

INFORMAL SETTLEMENT RESIDENTS

COUNTERING POLICE REPRESSION AGAINST HOUSING AND BASIC RIGHTS MOVEMENTS IN SOUTH AFRICA

A call for justice and community empowerment amid post-apartheid inequities

Illustration by Pnitas via femiñetas

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Summary

This article addresses the experiences of the Housing Assembly in advocating for housing equality in South Africa in the face of heavy-handed police responses. It illustrates the historically adversarial relationship between the police and historically

disadvantaged communities, and shows the intrinsic link between the history of racial discrimination in South Africa and the conduct of police who enforce brutal and draconian laws and deepen inequalities. Drawing on the history of racial discrimination in policing responses, the article explains the challenges experienced by disadvantaged communities who have been denied access to proper housing by decades of colonialism followed by apartheid and the current state of government neglect. The failure of the South African government to properly address access to housing for disadvantaged communities has resulted in numerous examples of inhumane police conduct in enforcing outdated spatial planning policies and quelling protest action by the Housing Assembly. The article goes on to describe the experiences of the Housing Assembly in their interactions with the police specifically, and, based on those experiences, suggests changes to improve government responses to the community problem of lack of adequate housing, a right recognized in the South African Constitution.

Racial housing inequities in post-apartheid South Africa

To properly understand the dynamic that exists between the police and communities living in various forms of informal and irregular housing, it is worth unpacking the historical place of the police and race relations in South Africa. Structural and systemic racism in South Africa has its roots in both British and settler colonization, with the latter giving birth to the apartheid regime that served to centre control and power in the hands of the white Afrikaner minority. Afrikaner supremacy and the dehumanizing of Black people were carefully embedded in laws and policies and institutionalized in structures responsible for enforcing and policing them. Policing under apartheid rule was focused on maintaining control and preventing an insurgency by the Black majority, eliminating dissent and enforcing apartheid laws. Police training, combat training, weapons training and, in general, policing structures and systems were designed to dehumanize Black people. These structures and systems of oppression have not been meaningfully decolonized, but rather have been repurposed to suit the agenda of the post-apartheid government, controlled since the establishment of democracy by the African National Congress.

While attempts were made at the outset to demilitarize the South African Police Service (SAPS), institutionalized racism in policing, designed and constructed by colonialism and the apartheid government, remains unchanged. This is evidenced by the current government, which continues to use excessive force against poor and Black people who challenge the state's inability to provide basic services, such as housing, sanitation and water, to mainly poor and Black communities. Brutal evictions of poor and Black people who occupy state-owned land and the destruction of their rudimentary shacks are reminiscent of apartheid-era forced removals. Significantly, civil disobedience under apartheid rule was regarded as a crime and under the new dispensation is still deemed worthy of the full might of the police. Violent police action against poor and Black people in these circumstances

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demonstrates that institutionalized racism and the dehumanizing of Black people under the democratic regime has not been meaningfully eradicated.

As we address the struggle for housing in South Africa, it is critical to understand the legacy of apartheid-era spatial planning and the adverse impact it has had on access to housing for previously disadvantaged communities. South African land use allocation during the colonial and apartheid eras was discriminatory, as it placed white people near the city.¹ Spatial planning was used as an instrument to allocate different land uses, which consequently placed Black people in so-called townships. These townships would purposely be located far from city centres. Thirty years into democracy, the spatial arrangements of all South African cities remain fragmented. The current land use distribution in South African cities means that many Black people have long daily journeys from townships to cities. This has significantly contributed to limited economic opportunities within townships relegated to the outskirts of cities. The rate of urbanization and flawed spatial planning has contributed to multiple challenges in urban areas such as urban sprawl, high unemployment and increasing poverty. This legacy of spatial planning, including increasingly slow progress by post-apartheid governments in addressing access to housing, has resulted in a severe housing crisis throughout South Africa. This housing crisis has been felt particularly in Cape Town, where the provincial government has actively attempted to reinforce apartheid-era spatial planning in housing development to the detriment of historically disadvantaged communities and people.

The Housing Assembly: standing against contemporary forms of police violence in the South African housing crisis

The Housing Assembly advocates for access to housing, human rights and basic service delivery within the community, and works by raising awareness of the issues, facilitating engagement with government officials and, where necessary, organizing protest action to affirm the rights to which communities are constitutionally entitled. These objectives have often been met with the draconian government response of police deployment to quell any dissent. The Assembly's experiences

1 <https://www.abacademies.org/articles/south-african-spatial-planning-fragmentation-repealing-the-apartheid-planning-imprint-13336.html#:~:text=The%20South%20African%20land%20use,and%20colored%20people%20in%20townships.>

of police interaction within the communities they serve have been overwhelmingly negative and traumatic. They are characterized by indiscriminate violence towards people, dehumanizing evictions underlined by a lack of empathy and sensitivity to the context of communities, and police refusal to engage in meaningful dialogue with communities.

