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**Sowing the seeds of conflict? Low income housing delivery, community participants and inclusive citizenship in South Africa**

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**Abstract**

The delivery of housing to low income citizens across South Africa reflects the state's realisation of citizens' social rights to housing and can help to strengthen a citizen's sense of belonging. Additionally, through the very processes of housing delivery, such as decentralised mechanisms with strong community participation, principles of inclusive citizenship are forged and enacted. However, it is argued in this paper that because housing allocation is devolved and power granted to local elites, an important aspect of citizenship-making has also been devolved with insufficient checks and balances. The paper cautions that the decision-making of local elites who determine access to housing and thus the realisation of citizenship rights, is mitigated by their subjectivities. Based on case studies of selected settlements in eThekweni (Durban), the paper examines how residents access housing in slum upgrade programmes. It finds that, beyond national eligibility criteria additional localised criteria are evident which demands that residents use their identity and social relationships to both provide evidence of their eligibility and negotiate access. The paper further cautions that these local processes may be sowing of conflict by propagating existing social tensions, particularly around ethno- and xenophobia, and party political contests. Such conflict ultimately undermines citizenship ideals.

**Keywords**

Citizenship, conflict, housing, informal settlement upgrade, South Africa

**1. Introduction**

This paper examines the politics and process of housing allocation in three settlements in eThekweni Municipality (Durban). This examination is conceptually framed by a discussion of the relationship between housing and citizenship. Recent literature on low income housing interventions emphasise that poorer members of society have a right to housing, that states have a responsibility to uphold this right, and that through participation in decision-making over housing design, delivery and management poorer citizens are able to exercise agency and other social rights including the right to participate in political society (Bredenoord *et al.*, 2014). The conceptualisation of housing as a social right and of housing processes as a means to exercise a range of other rights, complements recent conceptualisations of citizenship that move beyond a formal-legal relationship between citizen and the state to emphasise its local (Lund, 2011) and substantive (Holston and Appadurai, 1999; Holston, 2008) character. The section that follows provides a critical overview of the interstices between housing and citizenship, before discussing the case of South Africa and the particular relationship between housing and citizenship which gives rise to current housing allocation processes.

The empirical evidence illustrates housing allocation processes in action. The evidence draws on research on the implementation of informal settlement upgrade in three settlements in eThekweni: Gum Tree Road, Cato Crest and Zwelisha, each at different stages in the upgrade process. The paper analyses the plural institutions (i.e. rules, practices and processes) that govern settlement upgrading through a lens of inclusive citizenship. The evidence suggests that devolved housing allocation processes also devolve an important aspect of citizenship-making with insufficient checks on the power of 'citizen-makers' i.e. local elites. In the South African context, citizenship-making refers to both the outcome of delivering on a Constitutional right to housing and inclusion in the participatory processes through which housing is delivered; both of which appear contingent on the subjectivities of local elites. The conclusion draws upon the work of Moser and Horn (2011) and Beall *et al.* (2013) on urban conflict to make sense of the perceptible tensions that influence housing allocation and to identify its future implications<sup>1</sup>. The findings from the three case studies may be helpful to the design and implementation of upgrade strategies in other places in terms of the need for oversight and transparency in housing allocation processes and the necessity for checks and balances on the power of local elites.

The data for the case studies are drawn from 24 ethnographic accounts collected over nine months between 2009 and 2010, and from respondents identified to reflect the diversity in the three settlements (in terms of age, gender, ethnicity, nationality, tenure status and years of residence). These accounts were developed from semi-structured interviews, social relations mapping, community mapping, oral histories and reciprocity diaries kept by respondents. They were supplemented by a review of secondary literature and 18 semi-structured interviews with professionals engaged in the upgrade process in eThekweni, including local councillors, members of Ward and community development committees, municipal housing officers, housing consultants and a master builder. These interviews were also conducted between 2009 and 2010.

## **2. Conceptualising the relationship between housing and citizenship**

Citizenship is a multi-faceted concept; Staeheli (2010) writes citizenship is continually constructed through re-articulations of the relationship between different social actors. It can refer to the legal terms and conditions of membership to a nation-state; or it can refer to claims, based on moral or social rights, to membership to society and the practice of these claims. These constructions of citizenship are conceptually distinguished by Holston (2008) as formal and substantive citizenship respectively. Kabeer (2005) adds the articulation of substantive rights by marginalised groups can be labelled a call for inclusive citizenship. An inclusive citizenship moves beyond the civil and political rights of individuals in liberal theory, to the social and economic rights that give substance to civil and political rights. Lister (2007:50-51, in a summary of Kabeer, 2005) explains inclusive citizenship as conceptualised 'from below' holds four ideals: justice and equity, horizontal relations that enable acts of solidarity, and two ideals relevant to my findings: recognition of all people as rights-bearers,

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<sup>1</sup> There are many types of conflict. In housing processes some have constructive potential e.g. a conflict environment can create opportunities for unusual alliances (see Sanyal and Mukhija, 2001). This paper is concerned with aspects of 'civic conflict' - that is the contests and clashes that arise in urban areas in response to or as a result of the failures of the state and its actors e.g. elected politicians, government officials and members of committees engaged in a public process vis-à-vis their widely perceived responsibilities to citizens (Beall *et al.* 2013); and with the idea of an urban 'tipping point' i.e. a determining factor that 'tips' conflict into violence (Moser and Horn, 2011).

and the right to self-determination. To Parnell and Pieterse (2010), the realisation of inclusive citizenship demands an interventionist state. They argue that “the multi-scalar nature of the state’s actions [...] are necessary for the full realization of human rights” (2010: 146). Parnell and Pieterse’s argument alerts us to the importance of the multi-scalar state to any analysis of housing rights and their realisation. Their argument influenced the focus of this paper to devolved housing processes and their effect on citizenship rights.

