextcity.org/urbanist-news/durban-moves-its-slum-dwellers-into-converted-office-buildings>

eThekweni Municipality, (n.d.). Incremental Informal Settlement Upgrading. Accessed 15 January 2022, https://www.durban.gov.za/City_Services/housing/Pages/Incremental-Informal-Settlement-Upgrading.aspx

eThekweni Municipality, (n.d.). Human Settlements. Accessed 15 January 2022, https://www.durban.gov.za/City_Services/housing/Pages/default.aspx

Fish Hodgson, T., 2020. "The Lawlessness of Unlawful Evictions: South Africa's Home Invasion Problem," 6 August 2020, Daily Maverick, <https://www.dailymaverick.co.za/article/2020-08-06-the-lawlessness-of-unlawful-evictions-south-africas-home-invasion-problem/>

Government of the Republic of South Africa and Others v Grootboom and Others [2000] ZACC 14, <http://www.saflii.org/za/cases/ZACC/2000/19.html>

Government of South Africa, 1996. "Constitution of the Republic of South Africa, 1996- Chapter 2: Bill of Rights," 4 December 1996, <https://www.gov.za/documents/constitution/chapter-2-bill-rights>

Mbanga, S., 2020. "Policy Exists, But Shacklands Spring Up," 25 June 2020, Mail & Guardian, <https://mg.co.za/analysis/2020-06-25-policy-exists-but-shacklands-spring-up/>

Metropolis, 2019. Informal Settlement Upgrading in Durban, 8 January 2019, <https://www.metropolis.org/news/informal-settlement-upgrading-durban>

South African History Online, 2021. The Group Areas Act of 1950, 15 March 2021, Accessed 15 January 2022, <https://www.sahistory.org.za/article/group-areas-act-1950>

South African History Online, 2021. The Natives Land Act of 1913, 15 March 2021, Accessed 15 January 2022, <https://www.sahistory.org.za/article/natives-land-act-1913>

Socio-Economic Rights Institute of South Africa (SERI), 2018. "Informal Settlements and Human Rights in South Africa," May 2018, <https://www.ohchr.org/Documents/Issues/Housing/InformalSettlements/SERI.pdf>

United Nations General Assembly, 1966. "International Covenant on Economic, Social and Cultural Rights," 16 December 1966, United Nations Treaty Series, vol. 993, p. 3, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>