OUR PLACE TO BELONG
Marikana Informal Settlement
Acknowledgements

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Photographs were taken by SERI staff.

Cover photo: Alana Potter
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1 INTRODUCTION TO THE RESEARCH PROJECT

1.1 THE RESEARCH SERIES

The Socio-Economic Rights Institute of South Africa’s (SERI’s) Informal Settlement Research Series is called “Informal Settlement: Norms, Practices and Agency”. It has produced three site-based research reports and a fourth synthesis report. The primary site-based research on which the reports are based was undertaken in 2016 and 2017, and the reports were drafted and edited in 2018 and published in 2019.

This report, “Our Place to Belong: Marikana Informal Settlement”, is the second of the three site-based reports. The first is “The Promised Land: Ratanang Informal Settlement” and the third is “Left Behind: Siyanda Informal Settlement”.

The Marikana Informal Settlement is located in Philippi, Cape Town, Western Cape, Ratanang in Klerksdorp, North West province, and Siyanda in KwaMashu, eThekweni, KwaZulu-Natal.
A fourth report synthesises and compares findings across the three research sites.

Following the publication of the three site-specific and synthesis reports, SERI will develop a set of informal settlement policy briefs which build on the results. The diagram below depicts the progression of the research products graphically.
1.2 THE CONTEXT OF INFORMAL SETTLEMENT IN SOUTH AFRICA

Informal settlements have been part of the South African urban landscape for decades. In 2011 Statistics South Africa (Stats SA) calculated that 14% of households in South Africa live in informal settlements and that major metros have experienced an increase in informal housing over the last ten years.¹ The persistence of informal settlements reflects the lack of affordable accommodation options available to poor households in well-located areas² where systems of private and public allocation of land are failing, giving rise to systems of “self-allocation”. Due to government’s hesitation to intervene in the land and property market,³ the availability of affordable, well-located, serviced land remains a significant challenge and poses a major obstacle to the provision of adequate housing for the urban poor.⁴

National policy processes paid little attention to informal settlements until ten years after the introduction of the post-apartheid government’s housing programme.⁵ In 2004, Breaking New Ground: A Comprehensive Plan for Sustainable Human Settlements (BNG) and the Upgrading of Informal Settlements Programme (UISP) were released, which began to shift the narrative around informal settlements from “eradication” towards in situ upgrading in desired locations.⁶

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³ At the time of writing, “the land question” was in the foreground of the formal political arena and the public discourse due to the prioritisation of “expropriation without compensation” by the Economic Freedom Fighters and, in response, its centrality at the African National Congress conference in December 2017 and in Cyril Ramaphosa’s State of the Nation Address in February 2018. The practical impact of this on government’s willingness to intervene in the market and in the daily lives of people living in informal settlements were not yet apparent.
1.3 THE UPGRADING OF INFORMAL SETTLEMENTS PROGRAMME

The UISP prioritises the provision of basic services, sanitation, bulk infrastructure and tenure security before the delivery of top-structure houses. It aims to facilitate upgrading projects on sites where informal settlement residents reside and makes provision for the acquisition and rehabilitation of well-located occupied land. Municipalities are expected to work closely with informal settlements through extensive community participatory processes. The UISP does not require qualification in terms of income or nationality selection criteria. This means that informal settlement residents classified as “non-qualifiers” according to the housing subsidy scheme should be included as beneficiaries in upgrading projects, at least in the project’s initial phases.

Municipal implementation of in situ upgrading according to the UISP is generally poor. The relocation of informal settlements to vacant land (called “Greenfield development”) and “roll-over” upgrading remain common practices amongst municipalities. Huchzermeyer⁷ explains that the latter practically translates into the removal of all shacks from the land, their temporary reconstruction on nearby land, and the installation of layout and infrastructure according to conventional Greenfield procedures. A formal layout generally results in increased plot size and wider access routes and dwelling densities are reduced. Only a portion of the original population is re-allocated sites within the “upgraded” settlement, often leaving the majority of “non-qualifying” residents to be relocated and allocated sites elsewhere.

1.4 PROJECT ORIGINS

The origins of the project in 2016 lay in the context of informal settlement upgrading at the time when the research was conceptualised: a good policy framework with little evidence of implementation on the ground; frustrated claims by residents who sought to engage the state on their upgrading; so-called service delivery protests as people took to the streets to voice this frustration, often met by a state which sought to silence dissent, sometimes brutally; and a ground-breaking judgment in the courts. This judgment emerged after the residents of the Slovo Park settlement to the south of Johannesburg went the route of litigation, as an option of last resort after twenty years of broken promises⁸ to compel the municipality to submit to provincial government for the application of this policy, the UISP.⁹ The Gauteng Local Division of

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⁹ See Melani and the further residents of Slovo Park Informal Settlement v City of Johannesburg and others, South Gauteng High Court, Case No. 02752/2014 (22 March 2016) (Melani).
the High Court ordered the City of Johannesburg to apply to the Gauteng Province for a grant to upgrade the Slovo Park informal settlement. The positive outcome of this case means that the UISP is binding on all municipalities and that the prospects for informal settlement upgrading elsewhere may improve.

1.5 RESEARCH QUESTIONS AND THEMATIC FOCUS AREAS

The research project was conceptualised against this background. At the heart of the project lay a concern that in situ informal settlement upgrading tends to adopt a roll-over approach (described above), effectively replicating the conventional Greenfield method to development and thereby treating existing settlements as if they are blank slates. More specifically, the problem with this tendency is that it pays little attention to the existing arrangements, systems, patterns and procedures that make up norms, practices and agency in the settlements that are being upgraded. If this intervention approach were to be replaced with an alternative logic, then the approach would surely begin with what already exists. The research therefore turned on a single question: if UISP interventions are to result in meaningful change on the ground, how should they engage with the realities in the places they seek to improve? In turn, what is the nature of those local realities? What are the existing practices that characterise daily life in informal settlements?

More specific questions were developed, informed by SERI’s focus areas.\(^\text{10}\) How are people getting by without legally secure tenure? In the absence of official planning, how is land managed? How does housing rights litigation figure alongside these practices? How do people secure access to basic water and sanitation? And energy? How do informal settlement residents make a living in the context of precarious residential circumstances? How does political life work for people in informal settlements, can and do they assert their agency?

These questions led to the formulation of four focus themes for the research:

- Tenure security and land use management
- Access to basic services
- Livelihoods and economic life
- Political space

1.6 PURPOSE OF THE RESEARCH PROJECT

The purpose of the project is to draw portraits of the “local realities” in the site-specific and synthesis research, in order to better inform the participative informal settlement upgrading processes than the conventional blank slate approach would normally permit.

The site-based reports respond to the local realities question by documenting and analysing findings in four theme areas in three different sites. They also offer preliminary site-specific directions for future

\(^{10}\) “Securing a home”, “making a living” and “political space”. 
intervention as well as highlighting general, broad implications for informal settlement upgrading and implementation using the findings. The fourth research report synthesises findings, comparing and contrasting themes across the three sites. It also considers the implications for upgrading in a comparative way across all three sites.

A subsequent phase of work will more fully develop the informal settlement upgrading policy and implementation implications of the research project as a whole. It will build on the preliminary directions and general implications contained in the three site-specific reports and the synthesis report in order to develop theme-based informal settlement policy briefs for tenure security, basic services, community participation and economic life.
INFORMAL SETTLEMENT IN SOUTH AFRICA
NORMS, PRACTICES AND AGENCY

Photo: Dennis Webster
2.1 THE CONTEXT OF MARIKANA

The Marikana informal settlement in Philippi East is tightly squeezed between an evangelical church, waste management offices, Coca-Cola pack yards, wholesale stores and other surrounding residential areas. The rumble of low flying aircraft from the nearby Cape Town International Airport also regularly filled the air. There was scarcely more space to build on, save for an open piece of land used for bigger community meetings, waste disposal, ablutions, and as a play area by children. The densely packed shacks in Marikana were crammed along the Sheffield Road reserve, before the road bent north, past the Zone 14 informal settlement, and became Symphony Way.

The story of Marikana began in the early 2000s with a series of occupations of a number of privately owned properties surrounding the area. This area would become known, later, as “Marikana I”. The majority of these occupiers were tenants in backyard shacks from nearby informal settlements and a neighbouring state subsidised housing project area, Lower Crossroads, who had either been evicted directly by their landlords or moved to the settlement because they could no longer afford to pay their rent. For many years, the area was quiet, with piecemeal occupations taking place. This then changed. The further occupation of Marikana itself took place in several waves: the first wave
occurred around April 2013 when people from the surrounding areas started to move onto what was then a vacant piece of land belonging to a private property owner, Mrs Iris Fischer. By August 2014 the occupation had extended to the neighbouring properties. More than 1 500 structures had been built on eleven properties in the area, including Fischer’s. The massive influx of people into the area led to the formation of further distinct zones in the informal settlement demarcated and named to distinguish them: “Marikana II” and “Rolihlahla” (See Figure 4).

The occupation was contested. Since moving onto the land, residents experienced two unlawful evictions and another attempted eviction. Re-occupation and rebuilding followed the evictions, which involved the demolition of informal structures en masse. During this period the residents named the settlement “Marikana”, as they saw that the violence of their treatment by the state resembled the state’s response to striking miners at Marikana in the North West, where 37 miners were massacred by the South African Police Services in 2012. This tense relationship with the state continued as from 2014 the residents of Marikana were involved in legal proceedings with the City of Cape Town, opposing the finalisation of an interdict which the City had been granted against further occupation of the property and eventually succeeding in a counter-application to reverse their unlawful eviction. Residents were also involved in legal proceedings with the land owners who had filed eviction applications.

In a landmark ruling in August 2017, the Western Cape High Court dismissed the applications to evict the 60 000 people living in Marikana and ordered the City of Cape Town to enter into negotiations with property owners to purchase the land. In the event of negotiations failing, the Court ordered that the City would have to expropriate the land or provide reasons why it was unable to do so. The ruling came after years of struggle, and may not mark its end. While the case was progressing, the residents of Marikana themselves struggled to come to terms with the environment in which they were living – an environment that posed significant challenges.

In a period of less than five years, the settlement had grown to house an estimated 60 000 people living in approximately 12 000 households.11 At the time of the study the settlement had limited access to basic services. No electricity had been supplied to the settlement, and so residents had organised unlawful electricity connections from houses in

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11 This estimate is based on the figures presented by the City and the property owners during litigation. See the occupiers’ heads of argument in Fischer v Unlawful Occupiers, Erf 150, Philippi and Others; Stock and Others v Persons Unlawfully Occupying Erven 145, 152, 156, 418, 3107, Philippi and Portion 0 Farm 597, Cape Rd and Others; Copper Moon Trading 203 (Pty) Ltd v Unlawful Occupiers, Remainder of Erf 149, Philippi, Western Cape High Court, Case No. 9443/2014 and 11705/2015 (Fischer eviction application), para. 18. Others have estimated that the settlement could include up to 44 000 people. See, for example, Ground Up Staff, “Does Marikana really have 60,000 people? Ground Up (1 September 2017), available at https://www.groundup.org.za/article/does-marikana-really-have-60000-people/.
Lower Crossroads and factories in Philippi East. They supplemented this with wood fires, paraffin stoves, gas and candles to cover their energy needs. Although water was available, the municipality had provided fewer than 50 communal standpipes, which meant that there was one tap for every 240 households. To meet sanitation needs, the municipality had also provided a total of 371 chemical toilets, located on the peripheral roads of the settlement. This however meant that there was only one toilet shared between every 32 households. There was no municipal refuse collection and residents had devised their own waste management systems, disposing of waste in plastic bags in open spaces.

Characterising economic life in Marikana in any representative detail is difficult, due to its immense size, the heterogeneity of its internal informal economy and its porous relationship with the surrounding areas and Cape Town at large. Nonetheless, it is possible to say something about the texture of economic life in the settlement. While some residents managed to find employment and work outside of the settlement, Marikana’s comparatively good location, coupled with its immense scale led to the development of a robust informal economy in and around the settlement itself. At the time of research, Sheffield and Protea Roads were centres for business activities, with an
assortment of businesses like hot-meat vendors, tyre shops, fresh fruit and vegetable sellers, and the ever-present *spaza* shops\(^{12}\) and *shebeens* (another word for tavern). The residential interior of Marikana was scattered sporadically with a range of home-based businesses, including hair salons, creches, *shebeens* and jazz halls, *spaza* shops, and *sangomas*.\(^{13}\) However, despite the relative economic stability of some households, especially those with businesses on Protea Road, not all residents benefited from the opportunities offered by the settlement. Some households lived in poverty and were dependent on state assistance in the form of social grants, or financial assistance distributed through a range of various social ties between residents and their families, neighbours, friends or partners both inside and outside of Marikana. A wide range of livelihood strategies characterised the settlement.

Political organisation was similarly complex. During the course of the settlement process, separate leadership committees had been established in Marikana I, Marikana II and Rolihlahla. The committees

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\(^{12}\) Tuck shops.

\(^{13}\) “Traditional healer”.

Figure 4: Marikana and its immediate geographic context
in Marikana I and II participated in the study. Even though the two committees had no shared policies or unanimous approach to land management, they all took it upon themselves to regulate entry and monitor the growth of their respective parts of the settlement, with varying degrees of success. The committees were instrumental in establishing and upholding local norms and practices around land demarcation, building regulation, land use management, and transfer of shack ownership.

2.2 METHOD IN THE MARIKANA RESEARCH

The research on which this report is based was conducted through semi-structured interviews, household profiles and life history interviews with 45 participants. The interviews raised questions about life in the settlement as the research was intended to build on the foundations of the experiences and perceptions of people living in informal settlements. The interviews were framed across the four themes: tenure security, basic services, sustainable livelihoods and political space. We supplemented these responses with ethnographic fieldwork, during which we spent time in the settlement on five separate occasions in 2016 and 2017. Our access to the settlement was facilitated through the leadership structures at Marikana.

We conducted qualitative data collection in the settlement itself, observing its daily patterns. This included extensive non-participant observation, attending numerous community meetings, taking the long taxi commute into Cape Town with residents who worked near the inner city, in-depth interviews with residents, at their homes and businesses, on the roads of the settlement, on the steps of the Western Cape High Court, and taking numerous guided walks from one end to the other of the immense settlement.

We also conducted interviews with key stakeholders, including the ward councillor and other civil society organisations working in the context of informal settlements. This aspect of the research sought to capture how these stakeholders understood the residents’ access to and engagement with structures and processes beyond the settlement, namely the local state, the court system and the law more generally and the economy.

We also conducted four further focus groups. Two of these focus groups examined the leadership structures which had emerged in the settlement and sought to understand the electoral processes, the role of committees in the enumeration and division of the settlement into sections, and the internal workings of the committees. We held separate discussions with committee members from Marikana I and Marikana II. A third focus group was aimed at understanding the use of an open space in Marikana II’s section A, one of the last remaining undeveloped areas in the high-density settlement. The space was important for the various land-use practices it accommodated, including

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14 The names of all respondents in the research have been changed to ensure anonymity.
15 The names of businesses referred to in the research have been changed to ensure anonymity.
refuse disposal, a communal clothes washing area and community meetings. The discussion sought to unpack the social and political uses of the space. The fourth focus group was on features of economic life, with business owners participating in the discussion.

Finally, in September 2017 we undertook a verification exercise, following up on specific questions, undertaking a transect walk through Marikana II and holding a focus group with the Marikana I committee.

2.3 OUTLINE OF THIS REPORT

Chapter 1 introduced the overall research project in order to locate this report in relation to the project as a whole. This section (“Chapter 2”) of the report has introduced Marikana, in order to provide context for the thematic sections which follow. In Chapter 3 we will explore local realities and practices in land use management and tenure. Our starting point is to understand the social relations that people have to land and to each other, based on the notions of tenure “arrangements” and local legitimacy rather than a narrower focus on legal forms of tenure. We set out to understand what and how local rules or norms configure tenure in Marikana, and the authorities that underpin them. In the context of eviction, and housing rights litigation, we want to explore how legal protections in section 26 of the Constitution and the Prevention of Illegal Eviction and Unlawful Occupation of Land Act (the PIE Act) figure alongside these local arrangements and what the implications for residents were.

Chapter 4 focuses on access to basic services. It explores local management arrangements with respect to water supply, sanitation, energy and solid waste through the lens of community versus state supported service delivery. As the City provided only inadequate and temporary services, and was often uncommunicative, residents stepped in to create their own connections to water and electricity, and in some cases household latrines.

Chapter Five discusses the livelihoods of the residents of Marikana. Economic life in Marikana was complex, and multifaceted. Due to the scale of the settlements, a diverse internal economy existed alongside the external formal economy. Households living in desperate poverty lived alongside households which managed to achieve and sustain relative economic stability. On the whole economic life in Marikana was precarious and unstable. In exploring this complexity, the research identifies the ways in which the residents built economic livelihoods in the face of economic precarity.

Chapter Six considers the nature of political space in the lives of Marikana residents. It identifies and characterises these spaces by exploring how politics was articulated within the settlement between residents and community leadership structures, and external to the settlement between residents, private property owners, the municipality and the courts. Using a bottom-up lens, this chapter unpacks the various layers of power and contestation that informed the complex terrain residents navigate in the private and public sphere. These range from the expression of politics at the local level, through the use of both formal and informal channels, via ward
participation and protest respectively, all the way to its expression in a juridical space, in which residents, against the threat of eviction, argued in defence of their housing rights. This chapter also explores the politics of belonging, and describes how Marikana residents actively built a sense of collective identity that rested primarily on the need to secure a home. Further, the litigation process brought up the question of the meaning of a home and shed light on the expropriation of land redistribution mechanism, especially with respect to private property and the use of an existing legal mechanism contained in the Housing Act. We explore the residents’ response to these questions in this chapter as well.