It is worth noting that dominant conceptualisations of citizenship affect the role of housing delivery in advancing (or denying) citizenship agendas. ‘Housing rights’ and the ‘right to housing’ is a useful distinction to illustrate this. Housing rights refer to the legal right to hold property and the conditions under which property is held. This is backed by formal institutions e.g. courts and state bureaucracy (King, 2003). Housing rights fall into two categories: positive and negative rights with implications for housing policy. Where negative rights protect individuals and their property from coercion, King (1998 in King, 2003:53) argues the state should not play a role as a provider of housing as it cannot be a neutral actor and favouring one set of citizens impinges on the rights of others. Positive rights, by contrast, have an enabling function so individuals can exercise their membership to society. In Marshall and Bottomore’s (1992 [1950]) formulation of citizenship, state provision of social welfare (including the provision of housing) is essential for a “full citizenship” of political, social and civil rights. In a formal citizenship, developed on principles of positive rights, housing is a social right and the state an important actor with a central role in delivering it (Bengtsson, 2001).

Precise housing rights enacted in law are based on a particular interpretation that wins from an array of articulations of a moral or social right to housing (illustrated in Kabeer, 2005). In recent years the practice of moral or social rights to housing has been theorised as a substantive citizenship where, for example, informal settlement is understood as the actions of citizens that simultaneously realise their right to housing and in some way contest the state’s monopoly on determining the legitimacy with which people stake claims to space and belonging (Alsayyad and Roy, 2006; Desai and Sanyal, 2012; Holston and Appadurai, 1999; Roy, 2009). A corollary discourse to substantive rights to housing is advanced by development practitioners and activists and is encompassed by ideals of universal human rights. While literature on substantive citizenship often emphasises the ways people make and sustain claims to space often despite state efforts to marginalise them (e.g. demarcating spaces ‘informal’, Roy, 2009; and dwellers as ‘encroachers’, Benjamin, 2008), literature on inclusive citizenship and the creation of inclusive cities articulates a role for the state based on the idea of poor people’s ‘right to the city’ (Beall, 2000; Parnell and Pieterse, 2010).

In a state-centric view of inclusive citizenship the precise role of the state in delivering housing varies. Since a powerful neo-liberal development agenda in the 1980s and 1990s rolled back state functions, the state as house builder has given way to the state as an enabler of housing markets (Gilbert, 2004). In this role, Bredenoord *et al.* (2014:4) identify three basic principles that advance inclusive agendas in housing delivery processes and their outcomes. The first is a holistic approach to housing that incorporates frameworks of sustainable environmental management and neighbourhood-level economic activities that “are essential preconditions to reduce urban poverty and to redistribute resources in such a way as to include the urban poor in the formal city” (2014:4). The second is partnerships with civil society and private sector actors (also in Jenkins and Smith, 2001). And the third is the “active involvement and participation of the inhabitants” (*ibid*). The

structured participation of shack dwellers is a driving discourse in good development practice that materialises in top-down housing delivery programmes, including those in South Africa.

Despite warnings over the inclusive claims of participatory processes and their potentially subversive role in cementing local hierarchies of power and disciplining citizens into formal channels of communication with the state (Cooke and Kothari, 2001; Miraftab, 2009; Benjamin, 2008), Lister (2007:53) argues that for marginalised people socio-economic rights are indivisible from civil and political rights, which means that to achieve inclusive citizenship poor people must participate in poverty reduction strategies and policy-making. Lister writes, “[Their inclusion] represent[s] a demand for recognition of and respect for the expertise borne of experience alongside those forms of knowledge and expertise that have traditionally been privileged” (2007:53). Among shack dweller movements such as Slum/Shack Dwellers International participatory processes of housing delivery exemplify inclusive citizenship and a bottom-up enactment of a ‘right to the city’ (Mayer, 2012:69-70), where citizens not only lead in the design, build and management of housing, but subsequently develop strategic positions to engage and negotiate other gains with the state (Boonyabanha, 2005; Chitekwe-Biti, Patel and Mitlin, 2014).

Inclusive citizenship is bound within processes of housing delivery for both the state and marginalised citizens. The concept of inclusive citizenship serves as the analytical lens to understand the promise and pitfalls of housing delivery processes in South Africa.

### **3. Housing delivery and citizenship in South Africa**

Drawing upon policy documents, primary data, and secondary literature, this section discusses two perspectives on housing delivery<sup>2</sup> and inclusive citizenship in South Africa: from the state (where I shall draw out references to participatory approaches in delivery) and from citizens (where I draw out ideas of all people as rights-bearers and the right to self-determination). Tomlinson (2011) identifies four areas of housing delivery: planning, procurement, project management and allocation. It is important to note here that housing allocation in the South African context includes houses allocated under informal settlement upgrade programmes where such settlements are re-planned and cleared shacks are replaced by newly-built subsidised houses complete with services and legal tenure. The paper focuses on housing allocation as it is the point at which the state (through powers devolved to municipalities) and citizen most closely interact. In informal settlement upgrade programmes, it is where citizens tend to participate in the process of developing housing lists and matching households to houses (Tomlinson, 2011:422-423). Thus, the housing allocation process and its outcome (award of a house) is an important mechanism through which citizens can claim membership to an inclusive polity.

#### ***3.1 A state-centric view of housing delivery and allocation for inclusive citizenship***

##### ***3.1.1 Constitutional housing rights and formal citizenship***

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<sup>2</sup>Actors engaged in low income housing delivery include private sector developers, community groups building state-assisted (e.g. the People’s Housing Process) and non-assisted self-help housing, and state-delivered public housing. The focus here is on state delivered public housing as it is by far the largest and most dominant mechanism of low income housing delivery in the country (Landman and Napier, 2010).