These negative experiences with government enforcement of spatial planning have been evidenced in a number of dehumanizing acts committed in the past few years, notably the violent eviction of Mr Bulelani Qolani, which prompted the Housing Assembly to litigate against the establishment of policing units responsible solely for eviction. On 1 July 2020, armed police officials acting on the instructions of the City of Cape Town arrived at Ethembeni informal settlement in Khayelitsha, Cape Town. They advanced to the informal dwelling occupied by Mr Qolani and proceeded to forcibly drag him out of his dwelling, naked and in full view of surrounding residents.² Shockingly, city officials then proceeded to tear down and demolish the dwelling using crowbars and other implements. None of this was authorized by a court order, as required by South Africa's Constitution.

The Assembly's experiences of police interaction within the communities they serve have been overwhelmingly negative and traumatic. They are characterized by indiscriminate violence towards people, dehumanizing evictions underlined by a lack of empathy and sensitivity to the context of communities, and police refusal to engage in meaningful dialogue with communities.

This was not an isolated incident. It was another horrifying example of a long-running campaign against communities residing in informal housing. The dehumanizing nature of these evictions by law enforcement and officials³ is evidenced by evictions regularly involving shack demolitions⁴ and occurring in the early hours of the

2 <https://www.news24.com/news24/southafrica/news/khayelitsha-man-dragged-naked-from-shack-lays-criminal-complaint-claims-torture-20200702>

3 "Law enforcement" denotes the SAPS and/or the Provincial Metro Police. "Officials" refers to the Anti-Land Invasion Unit, which was established by the City of Cape Town as a specific unit of the province's law enforcement tasked with evicting land occupiers and demolishing informal structures.

4 https://groundup.org.za/article/ugly-reality-eviction_2103/



Illustration by Pnitas via femiñetas

morning,⁵ abrupt removal of furniture⁶ and incidences of urination on mattresses by the evicting party.⁷ These actions have further contributed to the dehumanizing of communities represented by the Housing Assembly. The dehumanizing effect of these evictions inflicts a deeper harm on the community given how complicit the police have been in their execution.

5 <https://groundup.org.za/article/nkosinathi-ntulis-shack-has-been-knocked-down-four-times/>

6 https://groundup.org.za/article/cops-beat-and-humiliate-evicted-shackdwellers-philippi-east_2100/

7 <https://www.sahrc.org.za/index.php/sahrc-media/news/item/3195-high-court-slams-city-of-cape-town-over-unlawful-evictions-during-covid-19-lockdown>

Given the context provided above, police conduct in interacting with these communities is underpinned by the police seeing the Housing Assembly, and the community members it represents, as a threat – and thus as opposition that must be silenced. The Assembly and community members are not viewed as valuable members of society merely seeking to vindicate their constitutional rights to housing. Police responses are rife with structural and systematic racism – currently, however, it is a majority-representative government that metes out similar cruel punishment and degradation of poor Black people to that seen during the height of apartheid.

The Assembly and community members are not viewed as valuable members of society merely seeking to vindicate their constitutional rights to housing. Police responses are rife with structural and systematic racism

The experiences the Assembly has had with the police so far have been negative, abusive, disabling and violent, making it almost impossible to move towards a constructive relationship. This is evident in policing responses to protest action, but has also been experienced by the community in their regular interactions with a policing force tasked with preventing the occupation of land by members of the Assembly. There is no meaningful communication with the police; complaints and suggestions fall on deaf ears. The SAPS refuses to open a positive dialogue with the communities represented by the Housing Assembly. We believe that the relationship with the police has worsened over the last few years. Police misconduct towards these communities has further entrenched a deep distrust and disrespect towards law enforcement.

Moving forward: a vision for protecting housing protests in South Africa

Before providing any recommendations towards a reduction of police violence in the context of housing in South Africa, it is vital to note that many initiatives have been spearheaded to give communities further involvement and control regarding policing actions and safety in their neighbourhoods, primarily in the form of

Community Policing Forums and neighbourhood watches. The results have been mixed. These initiatives often end up being complicit in police misconduct, and have become estranged from representing the best interests of the community when they too receive funding for policing functions.⁸ In order to discuss alternatives that will be truly effective, we must base recommendations on human rights values and trustful, respectful engagement with all community members.