In Chapter 7, the Conclusion, the report summarises the theme-based findings. It also steps back from the themes and analyses what the findings as a whole say about norms, practices and agency in Marikana. This section offers a characterisation which is intended to cut through the detail of the findings to provide a concluding overview of the site-specific research. The concluding chapter then ends the report with provisional directions for upgrading. It indicates Marikana-specific implications and also provides more general indications for upgrading policy and implementation.
“We decided to go into the bushes,16 and try to make a home, we didn’t have other alternatives. Through action together, that’s how we came to belong here.”

“You cannot say we stole this land, there was no one here, no signs of private ownership.”

“This land was not picked by the municipality, it was picked by us.”

### 3.1 INTRODUCTION

The aim of this chapter is to paint a picture of the local tenure arrangements and land use management practices in Marikana by exploring the social relations that people had to the land on which they lived, and to each other. We use the notion of tenure “arrangements” and local legitimacy rather than a narrower focus on legal forms of tenure. We set out to understand what and how local rules or norms configured tenure in Marikana, and the authorities that underpinned them. In the context of eviction, and housing rights litigation, we want to explore how legal protections in section 26 of the Constitution and the Prevention of Illegal Eviction and Unlawful Occupation of Land Act (the PIE Act) figure alongside these local arrangements and what the implications for residents were.

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16 “The bushes” is a reference to the vacant status of the land before occupation.
The chapter uses a three-part conceptual categorisation\(^{17}\) to unpack local tenure arrangements - “land access”, “land holding” and “land transfer”.\(^{18}\) These broad conceptual categories guided the field research questions. We investigated how tenure worked locally, including how occupation occurred initially and subsequently and how newcomers obtained access to the settlement. We considered how secure access to land was and what threatened it by considering what evidence existed of land holding, how non-residential land uses were managed, how succession worked (or was intended to work) and what happened when residents left temporarily or permanently. We also asked if people rented out their residential spaces or sold them, and if so on what terms. The results of this investigation allowed us to characterise the nature of local tenure in Marikana, and by doing so we hope to contribute to a better understanding of existing practices as a basis for increased official recognition.

In the next sections of this chapter, we will consider what the residents of Marikana told us about issues around access to land, the processes through which land holdings are recognised and uses managed within the informal settlement, and questions of transfer and succession of land. At the end of this chapter, our discussion centres on characterising local tenure in Marikana in order to inform a better understanding of how tenure actually works in informal settlements. As we will suggest later, any attempts to develop Marikana, and other informal settlements, must take the existing local tenure and land use management practices into account.

### 3.2 FINDINGS

#### LAND ACCESS

Settlement in what was to become known as Marikana began slowly in the early 2000s with people coming mainly from backyards in surrounding informal and formal settlements. In 2013, however, a further influx of people occupied the area and by August 2014 more than 1,500 structures had been built on eleven properties. Following a series of demolitions, unlawful evictions and subsequent re-occupation, the residents of Marikana obtained legal representation and applied for a spoliation order against the City of Cape Town. By 2015 three eviction applications by the property owners were running simultaneously. The eviction applications were eventually heard in the Western Cape High Court in February 2017. The Court dismissed them and ordered the City to enter into negotiations with the property owners about purchasing their land. In the event of negotiations failing, the Court ordered that the City must expropriate the land or provide reasons why it was unable to do so. This overall narrative provides the background for the residents’ accounts of the processes by which they came to

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\(^{18}\) Hornby *et al*, *Untitled: Securing Land Tenure in Urban and Rural South Africa*. 
access land and homes in Marikana. The following sections proceed chronologically, considering the development of the settlement over the years from the early 2000s up until the research period in 2017.

**Occupations begin**

Occupations began in the surrounding areas in the early 2000s. In this period, numerous privately owned properties to the north-east of Lower Crossroads in Philippi, Cape Town, were left largely unused, unfenced and unmarked. At the time, tenants from backyard shacks in nearby informal settlements and housing subsidy projects in the vicinity were being evicted, either directly by their landlords or because they could no longer afford to pay their rent. Many of these evicted tenants had come from backyard shacks in Lower Crossroads, a neighbouring RDP area that was formalised in 1997. Overcrowding was another factor, as some people also wanted to leave the homes of their parents to achieve a measure of independence with their own, young families. Some of the residents also left the Joe Slovo settlement, elsewhere in Cape Town, as a result of the displacements caused by the N2 Gateway project at around this time.19

The initial occupiers were later joined by more people who settled on the land, many of whom had moved to Cape Town from the rural Eastern Cape to find work.

Later in that decade, the City of Cape Town, designated a Temporary Relocation Area

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19 In 2008, Thubelisha Homes, a now defunct housing parastatal, sought to evict approximately 4 000 residents of the Joe Slovo informal settlement to the peripheral town of Delft to make way for a flagship housing project commissioned in terms of national government’s Breaking New Ground programme called the N2 Gateway project. The residents resisted the relocation on multiple grounds, arguing that their relocation was not a reasonable state response to progressively realise the constitutional right of access to adequate housing. A divided Constitutional Court ultimately granted the eviction order, supposedly on the basis that the desirable end goal of a housing project overshadowed the lack of due process followed during the eviction proceedings. However, the Constitutional Court’s decision was never implemented. In 2009, the court issued another order suspending the eviction after the newly elected Western Cape Member of the Executive Council (MEC) for Housing approached the court with “grave concerns” that the “massive relocation” might end up costing more than it would to upgrade the informal settlement (Kate Tissington, *A Resource Guide to Housing in South Africa 1994-2010: Legislation, Policy, Programmes and Practice* SERI Resource Guide, (2011), pp. 48-52). Since the suspension of the order, a less invasive process of in situ upgrading has been taking place. However, challenges have continued during this process. See *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others 2010 (3) SA 454 (CC); Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others 2011 (7) BCLR 723 (CC);* and Lillian Chenwi, “Legislative and Judicial Responses to Informal Settlements in South Africa: A Silver Bullet?”, *Stellenbosch Law Review*, 22(3) (2012), pp. 540-563.
20 known as Bhekela, on state-owned land neighbouring one of the properties in the area (see Figure 3 above).\(^21\) The influx of people into Bhekela, with little spatial distinction between the publicly owned TRA and the surrounding private land, spilled over onto the adjacent land, which was still largely unoccupied. This contributed to the development of a sprawling set of settlements on the land that would be called “Marikana”.

By 2010 another informal settlement had developed in the area, known as Zone 14. This settlement was located on a property adjacent to the land on which the Marikana informal settlement was developing. Research respondents recalled that residents had settled there with the consent of the owner, Ntwa Dumela. The property, like the surrounding area, was undeveloped, unfenced and covered with dense and overgrown shrubbery.

One of the numerous private properties in the area located adjacent to Zone 14 was owned by an elderly coloured woman, Iris Fischer. Mrs Fisher had been living there for 47 years. This property was

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\(^20\) The primary application of the Emergency Housing Programme by South African municipalities has been to provide emergency housing in the form of Temporary Relocation Areas (TRAs) or “transit camps”. TRAs are a form of transitional housing that aims to provide temporary housing assistance to individuals or households who require access to a home until permanent housing becomes available at another location. TRAs have been widely criticised by academics, housing practitioners and the people living in these areas. The two primary criticisms levelled against TRAs are that they fail to satisfactorily address the housing and development needs of those living in these areas and that households are “often left [in these areas] indefinitely with no timeline on when they will receive permanent housing” (Tissington, “A Resource Guide to Housing”, SERI Resource Guide, p. 96). See Kerry Ryan Chance, “Transitory Citizens: Contentious Housing Practices in Contemporary South Africa”, Social Analysis, 59(3) (2015), p. 72; Duncan Ranslem, “‘Temporary’ Relocation: Spaces of Contradiction in South African Law”, International Journal of Law in the Built Environment, 7(1) (2015), pp. 55-71; Liza Rose Cirolia, “South Africa’s Emergency Housing Programme: A Prism of Urban Contest”, Development Southern Africa, 31(3) (2014), pp. 397-411; Ndifuna Ukwazi (NU), I Used to Live There: A Call for Transitional Housing for Evictees in Cape Town, NU Research Report (2017); and Kerry Chance, Marie Huchzermeyer and Mark Hunter, “Listen to shackdwellers”, Mail & Guardian, (24 June 2009).

\(^21\) This had been preceded in 2007 by the City establishing the Delft Symphony Way TRA approximately 30km outside Cape Town, now notoriously referred to as Blikkiesdorp (meaning “tin can town” because of the rows and rows of government-built corrugated zinc shacks which constitute the relocation camp). A relocation area located in Delft approximately 30km outside Cape Town, Blikkiesdorp was established in direct response to the occupation of N2 Gateway houses in Delft by neighbouring backyards who were evicted and “temporarily relocated” in the area and was later used as the relocation site for evictees during the Football World Cup in 2010. The transit camp houses close to 5 000 people in approximately 2 000 shacks. See Jeanne Hromnik, “No temporary solution”, The Weekender (14 March 2009); Duncan Ranslem, “‘Temporary’ Relocation: Spaces of contradiction in South African law”, International Journal of Law in the Built Environment, 7 (1), (2015), p. 62. Blikkiesdorp was established using the Emergency Housing Programme (EHP), its first ever application. The Emergency Housing Programme (EHP) provides for municipalities to apply for grants from provincial government to provide emergency housing relief to those affected by emergencies and evictions. The programme provides for various types of temporary and permanent housing relief. See the Department of Human Settlements (DHS), “Emergency Housing Programme”, Part 3, Volume 4 of the National Housing Code (2009). For a full description of the EHP, see Tissington, A Resource Guide to Housing, SERI Resource Guide, pp. 96-96; and the Housing Development Agency (HDA), Guidelines for the Implementation of the Emergency Housing Programme (2012).
2.7 hectares in extent, and in April 2013, a group of people settled on the southern end of the site at some distance from Mrs Fischer’s house. At the time of writing, Mrs Fischer was still residing in one of the two brick buildings on her property, together with her son. Her other son and his family were living in the other. The tension between Mrs Fischer’s family and their rights to the land, on the one hand, and the informal settlement residents, on the other hand, shaped the development of the Marikana settlement in the years to come.

The first demolitions (2013)

In the period between 23 April 2013 and 1 May 2013 the City of Cape Town’s Anti-Land Invasion Unit (ALIU), accompanied by South African Police Services (SAPS) and Cape Town Metropolitan Police Department (CTMPD) officials, demolished in excess of 190 homes on the Fischer property, effectively evicting the residents from their homes. Occupiers resisted this, with many refusing to leave. Respondents explained that they had nowhere else to go. A return to the system of backyard rental in other sites was not an option because it was unaffordable. Some residents also described the importance of remaining in the particular location: Marikana is situated in close proximity to important amenities, taxi routes, and the nearby Stock Metrorail station and MyCiti bus lanes were under construction along Stock Road during the research.

Olwethu Qunta, a 24-year-old man living with his wife and infant daughter and running a business in what is now Marikana II, recalled the fierce struggle the residents of Marikana had with “law enforcement” at this time. Olwethu was one of the people who physically resisted the demolition of his shack, although unsuccessfully. He recalled law enforcement officials assuring him on one day that he could continue staying in his shack and running his shop only for them to come back two days later to demolish his shack with all his stock in it. He had established his shop a few days prior to the unlawful evictions. In the struggle to save his home, Olwethu was arrested. He was released a few days later.

After these initial clashes, in June 2013, the residents organised a protest march, and handed over a memorandum of grievances against the destruction of their homes to the City. Nothing came of this. Meanwhile, at about this time, and without the residents’ knowledge, the City advised Mrs Fischer to apply for an eviction order. She did not act on this advice immediately, however.

Settlement after the demolition (late 2013)

Occupation continued on Fischer’s property on the periphery of Zone 14 after the demolitions. Simthandile Gasa, a single mother to two children, originally from the Eastern Cape, was one of the people who occupied the land after the April 2013 eviction. She came to live in Marikana I in December

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22 Fischer v Ramahlele 2014 (4) SA 614 (SCA) 88 (4 June 2014) (Fisher interdict application).

23 Our respondents refer to the evictors in this way describing that they wear a uniform of navy and brown pants and drive a van branded with the words “law enforcement”. We understand them to be officials of the Anti-Land Invasion Unit.
2013. She was renting a backyard shack in Lower Crossroads for R300 per month and working as a nurse for an old age home at the time. Once she was retrenched from her job in 2013, she was unable to continue paying rent. Returning to the Eastern Cape was not an option because both of her parents had died, and she considered Cape Town to have better work opportunities. Simthandile described what she terms an “open field” adjacent to Lower Crossroads where a few people were setting up shacks in 2013. She approached the people building their shacks and asked whether she could arrange to build a shack of her own on the property. The man she spoke to said she was welcome to do so at her own risk. Simthandile bought her own materials and asked her uncle to build the shack for her in an area on the property she chose for herself.

Simthandile’s experience suggests that the initial wave of violent and unlawful demolitions and de facto evictions did not prevent new residents from occupying the land.

**Further demolitions and eviction and ongoing occupation in 2014**

Another effective and unlawful eviction occurred on 7 and 8 January 2014, when the ALIU, without the required authorisation of a court, demolished informal structures in the settlement en masse, evicting the occupiers who called them home.

This was the prompt for the residents to name the settlement “Marikana”. They did so in response to how they perceived the similarities of the state’s response to them and the massacre of 37 striking miners by the South African Police Services at Marikana in the North.
West Province – an event which they had witnessed on television in 2012, and which had been occupying national political conversation since.

However, these demolitions did not stop the occupation of the land. By August 2014 occupation had extended to the neighbouring properties, and at least 1,500 structures had been built on eleven properties in the area, including Mrs Fischer’s. The other property owners were Manfred Stock, who had acquired five of the properties in the 1960s and 70s, and a handful of companies, including Power Development Projects, Coppermoon Trading and Eirinprop. This process gave rise to what became known as the Marikana II and Rolihlahla settlements, while the original area became known as Marikana I (See Figure 4).

The Marikana II settlement began along Sheffield Road. Many of the new residents had lost their shacks in Marikana I when they had been destroyed in the January 2014 demolitions. The first shacks were scattered between Protea Road and Sheffield Road, the areas which would later become known as sections A, B and C of Marikana II. From this starting point, the new areas of the settlement steadily densified, eventually stretching across Protea Road into what became Marikana II’s sections D and E.

Olwethu Qunta described a process of self-allocation in the course of these occupations, emphasising the erratic nature of the process. Olwethu moved to the settlement from Crossroads after he could no longer afford rent at his brother’s house. He had lived there intermittently since arriving in Cape Town in 2002, from his home town Sterkspruit, Eastern Cape. When he first arrived at Marikana, built his shack, and started a business, in 2013, there was no committee in place and so he identified a site for himself. Olwethu said that once a committee was in place, though, people had to consult with it to obtain permission to extend a dwelling, build beyond their boundaries or erect new shacks. These committees only emerged later, however, after these first phases of occupation.

Litigation begins

The residents of the Marikana informal settlement obtained legal representation in early 2014 in response to these unlawful demolitions and de facto evictions. The first legal strategies focussed on defending the rights of the residents against the demotions, but by July 2014, what had started out as a spoliation application and interim interdict to prevent further demolitions changed. The different land owners instituted proceedings for evictions, and the litigation became focussed on defending the residents against these applications. By 2015 three eviction applications were running simultaneously: Mrs Fischer, Coppermoon Properties, and a third group which combined the properties owned by Manfred Stock, Power Properties and Eirinprop had all instituted proceedings. No “meaningful
engagement”²⁴ had taken place between the owners and residents prior to the institution of any of the three separate eviction proceedings.

The eviction applications would eventually be heard in the Western Cape High Court in February 2017. The Court dismissed the applications and ordered the City to enter into negotiations with the property owners about purchasing their land. In the event of negotiations failing, the Court ordered that the City must expropriate the land or provide reasons why it was unable to do so. This effectively provided some security of tenure to the residents of the Marikana informal settlement, although it was not without difficulties.

The political space chapter reports on the litigation process in more detail, in the context of the notion of “juridical space” and emphasises the significance of the meaning of a home and the potential broader significance of land expropriation in the current political context.

²⁴ The legal principle of meaningful engagement has been developed by the Constitutional Court in a series of evictions and housing rights cases, including Port Elizabeth Municipality v Various Occupiers 2005 (1) SA 217 (CC) (PE Municipality), Occupiers of 51 Olivia Road, Berea Township and 197 Main Street, Johannesburg v City of Johannesburg and Others 2008 (3) 208 (CC) (Olivia Road), Joe Slovo, and Abahlali baseMjondolo Movement SA and Another v Premier of the Province of KwaZulu-Natal and Others 2010 (2) BCLR 99 (CC) (Abahlali). The Constitutional Court first began developing meaningful engagement in PE Municipality, where it found that parties in eviction cases should “engage with each other in a proactive and honest endeavor to find mutually acceptable solutions” (PE Municipality, para. 39). The Court held that an eviction would ordinarily not be just and equitable unless the parties attempted “proper discussion, and where fitting, mediation” (PE Municipality, para. 43). The Court expanded on this concept in Olivia Road, where it described meaningful engagement as a “two-way process in which the state and those about to become homeless would talk to each other meaningfully” in order to reach agreement on a number of issues related to the eviction and the state provision of alternative accommodation (Olivia Road, para. 14). In essence, meaningful engagement can therefore be viewed as an open and honest engagement between the state, private property owners and the unlawful occupiers who are at risk of being evicted about the consequences of the eviction and what steps can be taken to ensure that no one becomes homeless as a result of the eviction.

Local regulation of ongoing access

The settlement continued to grow during the period of litigation. By early 2015, Marikana was home to over 12 000 households comprising more than 60 000 people, living at a density of 1 750 people per hectare. It had become a small town, with a population comparable to any other small town in South Africa. By February 2017 Marikana II was still expanding, and a new section (known as section F) had developed. This increased the people living at Marikana to an unknown number at the time of writing.