The 1996 South African Constitution makes two provisions for inclusive citizenship through housing: a legal right to adequate housing and provision for the devolution of power for housing delivery to local government. These provisions reflect housing as a positive right and its delivery as part of a formal citizenship. Formal citizenship is a membership to society on the grounds of nationality, which in South Africa is attained through birth, descent or naturalisation. It can make less important identities of ethnicity, race and language which otherwise form the basis for membership to society (Holston and Appadurai, 1999). The South African experience of racist and ethnically divisive law, policy and practices in the location, ownership and use of land and housing necessitated the articulation of all South Africans' legal right to housing as a way to redress past injustices and to contribute to the creation of a common South African with a common set of rights (Laloo, 1999; Bentley and Habib, 2008). Article 26 Housing in the Bill of Rights declares that "Everyone has the right to have access to adequate housing [and that] The state must take reasonable legislative and other measures [within its available resources] to achieve the progressive realisation of this right" (GoRSA, 1996, Chapter 2). This Constitutional right establishes the responsibilities citizens expect the state to fulfil. Although, illustrated by an early Constitutional test case in Cape Town (the Grootboom case<sup>3</sup>), this formal citizenship right does not necessarily equal a substantive right to housing.

Writing in 1995, Mark Orkin argued that for a non-racial, non-sexist democracy South Africa would need processes that support the democratisation of state and society, and that a repressive style of government needed to be reversed by processes that demanded the active involvement of the citizenry; making the case that through devolved processes and active citizen engagement, inclusive citizenship can be engendered<sup>4</sup>. The Constitution makes explicit that the country is governed by three spheres of government: national, provincial and local, each with distinctive realms of authority (GoRSA, 1996, Chapter 3). Although, housing is listed as a national and provincial function (Schedule 4, Part A), local government is identified as the authority responsible for building regulations, municipal planning and municipal public works (Schedule 4, Part B), making capable local authorities the most appropriate sphere for delivering housing. Tomlinson (2011:421) notes, "While the Constitution does not specify housing as a local government function, it clearly provides a route for municipalities [...] to take on this function through the principle of devolution." The 1997 Housing Act made explicit provision for municipal engagement in national housing programmes through their role in preparing Integrated Development Plans (IDPs) that specified housing needs in the municipality (GoRSA, 1997).

### *3.1.2 Devolved housing delivery and allocation: the 'RDP' (1994-2004), 'BNG' (2004 – 2009) and Outcome 8 (2010 -)*

#### *The 'RDP'*

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<sup>3</sup>Mrs. Grootboom lived in an informal settlement in Cape Town. Alongside others, she moved to occupy land reserved for low income housing. Their shacks were cleared from this new land by the municipality. Unable to return to their previous homes they moved onto a nearby sports field. A Constitutional Court judgement found in favour of Grootboom and reaffirmed the responsibility of the state (and not local authorities) to ensure the delivery of adequate housing including interim housing solutions. The Grootboom case illustrated that Constitutional housing rights did not translate into substantive rights to housing and that directives forged by the state did not necessarily carry to local authorities charged with service delivery (Williams, 2005; Huchzermeyer, 2004).

<sup>4</sup> A view echoed in the 1996 Habitat Agenda which recognised the decentralisation of state authority and resources as a key instrument for inclusive and sustainable human settlements (UN-Habitat, 2009)

The main mechanism to deliver state housing to low income households outlined in the 1994 Housing White Paper was through a one-off capital subsidy to individual households (GoRSA, 1995). This mechanism paid little attention to municipal and public participation (Tomlinson, 2011; Huchzermeyer, 2004). This stands in contrast to the strong participatory principles embedded in the Reconstruction and Development Programme (RDP) of the African National Congress (ANC) government under which housing policy was forged (lending its acronym to the product i.e. 'RDP houses') (Goodlad, 1996). Reasons vary as to why. Lalloo (1999) and others (e.g. Terreblanche, 2012; Jenkins and Smith, 2001) argue the diverse voices from civil society heard in the formation of housing policy diminished with the negotiations that brought about change in the post-apartheid political order, leaving a market-based approach where private sector contractors played a major role in delivering a socio-economic right to housing. Although Tomlinson (2011) notes private sector delivery was in part a way to overcome the anticipated disruption of local government transformation following 1996 local elections. And Mirafteb (2003) adds that against a housing backlog of 2.8 million the imperative for housing units overrode requirements for the "active participation of communities in decisions that affect their lives" (2003:233).

In a mass delivery model where housing units were hastily and poorly constructed on the urban periphery with minimal beneficiary participation, the process of housing allocation was a largely bureaucratic process of pairing eligible households with available houses. Those eligible were to apply for a housing subsidy through local or provincial government. The official national criteria for eligibility for a subsidised house have remained broadly the same over the years:

1. Be a South African citizen or have a permanent residence certificate<sup>5</sup>.
2. Married, cohabiting with a partner or single with dependants.
3. Have never owned property.
4. Have never received a government housing subsidy.
5. Be 21 years or older<sup>6</sup>.
6. Joint household income should not exceed R3,500 per month.

Records of eligible applicants were kept on a national database which served in effect as a waiting list. As subsidy-built houses became available eligible people would move in<sup>7</sup>. This approach meant long waiting lists with the time elapsed between allocation and receipt of a house, in some cases, being 10 years (Huchzermeyer, 2014). Those eligible were expected to wait for a house to become available, although tales of corruption in this process abound (Rubin, 2011).

### *The 'BNG'*

After 10 years of insufficient delivery and widespread complaints about the product and process (Goebel, 2007:292 lists common complaints) the government was forced to re-assess its housing delivery programme. 'Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements (or 'BNG', GoRSA, 2004), was a major policy redirection. Its guiding policy was the creation of "South African towns and cities [that are ] [...] socially and spatially

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<sup>5</sup> At the time of fieldwork in 2009-10, only South Africa citizens were eligible, not permanent residents (Patel, 2012:95).