Illustration by Pnitas via femiñetas

The Housing Assembly advocates for police reforms that would eradicate institutionalized racism, which will result in better community interactions and relationships between the community and policing structures. Instead of viewing the Housing Assembly as a destructive vandal and pre-empting any engagement with violence and aggression, police should see our value as well-informed members of society and allow us to educate and inform the community on their rights and the existing framework of evictions. Going against the grain of police traditions in South Africa, this engagement with communities in assessing police reforms could finally acknowledge the humanity of poor and Black people. In the process of acknowledging this humanity, police may then become sensitive to their struggles and refrain from violence and aggression as a common practice.

⁸ Tyabazayo, Phumlani. (2023). *Community Policing in South Africa: Progress, Problems and Propects*. 13. 46-65.

A human right to housing in South Africa

The fight for adequate housing is not about advocating for a new right, but about ensuring equal fulfillment of an already-recognized right: the right to housing is contained in section 26 of the South African Constitution of 1996. The importance of this right is underscored in the Constitution, which requires the state to respect, protect, promote and fulfil this right (section 7(2)), as well as to take reasonable legislative and other measures to realize the right to adequate housing progressively (sections 26(1) and 26(2)). The right to have access to adequate housing goes over and beyond the mere provision of bricks and mortar. As noted by the Constitutional Court in the landmark case of *Government of the Republic of South Africa and Others v Grootboom and Others* (2001) (1) SA 46 (CC), access to adequate housing is intrinsically linked to a number of other cross-cutting rights. These include the rights to public participation, equality, human dignity and access to information. There is an indisputable link between the right to access adequate housing and other rights.

Going against the grain of police traditions in South Africa, this engagement with communities in assessing police reforms could finally acknowledge the humanity of poor and Black people.

For any dialogue to be able to advance between communities and law enforcement, there needs to be a common understanding of the right to housing as one that must be respected and protected for all South Africans without any difference due to class, gender or race.

Training and education

Importantly, the Housing Assembly calls for greater education of police officers in the relevant legislation applicable to housing and evictions. Beyond education on legislation and policies, education on community contexts and sensitivity in responses is also essential. Community-led education is an important mechanism for the reform of police and is a mutual undertaking. This education must occur between both sides – the police and the community. Joint community hall meetings

which encourage community presence in police training and, conversely, police representation in community training are important. Greater emphasis by police on ensuring access to them for the community is also a necessary reform. In promoting access, police should also ensure that greater mechanisms be enacted for accountability for and reporting of police misconduct. To summarize: police should be accessible, interactive and accountable.

The right to have access to adequate housing goes over and beyond the mere provision of bricks and mortar.

Other reforms

The Housing Assembly has also engaged with policing structures and law enforcement on the promotion of greater community policing initiatives. The Assembly believes that localized community organizations have a better understanding of community issues, and are thus a greater source of community support and resources. If SAPS could make greater use of – and better engage with – community members and organizations to help with some policing functions, including community support on trauma and reporting, then this would be immensely beneficial. Communities are more supportive of each other's struggles. This involves visible policing, community patrols, escorting of children to school, reporting of gender-based violence and traumatic cases and people-friendly community outreach programmes.

Police reforms based on community engagement can be achieved to some degree by the enactment of a localized memorandum of understanding (MOU) between the police and the community. This MOU would provide applicable context, describe the challenges faced by the community and police and recommend solutions and obligations to fulfil police reform. The MOU should, however, be a meaningful engagement by police to truly commit to proper reform. This would be a valuable source of policy which underpins police responsibility and accountability while stressing community rights. This could further cement the importance of education and training for police on community contexts, legislation and dynamics in policing protest action; as such, it could significantly suppress the use of heavy-handed tactics against the community.



Illustration by Pnitas via femiñetas

Conclusion: keys to change dehumanizing perspectives

The Housing Assembly has always advocated, as its motto states, for decent housing for all South Africans. This drive stems from its members' historical experiences of apartheid and the systematic failure to provide humane living conditions for all people who live in South Africa. In post-apartheid South Africa, the provision of access to adequate housing – a constitutionally enshrined right – remains a pressing issue. This lack of housing has been further exacerbated by police conduct in response to protest action around housing. Police conduct in response to protest action by the Housing Assembly has been underpinned by violence and disdain for protesting communities. This has further strained an already failing relationship between police and increasingly maligned communities.

In this context, the Housing Assembly continues to advocate for access to housing, human rights and basic service delivery despite the violent responses from police to quell this cause. By doing so, it takes a stand against current forms of police violence in the South African housing crisis, which are a contemporary continuation of the harms perpetrated against poor and Black South Africans during the apartheid era.