In the course of the settlement process, different committees had been established in Marikana I, Marikana II and Rolihlahla. The committees took on the responsibility of regulating new entry into the settlement and monitoring the growth of the settlement.

Marikana II continued to grow, in spite of a rule against the settlement’s expansion. A new area, section F, was developing at a rapid pace in the
course of SERI’s third research visit, where three to four shacks were being set up on a daily basis, attesting to the demand for accommodation in the area and the desirability of Marikana for making a home. The committee members were aware of this development but had yet to meet to formally discuss the matter and formulate a collective response. In principle, committee members maintained that there was no room for newcomers. The settlement was dense, and the committee members said that they wanted to channel their energy into assisting shacks in Marikana II that were already in existence but built within hazardous areas, such as a wetland, on sinkholes, or up on unstable sandy hills. In addition, committee members reported that their major priority was to establish roads in the settlement, especially for ambulance access and emergency relief from fires. In practice however, they could not enforce the principle about no newcomers.

During an early phase of the struggle for land access, after the 2013 evictions and demolitions when the litigation process centred on interdicting further occupations, the “community” agreed that they would not permit any law enforcement officials onto the property and to physically enforce the rule if necessary. These local rules on property access were developed by the committee and shared with the community in a public meeting.

Figure 5, below charts an occupation, eviction and litigation time-line from the early 2000s to 2017 (when this research was undertaken), showing how the PIE Act, protective tenure legislation, was brought to bear to defend the housing rights of the occupiers.
<table>
<thead>
<tr>
<th>YEAR</th>
<th>EVENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Early 2000s</td>
<td>Land occupations in the areas surrounding what was to become known as Marikana begin; occupiers come from backyards in surrounding informal and formal settlements.</td>
</tr>
<tr>
<td>2006</td>
<td>City of Cape Town establishes Bhekela Temporary Relocation Area on state owned land adjacent to Marikana.</td>
</tr>
<tr>
<td>2010</td>
<td>“Zone 14” is settled on private land adjacent to the Fischer property, seemingly with the consent of the owner.</td>
</tr>
<tr>
<td>April 2013</td>
<td>The Marikana occupation begins as people settle on the southern end of the Fischer property.</td>
</tr>
<tr>
<td>23 April 2013 -</td>
<td>City of Cape Town Anti-Land Invasion Unit demolishes more than 190 homes.</td>
</tr>
<tr>
<td>1 May 2013</td>
<td></td>
</tr>
<tr>
<td>June 2013</td>
<td>Residents march to the City and hand over a memorandum of grievances against the destruction of their homes to the City, but nothing comes of it.</td>
</tr>
<tr>
<td>May 2013 -</td>
<td>Occupation on Fischer property continues.</td>
</tr>
<tr>
<td>January 2014</td>
<td></td>
</tr>
<tr>
<td>7 and 8 January 2014</td>
<td>City of Cape Town Anti-Land Invasion Unit demolishes informal structures in the settlement <em>en masse</em>, evicting the occupiers without the required authorisation of a court.</td>
</tr>
<tr>
<td>January to March 2014</td>
<td>Occupiers obtain legal representation and use the possibility of applying for a spoliation order against the City, to deter the City from further unlawful evictions. The City applies for and is granted an interim interdict against further occupation of the property. The occupiers oppose the finalisation of this interdict and bring a counter-application to reverse their unlawful eviction.</td>
</tr>
<tr>
<td>March 2014</td>
<td>The Western Cape High Court rules that the City failed to comply with its obligations under the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE Act) and that the demolition of the informal structures had been unconstitutional and unlawful.</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>April 2014</td>
<td>Fischer and the City appeal. The Supreme Court of Appeal (SCA) finds that the City’s denial that it had evicted anyone from a home was sufficient to create a dispute of fact and referred the matter back to the High Court. Abahlali baseMjondolo\textsuperscript{25} is admitted as amicus curiae, focusing on the question of what constitutes a home.</td>
</tr>
<tr>
<td>July 2014</td>
<td>Fischer institutes eviction proceedings in the High Court against the occupiers on her property in terms of the PIE Act.</td>
</tr>
<tr>
<td>21 August 2014</td>
<td>Power Properties attempts a mass eviction of the portion of the now fast expanding informal settlement - Marikana II - located on its land. The occupiers rebuild what is destroyed and continue living on the property.</td>
</tr>
<tr>
<td>2014 and 2015</td>
<td>Two eviction applications are now running simultaneously with Fischer’s: Coppermoon is the applicant in the first, and Manfred Stock, Power Properties and Eirinprop in the second.</td>
</tr>
<tr>
<td>29 June 2015</td>
<td>In Fischer, the court orders the City to file a report on the availability of alternative accommodation, the impact of eviction, steps to be taken to alleviate the effects of unlawful occupation, engagement, and a census of persons occupying the property.</td>
</tr>
<tr>
<td>26 February 2015</td>
<td>After missing its initial deadline, the City eventually files its report.</td>
</tr>
<tr>
<td>13 August 2015</td>
<td>Fischer joins the closely related Stock and Coppermoon eviction applications to her own.</td>
</tr>
<tr>
<td>January 2016</td>
<td>Fischer amends her notice to reflect the Stock application.</td>
</tr>
<tr>
<td>8 - 15 February 2017</td>
<td>Eviction applications are heard in the Western Cape High Court.</td>
</tr>
<tr>
<td>30 August 2017</td>
<td>The Western Cape High Court dismisses the applications to evict the 60 000 people living in the settlement and orders the City to enter into negotiations with the property owners about purchasing their land. If negotiations fail, the Court orders the City to expropriate the land or provide reasons why it is unable to do so.</td>
</tr>
</tbody>
</table>

\textsuperscript{25} A shack dwellers movement based in Durban struggling against evictions and for more equitable access to urban land and development.
LAND HOLDING

This section considers the ways in which rights to hold land were recognized and land uses were managed within the informal settlement. One of the most significant of these practices was enumeration - shack numbering and the generation of a list of occupiers. Although the City initiated the first enumeration as part of the legal proceedings, shack numbering and the management of the registers took on local significance in Marikana, as a means of managing land access and the different committees adopted and adapted it. Other observable land holding practices were the local management of land uses, including some regulation of commercial activities, especially the allocation of business sites along Sheffield and Protea roads, the regulation of open space and household site demarcation or boundary identification. This section provides some evidence from the research to help understand how these locally configured rules emerged and operated in practice.

Shack numbering and registration of occupiers

Enumeration was a land administration practice in Marikana that registered occupiers on a list and provided on-site evidence of an occupation right with a shack number. It was one of the primary ways in which a local right to belong was identified and documented. It played an important evidence creating process that conferred a measure of legitimacy on the local tenure arrangements and improved residents’ security of tenure.

Enumeration occurred twice in Marikana, up to the time of writing the report, in 2014 when legal proceedings first began on Mrs Fischer’s property and again in 2015 when the other property owners joined the eviction application. The processes of litigation introduced the need to compile a record of occupants in order to identify households protected by the PIE Act. The City initiated the first shack numbering system in 2014 and the list of residents it generated, in cooperation with the occupiers and their legal representatives. After the 2015 enumeration occurred, the local organisational structures in the settlement continued numbering shacks and attempted to maintain the currency of the lists by keeping them up to date.

When enumeration began in 2014 shacks throughout Marikana were numbered with an “M” and a digit, usually indicating how far away the shack was located from the point at which the numbering began, and the letter of the section in which the shack was located. Shacks in section A of Marikana II did not include the letter “A” in their number. According to Thandile Magaqa, a resident of Marikana II section B, this was because the section A numbering happened first, before other sections were occupied and consequently before the section numbering system was in place.
This numbering convention was adapted in 2015, when the Fischer, Stock and Coppermoon eviction applications were joined, because the City required a distinction between Mrs Fischer’s land and the other properties. For example, shacks on Mrs Fischer’s property which had until then been identified with an “M” number (such as M1, as the figure below shows) were then designated “MF” - adding an “F” for Mrs Fischer to the existing “M”. Similarly, those on Coppermoon were changed to “MC”. This process was conducted by City officials and overseen by SERI lawyers, with the consent and cooperation of the residents.

For many occupiers the second enumeration was the first time that the formal property demarcation featured in their lives. The occupations had occurred on adjoining vacant land and the boundaries between the distinct registered properties did not influence where people located their shacks or which committee structure they associated with. The imposition of the new numbering convention signalled that the underlying land on which the Marikana settlement had developed, consisted of formally distinct properties. The registered property boundaries were a source of confusion for some residents especially those who resided
on a border between two, who were not always sure on which property they were living. Up until the second enumeration this had not made a difference in the lives of the residents, but once the registered owners featured in the changed numbering convention, some residents found their organisational association at odds with their shack number. For example, their shacks were numbered MC designating that they resided in Marikana on the property owned by Coppermoon (which was locally known as Rolihlahla) but they attended meetings in Marikana I (MF numbering) and affiliated with the Marikana I committee.

Following the re-numbering processes, the Marikana committee structures administered the local recordal system through their section meetings. Typically, committee members’ would circulate an attendance register, requesting household details such as name, surname, ID number, shack number and other details of occupiers per household such as household members names, ages and gender. In this way the committees tried to keep the records up to date. A by-product of keeping local records of occupation was that the registration process contributed to higher turnout at community meetings and improved participation levels. According to participants in a Marikana II

Figure 7: Shack showing evolution of Marikana’s numbering system

Photo: Alana Potter
focus group, members of the community reported unapproved extensions in these fora (see “building regulation and land use management” on page 34).

As well as taking over the shack numbering and recording keeping system after the 2015 enumeration, the residents’ committees in the different sections of Marikana also adapted it. One example of how local adaptation occurred was the evidence that some shacks were marked with a yellow X. The X designation, an indication of an unoccupied shack, was painted on with the authority of the committee. The intention was, according to a former committee member and organiser, to protect residents against the risks they saw being posed by vagrants, and drug users and dealers. Once marked with the X, committee members destroyed a shack if unclaimed for a month or two. Another example was the use of a question mark to designate that occupation had not been approved by committee or neighbours. This was an interim measure, pending verification or approval of newcomers.

Enumeration created a record of PIE rights holders. Occupiers valued this evidence. Ordinary residents also saw enumeration as a way of monitoring settlement growth. For example, some respondents explained that the registration initiative was an opportunity to “take stock” of settlement and monitor its expansion. Our interviews showed consensus regarding a settlement register being the most effective and efficient way of monitoring settlement expansion, because the committees expected new entrants to register within the space of a few weeks. Respondents indicated that people saw the local register as a “gateway” to receiving services, whether it was for disaster management or settlement development purposes, and therefore felt incentivised to comply.

In practice however, the committees in both Marikana I and II struggled to regulate the expansion of the settlement. The committees felt that they possessed neither the ability nor the power to prevent new people from coming into the settlement especially if their occupation was defended by another resident in the settlement. New occupations happened at such a rate that the Marikana II committee suggested that the local record of occupiers was outdated at the time of the field research due to a significant amount of new and unnumbered shacks.

Respondents explained that having a shack and section number was crucial for providing an address at the clinic, or when starting a new job. However, in some instances they were unable to rely on having an address in Marikana especially for receiving post. For this reason, some residents used alternative addresses in order to receive mail. Nomthandazo Nase, a mother in her early thirties residing in Marikana II, for example, continued to use her old address in Lower Crossroads where she was renting previously. Nomthandazo was one of the few residents in Marikana who had satellite television and she used the address in Lower Crossroads for her subscription to the service.

The numbers also served a social function within the community. Themba Fakude, a young man living in section A of Marikana II and working at a spaza shop for example, worked at “Bob’s Place” on
Protea Road in section B. Because he lived in section A, Themba said that he did not attend meetings for section B residents because he believed they were exclusively for people who lived there. He believed the numbering system and demarcation from the community had some internal importance. They designated sections of the settlement for ease of administration. They also served as a marker for one’s right to reside in the settlement, although not strictly enforced and abided by because of the large number of people who did not have shack numbers.

**Site demarcation**

The enumeration process and the local records and shack numbers it produced were an important element of the local tenure arrangements. In addition to the textual record of the lists and the physical evidence on the shacks, local tenure was also configured spatially in the ways that people claimed their site. Physical demarcation was most evident in how residents designated the extent of their land, using fences and pathways. The majority of shacks had fences around them to demarcate a site, and in some cases, the shacks themselves constituted a boundary.

For some residents a fence did more than mark out the boundaries of their property: it was a necessary measure for security, as it acted as a deterrent for criminals. For Nomthandazo Nase her fence was important for securing the parameters of her yard as well as creating a safe space for her children to play where she could keep an eye on them.

While the majority of sites were fenced, some households were unable to visibly and physically demarcate their space unless they encroached onto the pathways between them and their neighbours.

Any disputes arising from the demarcation of land that could not be resolved by the concerned parties were taken to the committee. This was not always effective. Aaron Ndlovu, a spaza shop owner located on Protea Road, remembers an incident when his neighbour erected an additional shack next to his shop. Aaron believes this was done out of spite in order to prevent him from further expanding his shop. Aaron tried to take the matter to the committee but says it was left unresolved.

**Building regulation and land use management**

A series of local arrangements emerged in Marikana to regulate the structures and distribution of buildings around the settlement and the activities on the land. These arrangements drew upon the authority of the established committee structures as well as the social authority of neighbours. This section reports on five local building and land use management practices that the research identified, namely the governance of internal access and mobility routes, the regulation of shack improvements and extensions, local norms about the allocation of space for residential as well as non-residential, commercial uses and activities and the preservation of a multiple-use public open space zone in the settlement.

First, local arrangements governed internal access and mobility routes. A maze of pathways ran through the settlement. According to the residents these paths had developed organically over time.
in response to access and mobility needs. When building their homes, residents were not permitted to encroach onto these pathways.

The paths linked the settlement to the main roads, creating the means of access in case of fires, and other disasters. Undertakers and firefighters, for example, needed to be able to enter and leave many different parts of the sprawling settlement. Even in more ordinary moments, people moving large furniture needed freedom to pass through an area of the settlement.

These pathways were informally marked by the boundaries of people’s homes – sometimes by the walls of the shacks themselves, and other times by fences that had been erected to mark out the limits of a particular space. The pathways were seen as public spaces, while the fences helped mark out the existence of the private spaces – homes and their yards.

Second, shack extensions and improvements were regulated by local rules. Building materials were consistent in Marikana as most homes were built from corrugated iron. Many shacks were built on the foundation of a cement slab, which, while costly to throw, protected against rain and the erosion of the fine soil which characterised most of the settlement as well as against rats, which were unable to tunnel through it. Occupiers made improvements to their shacks, such as extensions and painting. These extensions activated the regulatory arrangements in the settlement. Many respondents indicated that extensions needed to be approved by the committee, and that this approval could be obtained by raising the issue at the community meetings. In practice, however, this process was only followed when controversies were likely to occur. More usually, extensions to shacks took place without permission as long as the space around a shack permitted it, and it did not inconvenience neighbours, as indicated by many respondents. In this regard, the social authority of neighbours played a more significant role than the local authority of one of the committees.

Double-storey shacks were dotted throughout the settlement. Some single-storey shacks with greater volume than the norm were also apparent. There were good reasons for this. The shacks with more internal volume were much cooler in a settlement virtually without trees. Double-story shacks were also cooler than ordinary shacks (on the lower level, at least), and had the added benefit of extra space in an environment where such space was at a premium. Most shacks were built from sheets of zinc, which was generally a good material for weather protection, but others were built from wood, which was a better insulator than zinc. Whichever material was used, the shacks responded to the pressures of the environment. As one resident remarked about her home: “the shacks accept the weather – they are hot when it is hot, and they are cold when it is cold.”

Third, the allocation and use of residential space was regulated. Here the local norm was that access to more than one residential site per household was not permitted. Due to a shared sense of economic exclusion, respondents said that residents were also not allowed to own more than one shack.
Contravention of the local one-resident one-shack rule was meant to be reported to committee structures either by community members or through the various registration processes which took place on a regular basis in the settlement, such as the registers circulated during meetings, described previously in the enumeration section. There was one exception to this rule, however. Although multiple stand allocation for residential use was not permitted, residents could occupy second stands from which they ran businesses, which is discussed under the fourth land use management practice below.

These rules were not always observed in practice, though. Luthando Mjongeni, from Marikana II, was one of the residents who owned more than one shack in the settlement. He constructed his first shack in the early years of the settlement and bought his second shack in 2016. Upon purchasing his second shack he went with the seller to the committee for them to witness the transaction. Luthando believed that it was important to have the committee witness the transaction in case the seller decided to return and claim back her shack. Luthando reported that the committee was aware of him owning another shack in the settlement and that he was permitted to have two. One was on Protea Road and he “left” it to his sister to “allow her some privacy”. The other was next to the open space in section A. This was his residence and he also operated another business there. When Luthando went looking for another stand through someone he knew in Marikana, he was pointed in the direction of a woman wishing to leave Marikana. He paid R2 500 for the small shack and access to the land on which it was built. The proof was verbal, but Luthando said that he paid the money in the presence of the committee members, which secured his rights. Luthando’s example was exceptional, however, as he was providing his other shack to a family member and no other respondent reported that they owned more than one shack.

In some instances, more than one household, according to an agreement with each other, shared access to the same place. Aviwe Gege, a committee member and resident of Marikana I lived with his brother-in-law, with whom he shared a yard. They each had their own shacks within the yard. Aviwe’s brother-in-law was one of the initial occupiers in Marikana I. Aviwe would visit him often and eventually decided to stay in Marikana I in 2014. His brother-in-law offered him a space within his yard to build his home. Thembi, on the other hand, resided in section E of Marikana II. She and her husband were approached by a woman whom they did not know in late 2015 looking for a place to stay. Thembi and her husband decided to allow her to erect her shack next to theirs. Thembi explains that “she really needed a place to stay and we could not turn her away because we all need space”. They did not ask her for any payment for access to the site.