<sup>6</sup> At the time of fieldwork in 2009-10, the age of eligibility was 18 years or above (*ibid*)

<sup>7</sup> In eThekweni Municipality this process was supplemented by a lottery where eligible households who applied could be randomly selected for a house. (Tissington *et al.*, 2013)

inclusive” (GoRSA, 2004:11). The policy lent support to *in situ* upgrading<sup>8</sup> and articulated new processes to create “Sustainable human settlements [that] are supportive of the communities which reside [there], thus contributing towards greater social cohesion, social crime prevention, moral regeneration, support for national heritage, recognition and support of indigenous knowledge systems, and the ongoing extension of land rights.” (*ibid*). Housing delivery aimed higher than the promise of a house.

Although BNG stated an enhanced role for the private sector, it made two noteworthy statements on the role of municipalities and citizens in housing delivering. The first, municipalities were to assume overall responsibility for housing in their area “through a greater devolution of responsibility and resources to municipalities” (GoRSA, 2004:16). eThekweni Municipality with its dedicated housing unit was one of the few municipalities prepared to assume these responsibilities, many were not (Tomlinson, 2011). The second, beneficiary communities were to be mobilised through a comprehensive communication strategy, dedicated municipal community liaison officer, and the engagement of Ward Committees (the lowest level of formal governance). The participation of beneficiaries was a strong feature in programmes to upgrade informal settlements (e.g. (Revised) Housing Code, GoRSA, 2009: Part 3). In eThekweni, *in situ* upgrade is now the mechanism through which the greatest number of subsidised housing is delivered (Interview with senior municipal officer, 06/10/09). In South Africa, *in situ* upgrade constitutes the demolition of shacks and the construction of subsidised houses in a re-planned settlement with subsidy-eligible residents relocated to temporary ‘transit’ housing in between these two phases.

BNG also articulated the role of municipalities in housing allocation. Tomlinson (2011:423) explains: “The local authority is expected to develop a demand database, manage housing lists, take applications for housing subsidies and match households to houses in terms of the need assessment carried out during the IDP process.” Although, she notes, provinces (including KwaZulu-Natal Province) have been known to override the housing lists of beneficiaries developed by municipalities. In eThekweni Municipality because of the emphasis on *in situ* upgrade, housing subsidies are awarded to eligible residents through a municipality-managed project and site-specific register (Tissington et. al., 2013). This means eThekweni differs from other major municipalities in Gauteng and the Western Cape (for example) where general non-site specific housing lists are mainly employed (*ibid*). However, given the current national policy direction for housing delivery (discussed below), the implications that arise from examining in detail housing allocation processes in cases of *in situ* upgrades in eThekweni, can be far reaching in their relevance to other municipalities in the country.

### ‘Outcome 8’

Despite a large housing programme that delivered 3.03 million subsidised housing units between 1994 and mid-2010 (Gordon *et al.*, 2011:28), the current housing backlog is estimated to be 2.2 million units. In response to the backlog, the government launched ‘Outcome 8’ in 2010 which aims to deliver 400,000 upgraded units in informal settlements by 2014 principally by scaling-up and reinvigorating existing upgrade programmes (Financial and Fiscal Commission, 2012:13). Evaluations of existing programmes overwhelmingly focus on the institutional barriers that are stalling scaling-up

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<sup>8</sup> Through the ‘Upgrading of Informal Settlements Programme’ under the 2004 National Housing Code (GoRSA, 2004) and further detailed under the revised 2009 Housing Code (GoRSA, 2009).

(*ibid*), such as a lack of knowledge in municipalities of the processes and planning principles of the government's Upgrading Informal Settlements Programme. Scrutiny of how processes are implemented, particularly around housing allocation, is largely absent.

Nonetheless, in 2013, the Deputy Minister of Human Settlements Zou Kota-Fredericks stressed the participatory nature of informal settlement upgrade that is to typify Outcome 8 projects. She declared, "We have directed that the planning and implementation of these projects should be carried out with the participation of the affected communities ... and have agreed with the Presidency that the 1,800 informal settlements [targeted] [...] should all have detailed project plans [...] produced through participatory processes" (Kota-Fredericks, 2013:7). In the spirit of inclusive development and empowering people to engage in settlement upgrading, Kota-Fredericks' and the President's commitment to participatory processes is desirable and necessary. The paper now turns to three cases where participatory processes were employed in housing delivery and allocation; the evidence identifies issues that ought to be of concern wherever participatory processes are employed in *in situ* upgrades.

### 3.1.3 Structured participation in housing allocation processes

Across the country, the process of upgrading informal settlements is decentralised and power devolved to municipalities (see **Figure 1** for a detailed breakdown of the process).

As part of initiatives for greater community participation, settlement level actors are very involved in the upgrading process. They include the members of a Ward Committee or community development committee (CDC) – the CDC is composed of elected residents whose powers and responsibilities are determined by locally developed norms and rules. Not all settlements have a functioning CDC. The CDC sits beneath the Ward Committee but has no official powers or responsibilities, unlike Ward Committees, which were developed through national legislation to bridge gaps of communication and representation between local councillors and residents (GoRSA, CoGTA, 2009). Ward Committees comprise the ward councillor and 10 nominated representatives, whose term in office is set by the municipality. There are no criteria to govern the nomination of ward representatives. The functionality and competence of Ward Committees varies widely across the country (*ibid*, p.33).

In all three study sites, the settlements were in the process of an *in situ* upgrade implemented in the spirit of community participation. In reality, community participation was limited (Patel, 2013), for example settlement-level actors were not involved in the design of houses or in the evaluation of the upgrade programme. Instead, members of the CDC and/or Ward Committee had three main roles: they were responsible for drawing up lists of eligible residents (housing lists), monitoring newcomers so they did not take advantage of the settlement's upgrade, and facilitating the entry and exit of municipal officials and housing professionals (e.g. builders, surveyors and engineers). Those involved in these tasks were afforded great flexibility in precisely how to interpret their role(s) in the upgrade process, creating opportunities for them to manipulate the process according to their personal and political preferences. The current process through which sites for upgrade are selected and subsidy-built houses allocated leaves room for extra localised criteria set by local elites who include councillors, Ward Committee members and CDC members, who collaborate with each other and municipal officers to different degrees. These additional criteria have two dimensions: process and preference.