For this broken relationship to be mended, greater emphasis on meaningful positive engagement by police is needed to ensure respect and cooperation between

protesting communities and police who are tasked with ensuring peaceful protest action and the respect of all community members' human rights. As long as most interactions are characterized by indiscriminate violence towards people and dehumanizing evictions underlined by a lack of empathy and trust of communities, no amount of reform will suffice. Beyond the emphasis on policing that respects communities, further opportunities exist to train and educate officers on the relevant constitutional and legislative protections afforded to protestors. Ideally, training and education should be provided for both police and the community – this would enable both sides of the conflict to be aware of their rights and responsibilities when engaging in community protest action. In this way, we can hope to truly change the perspectives that dehumanize poor community members, and to revindicate their role as valuable members of society fighting to ensure their constitutional right to housing.

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About *In Our Hands*

In Our Hands: Communities rooting out discriminatory policing, is a collection of very diverse articles written by activists, organizers, academics and researchers that propose or reflect on already existing solutions to reduce the harms that accompany the over or discriminatory policing of their communities.

Ranging from abolitionist to more reformist, these articles raise the voices of communities who question the status quo in the power and protagonism given to police, highlight roles that are better fulfilled by other actors or community members, and above all, make a case for holistic solutions for social ills, centering the human need for care and safety. Believing in the power of creativity and art especially when exploring these difficult topics, we also partnered with the platform *femiñetas* to commission illustrations for each of these articles.

Contributors

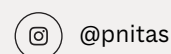
The Housing Assembly is a social movement of people representing over 20 different communities in the Western Cape, South Africa. It was formed to address housing inequality across South Africa and advocates for “decent housing for all”. The movement works together with communities living in various forms of informal and irregular housing. The members of the Assembly are landless and occupy vacant land, where they build informal housing structures. The Assembly also mobilizes in advocacy campaigns on issues related to housing and human rights. A significant consequence of the Assembly’s representation of impoverished communities – and activism in favour of better housing conditions – has been aggressive and dehumanizing responses by police to discourage and disperse members of the community represented by the Housing Assembly. You can learn more from [their website](#).

The Legal Resource Centre (LRC) is an independent, client-based, non-profit public interest law clinic which uses law as an instrument of justice. It was established in 1979 and is South Africa’s largest public interest human rights law clinic. In addition to its national office and its Constitutional Litigation Unit, LRC has four regional offices, in Cape Town, Durban, Grahamstown and Johannesburg. In its earlier years, the LRC challenged the legal mechanisms used by the apartheid government to oppress millions of South Africans.

Since 1994, the LRC has focused on making the South African Constitution a living document and ensuring that the rights and responsibilities enshrined therein are respected, promoted, protected and fulfilled using a range of strategies including impact litigation, law reform and networking. The LRC provides legal services for the vulnerable and marginalized, including the poor, homeless and landless people and communities of South Africa who suffer discrimination by reason of race, class, gender, disability or social, economic and historical circumstances. For more information, visit <https://lrc.org.za/>.



Illustrator

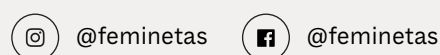


Pnitas* The artistic project **pnitas*** uses drawing as a means of expression to build its own grammar that delves into global feminist theory and genealogy from a pictorial, political and critical analysis.

Among its creator's most recent works is illustrating the 17 United Nations Sustainable Development Goals for the Spanish Ministry of Social Affairs and the 2030 Agenda of the Spanish state.

Her career as an activist is widely recognized, as are her collaborations with different autonomous groups, associations, foundations, NGOs and government administrations of the Spanish state and other parts of the planet. These cover matters including human rights, international cooperation, gender, climate change and interculturality from a feminist and intersectional perspective.

Illustration Collective



femiñetas: feminism in vignettes. [Femiñetas](#) is an illustrated and transoceanic collective and media. It comprises some 300 illustrators and writers from different parts of the world who form a story-telling community in the language of comics.

Flor Coll is the coordinator and founder of *femiñetas*. She is a journalist and Social Communication graduate from Universidad Nacional de Rosario (Argentina) and holds a Master's in Gender and Communication from the Autonomous University of Barcelona (Spain). After working for more than 15 years as a journalist in Argentinian radio, TV and print media, she currently carries out gender and sexuality campaigns for the NGO Sexus and teaches at the Master's in Communication and Gender at the Barcelona Open University in Spain (UAB). She co-created Chamana Comunicación, a consultancy firm based in Barcelona where she is the director of communication and capacity building.

femiñetas