Fourth, the allocation of space for non-residential, commercial uses and activities was also regulated locally. In the event of residents wanting to operate a business, the committee’s expectation was that the resident would inform them of their plan and request to have their business registered under their existing shack number. Spaza shop owners corroborated this view and other respondents
explained that this registration had to occur with the consent of the committee and “the community at large”. The business was then registered under the same number as the owner’s residential site. This practice happened only rarely, at least in part due to the costs of having to build and maintain a second structure. Businesses were not allocated a separate registration number, and in principle a business owner selling their business was not meant to fall under the same restrictions as a resident selling their shack (see the next section, on transfer). Committee members encouraged residents to set up business stands such as tuck shops and grocers along Protea, and Sheffield roads. Although economic activity was concentrated on these main roads, some income generating land uses were evident throughout the settlement.

A fifth aspect of the land use management arrangements in Marikana was the preservation of an open space in Marikana II section A as the last remaining undeveloped area in the high-density settlement. Located at the boundary of section A, it was also on the outskirts of the Bhekela transit camp (See Figure 4). The space was important for the various land-use practices it accommodated. First, the space was used for refuse disposal. Second, the open space was often used by women who came to do their washing there. Taps had been installed along the periphery of this site, and many women said that they met with other women while doing their laundry here. These encounters often went beyond the communal tap area and they were able to recognise each other and walk together to the train station at other times, helping to centre a community on this shared open space. Third, the residents said that the space was also used for hosting public meetings. They regarded the area as an important element of their occupation in Marikana because it was where information regarding the settlement was disseminated. The open space symbolised a kind of local democracy: it was there that residents were active participants in their development, raising their concerns and electing new leaders when the need arose. The space was kept available to anyone at any time, without the need to request permission to use it. Finally, many residents also said that this site held potential for the future development of the settlement. Some respondents suggested that, in future, the space could be used to build a school, or perhaps serve as an overflow area where people could be relocated in order to create space for wider roads that would allow for easy access into the settlement. Whatever the case, they stated that the area should not remain vacant in the future.

TRANSFER

As with any location, occasionally people left the settlement and sought to pass their homes on to others. The most common practice was of selling the right to reside in a shack. The processes through which this was managed differed across the settlement. The committee in Marikana I reported that people sold shacks in the settlement for R500 without informing the committee of their decision to sell. In some cases, sites were being sold privately for up to R7 000. The committee confronted a number of these “culprits” who were often defended by other residents, arguing that it
was their family member who needed a place to stay.

If a resident chose to leave Marikana II and wanted to sell their shack to a newcomer, following a procedure was expected of both departing and incoming residents. The committee encouraged departing residents to discuss an impending transfer with them beforehand and to introduce any new resident who may be “taking over” their shack to the committee. The newcomer was expected to bring a reference letter from their previous committee leadership in their prior place of residence to be passed on to the Marikana II committee for a kind of character vetting exercise to take place. Once the Marikana II committee approved the prospective resident, they provided the go-ahead for the transaction to take place between the seller and buyer.

Although not directly related to transfer, the question of shack rental is discussed here as a kind of temporary transfer. In this respect, local norms were clear, dictating that renting of shacks was not allowed in the settlement. This was based on a sense of shared economic exclusion. Some of the residents explained that Marikana was a place “only for poor people”, drawing on their own experiences of not being able to afford rental charges in backyard shacks in New Crossroads. Most respondents indicated that no one could rent out shacks in the settlement: “you can do that in private land, but this is a community”. Many of the residents believed that the settlement was held jointly by those living there, and that this rule helped ensure that no one was put into the position that they had once been in, as insecure backyard tenants.

Another form of transfer would be succession, or inheritance, from one generation to the next. Little evidence of succession was garnered from the respondents, due to the settlement not having been established for very long, although the risks of occupation were taken with the future of one’s children in mind. For example, a resident in section E explained that his struggle was not for himself, but for his children. He wanted to ensure that they had a place of their own. He hoped that his children would be able to live in his home. However, these practices were not yet common enough to be regulated.

3.3 DISCUSSION

In this section we discuss the findings by returning to the broad questions framing the tenure theme and by characterising tenure and land practices in Marikana. Characterising informal settlement tenure arrangements and land use management practices is an important objective in the project because it helps understand how people are getting by without a legally secure form of tenure and how land is being managed in the absence of official planning. Our assumption is that both sets of insights will help inform upgrading interventions that aim to secure tenure and planning interventions that aim to manage land uses and confer land development rights.

In the tenure and land use management theme the research set out to understand how local rules or norms configured tenure in Marikana, and the authorities that underpinned them. The findings presented in this chapter showed that tenure was locally constituted in Marikana. A broad set of rules
and practices describe the local arrangements by which land was being accessed, held and transferred ranging from entry rules and procedures, to shack numbering, the generation of lists of occupiers, the spatial demarcation of spaces, the governance of internal access and mobility routes, the regulation of shack improvements and extensions, and the administration of space for residential, commercial and social uses and activities.

One example of a land use rule was that commercial activities such as spaza shops and hair salons were locally permitted but the committee encouraged their location along Sheffield and Protea roads. Another was that people were allowed to own a separate shack for exclusive economic, business or livelihood use, but they had to register it under their shack existing number. Access to a second residential site was not sanctioned – a one-person-one-home policy applied locally. People could make investments to improve and extend their homes but such improvements were not meant to block existing pathways. The open space land use adjacent to Bhekela TRA was managed locally to ensure that it was not developed so that anticipated internal relocations could occur in an additional section as part of Marikana with future de-densification. In the present, it performed symbolic, political and social functions which the rule was also protecting.
Social relations played an important role in the local tenure arrangements, especially in the way residents secured access and used land. One example was that may people heard about Marikana by word of mouth through social or familial networks. Another was the generalised norm of using land in ways that did not inconvenience neighbours and “the community at large”, a phrase, and others similar to it, which came up often in different responses. These findings suggest that the social and institutional authorities of neighbours, networks and the committees played a role in the local tenure arrangements and land use management practices.

The research also sought to understand the extent to which the stated rules and norms conformed with actual practice, in order to better understand their local, social legitimacy. Results were mixed. For example, evidence existed that transfers did take place, but committee members and other respondents reported that the committee played an oversight role to ensure that a seller actually left the settlement and did not begin to “behave like an estate agent having multiple properties for sale”. Improvements were being made to existing dwellings, generally in corrugated iron. The limited number of brick structures that existed could indicate either a fear of impermanence or a constraint of affordability. Extensions seldom crossed over into existing pathways, upholding the concerns to facilitate access in emergencies. Finally, the management of new access was roundly identified as a task too large for any of the committees to manage effectively.

The gaps between stated norm and actual practice are an important indicator for understanding the authority and legitimacy of the local tenure arrangements and land use management practices. By taking a more specific look at non-conformity, as it varied from practice to practice and from rule to rule, it might be the case, for example, that residents who were permitting family members access, such as the example of Luthando Mjongeni from Marikana II, who gave his shack to his sister and secured another space to build another shack for himself, might be expressing a social or family conception of property. Occupation of a second shack by a family member appeared to contravene the one-residential-shack-per-person norm but it could also be perceived of in different terms locally than newcomers with weaker ties to existing residents. Indeed, some respondents in Marikana did not characterise additional family members as newcomers whose arrival required permission. This finding helps us understand that people related to land and perceived its meaning in social terms.

The range and extent of the issues that the norms and practices attempted to administer suggests that a local governance system was at work in Marikana. It was ordered and regulated, even if compliance was mixed. The number of issues over which residents came together to cooperate around land suggests that a more accurate characterisation of tenure arrangements in Marikana is simply “local” or “social”. This is an important interpretation of the findings because it suggests that the terms “informal tenure” or “informal title”, often used as ways of describing informal settlement, are inaccurate ways of depicting how people related to land in Marikana. Alternative terminology is required if informal
settlement upgrading interventions are to begin with the practices that already exist because they need to be identifiable and nameable.

It would be incomplete to leave the characterisation of tenure at local and social in nature because multiple tenures co-existed in Marikana. We have already discussed the local, social tenure regime in Marikana but it did not exist in isolation from other tenure systems.

The court proceedings brought the official world of housing and property rights into Marikana. The authority of section 26 of the Constitution was brought to bear on the threat that eviction posed to people’s tenure security. Using the highest source of legal authority available to them, the unlawful occupiers drew on the right to housing in section 26 and the PIE Act case law in the litigation process to argue against unlawful eviction. Marikana is an example of where the rights of private land owners might be curtailed in favour of the rights of occupiers invoking their rights to housing. In SERI’s review of the evictions case law, the point is made that the courts are engaged in a fine balancing act and that, under certain circumstances, the right to housing may trump the right to property.\textsuperscript{26} In the context of eviction, and housing rights litigation, legal protections in section 26 of the Constitution and the PIE Act figure alongside the local tenure arrangements and land use management practices in Marikana.

These findings suggest an additional way of characterising tenure as “protective” and “statutory” in nature, due to the manner in which PIE rights were invoked to defend occupiers against arbitrary deprivation of their rights. These legal protections, provided by PIE, figured alongside the local, social tenures to provide blanket legal protection.

The official world of registered property rights and registered parcels of land also featured in Marikana, as both the litigation and enumeration system testified in the findings. In Marikana the dynamics of enumeration point to a visible, codified interaction of state system and local norms. The numbering convention began with a reference to the local name of the settlement, created by the occupiers themselves and denoted by M and a number. Subsequently, the formal, registered title deed holder began to figure in the nomenclature, as F for Fischer or C for Coppermoon were introduced to the dwelling number in a new round of local registration. The numbering system subsequently took root as a local governance practice: the erection of new shacks was being closely monitored and unauthorised construction was visibly identifiable with a question mark on a shack to physically designate that the activity was considered to be irregular. Unoccupied dwellings were similarly treated with a cross. In this way, the house numbering convention is a visible representation of how, in the same place and on the same properties, local tenure came to co-exist with the underlying registered title.

4 ACCESS TO BASIC SERVICES

4.1 INTRODUCTION

This chapter considers the question of basic services in Marikana. It identifies the existing provision of services in the informal settlement, interrogates the relative presence of the state with reference to these services, and explores the extent and consequences of community or self-provision in the state’s absence.

The overall picture is one in which government-led service provision is limited to “temporary services”, such as chemical latrines, portable toilets and communal taps. These services are found to be inadequate. This is then exacerbated by the absence of systems that would allow residents to engage with the service delivery process: they have nowhere to report faults, and nowhere to lodge complaints. As a result the research found that residents were dissatisfied with the few services provided by the state, or wanted to improve them. Without any obvious means of engaging with the state, they resorted to self-provision of services such as water and electricity; they created local connections and, in some cases, installed household latrines. Where these strategies were insufficient - or were not available to all residents - they resorted to protest and political engagement to demand that the state step in and expand the provision of basic services.
This chapter documents the strategies the residents of Marikana employed to fill in the gaps left by the state’s poor provision of services. It begins with an account of these strategies in the context of energy and electricity, before moving on to consider them in relation to water, sanitation and refuse removal. Finally, the findings also address policing services. The chapter ends with a discussion about the findings, with the intention of drawing out the existing provision of services, the relative presence of the state with reference to these services, and the extent and consequences of community or self-provision in the state’s absence.

4.2 FINDINGS

ENERGY

In Marikana, the municipality did not supply electricity. In the absence of any formal infrastructure within the settlement, residents set up numerous self-connections to support their power needs. A labyrinth of illegal electricity connections criss-crossed above the shacks, some originating in Lower Crossroads. For these connections, Marikana residents paid a monthly fee of between R150 and R200 to the household in Lower Crossroads where their particular connections originated depending on the number of connections made. This arrangement generally secured an unlimited, and uninterrupted power supply. Not all of these connections went back to individual households in the neighbouring suburb: other connections could be traced back to live electricity lines and municipal boxes on the northern end of the settlement, and these were not governed by the monthly fees system.

Marikana depended entirely on surrounding factories in Philippi East and the neighbouring RDP area, Lower Crossroads, for access to electricity. The electrical self-connections were a significant source of tension between the residents of Marikana and Lower Crossroads. As the number of Marikana residents increased, so too did the number of electricity connections to Lower Crossroads, straining the limited resources and the personal relationships on both sides.

In 2015, a conflict commonly referred to as “the war between Marikana and Lower Crossroads” or “the electricity war” broke out after a Marikana resident was denied an electricity connection from an electricity provider living in Lower Crossroads. According to Cebisa Gxekwa, a 37 year old Marikana resident and former committee member, the conflict was triggered by a personal feud between a resident of Lower Crossroads and a resident of the Rolihlahla section of the informal settlement. The Lower Crossroads resident had denied the Rolihlahla resident access to an electricity connection. In retaliation, the Rolihlahla resident threw a petrol bomb at the home in Lower Crossroads, which burnt down. A week long conflict ensued resulting in a number of deaths and injuries. Gxekwa described the “war” as a misdirected tragedy because in Marikana’s struggle for access to services, “we ended up fighting with our neighbours instead of our government”. During this time, the municipality was largely silent and the police rarely present.
Gabriel Mdodana, former Marikana II committee member, reflected on the events saying that “there is no need to be killed. It was very bad to see the people of Marikana miners to be protesting and getting killed. What they were fighting for a better wage, but now they are no more … A similar thing applies to the people of Marikana in Cape Town because people ... ended up dying.” Respondents held the state accountable for the violence that ensued around electricity access, firstly because the City had never provided basic services and the ward councillor had refused to engage with the residents on their demands and secondly because the police were invisible in the days that people described as “the war with Lower Crossroads”.

Other problems were related to the informal electricity connections to the municipal box. These were referred to simply as “danger”, in reference to the danger sign placed on the box, and were extremely dangerous to set up. They were often undertaken by the few residents who knew how to navigate the complex connections. Stories abounded of residents who had been electrocuted while attempting to self-connect. There was a local belief that Rastafarians were the most skilled at these connections.

Nonetheless, once established, connections to the electricity box did not cost any money, except in instances where the wires were stolen. This meant that the risks associated with them were worth taking. Often, several households pooled money to cover the costs of setting up a connection, which they all made use of. Even
less formal connections included a practice of tying wires to a 2 litre soda bottle filled with water which was then flung over the live main wires running along the northern edge of the settlement so as to wrap around the main from which electricity was then diverted.

Not only did these connections present a danger to personal health but they were harmful to household appliances. One resident spoke about the damage to his laptop chargers and adapters and other equipment due to the excessive power that came from these connections. He believed the conversion of the electricity from the transformer box to allow it to be used in the house was quite technical and people sometimes got it wrong, resulting in the damage to appliances.

WATER

The City of Cape Town was reluctant to share data on the provision of basic services to the settlement, but in a secondary media source, the City confirmed that 100 communal taps,\(^{27}\) many not functional, were installed along road servitudes and in open spaces serving a population of at least 60 000 people. Before communal taps were installed, residents accessed water from neighbouring areas - Lower Crossroads and Bhekela. In some instances, neighbouring residents allowed Marikana residents to fill buckets at no change. Other Marikana residents, like Simthandile Gasa, however recalled purchasing water from Lower Crossroad for R50 per 25 litre bucket and waiting as long as 30 minutes to fill a single bucket.

Even once taps had been installed in the settlement, they were not easy to access. Bulelani Qulu, a Marikana II resident in section A, said there was one tap available to the section he lived in. This tap was located in the open space and was expected to provide water to over 200 people living in his section. His experience of collecting water was characterised by waiting in long queues in the mornings and evenings.

Residents noted that the taps had low pressure and sometimes ran dry over weekends when there was high demand. Residents reported needing to spend Saturday mornings in long queues in order to collect water for drinking, laundry and other household needs. They reported this to their local committees but had no direct contact with a City service provider to report broken taps or pressure problems.

Although the stand pipes were the only formal water connection available, some households had established water connections for themselves. These connections were managed in similar ways to electricity connections: households paid for pipes, connections and labour, and connected either to main lines on the periphery of the settlement, or to infrastructure installed by the municipality but discontinued. They explained the need for these connections by saying that the walk to one of the

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\(^{27}\) Our findings counted 50-60 communal taps stands, but the City of Cape Town has claimed that 100 had been constructed. At least 1 in 5 tested tap stands tested in the research were not functional. See Dennis Webster, “Resilience Persists at Cape Town’s Marikana”, New Frame (22 August 2018).
roads where the taps had been erected was too onerous, especially with low-hanging electric connections which made carrying buckets on one’s head dangerous if not impossible. Marikana II committee member, Leah Makinana, decided to have her shack connected during her recent pregnancy when the walk for water was especially difficult. In these ways, the residents attempted to work around the limits of the city’s basic provision of water, identifying their own needs and their own creative solutions.

SANITATION

During the first years of settlement in Marikana, before the delivery of any state-provided toilets in Marikana, residents would relieve themselves in packets which they threw into open spaces. Open defecation in open spaces and adjacent veld was also not uncommon. Given the lack of electricity and thus the absence of electric lighting at night, many residents described the night time dangers associated with a lack of adequate sanitation: it made people vulnerable to attack, mugging and rape. Alternatively, residents requested access to toilets in households in Lower Crossroads. Often they were made to pay to use these toilets. Some residents recall long queues waiting to use toilets in Lower Crossroads.

Following the local government elections in 2016, the City erected a total of 371 chemical toilets along the roads and road reserves lining the settlement. These latrines were located some distance from households in the centre of the settlement and their location along public streets
exposed users to public view. It is difficult to imagine any dignified or private use of the chemical toilets, which are ubiquitously disliked by residents. Because of their distance from households as well as their exposure to passing cars and pedestrians, most households did not use them at night and were reluctant to use them at all. The chemical toilets are more fittingly characterised as public than communal.