**Figure 1: Site selection and housing allocation in the upgrade process in eThekweni Municipality**

Level	Responsibility for site selection and housing allocation	Criteria for housing subsidy	Function	Monitoring Mechanism
Department of Human Settlements (Province)	Not directly involved in site selection or housing allocation.	Individual eligibility for housing subsidy	Monitor target to eliminate slums by 2014. Release funds from national to municipal at milestones	Municipalities report on progress towards achieving the targets.
Housing Unit (feasibility) (Municipality)	Sites selected on the basis of both the technical ease of upgrade and political considerations. Housing allocation determined by settlement actors who are responsible for developing a list of eligible people.	Individual eligibility for housing subsidy	*Land acquisition studies *Impact assessments *Land surveys *Full costing *Plans and architectural drawings	Feasibility studies are usually outsourced to contractors – monitoring against individual contracts. Little monitoring of how the housing list is developed.
Project Manager, Housing Unit (implementation) (Municipality)	PM appoints a community liaison officer (CLO), who works with community committees and the local councillor to oversee the allocation of plots and subsidies and coordinate upgrade work.	Individual eligibility for housing subsidy	*Implement upgrade *Manage and coordinate contractors and others *Principal municipal contact for community *Ensures houses are allocated to residents from the target area	Internal audit systems, feedback and reporting from contractors, CLO, community committees and the councillor.
Settlement	Area Committees, Ward Committees, CDC and councillor compile housing list.	Individuals living in a settlement prior to a cut-off date.	*Decide names on the housing list *Facilitate on-site works *Monitor newcomers	No official monitoring or scrutiny of who is on the housing list.

Source: The figure is adapted from a table in Patel, 2012

Criteria that relate to process primarily concern how long a subsidy-eligible individual has lived in the settlement targeted for upgrade. The addition of a 'cut off' date, typically set by municipal officers in close consultation with the local councillor, Ward Committee and CDC, has two intentions: the first is to dis-incentivise the arrival of newcomers because of concerns that if news of an upgrade spreads many people will move into the area to try and obtain a house; and the second is to rationalise the allocation of housing units, the numbers of which are constrained by available space. Spatial constraints on upgrade sites arise from planning and design principles, cultural preferences and topography. For example, current design principles stipulate a plot size between 30m<sup>2</sup> - 40m<sup>2</sup> per household; a planning ethos of 'one shack – one house' has been adopted; there is popular resistance to terraced or multi-storey housing<sup>9</sup>; and Durban's hilly terrain adds technical complications to *in situ* upgrade, with implications for the number of units that can be built on existing sites (see **figure 2**). In two of the three case studies (Cato Crest and Gum Tree Road), the number of subsidy-built housing units did not equal the number of subsidy-eligible residents. This heightened tensions between eligible residents for access to the limited numbers of houses in the upgraded area.

**Figure 2 High densities and steep gradients in Gum Tree Road**



Source: Photo taken by author, August, 2010

The second set of criteria is related to the preferences of local elites – which in all three case study areas were found to have strong ethnic and party political dimensions. Preferences are inferred from the behaviour of eligible and non-eligible residents in the study sites, and their interpretation of the actions and statements of Ward Committee and CDC members. These actors are believed to implicitly prefer members of the ANC over those of other political parties, isiZulu over isiXhosa

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<sup>9</sup> The Area Manager of the Cato Manor Area Based Management Programme noted that at public meetings it is common to hear, "where can I bury my ancestors if I live in a flat?", or "how can I build more rooms if I have neighbours on either side?" This may reflect a need to accommodate a growing family, generate income by building rooms for rent or a wish to retain culturally important practices (Interview with Area Manager, 09/09/09).

speakers<sup>10</sup>, and South Africans over foreigners<sup>11</sup>. While the criteria are resolutely local in their application, there is an interesting scalar element to them, which illustrates that ‘the local’ cannot be an isolated scale of analysis and that what materialises at ‘the local’ level reflects regional and national flows of power (in the case of ANC membership), political and ethnic tensions (in preferences for amaZulu), and widespread public debate (on the role of foreigners in South Africa).

Among respondents, the first widely believed criterion in the politics of preference was membership to the ANC over other political parties. The belief among low income residents that party membership facilitates access to state resources nominally available to all South African citizens has been well documented in other studies (e.g. Rubin, 2011<sup>12</sup>; Benit-Gbaffou, 2012). Benit-Gbaffou’s (2012) study of party politics and local democracy in Johannesburg illustrates that actually local ANC branches are a powerful, influential and highly visible entity that can bring opportunities and improved service delivery to its members, especially in places where Ward Committees do not function effectively by channelling issues ‘up’ the ANC hierarchy, or through “personal ANC network[s] to have their view considered at higher scales and levels of power.” (2012:181). The study illustrates that the widespread belief of residents as to the power of grassroots ANC membership is not without merit. In the three case study sites the corresponding ward was governed by an ANC councillor, and the Ward Committee and CDC were dominated by members of the ANC, many of whom were active in their local ANC branch. Thus, awarding ANC branch members a stake in resource allocation through their official roles in committees only serves to strengthen the association between ANC membership and access to housing.

A further dimension to the preference of ANC membership over other political parties may be related to the historic party political tension and contest between the Inkatha Freedom Party (IFP) and the ANC in KwaZulu-Natal. The contest for political power between IFP and ANC supporters leading up to and after the end of apartheid led to brutal communal violence across the province. In the late 1980s and early 1990s, episodes of communal violence, predominantly in rural areas, drove many internally displaced people to urban areas, determining the pattern of settlements in which many poor urban Africans live in the province today. Despite the dominance of the ANC in local and national elections since 1994, apartheid-era antagonism between the IFP and ANC is still evident in contemporary local politics. For example, during a spate of political assassinations preceding the national elections in 2009, the IFP Youth Chairman Bhhekinkosi Dube was shot dead in northern KwaZulu-Natal, shortly followed by ANC Youth League leader S'thembiso Cele in Durban in a possible reprisal (Memela, 2009).

The second widely believed criterion, which is closely related to the politics of the ANC, is ethnicity. The discourse of ethnicity was at the forefront of national politics leading up to the 2009 presidential elections, when Jacob Zuma’s political campaign seemed to rest on evoking his ethnic and gender identity as a Zulu man, and the strong leadership characteristics attributed by his supporters to this

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<sup>10</sup> isiXhosa speakers originate from the Eastern Cape (formerly known as the Transkei), a neighbouring province to KwaZulu-Natal’s southern border. Many amaXhosa migrated from the Eastern Cape to KwaZulu-Natal. AmaZulu are from the province of KwaZulu-Natal.

<sup>11</sup> At the time of fieldwork, permanent residents were not eligible for a housing subsidy (see footnote 2), but respondents considered that it was possible for any rules on the allocation of subsidy-built housing to be circumvented by settlement leaders.

<sup>12</sup> In Rubin’s (2011:482) study of perceptions of corruption in Gauteng she reports her respondents’ experiences of being denied access to subsidy-built housing because of their party political membership.

(Kagwanja and Waititu, 2008). Zuma's image stands in contrast to the image of the man he replaced –Thabo Mbeki, an isiXhosa-speaker whose projected identity, captured by his 'I am African' speech<sup>13</sup>, spoke against ethnic divides in favour of a national identity. While the contest for power between the two men was clearly based on issues other than ethnicity and its role in the future of South Africa, the result of their high-level contest has factionalised the ANC with at least two important implications at the local level<sup>14</sup>. The first, as reported in the State of Local Government Report (GoRSA, CoGTA, 2009), Mbeki supporters and Zuma supporters have been polarised on issues that include the very future of the ANC, which has created "[r]elationships at the local level [that] are tainted by these contestations amongst the elites of local areas" (2009:30). When viewed alongside "A culture of patronage and nepotism [that] is now so widespread in many municipalities that the formal municipal accountability system is ineffective and inaccessible to many citizens" (*ibid*, p.31), it is possible to infer national contests for power affect the ability of citizens to access local sites of power. The second (and perhaps more worrying) effect is that ANC factionalism has been interpreted by some grassroots activists resident in the study sites as an ethnic rivalry. Commenting on national politics, a young Zulu male, member of the ANC Youth League, and resident in Cato Crest stated that, "for me, Thabo Mbeki hates us, not just him, but a certain percentage of his group totally hate Zulus ... And not just him, from the Zulu faction too, there are leaders whom we know who don't get along with anyone from the Eastern Cape. ... I wouldn't say [Jacob Zuma's] a guy who has troubles against anyone, or is a guy who has a tribal background. [But] his election has (and I can't not say it has not) encouraged people who think like that, that our time has come. ... I think Zuma has influenced a lot of people [here]. I hear a lot of people say, 'ah Zuma, yes, that's it, that's what we're talking about!'" (Interview A, 31/03/10). The respondent was unclear as to what "our time has come" meant in terms of the upgrade programme. A possible interpretation is that under the presidency of Zuma, amaZulus are seen to be given (or ought to be given) preferential treatment.

The third criterion of South Africans over foreigners is influenced by country-wide debate on the role of foreigners in South African society and concerns of xenophobia. Sichone (2008) argues that xenophobic acts reported across the country in 2008 were closely related to a sense of entitlement and loss of entitlement among South Africans. Attacks on foreigners in urban areas, he argues, are part of a "struggle for space, jobs and other resources" (2008:258). The respondent from Cato Crest cited earlier said: "I expect this xenophobic violence to happen again. In Zulu we have an idiom: where water once ran, it will come through and run again. So with these attacks, there is a danger they will come back again, and even be bigger than before. Because there are still these issues. ... You know the problem that [South] Africans have with foreigners is that they get paid less than we do, so we lose out on jobs. These issues are there" (Interview A, 31/03/10). Although xenophobia can be dated to earlier periods of South African history, Sichone argues that in recent years, "ethnic identity among the poor has become sharper as their sense of civic identity and citizenship has been disappointed by the failure of the new state to deliver a 'better life for all'" (2008:258).

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<sup>13</sup> Mbeki made the speech whilst Deputy President in 1996. Part of the speech that best reflects a pan-South African identity goes: "I am the grandchild of the warrior men and women that Hintsa and Sekhukhune led, the patriots that Cetshwayo and Mphephu took to battle, the soldiers Moshoeshoe and Ngungunyane taught never to dishonour the cause of freedom." (from Mbeki, 2004:9)

<sup>14</sup> The contest for power came to a head in 2007 at the ANC national conference in Polokwane when Jacob Zuma ousted Thabo Mbeki as leader of the ANC following a vote of no confidence awarding Zuma the mandate to stand as the ANC candidate for president in the 2009 elections.

Where the politics of process is grounded to specific spatial contexts, the politics of preference carries a scalar element which shows that the power exercised by local elites and the enactment of their subjectivities speaks to national and regional forces. An analysis of how issues and tensions at national and regional level are made and re-made at the local level is only touched upon here; a detailed study is necessary to illuminate the workings of local elites but is beyond the scope of this paper.

### **3.2 Citizen experiences of the housing allocation process: Navigating the politics of process and preference**

#### *3.2.1 Evidence to support criteria of process*

Process-oriented criteria primarily refer to 'cut off' dates in settlements targeted for *in situ* upgrade. In Gum Tree Road settlement in north Durban, a cut-off date of 2008 was set by the municipality in consultation with its CDC. At the time of fieldwork, this settlement was at the feasibility stage of the upgrade process. In Cato Crest a cut-off date of 1998 was set by the municipality. This settlement, less than 5km from Durban's central business district, was in the implementation stage of the upgrade process. There had been continual delay to the phased upgrade, resulting in a settlement that is part shacks, part subsidised housing and part transit camp (a holding residence between a shack and a house). In Zwelisha, a settlement 35km north of Durban, a housing list was developed in 2004 ahead of the upgrade's implementation phase in 2005. The location and size of the settlement meant that sufficient land was available to accommodate all eligible residents. This meant that post-2005 arrivals were assessed for their eligibility to an *in situ* upgraded house on a case by case basis. At the time of fieldwork, implementation had been completed in Zwelisha. In all three settlements, the CDC had been charged with developing a housing list of residents who were eligible in terms of national criteria and the cut-off date.