*Figure 8: Line of chemical toilets on the perimeter road with Lower Crossroads*
These were not the only toilet facilities available. The City also provided portable toilets - which were known as “porta-portas” to residents and, more formally, as portable flush toilets (PFTs) to the City. Porta-portas comprise a toilet seat and a detachable 21 litre container. Pressing on a lever below the seat flushes the waste into the sealed container, which contains an odour reducing chemical and provides daily storage. According to comments by the City, “PFTs are allocated to a single household for use within that household and are, therefore, largely protected from vandalism.”

Figure 9: A porta-porta toilet

See Patricia de Lille, “Cape Town porta-loos ‘provide dignity’”, News24 (5 June 2013).
The porta-portas were collected, emptied and cleaned, and delivered by truck to depot points such as the open space three times a week, on Mondays, Wednesdays and Fridays. They were then collected by individual households. As households were not assigned their own porta-portas, residents reported that receiving a different toilet each time made them feel anonymous. That none of the sanitation facilities were allocated to specific households was frequently mentioned with clear discontent. Also, because toilets were used more over weekends when there were more people not working offsite and a greater volume of visitors, the porta-portas filled up rapidly and containers of faecal waste sat full in the small shack yards until the next collection. This disturbed many residents. Leah Makinana, mother of two, said she did not like the porta-porta being in her house or her yard, with “dangerous chemicals” on the ground within reach of her toddler.

*Figure 10: Porta-portas delivered to the open space depot*
Similarly, the public chemical latrines were cleaned four times a week by some residents employed on a temporary basis by Sanicare, the service provider contracted by the City to empty the chemical toilets. Their work consisted of removing the used toilet cartridges from the concrete stalls, loading them onto a truck, and replacing them with unused cartridges filled with chemicals intended to break down the waste. The work was contracted to residents for a period of six months, and the committees of the various settlements decided how many of these jobs were allocated to each settlement. In keeping with their relative size, most jobs were allocated to Marikana II and fewer to Marikana I residents. The cleaners were reported to be paid R88 per day for their services.

Figure 11: Chemical latrine along the Lower Crossroads road

Photo: Alana Potter
Despite the efforts of these workers, many of the chemical toilets were reportedly, and observably, frequently full, unpleasant and unsafe to use. “One has to enter the toilet in reverse before using it because you do not want to look into it”. A resident noted that having to use these toilets made them feel angry “you can go out there very angry, if you find a dog on the street you will just kick it or even beat up your wife when you get home”.

“I use the toilet at work and make sure I never need the toilet when I get home. I will only use the toilet by mistake”, said another resident.

Some residents such as Bulelani Qulu explained that the toilets were sometimes cleaned adequately but not consistently enough. Bulelani also noted that some people padlocked the toilets close to their shacks in an attempt to manage the number of people using them and to keep them clean and accessible for their own use. The toilets around Bulelani’s home were however not locked and many people used the toilets in his area of the settlement. The toilets filled up rapidly. When the toilets were not emptied, community members were uncertain who to contact, they did not know a contact number to call. Both the chemical latrines and the porta-portas were simply “there”. There was no engagement, with government service provision or providers, and a notable sense of anonymity and shame associated with sanitation provision in general. For Bulelani, the toilets symbolised the government’s instrumental interest in the settlement: he remembered the construction of chemical toilets and the communal tap stands as taking place in the same week that political party leaders visited Marikana to campaign ahead of the local government elections of August 2016.

While the construction of chemical toilets and the local government election campaigns overlapped, residents suggested that it should not be assumed that the two were linked. Some leadership committees have claimed to play an influential role in the provision of services and have used this to strengthen their claim to leadership. According to Dumisa Nyaki, chairperson of Rolihlahla, it was Rolihlahla that was responsible for opening discussions with the municipality for the supply of basic services. Dumisa argues that the Rolihlahla committee, together with their lawyers, had prior engagements with the municipality regarding basic services before involving other committees. It was only later in the engagements that they invited Marikana I and II to join. He said that Rolihlahla invited Marikana I and II to the discussions because they wanted them also to benefit from the services that were promised. This decision was taken because they believed they had the same plight and should work together in finding a solution.

Bulelani recalled a range of different political parties (PAC, ANC, DA and the EFF) visiting Marikana prior to the local government elections. The DA and the EFF both campaigned in the “open space” in Marikana II by the rubbish site, where both political party candidates spoke about prioritising Marikana’s need for environmental safety, services and sanitation. After the meetings, “I felt that change would come,” said Bulelani. He went on to
say that the City of Cape Town planned to install toilets before the politicians arrived. At the same time, Bulelani felt that the delivery of the toilets (whether related to political party campaigns or not) influenced residents’ participation in, or the votes they made, in the local government elections.

As the sanitation services provided by the City were so unpopular, some residents resorted to building their own pit toilets and superstructures. One resident, Olwethu Qunta, divided the R1,200 construction cost with his friend and neighbour, Nkululeko Majova. Olwethu and Nkululeko dug the pit and installed the toilet themselves. The City has since periodically provided a pit emptying vacuum truck to empty the latrine, but Olwethu and Nkululeko have had to move the toilet at least once because it had filled up and was not emptied in time. When moving the toilet, they dug a new pit and filled the previous pit with soil. The toilet was a few meters from Olwethu’s door and he found it more convenient to use than the chemical latrines and more durable and private than the porta-portas. Olwethu explained that he preferred his own toilet to the public toilets because of its proximity to his shack, which made the toilet safer to use at night, and because it was cleaner than the public (chemical) toilets.

REFUSE

Although open spaces were occasionally cleared of solid waste and municipal waste collection occurred along the road between Marikana and Lower Crossroads, there was no routine municipal refuse collection within Marikana. The residents had devised their own waste management systems, disposing of waste in plastic bags in open spaces. Residents of section A for example disposed of their refuse in a small wetland immediately opposite them across Sheffield Road. On Fridays, residents gathered at the wetland to burn the waste that had accumulated during the course of the week, so that it was not blown back into the settlement by strong winds. Refuse was also disposed of along the road reserves and in portions of unused land in the settlement. These sites for refusal disposal were controversial. Some residents told us that they had decided in a community meeting that people were not allowed to throw any of their rubbish in areas that blocked footpaths within the settlement, including the road reserve. These rules were however yet to be enforced and the penalty for infringement was still to be determined.

The only exception to this rule was a once-off clearing of the refuse in the large open space, described in the previous chapter. This took place in October 2017, and was – according to the residents – due to the City’s desire to make the area look better in the eyes of journalists and politicians, who were visiting the settlement after a recent period of violence.
POLICING SERVICES

Although water, sanitation, refuse disposal and electricity typically comprise basic municipal services, the need for effective and visible policing emerged in the research as a priority for residents. This was because of the accounts residents provided of their experiences of crime, conflict and lack of safety. As a result, policing is included in this section as an essential service and “necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health, safety, or the environment,” according to the Municipal Systems Act, section 73.

Two events, the “electricity war” described above, and an event in 2017, featured in residents’ accounts of life in Marikana. Residents saw ineffective, largely absent policing as the main factor that made Marikana a “crime-friendly” place. Residents saw
the absence of sufficient street lighting, already addressed previously, as further exacerbating their vulnerability to crime.

The 2017 event, described by Marikana II leaders as “the October Massacre”, resulted in the murder of 11 people in the settlement in one night. In interviews shortly after the event, respondents highlighted that a place like Marikana can easily conceal criminals and that active infiltration of the settlement by “thugs” was underway, emphasising the likely connections with gang related violence and drug related crime. Their systems for regulating access were all the more important in this context, as they needed to know who was entering the settlement. So too was the ability to police the settlement and discussions were underway about street patrols at the time of the last field visit.

4.3 DISCUSSION

Access to basic services is the foundation of all human rights. The Constitution sets out a range of rights relevant to everyone - including informal settlement residents - such as rights pertaining to equality, dignity and a safe living environment. Municipalities have a clear legislative obligation to ensure the progressive realisation of these rights within their available resources. Where basic services provision is not feasible for any reason, the Emergency Housing Programme sets out a minimum standard for temporary water and sanitation provision in emergency situations as one water point to every 25 families and one VIP (or comparable toilet) per five households.

The evident reluctance of municipalities such as the City of Cape Town to invest in the provision of basic services in settlements situated on private or non-state-owned land is often attributed to a concern about land owners’ property rights and about wasteful state expenditure. The Constitution upholds private property rights and it obliges the state to provide basic services. It also empowers the state to expropriate private land for the public good.

Different views prevail with respect to the municipal provision of basic services on privately owned occupied land. However, despite a lack of clarity around their legal mandate and possible concerns related to litigation from property owners, many municipalities do provide limited essential services - even when they do not own the land on which settlements are situated. This is because access to water, sanitation, refuse removal and electricity mitigates risks to human safety and to public and environmental health. Informal settlement communities have an acute need for these services and municipalities recognise their obligation to provide basic services to everyone living in their jurisdictions.

The picture revealed in Marikana among many other informal settlements, of no electricity or refuse


removal and poorly maintained communal tap stands and chemical latrines lining road reserves, do not meet the national minimum standards for a basic service, which are defined as communal tap stands providing potable water no further than 200 meters from the furthest household, electrification and easily accessible and sustainably operated and maintained household latrines that present no risk to public or environmental health. Communal tap stands and shared latrines were only ever intended as temporary emergency measures in urban settlements. Yet many informal settlements in the Western Cape have been in place and, for the most part, inadequately unserved, for ten years or more.

As a municipal official said when asked about flush sanitation, “Marikana was established pursuant to an illegal land invasion of private land and, as such, the City can only legally provide temporary services.”

Water, electricity and solid waste service provision in Marikana did not meet emergency (temporary) let alone basic service level standards. Sixty thousand people had access to 371 chemical latrines and approximately 50-100 functional communal tap stands which lined road servitudes, and electricity and refuse provision was absent. Municipal and policing services were reportedly unwilling to enter the settlement, citing “private land” and security risks as reasons when asked. The services that did exist were reasonably well maintained but not with the degree of frequency required for a settlement of Marikana’s density.

The Marikana settlement was extremely dense which will have implications for future development and services provision. A place so densely occupied as to have no roads, only narrow pathways, and homes built in the middle of two open pans which are filled with water during the rainy winters will require serious consideration with respect to upgrading.

While the City’s provision of portable flush toilets went some way towards meeting a minimum basic standard of sanitation provision, the felt reality was that the anonymous three times a week delivery of these facilities to depot points obliterated any sense of ownership or responsibility on the part of residents. The same was true of chemical latrines along the periphery of the settlement, which were not provided with human privacy or dignity in mind, they were simply constructed along busy roads, with doors opening in full view of passing vehicles, and were emptied four times a week.

Two incidents significantly disrupted the lives of Marikana residents. Both were related to services. The first was the conflict over electricity in 2015 and the second was the deaths, in October 2017, of eleven people in Marikana, which highlighted the absence of visible policing.

The so-called electricity war revealed how conflict over access to resources can spill over into violent contestation. In the absence of adequate policing, it shows how informal settlement residents can fall victim to conflict that, unchecked by law enforcement, can further amplify an already profound vulnerability arising from the absence of basic services which would otherwise improve security (street lights, for example) or reduce...
exposure to risk (insufficient chemical toilets or water points close to home, for example).

The second event occurred in October 2017, when eleven people died in a series of shootings that appeared to have its origins in the territorial gang related conflicts that existed in the sub-region. Residents reported on the absence of police at these times of profound crisis, confirming general findings about the security concerns associated with life in informal settlements that might well be amplified in a place like Marikana due to its size and its location in a sub-region infamous for drug related crimes and inadequate policing.

Accessing communal water or sanitation services requires residents to leave their homes, which exposes residents, especially women and children, to multiple security threats. The lack of lighting, overgrown vegetation, high densities and the long distances that people have to walk to reach communal water and sanitation services have been attributed by many residents of informal settlements as increasing the risk of violent attacks or sexual assault. Requiring residents to travel outside of the home at night also creates a challenge for any children that must be left unattended at home.

The Marikana basic services story illustrates themes related to identity, community and belonging and the role of consumers vis-à-vis municipalities in service provision. In Marikana, there were no consumer accountability or communication systems in place, no contacts or contracts between consumers and service providers, nowhere to report faults, lay complaints or engage with service delivery issues and no way of engaging in the service delivery process. The only redress or means of engagement available to residents was through local committees who in turn engaged with decentralised political structures such as ward committees. As a result, residents who were dissatisfied with services or wanted to effect improvements either stepped in to create their own (unsafe) connections to water and electricity and in some cases to household latrines or resorted to protest and political engagement.

The disconnect between residents as users of services and City-appointed providers of services, together with the provision of temporary services that have no reference to individual households or to human life contributed to apathy, disdain and a lack of agency, care or ownership of the facilities on the part of residents. Essentially the manner in which these services were delivered de-legitimised residents as citizens and as users of a service, and dehumanised them, telling them that they did not belong there.

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31 For example, people living in informal settlements are more likely to fall victim to crime than those living in more formal dwellings. As informal settlements are often located in unused or undeveloped land, they are prone to accommodate areas of unchecked vegetation which have been identified as key sites for sexual assault, muggings, and dumping bodies. Paula Meth, “Informal Housing, Gender, Crime and Violence: The Role of Design in Urban South Africa”, *The British Journal of Criminology*, 57(2), (2017), p. 416.

5 ECONOMIC LIFE

5.1 INTRODUCTION

This chapter explores the economic life of the residents of Marikana in the broader economic context of Cape Town. It profiles the settlement’s local informal economy along Protea Road in order to investigate the various livelihood opportunities and constraints in residents’ lives, and how they were able to sustain these under conditions of severe scarcity.

The Marikana settlement presented a methodological challenge for the economic life theme, due to its size and density, and the pace of its development. After the first site visit our concern was about how difficult it would be to identify the norm with respect to how people make a living. It was clear that most households in the settlement lived in desperate poverty and likely that the majority were relying almost entirely on social grants and remittances. Our challenge was both where and who to interview in the time available, as a settlement wide perspective seemed difficult, if not impossible, to achieve. Another initial impression was that Protea Road was an important geographic node affecting the economic life of the settlement. As a result, we decided to
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Photo: Madelene Cronje
adopt a geographic focus on Protea Road for our qualitative research, in order to develop in depth insight into at least one area of the settlement. Due to the prominence of business owners along Protea Road in the interviews and observations, the findings paint a rich portrait of relative stability, although most residents did not have access to the opportunities offered by Protea Road or financial capital to start their own businesses. To counteract the inevitable weight that economic stability had in the findings, we also conducted two focus groups on social grants and remittances in Marikana I and Marikana II.

The chapter begins with an analysis of economic activities outside of the settlement. Thereafter it delves into the economic life within the settlement, outlining the economic geography of Marikana and focusing on the economic vibrancy of Protea Road. This then is followed by a discussion on the economic activities of residents in the settlement including specific descriptions and analyses of tuck shops commonly referred to as spaza shops; and a discussion on the role of social grants in the lives of residents. The chapter ends with a discussion which considers the findings in the light of the research question: how do informal settlement residents make a living in the context of precarious residential circumstances?
The economic geography of the City of Cape Town is such that most formal economic opportunities are concentrated in the inner city or city bowl. Cape Town’s economy is dominated by tertiary sector activities like wholesale and retail trade, catering and accommodation, which contributed approximately 74.9% to the Gross Domestic Product per Region (GDPR) of the Cape Metro in 2015. Secondary sector activities, like manufacturing and construction, contributed 23.6%, while primary sector activities like agriculture, forestry and fishing contributed only 1.5%. In terms of employment, in 2015 the tertiary sector contributed 78.1% to employment, while the secondary and primary sectors contributed 19.4% and 2.5% respectively. With a population of approximately 4.2 million, 21% of people in the Cape Metro are unemployed. Philippi, where Marikana informal settlement is located, has even higher levels of unemployment. It falls within the low jobs intensity Cape Flats which exhibits the City of Cape Town’s highest levels of unemployment. Private investment has been further deterred from Philippi due to perceptions of high crime and low skill levels. Nevertheless, secondary economic nodes have developed elsewhere in the city, where property is cheaper and particular sectors are accommodated by specific infrastructure and services. An example is the node which has developed around the Cape Town International Airport, which is situated 6km north of Marikana.

Having only existed since 2013, statistics and information pertaining to employment levels in the Marikana settlement were virtually non-existent at the time of the research. The research however revealed that some residents of Marikana, like Esihle Nkombisa and Babalwa Faas, managed to leverage the opportunities provided by Cape Town International Airport, in jobs such as security and cleaning, respectively. Many others were employed in wholesale and retail, manufacturing and construction and even primary sector activities like fishing.

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35 Ibid.
36 Ibid., p.27.
37 Ibid., p.1.
38 Ibid., p. 28.
40 Ibid.
Furthermore, the settlement benefits from the fairly well established public transport infrastructure servicing broader Philippi, described in more detail in the next section, which improves access to Cape Town’s centrally located formal economic opportunities. For many residents, this local public transport infrastructure means that the Marikana informal settlement represents a foothold into the broader economic opportunities of the city and allows them to work.

The research showed that, even with access to employment, economic life in the informal settlement was still characterised by precarity and instability. Factors which contributed to the precarious economic lives of residents included the
informal nature of the work opportunities they were able to access in Cape Town’s broader economy,\(^\text{41}\) and the lack or collapse of social support networks.