In the absence of written records, evidence of residence prior to the cut-off dates came from residents' narratives of origin and identity labels such as 'early settler' or 'first settler'. Because the residence of many people pre-dated the settlement leaders charged with developing the housing list, residents' own narratives of origin had to have been widely accepted by others. Those residents who had built their own shacks had the most compelling narrative. A typical 'first settler' narrative was: "Back then you just clear the bush and build a house" (Interview B, Gum Tree Road, 15/03/10). Later, as more people arrived, new residents reported that they had to ask neighbours and those already settled in the area for permission to stay. One such woman recalled, "I talked to the community and I found space, then I built my shack" (Interview C, Gum Tree Road, 29/03/10). The mode of settlement shaped the network of verification. Dependence on such oral histories meant that good neighbourly relations were essential for residents to validate their tenure claims. In Gum Tree Road, there was a widespread belief that the housing list had been developed by the settlement leaders on the principle of who came first. Therefore, ability to demonstrate their identity as 'first settler' or 'early settler' left these respondents confident that they will be able to access subsidised housing through upgrade process.

However, there were instances when narratives of origin were insufficient. Also in Gum Tree Road, one respondent described himself as an early settler. He and his girlfriend had moved to the settlement in its early years in the mid-1980s. They had asked the permission of those around them and then built a shack. There was no dispute that this respondent was an early settler with an

entitlement to housing that stood equal to his neighbours. However, he was also a foreigner. Born in Malawi, he had been living in South Africa for over 30 years and had two South African children through his relationship with his South African girlfriend. Although (according to official criteria at the time of fieldwork) he was not eligible for a housing subsidy, his South African girlfriend was. Nevertheless, other residents, particularly members of the CDC, were keen to ensure that even if the rules changed he would remain ineligible and would not benefit directly or indirectly from the housing subsidy. In 2008, settlement leaders were helping the municipality to enumerate shacks and identify eligible owners. This respondent's shack was registered in the name of a settlement leader's daughter, even though she lived elsewhere. The respondent and his family were not present at the time, because also in 2008 country-wide xenophobic violence had forced them to temporarily flee the settlement until tensions had died down. On his return, he exclaimed that he would have liked to have the opportunity to make a case for a subsidy-built house to the municipality. He said, "I think I deserve a [subsidy-built] house – although I'm a foreigner I deserve to get something here. I've been living in Gum Tree Road and even Durban a long time; I'm like a South African. I even have children here" (Interview D, Gum Tree Road, 17/04/10). His expression of a right to housing is based on a conception of citizenship that expresses both legal entitlement to housing for his South African children, and his moral right to membership to society based on 'deserving' something after many years of contributing to that society. However, this was against popular sentiment. In the competition for scarce resources, actions of settlement leaders that contravene both the official process (national eligibility criteria) and local extra criteria (those resident before a cut-off date) carry popular appeal.

Gum Tree Road is an ethnically mixed settlement with many amaXhosa and amaZulu residents. The discourse of citizenship and corresponding entitlement to housing (as safeguarded in the Constitution) is strong in the settlement, to the exclusion of foreigners and those who live with foreigners. For example, a female amaXhosa respondent framed her entitlement to upgrade entirely in terms of her formal citizenship. To her, voting is an act of buying into the state and thus becoming eligible for any benefits the state has to give. She said "I need a [subsidy-built] house. I am voting here, I am the citizen of South Africa" (Interview E, Gum Tree Road, 15/03/10). Another woman amaXhosa resident reiterated, "You don't get [a house] if you don't get ID, if you are not a South African citizen. But I have ID, I am a South African citizen" (Interview F, Gum Tree Road, 10/03/10). Lay discussions of the upgrade process unequivocally tie the discourse of citizenship, narrowly conceptualised as nationality, to entitlement to housing. As a result, there is a danger that the upgrade process may undermine the tenure security and physical safety of foreign residents, or create incentives for residents to reconceptualise citizenship to determine who is and is not a 'good citizen' and thus entitled to state resources. As an extra procedural measure to manage the numbers of people in upgraded settlements, the seemingly innocuous and apolitical 'cut-off date' is malleable to discriminatory agendas and exercises of mob and/or elite power in ways that compromise the idea of all citizens as holders of housing rights and with a right to housing.

### *3.2.2 Evidence to support criteria of preference*

The evidence that residents call upon to demonstrate their ability to meet the criteria associated with settlement leaders' preferences depend on how the former interpret the behaviour and statements of the latter. In Cato Crest, respondents widely believed that the upgrade process was being implemented by corrupt actors, and so, in addition to 'legitimate' extra criteria (e.g. a cut-off

date), many residents believed that access was achieved through relations with settlement leaders (the councillor and members of the Ward Committee<sup>15</sup>), because they were responsible for drawing up housing lists and allocating subsidy-built houses. An older male respondent said, “People can be taken off the [housing] list for no reason. [I know] because new people have been allocated houses and the old people [who have lived in here longer] are in transit camps. Who is on the housing list and stays there depends on their relationship with the Area and Ward Committee and the Councillor” (Interview H, Cato Crest, 06/10/09). Even after a housing list had been drawn up, he believed that the local councillor and Ward Committee were manipulating the allocation of houses. In his view, corner houses are the most desirable because there is more space to extend them, but “these houses are given to friends of the Committee and Councillor” (*ibid*).