Fezile Mpumlwana was one of a few residents who had managed to secure employment. He was born and raised in New Brighton Township in Port Elizabeth. He came to Cape Town looking for job opportunities. His time in the Western Cape began on the Cape Natal, a large trawler, where he worked for a few months. After failing to meet the industry’s regulatory requirements, namely obtaining a swimming certificate, Fezile began selling clothing and towels on the streets of Cape Town’s inner city. His new business did not last long; several forced removals and confiscations of his stock by the City prompted him to move his business into nearby townships such as Gugulethu and Nyanga, where business was slower. At the time of writing, he still ran a stall on the township streets when he was able to save enough money to buy sufficient stock. He also operated an ice-cream bicycle for a small ice-cream factory in Bellville and worked for a company responsible for servicing the chemical toilets at Marikana. At the time of the interview, Fezile was nearing the end of a six-month contract emptying the toilets on the periphery of Marikana I and was beginning to consider how to mitigate the imminent loss of income.

Thirty-four year old Mandla Mahlangu, was another resident who had been formally employed. Originally from Swaziland, he moved to Marikana in 2015 from a backyard shack in Khayelitsha. Mandla, his girlfriend and another friend decided to leave Khayelitsha, where the cost of rent was becoming intolerable, and to build new homes for themselves in the fast-growing settlement. When he moved, he had been employed as a construction worker in and around Cape Town. He had not lived in his new home for a week, however, when on 15 March 2015 he was shot in the back while on his way to his construction job in Kraaifontein. He described how he had just begun the walk from Stilfontein station to the construction site with three of his co-workers when three men appeared from nowhere, robbing them and shooting Mandla. He has been in a wheelchair since his shooting.

While Mandla’s vulnerability was exacerbated by disability, both his and Fezile’s accounts show how formal employment was casual, irregular and insecure.

\(^{41}\) We use the definition of informal work proposed by Chen (2012), which reflects an expanded concept of the informal economy formulated by the International Labour Organization (ILO), The Delhi Group, and WIEGO which sought to include the whole of informality as it is found in transitional and developing economies and as it reflects the reality of the “working poor”. The definition includes the self-employed in informal enterprises and the wage employed in informal jobs (i.e. unregulated and unprotected). See Martha Alter Chen, “The Informal Economy: Definitions, Theories and Policies”, Women in Informal Economy Globalizing Organising, WIEGO Working Paper No. 1, (2012), p. 8.
For many of Marikana’s residents, jobs were usually casual in nature, leaving them vulnerable to dismissal without notice. For example, Forty year old Bathandwa Sihlangu, who at the time of writing was unemployed, had previously worked as a security guard at the Victoria & Alfred Waterfront before being fired towards the end of 2016 after he was five minutes late for work due to train delays. Before working at the Waterfront, he had been a cleaner in Greenpoint. Unlike many respondents in the research, Bathandwa originally came to Cape Town from Transkei to pursue his studies at the University of the Western Cape while living with his older sister and her husband in Lower Crossroads. In his final year Bathandwa revealed to his family that he was gay, resulting in him being kicked out and without financial support from his family. Bathandwa was then unable to register for his final year modules and did not complete his studies. Bathandwa’s precarious economic situation was also a result of a collapse in familial support.

Residents in Marikana engaged in a wide range of work. Mpumelelo Msuthwana, for example, worked as a security guard for three years before starting his own business. Themba Fakude, another case in point, was employed in the settlement as an assistant in a spaza shop as well as a cashier at the Kenilworth race course in the suburbs. In some instances access to more formal work had enabled residents to undertake philanthropic initiatives in the settlement.

For example, Thandiwe Nohashe, a 47-year-old man, lived in section D of Marikana II with his wife and their youngest child, a four-year-old daughter. Their firstborn, who was 12 years old at the time of the research, lived with his grandmother in nearby Delft. Thandiwe was married and divorced once before. His first wife was living in Nyanga with their 21 and 26 year old children, who he said were “old enough to take care of themselves.” Thandiwe worked as a freelancer for various production houses in Cape Town, assisting in the production process for photo shoots. As a freelancer, he was making more money than previously and had more time to dedicate to what he described as his “true calling”: a soup kitchen and edu-care centre called Kids Pot. While contributing from his own pocket, Thandiwe also managed to establish Kids Pot largely through donations from the many “international people” he met during the photo shoots he worked on. What started as the donation of any leftover food from his family’s meals to hungry children from the neighbouring shacks, grew steadily until Thandiwe needed to purchase a gas stove and larger pots, as well as enlisting the volunteer assistance of his wife and four young women living in Marikana. Thandiwe’s work in the city not only sustained his own family’s livelihoods, but assisted other households in the settlement by providing after-school care and meals for children.
5.3  ECONOMIC ACTIVITIES WITHIN THE SETTLEMENT

Income generating activities in the settlement fell broadly within a distinction which some residents made during the course of the research between “work” and “business”. The former, described in the section above, broadly refers to going out of the settlement and selling one’s labour. The latter refers to entrepreneurial enterprises established by residents at the settlement. This section explores such enterprises. First, the section on the economic geography of Marikana, describes the location, distribution and spatial organisation of economic activities in the settlement. The second section examines the economic vibrancy on Protea Road and the third explores the workings of spaza shops.

THE ECONOMIC GEOGRAPHY OF MARIKANA

Economic life in Marikana relied heavily on three roads which run in and around the settlement, namely Sheffield, Protea and Stock roads. Marikana’s southern boundary is Sheffield Road, which separates the settlement from Lower Crossroads and runs along the southern edges of Marikana I, Rolihlahla, and sections A, B and C of Marikana II. Protea Road runs off Stock Road and into Marikana in the north-western corner of the settlement. These two roads were important nodes in the settlement’s internal economy. Sheffield Road and the transport nodes of the Stock Road Taxi Rank and the Joe Gcwabi Metrorail station, both a short walk south along
Stock Road, were also crucial to economic life in the settlement. The private taxis, or amaphela, which run along Sheffield and Stock roads, and the taxi rank and train station, were the community’s primary means of accessing Cape Town’s economic opportunities.

Economic activities in Marikana were concentrated along these key roads. A series of wholesale stores were located around the intersection between Protea and Stock roads, including “Jumbo”, “Goal” and “Cape Cash and Carry”, a little further north on Stock Road. These stores were vital to the Marikana economy, as every business in the settlement relied on them for cheap bulk stock. The Marikana economy was equally vital to these stores. Their location translated into nearly complete provision of basic household requirements and foodstuffs to a community of 60,000 people. One resident noted that it was not long after the occupation at Marikana began that the both the “Jumbo” and “Goal” stores underwent significant refurbishments and upgrades to accommodate the new markets.

A small market developed around the entrances of these wholesale stores. A handful of informal traders, cashing in on the high pedestrian traffic, sold a variety of goods from plastic tables and wooden crates, umbrellas or small gazebos. When their goods were not displayed on tables or crates, they were laid out on sheets alongside the dirt road. The goods sold in this market ranged from cheap plastic sandals to basic plumbing equipment, both of which were important commodities to the residents of Marikana.

Some of these street traders were residents themselves, but many lived elsewhere in the Philippi area. The participation of non-residents in the informal economy extended into the settlement itself, where a number of people worked as assistants in Marikana spaza shops but lived elsewhere. Thando Jola, for example, was not a resident of the settlement but lived in Philippi near the train station. She ran a spaza shop on Protea Road, while the owner ran a second business in Nyanga. That Marikana was a place of employment and not only of consumption and production was one of the clearest indicators of how robust and developed the settlement’s informal economy was. Another indicator was that consumers in Marikana’s informal economy were not only residents, instead Marikana businesses were a feature of the broader Philippi economy.

Sheffield Road, also a place which experienced a lot of pedestrian traffic, accommodated a similarly dynamic set of roadside businesses as Protea Road, including amongst others a range of hot-meat vendors, a tyre shop, fresh fruit and vegetable sellers, and the ever-present spaza shops and shebeens. The business-centric Protea and Sheffield roads eventually gave way to the residential interior of Marikana, which constituted the majority of the settlement.

42 Cockroaches. A colloquial reference to the Toyota Avanza taxis ubiquitous in Philippi, which, according to one resident, are as ever-present in the lives of Marikana residents as cockroaches.
The interior of the settlement was scattered sporadically with a range of home-based businesses, including hair salons, creches, shebeens and jazz halls, *spaza* shops, and *sangomas*.\(^{43}\) There were no roads on which cars could drive in these large residential areas of the settlement, because the occupation occurred too quickly to allow for the sort of planning which would have accommodated them. The continued pace of settlement also limited any chance of constructing roads. Indeed, some spaces that had been left open intentionally, such as a space used initially for community meetings in Marikana I, had however been occupied. The lack of roads in the interior of the settlement had negative implications for those making a living there. It meant that pedestrian traffic was lower and that vehicular access, which would facilitate cheaper and easier movement of stock, was severely limited.

A FOCUS ON PROTEA ROAD

Given the spatial arrangement and distribution of economic activities described in the above section, from a methodological perspective, interviewing business owners along Protea Road was crucial to understanding the economic opportunities and constraints presented by the reality of the settlement. Protea Road represented a “central business district” of sorts.

Protea Road was packed with stands selling a variety of hot meat, including *wors*,\(^{44}\) brisket, pork, and chicken feet, cooked over half-barrels of hot coals. These *shisanyama*\(^ {45}\) stalls were also common along Stock Road on the southern end of Marikana. A non-resident visiting his cousin who ran a meat stand explained that he admired the unity at the settlement, saying that the residents were “real businessmen”, pointing to the various informal businesses along the road as testament to the entrepreneurial endeavour at Marikana.

Some businesses specialising in shack building and materials were located across the road from the meat sellers. Stacks of wooden planks were arranged outside, either for sale individually or together with the services for which the planks were used - the erection of a new shack, or the renovation of an existing one. Often stripped down from a variety of previous forms and uses, they were also used as fuel for the meat sellers’ fires.

Some stores also specialised in electricity connections in the settlement, either through connection to household metres in Lower Crossroads, to the nearby Eskom distribution enclosure, or by throwing wires over the live main wires which ran over the northern part of the settlement, commonly by way of a weighted two-litre soda bottle. These connections, especially the last two, required a great deal of skill and experience, and numerous respondents reported incidents of unpractised residents being electrocuted to death while attempting to connect their own electricity. Children had also lost their lives to the

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\(^{43}\) Traditional healer.

\(^{44}\) Sausage.

\(^{45}\) Hot meat.
live and exposed wires. Electricity was crucial to the households and businesses in Marikana that could afford it but the lack of any municipally supplied electricity meant that residents had to resort to dangerous means of electricity connection, which in turn generated the largely self-taught but highly specialised electricity connection enterprise.

It emerged that the residents who made a living on Protea Road enjoyed relatively more economic stability than informal traders elsewhere in the settlement. Protea Road provided businesses with a locational advantage: the wholesale stores at the intersection of Protea and Stock Roads were nearby; residents there had easy access to the stand pipes and toilets which had been erected along Protea Road; these factors and the comparatively well maintained road surfaces, encouraged for vehicular and pedestrian traffic. The result was a robust and varied informal economy, consisting of relatively stable and successful businesses, whose relative success was illustrated by their being able to diversify their offerings, employ other residents and sometimes even non-residents, and make physical extensions to their business premises.

Resident Khanyiswa Sihoyiya, who lived on Protea Road, was one such business owner who benefited from its locational advantages. Her business exhibited all three characteristics of successful businesses on Protea Road - she diversified her offerings, employed residents and non-residents to assist her in running her business, and extended her home and business premises. She moved to Marikana II section E, on Protea Road with her husband and their 9 and 4-year-old children from New Crossroads in Nyanga where they lived with Khanyiswa’s parents. They heard rumours from a relative living in Lower Crossroads of a new informal settlement quickly developing in Philippi. Upon her arrival in Marikana, Khanyiswa immediately realised that the residents, busy building new homes and starting new lives, were in need of places to purchase household items like bread, milk, sugar and the like. She soon resigned from her job working as a consultant in health and vitamins at M-Chem in Bellville, threw her lot in with the fledgling informal economy at the settlement and started a small business operating out of her family’s newly built one-bedroom shack selling bare essentials.

In time she recognised a further opportunity to diversify the offerings at the *spaza*. Nobody in the settlement had started selling *magwinya* yet. She took the majority of the household’s savings and bought the necessary equipment to start a fully-fledged *magwinya* operation - a gas cooker, a polony slicer and a deep fryer. Khanyiswa’s hunch paid off, and the *magwinya* business boomed - she said it was far more profitable than the *spaza* shop side of her business. Khanyiswa’s home began as a single storey, one-room shack that she extended into a double story shack with a living room and bedrooms upstairs. The business was located downstairs. She employed two women to assist her in running the business in shifts.

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46 A deep fried dough bread and popular South African street food. Also known as vetkoek or “fat cake”.
Khanyiswa acknowledged that her shack’s location with regard to Protea Road, as well as some of the standpipes which had been erected there, were central to the success of the business. Two of the municipal taps were less than ten metres from her front door. This meant there was a regular stream of customers. Further, being able to collect water as necessity demanded, instead of having to fill and carry heavy 20 litre buckets as most other Marikana residents were forced to, played a part in the slow and steady growth of Khanyiswa’s spaza shop from its humble beginnings into one of Protea Road’s more buoyant businesses. Electricity supply on the other hand, was a challenge. Increased demand at night put a strain on the “danger box”, and meant that the supply often cut. When that happened, she had to sell warm “cold” drinks, was often forced to conduct business-by-candlelight, and hoped for the return of her power connection before the items in her fridges, such as fresh milk, expired.

The success of Khanyiswa’s business since she and her family moved to Marikana was visible in the extensions which they had made to their shack, and the pit-latrine they had dug for themselves - a rarity in the settlement. The fact that the family did not make use of the two child support grants for which they qualified is perhaps most illustrative of their relative stability. While Khanyiswa had collected and relied on the grants previously, she did not replace her SASSA grant card after it was lost during the conflict which erupted between residents of Lower Crossroads and Marikana. She said that replacing the card would be a bureaucratic hassle, explaining that she did not have the time to be sent “from pillar to post” in grant offices. Her household also benefitted from her husband’s formal job in the “baking industry” in Paarl.

Bob was another resident who was able to establish a relatively stable business due to the locational advantages afforded by Protea Road. His was the most visually striking shack along Protea Road, situated on the edge of section B of Marikana II. The shack, locally referred to as “Bob’s Place”, was two stories high and made from new sheets of corrugated iron interrupted only by the advertisements which other Marikana businesses had plastered against the outside wall. The business demonstrated the economic vibrancy of Protea Road - it was one of the businesses there doing well enough to offer employment to other residents and had undergone significant extensions. Compared to others, Bob’s shack was large, consisting of five rooms on the ground floor, which would be mirrored on the first floor when the construction was complete. A modest spaza shop was being run from one of the rooms on the ground floor, selling mostly loose cigarettes, potato chips and sweets. Building materials were also available at Bob’s Place, including nails, wood, and sheets of zinc, which were stored in a ground floor room furthest from the street. However, Bob’s shop had humble beginnings.

Bob began selling sweets from a crate during the early days of the Marikana settlement. He later purchased the one-room shack on Protea Road when a conflict erupted between the residents of the settlement and Lower Crossroads, and the owner fled for fear of violence. By all accounts many residents made similar choices. Bob bought
her shack for R3000 in front of a collection of people living nearby as witnesses so that, in the event the woman returned later and to claim back her property from Bob, they could attest to the fact that he had purchased it fairly. At the time of research Bob employed Themba Fakude, a young man from section A in Marikana II. Themba had grand visions for the shop. He planned to propose to the owner of the business to turn the first floor into a gym for the residents of Marikana.

Another business, Loxion Internet Café demonstrated the relative economic security of an electricity connection coupled with Protea Road’s locational advantage. Its owner Simon managed to take his business from humble beginnings into a diversified and sustainable business responding to a need in the settlement, as a result of these two key features. His relative economic stability led to him having ambitions to extend his shack to promote more business.

Simon Grootboom owned the only internet cafe in Marikana, which was situated on a busy corner of Protea Road. Although Simon had lived in section C of Marikana II since he arrived at the settlement in 2014, some distance away from Protea Road he always felt that it was important for his business to be located as near as possible to Protea Road. He had negotiated with a resident to build a shack on his property on Protea Road for his business, and in return established an electricity connection to the “danger” box located in the north of the settlement for him and his new neighbour and paid for the maintenance costs of the connection. His business began as a barbershop but slowly he
saved money and bought the required equipment to run what then became Loxion Internet Café. In due course he added a printer, copier, modem and laptop. His business served school children who would do their homework and assignments in his shop and young adults looking to type out, edit or make photocopies of CVs and other documents needed for job applications. He estimated that he was spending about R800 every month on data. He also offered customers assistance in setting up various personal mobile facilities, such as Google or Samsung accounts.

He was planning an extension to the shack as the business was quickly outgrowing its capacities. However, an extension would require another, more complicated negotiation with his neighbour. Because his business was flanked on three sides by concrete toilets, Protea Road and another shack, an extension would only be possible if it interfered with the current entrance to his neighbour’s yard. Open sites on Protea Road were at a premium. Simon had tried to secure another space along the economic hub in order to build a bigger shack for his business, but negotiations fell through when the resident whose space Simon would be infringing on needed to give it to his sister instead.

Simon’s story also highlights social networking as a feature of relative economic stability, where negotiation (to access a site along Protea Road, for instance) and reciprocity (for example, securing and maintaining an electricity connection for a neighbour who made space available) were ingredients for sustaining an economic concern. The support of neighbours was raised as important throughout the research and was usually one side of a reciprocal relationship.

These features were unique to Protea Road and were not experienced by the majority of Marikana’s traders, who had to walk further to reach the wholesale stores, often lived further from the nearest standpipe and toilet, had no vehicular access to the homes, and navigated a labyrinth of narrow, sandy and rocky pathways before they reached a surfaced road. Economic life in Marikana was heterogeneous; the desperately poor co-existed with households experiencing relative economic stability. The vast majority of Marikana residents lived in desperate poverty relying heavily on social grants and adopting mitigation strategies such as forming stokvels and negotiating remittances from friends and family both inside and outside of Marikana. These will be discussed in a later section.

**SPAZA SHOPS**

*Spaza* shops (tuck shops) made a significant contribution to the economy of Marikana. Typically, *spaza* shops operated from residents’ homes, with more stable businesses extending their shacks to include a space solely dedicated to economic activities. Varying in size, smaller *spaza* shops sold items such as bread, fruit, vegetables, sweets and snacks, loose cigarettes and airtime. Larger shops sold an assortment of products ranging from small grocery items like tinned foods, chicken pieces, milk, sugar and oil; small household items like toiletries; and miscellaneous items like DSTV vouchers and prepaid electricity. Due to the immense size of the settlement, it was impossible to estimate the
number of *spaza* shops and economic activity in the settlement.

The insights shared in this section of the report come from interviews with:

**Mpumelelo Msuthwana**  a young man who started his shop in February 2016;

**Olwethu Qunta**  a 24-year-old man living in section B of Marikana II;

**Buhle Ngcukana**  a 53-year-old woman living in Marikana I;

**Martha Ngalwana**  an elderly woman who ran a shebeen in section B of Marikana II;

**Elizabeth Mehlo**  a woman who ran a *spaza* shop in the heart of section B.

The discussions with these *spaza* shop owners explored themes related to running a *spaza* shop in Marikana, namely starting a business, business operations and challenges.

**Starting a *spaza* shop**

A substantial amount of money was needed to start a *spaza* shop. Residents desiring to start a businesses needed access to financial capital to mitigate the precarity and instability that characterised the economic lives of many of their fellow residents. For the respondents, financial savings played an important role in establishing a running a business:

**Mpumelelo Msuthwana** worked as a security guard before starting his business and saved money from the time he moved to Marikana in August 2013 until February 2016 in order to open his *spaza* shop.

Establishing a *spaza* shop was an expensive venture, with the initial stock and later both the materials and stock required for shack extension. His *spaza* was located in the interior of the settlement, and as a result could not rely on the high pedestrian traffic of the busier economic nodes of Protea and Sheffield roads. Initially, his business was slow to start, and it took time before word of mouth helped to establish a regular customer base from the households living in the vicinity.

**Buhle Ngcukana**, a 53-year-old woman living in Marikana I, had been running a business for the previous three years selling fruit and vegetables. Her business began on a small rickety table under the shade of an umbrella on the pavement of Sheffield Road after she arrived in Cape Town from Durban in search of a better income. For six months she sold from underneath the umbrella while she was renting a backyard room from a cousin in Mandalay. Once she had saved enough money, she asked permission from a woman living in a shack near to the road if she could build her own next door, and, after buying corrugated iron sheets for R100 per sheet and paying some men R400 for their labour, Buhle erected the two room structure which became her home on the edge of busy Sheffield Road.

**Martha Ngalwana**, an elderly woman who ran a *shebeen* in section B of Marikana II opened her *shebeen* in 2015. In addition to alcohol she was selling loose cigarettes, soft drinks, meat, sausages, crisps, airtime, candles and paraffin. The business had humble beginnings though: Martha saved money by selling loose cigarettes. She used her savings to expand and sell other goods. She said that she grew her business incrementally as more profits came in.
For Olwethu Qunta, a decade long experience working in relatives’ businesses, the support from his brother when he was down on his luck and his ability to save, gave him the human, financial and social capital he needed to mitigate the kinds of precarity many residents experienced.

Olwethu was a 24-year-old man living in section B of Marikana II with his wife and infant daughter. He first came to the settlement in 2013 after he could no longer afford the cost of rent at his brother’s house in Crossroads. He had lived there intermittently since arriving in Cape Town from his home town of Sterkspruit in the Eastern Cape in 2002 and had worked at his brother’s shebeen. In 2007 he moved to his uncle’s home in nearby Lower Crossroads. His uncle also ran a shebeen, and Olwethu quickly transferred the knowledge he had acquired in Crossroads to working there. In the eleven years Olwethu spent working at shebeens between Crossroads and Lower Crossroads, he managed to save enough money to start his own business. He did so almost immediately after building his new home at the Marikana informal settlement. Three days after setting up his business however, officials from the Anti-Land Invasion Unit, tore down the structure and confiscated all of Olwethu’s stock, after they had assured him that they would not harass him. Olwethu was arrested for resisting the demolition. He returned to his brother’s home in Crossroads after he was released. Olwethu returned to the settlement a week later and used the last of his remaining savings to rebuild his home and his business, calling it Sondela Spaza Shop. The new shack cost him R5,500, and replenishing his stock set him back a further R4,000.

**Operations**

Operations for business owners in Marikana largely revolved around the replenishing of stock, which occurred on a daily basis for most businesses. Many bought their stock from the nearby Goal and Jumbo wholesale stores. Replenishing stock could be a cumbersome activity, particularly for someone elderly like Martha. Martha had to wait for her granddaughter to return from school and left the shebeen in her care. She would then go to Jumbo with a neighbour to assist her, she usually thanked him with a cigarette or beer when they returned. Depending on how good business was, Martha could do the trip up to three times a day. Elizabeth also left her shop in her brother’s care when she went to restock. Others like Mpumelelo paid friends to do the restocking. He paid his neighbour, Thandile Magaqa, R20 every day to go Goal wholesalers, where he bought the stock.

A major challenge for shops in the interior of the settlement was navigating through the narrow pathways carrying heavy boxes, especially on days when owners did substantial restocking. Thandile and Elizabeth used large plastic wheeled bins to address that challenge. Elizabeth stated that she sometimes spent up to R1,700 per trip when she did substantial restocking. On days when her brothers could not help to transport the goods, she paid a taxi driver R70 to help her to transport the goods close to her shop.
Challenges and opportunities

For all spaza shop owners, in addition to better road access to make transporting goods easier, access to reliable electricity connections was another significant challenge. Although Mpumelelo’s spaza was fairly well established and provided him a fairly stable income, enabling him to save enough money to start a second business, often his store was run in darkness after sunset and his drinks were sold warm. Lack of access to electricity and water also presented major challenges to Olwethu’s business. He paid R400 for the wiring he needed to establish a connection in Lower Crossroads (two 100m long pieces at R200 each) and paid R400 every month for the use of that connection. He used this electricity primarily to power the fridges which his business relied on to keep drinks and chicken meat cold. He needed to fetch water twice every day from the comparatively nearby road reserve. He was forced to close his business during these trips for security reasons, losing out on possible income twice every day.

Similarly, Buhle’s spent a significant proportion of her revenue on electricity. A connection in Lower Crossroads, for instance, cost her R200 per month, an amount she could hardly afford. Further, what electricity she did obtain could not withstand heavy use- she could not run a refrigerator on it, which, in the heat of a shack and in the dust of the surrounding area, resulted in a great deal of spoiled stock. The electricity was also unreliable, occasionally forcing Buhle to close her store early due to having no lights. Another challenge she faced was the destruction of her stock by rats, for which she had not found a permanent solution. She said that cats were not big enough to be effective against the rats in Marikana. As businesses grew, some spaza shop owners, like Elizabeth, had opportunities to diversify their offerings. Elizabeth, who sold a variety of goods ranging from cigarettes to tinned food (available on credit), diversified her income since establishing her business to include money-lending, which she said made her more money than the spaza shop.

5.4 SOCIAL GRANTS AND REMITTANCES

The above description and analysis of economic life outside and within Marikana informal settlement reflect the experience of a minority of Marikana residents, due to the decision to adopt a focus on Protea Road, in the face of a settlement too vast to characterise in any representative detail. With high unemployment rates in the settlement, many households relied almost entirely on the assistance of the state, in the form of social grants, or income and assistance distributed through a range of social ties between residents and their family, neighbours, friends or partners both inside and outside of Marikana. These informal means of social assistance come in varying forms, from direct cash payments to the sharing of a shack in order to give residents a place to stay.

The prevalence of social grants in the lives of these residents reflects national trends in the income of the poorest parts of South Africa’s population since 1994. The elaboration of a vast system of
non-contributory social benefits now transfers 3.4% of GDP every year directly to 44% of South African households.47 For the poorest 10% of South African households, social grants now make up 85% of household income,48 up from 73% in 2008 and 15% in 1993.49 The state’s role in Marikana residents’ economic lives cannot be understated. Social grants remain a fundamental buffer between households and desperate poverty.

Thirty-four year old Mandla Mahlangu’s story illustrates the importance of state grants to many informal settlement households. Mandla, as mentioned in an earlier section, had been in a wheelchair from a shooting incident in 2015. Not being a South African citizen, permanent resident or a person with refugee status he did not qualify for social assistance. Further because he had lost contact with his family, most of whom lived in Mpumalanga, he did not have access to remittances. He depended on his girlfriend, who was unemployed but received a disability grant of R1,510 for tuberculosis.50 The two survived solely off of this grant, which Mandla said they used almost exclusively for food.

5.5 DISCUSSION

The settlement benefited from the fairly well established public transport infrastructure servicing broader Philippi, which includes the Stock Road Taxi Rank and Joe Gcwabi Metrorail station, which are 1km walk away, as well the bus-rapid-transit infrastructure which was under construction during the course of this research. All of these enhanced the accessibility of Cape Town’s centrally located formal economic opportunities. For many residents, this local public transport infrastructure meant that the Marikana informal settlement represented a foothold into the broader economic opportunities of the city.

Despite being comparatively poorly located in Cape Town’s broader economic geography, the Marikana informal settlement developed at a pace and scale that gave rise to a considerable consumer base. Giant wholesale stores cottoned on to this fact. Marikana’s access to public transport infrastructure, the existence of wholesalers, coupled with its immense scale, also led to the development of a robust informal economy in and around the settlement itself. Many residents leveraged the opportunities presented by this informal economy. One of the clearest indicators of the robust and

50 At the time of research the maximum value of the Disability Grant was R1,510 per month. See South African Social Security Agency (SASSA), You and your grants 2016/17, South African Social Security Agency (2016).
developed nature of the settlement’s informal economy was the finding that Marikana was a place of employment, not only of consumption and production. Another is that consumers in Marikana’s informal economy were not only residents as the local businesses were a feature of the broader Philippi economy.

Marikana’s internal informal economy was relatively stable but only some residents were able to leverage that relative success and stability. It was along Protea Road that the factors which allowed for sustainable incomes in the settlement’s economy were most readily observable. A robust and varied informal economy characterised activities there, which developed on the back of four crucial features: favourable location to wholesale stores at the intersection of Protea and Stock roads; easy access to the stand pipes and toilets which had been erected along Protea Road; easy vehicular and pedestrian access to the settlement on Protea Road; and comparatively well-maintained road surfaces which further encouraged pedestrian traffic along Protea Road. Three characteristics emerged as illustrative of the economic stability and sustainability of businesses on Protea Road: diversification the offering, employment of people beyond self and family and extensions to the premises.

With respect to economic activities found in the interior of the settlement, the research isolated several features from the analyses of spaza shops, that enabled people to manage or overcome this precarity: financial capital, mainly savings, and social capital, in terms of existing kinship networks outside of the settlement, or networks of support which residents were able to establish in the settlement. On the other hand, lack of access to electricity and water presented major challenges. For people living and running a business in the interior of the settlement, lack of vehicular access was a problem in economic terms as well as for reasons of safety and security and emergencies.

However it must be stressed that successful businesses, on Protea Road and elsewhere in the settlement, were the exception and not the norm.

Limited success was directly correlated to residents’ generally limited access to basic services and pedestrian footfall. While Marikana is too large to develop an overview of economic life, it can broadly be characterised as precarious and unstable to a lesser or greater extent for the people that live and work there. Some people experienced relative economic stability with measures of success and gain. For others, loss and ruin are more appropriate characterisations. The contrast between households living in desperate poverty, and those who managed to establish a degree of economic stability was stark.

The prevalence of social grants in the lives of Marikana residents reflects national trends in the income of the poorest parts of South Africa’s population since 1994. The state’s role in Marikana residents’ economic lives therefore cannot be understated. The direct cash transfers from the state in the form of social grants remain a fundamental buffer between households and desperate poverty.
6 POLITICAL SPACE

6.1 INTRODUCTION

“Political space” in this research refers to the multitude of ways in which people seek to advance their rights. Litigation is one of these. The theme aims to identify others and discusses the extent to which they, and litigation, expand or constrict political space. What are these spaces? How can they be characterised? How is politics articulated internally between residents and community leadership structures, and external to the settlement between residents, private property owners, the municipality and the courts? Using a “bottom-up” lens, derived directly from the voices of residents, the research aims to discern, to the extent possible, layers of power and contestation that inform the complex terrain which residents of informal settlement residents navigate in the private and public spheres.

In the context of informal settlements, engaging with the state is an important way in which residents and their representatives attempt to carve out political space. Participation in local government decision-making around access to

51 Julian Brown, Associate Professor in Political Studies at the University of the Witwatersrand, provided an invaluable sounding board as the conceptual framework for the political space theme in this project developed, for which the researchers are grateful.
basic services is a core principle of the numerous policies and laws which provide for formal channels of participation. However, the systemic exclusion of communities from formal means of participation often means that engagement with the state happens outside of official participatory channels. These voices are often ignored, leading to frustration and increased “service delivery” protests. Given this context, the research is particularly concerned with “community participation”. What does the evidence reveal about whether or not it occurs, the nitty-gritty of its mechanics, and perceptions about its impact?

In documenting the strategies that residents of informal settlements use to expand political space, the section develops a portrait of how local politics was articulated in Marikana. It provides a view from “below”, focusing less on the arena of formal politics and more on its local expressions and enactments, although interactions between formal and local politics are evident.

In Marikana the research identified three spaces in which politics was being articulated. The first was the local, settlement space where residents used both “invited” 52 channels, such as ward participation, and “invented” 53 spaces, like protest. Another way in which politics was expressed in the settlement lay in the organising structures and systems of the different local committees. Secondly, a sub-regional or area-wide official space also existed through the Business District or Ward Development Forum where informal settlements in the area were convened by the local councillor, also suggesting the “invited” space characterisation. Thirdly, the courts were a juridical space in which the Marikana residents argued in defence of their housing rights where the questions of “home” and land expropriation came to the fore. This report characterises another kind of engagement as well, more metaphoric and non-physical in nature, as being the site of struggle for belonging which underpinned the struggle for land in Marikana in ways that were clearly articulated by respondents when they described their experiences.

This chapter begins with the how the politics of belonging was expressed, because it was central to how people saw their struggle, and then narrates a more detailed account of the three political spaces: the local settlement spaces via the findings on local organisation, ward participation and the use of protest; engagement with ward politics in the sub-regional “space”; and then the juridical space which was activated with litigation in terms of section 26 of the Constitution and the progressive realisation of the right to housing. It ends with a discussion about the findings, considering how the local, sub-regional and juridical spaces, together with the struggle for belonging, worked and interacted.

53 Ibid.
6.2 FINDINGS

LAND OCCUPATION AND THE POLITICS OF BELONGING

When people described their struggle for land in Marikana they employed the language of identity and belonging. Many research respondents employed the term “community” often and intentionally. The term denoted identity and action: people asserted a sense of belonging to Marikana but it was an identity for which they had to struggle collectively. Social relationships were integral to their contested claims to land and a shared sense of “community” was, in turn, essential to making those claims. “Community” was a vision and a goal which residents used, not to impose homogeneity on themselves, but to define themselves as a collective in defence of their land occupation and their claim to stay. Relationships with other people, and being part of a community, were central in how the respondents secured their homes.

For Lindelwa Mbethe, a Marikana I committee member, the legitimising role of community was integral to her definition of home. “I call this my home through the eyes of the community. Even if I have one chair and I’m sleeping on the floor, if I am under a roof [then] that’s my home.”

Luthando Mjongeni said that, “a community member is someone I trust as my neighbour, and under their watch”. In this instance, Luthando was referring to a literal neighbour with whom he shared a degree of intimacy and trust based on their physical proximity and shared circumstances.

However, a lack of proximity to and familiarity with neighbours was also acceptable in how Marikana residents understood community. For Lindelwa, “a community member is someone who has a place here, and sleeps here, even if not regularly. If a community member passes away, their funeral service will take place here”. Distant and weak relationships did not disqualify one resident from being counted as a community member by another as shared identity was derived from belonging to Marikana.

Shared circumstances and similar experiences underpinned “membership” or the status of “neighbour”. A resident, who preferred not to be named, explained that, “if you are talking about Marikana, you are talking about us. We suffered together, we are part of this community. We all don’t have access to electricity, we organised to connect wires from a “danger box”- not just for me, for all of us - that we continue to share from”.

A shared response to forced eviction was a component of establishing the shared sense of “community”. “Our enemies are the people that tell us this is not our land”, said Luthando, referencing their land struggle. Residents identified a wide range of stakeholders who threatened to deprive them of their land including the private property owners, the City of Cape Town, law enforcement and the Anti-Land Invasion Unit.

From as early as 2013, Marikana occupants recognised their power in numbers through collective resistance against being forcibly removed. For example, Aviwe Gege, resident and Marikana I
committee member, characterised the 2013 forced removals as others staking a claim to their land. Lindelwa explained that one of the main strategies to resist eviction in 2013 was for occupiers to physically assemble in one place, “because we knew it would be impossible to remove all of us that way”. When occupiers were arrested and jailed, their bail was raised by remaining residents that could afford to contribute.

The land struggle was also a claim to recognition. One resident explained that Marikana was “an island” and that the contestation with the state over eviction was about who was seen as legitimate in Cape Town. By employing the language of identity and belonging, he referenced the idea of citizenship.

However, despite the common ground between “community members”, this shared identity could fray and fracture. Standing together, avoiding conflict, speaking with one voice all posed significant challenges. The next section addresses these dynamics in more detail.