To make a case to access the upgrade, many residents emphasised aspects of their identity, particularly party political affiliation, to appeal to the local councillor and Ward Committee. One respondent, a 59 year old woman, who was living in a transit camp in Cato Crest and had witnessed some of the worst party-political violence in the province in the 1980s, stated a belief that tenure security and personal safety are directly related to political allegiance. On the basis of this belief, she had joined the IFP when she lived in rural KwaZulu-Natal. She recalled: “I had no interest in any political party. Eventually I did have to get a card. We lived in a side that was predominantly IFP. So eventually I had to buy an IFP membership card. Not that I believed in the IFP, just for safety. I don’t know even one policy” (Interview I, Cato Crest, 13/04/10). Sometime after moving to Cato Crest in 1996, she had joined the ANC. Her experiences of the upgrade and local politics in Cato Crest supported her belief that party membership is necessary to live in safety and hold on to one’s resources. She claimed, “in this transit camp area, people will join the ANC because it is an ANC-dominated area” (*ibid*). In the upgrade process in Cato Crest, relocation to the transit camp was determined by the local ANC councillor and ANC-dominated Ward Committee. This respondent explicitly tied the allocation of state resources to party political allegiance.

In Zwelisha, there was a perception among some residents that the upgrade was intended to benefit only amaZulus. This perception stemmed from the history of the settlement and the identity of its leadership. The first settlers in Zwelisha arrived in the mid-1980s from the Transkei. All were Xhosa-speaking. Many arrived without identity documents or the correct apartheid-era permits to live in Durban, which later stalled their applications for housing subsidies and delayed their occupation of a subsidy-built house. By the end of the 1980s, there was a growing presence of amaZulu in the settlement as a result of displacement caused by province-wide communal violence. These new settlers resented the influence and power of the Xhosa-speakers in a mainly Zulu-speaking province. Since the mid-1990s, the ethnic composition of the leadership has altered, reflecting the changes in Zwelisha’s ethnic demographic. The new leaders lobbied the municipality and local councillor for the settlement to be upgraded, but the old leaders did not, because the latter were mostly landlords and expected to incur financial losses if the land was re-parcelled. The contemporary contest for leadership is framed as a struggle between ‘new’ and ‘old’ settlers, with the former dominating positions in the settlement leadership and driving the upgrade process (which concluded in 2009). In

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<sup>15</sup> The settlement’s CDC was considered by all respondents to be weak and almost non-existent. They claimed that decisions made about the upgrade under community participation principles were made by members of the Ward Committee, which in turn was dominated by members of the ANC’s branch committee.

2010, many of the original settlers and their families were still living on the periphery of the settlement in shacks, waiting for the paperwork to prove their eligibility for a housing subsidy.

Although CDC members in Zwelisha insisted that they were trying to help all those eligible for the process, including 'old settlers', the amaXhosa respondent in the study felt uneasy. While she had accessed a house through the upgrade, she had noticed that those who were still living in shacks were overwhelmingly amaXhosa and it made her wonder aloud if amaZulu in the settlement were keeping resources for themselves. She recalled being asked, in isiXhosa, by amaXhosa residents in shacks as she walked past how it was that she had managed to obtain a subsidy-built house when they had not (Interview J, Zwelisha, 09/06/10). Although the respondent did not articulate anything more than a sense of discomfort with the possible relationship between ethnicity and the housing subsidy, given the history of the settlement, this may be a source of future tension among Zwelisha's residents.

#### **4. Conclusion**

Within a global and national drive for inclusive citizenship, this paper traced the devolution of power over housing delivery and allocation from central to local government and through to settlement level actors. As illustrated in the case studies, at the neighbourhood level intense competition for housing, alongside 'participatory' processes dominated by settlement leaders, has resulted in a housing allocation process that, when implemented, breeds competition among residents along existing social fault lines of ethnicity, nationality and party political contest, which, this paper argues, undermines the ideals of inclusive citizenship. In a state-centric view of housing allocation for inclusive citizenship, tremendous emphasis is placed on devolved housing delivery and the structured participation of housing beneficiaries. Yet, in a context where the supply of subsidised housing is unable to meet the numbers of eligible citizens, localised criteria based on a politics of process and preference allows for a discriminatory agenda among settlement leaders where citizens favoured along the lines of their ethnicity, nationality and party political affiliation are able to realise their legal housing rights, while others are denied. Also, by basing eligibility to subsidised housing on nationality and a formal citizenship, not only are foreigners (and their South African families) denied housing in ways that may encourage xenophobia, but it also undermines a bottom-up conception of inclusive citizenship based on marginalised groups (irrespective of their legal status) expressing and enacting a moral and social right to housing that draws upon the idea of all people as rights-bearers and the right to self-determination.

The perceptible tensions that influence housing allocation carry implications beyond a compromised inclusive citizenship. In localised processes of housing allocation where there are insufficient checks on local power, they may be sowing seeds of conflict by propagating and exploiting existing social tensions. Because of a lack of oversight, settlement leaders are afforded tremendous opportunities to manipulate the allocation of resources and social divides, with the risk that social tensions manipulated by leaders can lead to "extremely violent conflict outcomes" and thus contribute to a condition of protracted civic conflict (Beall *et al.*, 2013:3077). As noted earlier, civic conflict refers to the contests and clashes that arise when the state (or those with the authority to act on the state's behalf e.g. members of committees engaged in a public process) are believed to have failed in upholding the state's responsibilities to citizens. These conflicts need not be violent, but as Moser and Horn (2011:9) warn, conflict in 'small' events such as perceived injustice in housing allocation,

can ‘tip over’ into violence “within the context of a larger system that is already on the edge of criticality”, such as a housing crisis exemplified by an ever growing backlog.

In response to the immediate implications of a compromised inclusive citizenship, a key lesson from eThekweni, which may be helpful to the design and implementation of upgrade strategies in other places, is that where participatory processes are employed to strengthen civic engagement and engender inclusive citizenship, they need to be transparent and subject to oversight from both above and below through systems of checks and balances on the power of local elites.

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