LOCAL ORGANISATION AND THE POLITICS OF PLACE

The first of the local, settlement level, spaces in which politics was expressed in Marikana was the institutionalised committee structures and how they expressed a politics of place.

An unaffiliated leadership committee existed among the occupiers of Fischer’s property, Marikana I. The committee had been established during the early evictions and demolitions. Although it was still active at the time of the research, the committee’s mobilisation diminished in the wake of the High Court ruling.

Later, the new surge of occupiers, especially in what was to become Marikana II and Rolihlahla, organised more formally into rival ANC factions. Some groups affiliated with the ANC-aligned Ses’khona social movement and others associated with another SANCO-aligned ANC faction which backed the local councillor.

Marikana is located on several different properties. Smaller sub-sections were demarcated and named to differentiate them: Marikana I, Marikana II and Rolihlahla. A different leadership committee operated in each section. Aviwe explained that, “new leaders came from new areas”. The distinctions seemed both temporal and spatial: they bore a relationship to when occupation occurred as well as to registered ownership of the underlying land. For example, Marikana I, located on the Fischer property, was occupied first.

Another distinction lay in the way that the three leadership committees were structured. For example, Marikana I and Rolihlahla primarily operated through their executive committee structures, while Marikana II had block committees in addition to its executive committee, probably due to its size. Each block committee organised a section in Marikana II from A through to F. (See Figure 6).

Although the three leadership structures were aware of each other, it appeared that, for the most part, they maintained separate identities. For example, the different leadership structures did not call joint public meetings and each committee had
its own constitution. An exception appeared to be their participation in the Ward Development Forum (see below).

The research suggested that a single, shared understanding of the history or value of these separate local formations did not exist. They were based on the underlying ownership of the property, rather than the manner and time in which the occupations had occurred. Some respondents appeared not to be concerned about the absence of a unifying, “greater” Marikana structure but others worried about the division. While the distinctions were initially imposed by the response to private owners who sought to evict occupiers from their formally surveyed properties, in separate eviction matters, it also had the knock-on effect of fostering division. “If we are all living on the same piece of land, why are we not called the same name?” asked the Chairperson of Marikana I at the time of research, Malibongwe Cawe.

A distinct range of attitudes and approaches to strategies and tactics were evident: respondents reported that the Marikana I and Rolihlahla executive committees were unwilling to work with the
Marikana II structure because they disagreed about the use of violence in protest, which they saw this structure as condoning. Another example of how approaches to tactics differed concerned efforts to engage the ward councillor. When the attempt to engage with their formal democratic representative failed to begin with, before the 2016 municipal elections, it fomented tension between the different structures. After local government elections, this tension continued amidst scepticism about the new ward councillor’s apparent willingness to engage.

Many residents across Marikana I and II indicated that their leadership committees in the three areas “need to be more together”. Disunity and attempts to lead in isolation tended to trigger a sense of apathy amongst residents who identified with the area as a whole. Residents raised an additional concern that very little change would come about without recognising that “unity is power”.

Although the distinct leadership committees in Marikana exhibited differences that went beyond their names, significant similarities were also apparent. Chief amongst these was the need to stabilise the settlement in a time of forced and violent eviction. The three committees also shared a mandate from their constituencies to secure the land with access to permanent services. The standard procedures for elections were another similarity. Leadership respondents explained the process thus: prospective representatives were nominated in mass meetings then leaders accepted their nominations and positions, agreed to roles and responsibilities upheld in their constitutions (either agreed verbally or in writing), accepted responsibility for convening regular public meetings, and committed to initiating strategic alliances with external stakeholders.

The balance between distinction and unity was also influenced by two external platforms. First, the litigation process duly led to what people described as “a single case” of people on the same land, heard by “one judge”, blurring the differences between the different settlement sections. Second, all three sections were located in the same municipal ward and engagement in ward political processes tended to confer a single identity onto Marikana.

PROTEST ACTION

“Land is politics when you say there are those who own the land now, and those who do not have any control of the land. The reason for black people to organise in a way that is rebellious is influenced by the fact that they were dispossessed by white people that came here and took the land.”

“Protest is a tool to bring about change. It is not a good tool because there’s a risk involved. Even if you are shot by a rubber bullet. When the shot takes place, when you hear that noise it affects your emotions. Remember, there are those who are brave, who can go forward with gunshots taking place, and there are those that are scared. But everybody needs services.”

Respondents described protest, another local site of politics in the Marikana case, in multiple ways including resistance, advocacy, dignity and pain. For some it constituted collective resistance against being evicted from the land, while for others it was
a way of advocating for the provision of basic services. Pride and dignity were also evident in the way that people defined protest action and for Andrew Mavovana, Marikana resident, pride and pain worked together through protest, “when we sing, we sing about the pain we share”.

Protest was also seen in inter-generational terms, as a way of making claims to land for the future. In the eyes of one resident, his participation in protest was a way of rooting his familial ties to the land. “I don’t fight for myself, I also fight for my children, that’s why I’m here, they will benefit and I will say, I did stand up for you, my child, you’ve got a place to live”.

When speaking about protest respondents referenced both structural and specific factors. The particular experiences that Marikana residents shared was their common position as “internal migrants” who had moved from rural provinces to Cape Town in search of better work opportunities. They also shared their inability to afford to continue paying rent in surrounding areas. They identified more structural and historical conditions underpinning their protest action, referencing their experiences as black people “inheriting” land dispossession from colonialism and apartheid.

The performative aspect of protest was integral to how people saw its influence. Paul Gcume, resident and Ward Committee member, explained that singing was a way to draw outsiders and their attention in. “So that people come and take pictures and journalists send a message that we will continue for as long as Marikana’s requests for services are not replied to”.

Photo: Tiffany Ebrahim
Protest took a variety of shapes and forms in Marikana. Marikana is located between two major roads, the N2 and the R300. The national road is an entry and exit point for trucks transporting goods in and out of Cape Town. In 2013 Marikana residents stood together as a community of protesters blocking the N2 and R300, singing and burning tyres to draw the government’s attention to their need for housing and access to basic services. Paul shared the instance of the 2015 blockade of two highways as an example of non-violent, disruptive protest that Marikana residents adopted. “We are not blocking [the roads] because we don’t want our shops to get services, we are blocking them in order for the people [using] the road to panic, then this Western Cape government must consider our crisis”.

Another protest took place when people were organised to assemble, march and sing outside the Cape High Court in 2017 during the Marikana eviction case court hearing. Throughout the protest outside the High Court in Cape Town, Ntando Poswa, former resident of Marikana and land activist, carried a placard which read “Private Property: Trespassers will be prosecuted”, on the reverse of which he had inscribed “#Private Property must fall”. Brandishing the alternative hand-written message was his way of showing how the Marikana residents had occupied private property to meet their housing needs themselves. Symbolically, the board referenced the essence of the case: the clash between the rights of private property owners and the rights of occupiers.
Further, a number of marches in demand of basic services were organised by Marikana occupiers under the banner of Ses’khona. The media disparagingly labelled the occupiers “poo protesters” after they dumped the contents of their bucket toilets in front of government buildings during these actions. While respondents reflected that the so-called poo-protests raised their profile in the media, they also reported that it did little to change their circumstances on the ground.

FORMAL POLITICS, THE WARD SYSTEM AND PARTICIPATION IN AREA-WIDE POLITICS

Marikana residents were often active in the municipal political space as they attempted to claim recognition and assert their legitimacy. They tried to leverage stakeholders external to the settlement to provide improved access to basic services and tenure security. From 2013, they engaged their ward councillor, the City of Cape Town, Parliament and the legislature in writing, through marches and protests in Philippi East and Cape Town’s Central Business District. Former committee member Cebisa Gxekwa explained that their multiple efforts were an attempt to communicate with government at all levels about their challenging living circumstances.

In one of their letters submitted to the Mayor in May 2015, Marikana representatives explained that since occupation in 2014 they had been trying to formally approach the City on numerous occasions and noted their profound disappointment in the City for its disregard of over 32 000 people at the time living “in dehumanising conditions” characterised by “no electricity, no water, no toilets and no road access within the settlement”.

Gaining recognition from the state, in these multiple forms, as a “legitimate informal settlement” was an ongoing struggle for Marikana. The tension was especially acute with the local ward councillor at the time of the occupations, who labelled Marikana residents as “land invaders”, and as a result ignored residents’ requests for meetings to discuss the settlement’s lack of access to basic services, sanitation and electricity. Linked to this, their occupation of “private land” was repeatedly used as an “excuse” by the previous ward councillor and the City not to install temporary services in Marikana, according to respondents. Paul explained that the previous ward councillor’s lack of recognition of Marikana as part of ward 35 aggravated residents and contributed to deepening internal divisions amongst leaders within the settlement. He went on to say that when Marikana was denied access to the ward system it escalated tensions amongst leaders, and individuals began to establish themselves as “new leaders in new areas”.

Some residents were cautious about Marikana committee members relying too heavily on the ward system because they worried that party politics would derail the settlement’s struggle for access to services. For the ward system to assist Marikana, Lwazi Majiyazi, secretary of the Marikana II committee at the time of research, argued that a distinction needed to be made between “political agendas” and “developmental agendas” for Marikana. “When you are a political deployee”, he explained, “you serve the interests
of that particular political party and you need to report to them”. Referring to a cycle that informal settlements generally go through around election time Paul said, “They go house to house to recruit people, and come with all these promises. At the end of the vote the situation remains the same, if we didn’t have basic services before elections, they won’t have access to basic services after elections”. Despite the risk of being politically derailed, the majority of informal settlement residents continued to participate in elections and with ward systems more generally, according to Akhona Budaza, 39 year old Marikana II committee member, because “whether you’ve got a red, blue, or yellow t-shirt you have the same needs”.

The Ward Development Forum, also referred to as the Philippi Business District, was explained as being a mini structure within the South African National Civic Organisation (SANCO). Another institutional site of politics, it represents a sub-regional or area wide political space.

The forum had a mandate to authorise and monitor developmental projects in the Philippi area, with the goal to formulate constructive working relationships with the business sector and the broader community to advance economic and social development. Its membership was made up of street committees, and each street committee consisted of representatives from informal settlements throughout ward 35. Informal settlements included Thabo Mbeki, Barcelona, Mangaung, Marikana and others.

According to respondents, Marikana benefited from its Business District membership because the platform met on a monthly basis to discuss business and development plans as well as challenges that may hamper business operations and the community. “Marikana development must go through us and come from our hands, because it is us that stays here”, said Paul.

An example of the Business District/Development Forum trying to influence and improve service delivery in the area was the written engagement with the City’s sub-council in January 2017. Their email correspondence to the sub-council prioritises the issue of waste collection, stating that “we all agreed that the area is filthy and there is no waste collection around the industrial area, this includes the area of Marikana informal settlement which heavily contributes to the dumping of rubbish in the surrounding [area]”. The Business District Forum suggested that the sub-council manager arrange a meeting between them and the relevant people responsible for cleaning and waste collection in Philippi. The ward councillor explicitly requested that the Forum become a stakeholder in improving waste collection services. “Our appeal to the sub council is that the service delivery meaning waste collection and cleansing must include the Business District of Philippi East”, Chita wrote.

In addition to the employment opportunities that came with Marikana’s participation, the Ward Development Forum also played a uniting role for Marikana’s committee structures. Councillor Chita considered his office to be common ground for all informal settlement committees in the ward because the Ward Development Forum operated from his office. “The one place is here, this office – if you
want to compile committees and reports you come here”, he explained. The forum authorised the ward councillor to call all committees to work together. Paul saw great potential in the Ward Development Forum bringing Marikana I, Marikana II and Rohlalahla closer as a single unit for the settlement as a whole. “It’s difficult to change names, but there’s a word called “section”. We can call the areas sections of Marikana [because] the authority will come from being under an umbrella of a ward since we are all working with the ward councillor”. One of Paul’s goals working through the Ward Development Forum was to regulate contracted employment opportunities for all Marikana residents. At the time, the separate committee structures went about allocating employment opportunities within their sections at their discretion. Paul hoped that the Ward Development Forum could implement a standard six-month rotation policy that would ensure local employment opportunities were evenly spread throughout the settlement, employing as many residents as possible.

LITIGATION IN TERMS OF SECTION 26 OF THE CONSTITUTION

The January 2014 demolitions activated a juridical process in Marikana, when the Legal Resources Centre (LRC) intervened on behalf of the occupiers, using the possibility of a spoliation order to deter the City from further unlawful evictions. The City, in turn, applied for and was granted an interim interdict against further occupation of the property. The residents opposed the finalisation of this interdict and brought a counter-application to reverse their unlawful eviction. The Western Cape High Court ruled in March 2014 that the City had failed to comply with its obligations under the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE Act) and that the demolition of the informal structures had been unconstitutional and unlawful. The Court rejected the City’s defence that its conduct had been lawful because unoccupied structures did not constitute a home and were beyond the protections of the PIE Act as a result (see discussion for more detail about how the case law has developed the meaning of what constitutes a home). This flurry of litigation moved part of the politics of the Marikana informal settlement away from its home on the ground, and into the juridical spaces of Cape Town’s High Court.

In April 2014 Mrs Fischer and the City appealed this decision to the Supreme Court of Appeal (SCA), where Abahlali baseMjondolo, represented by SERI as amicus curiae, with a particular focus on the question of what constitutes a home. The SCA found that the City’s denial that it had evicted anyone from a home was sufficient to create a dispute of fact and referred the matter back to the High Court.

Then in July 2014, Mrs Fischer instituted eviction proceedings in the High Court in terms of the PIE Act against the occupiers on her property. The owners of the other properties, including Coppermoon and

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54 A shack dwellers movement based in Durban struggling against evictions and for more equitable access to urban land and development.
Manfred Stock, Power Properties and Eirinprop, also applied for the eviction of the occupiers from their properties. These applications were all joined together. At this point the case changed from being one concerned with interdicts to an eviction matter. SERI represented the Fischer occupiers on Marikana I in this new application, 67 households and 223 individuals at the time.

The eviction applications were eventually heard in the Western Cape High Court between 8 and 15 February 2017. By then, the majority of the residents of the Marikana informal settlement were represented in court by SERI. Before the court, the residents argued that the state purchase or expropriation of the Marikana land were the only reasonable options that could be pursued in order to avoid making the Marikana residents homeless again. The residents’ arguments were based on Section 9(3) of the Housing Act 107 of 1997, which provides a legislative framework within which the state can purchase or expropriate land for the purposes of developing state subsidised housing. For the residents, the City’s failure to initiate the process required by Section 9(3) was unreasonable and unconstitutional given their risk of homelessness.

In its judgment, handed down on 30 August 2017, the Western Cape High Court dismissed the application to evict what was by then was estimated to be 60,000 people living in the settlement and ordered the City to enter into negotiations with the property owners about purchasing their land. (Chapter 3 describes the growth of the settlement in detail). If negotiations were to fail, the Court ordered the City to expropriate the land or provide reasons why it was unable to do so.

The Court’s order was based on the finding that the City had infringed on the constitutional property rights of the property owners of the Marikana land, and had also breached the housing rights of

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55 Section 9(3)(a) of the Housing Act reads: “A municipality may by notice in the Provincial Gazette expropriate any land required by it for the purposes of housing development in terms of any national housing programme, if—
(i) it is unable to purchase the land on reasonable terms through negotiation with the owner thereof,
(ii) it has obtained the permission of the MEC to expropriate such land before the notice of expropriation is published in the Provincial Gazette; and
(iii) such notice of expropriation is published within six months of the date on which the permission of the MEC was granted.”

56 For more information on the case and all the court papers, see Fischer v Unlawful Occupiers, Erf 150, Philippi, 2018 (2) SA 228 (WCC) 99 (Fischer eviction application) (30 August 2017).

57 See Fischer v Unlawful Occupiers, Erf 150, Philippi and Others, Western Cape High Court, Case No. 9443/2014 (30 August 2017) (‘Fischer eviction application’); Stock and Others v Persons Unlawfully Occupying Erven 145, 152, 156, 418, 3107, Philippi and Portion 0 Farm 597, Cape Rd and Others, Western Cape High Court, Case No. 11705/2015 (30 August 2017) (Stock); Copper Moon Trading 203 (Pty) Ltd v Unlawful Occupiers, Remainder of Erf 149 Western Cape High Court, Case No. 14422/14 (30 August 2017) (Copper Moon) (Fischer), paras. 200, 209 and 217.

58 See Fischer, paras. 197, 205 and 213.

59 See Fischer, paras. 199, 206 and 214.

60 Fischer, paras. 196, 203 and 211.
the Marikana residents by its unreasonable failure to do anything to secure the tenure of the Marikana residents.\textsuperscript{61} For this reason, the Court directed the City to initiate the process provided for in terms of Section 9(3) of the Housing Act\textsuperscript{62}, by entering into good faith negotiations to purchase the Marikana land, and expropriating the land in the event that purchase negotiations failed.

The land owners subsequently stalled negotiations by attempting to take the matter to the Constitutional Court asking that the state pay far more for the property than the Western Cape High Court judgment would allow. In particular, the landowners wanted the City to ignore the land occupation when valuing the land and required a declaration that the City did not do enough to protect their property.

The Constitutional Court denied the land owners’ bid to have the matter heard directly, and the matter was to be heard back at the Western Cape High Court in motion proceedings, although a date had not yet been set for the hearing at the time of writing this report.

On Human Rights Day, 21 March 2018, residents of Marikana joined residents from Khayelitsha, Gugulethu, Kraaifontein, Masiphumelele, and Manenberg informal settlements in a march to the Civic Centre in Cape Town. Organised by the Social Justice Coalition, protesters handed over a memorandum to City officials with various demands including that the City fast track expropriation or purchase the Marikana land as ordered by the Court.

\textbf{6.3 DISCUSSION}

This chapter showed that residents in Marikana carved out political space in different sites: locally at settlement level, in a sub-regional or area-wide official space, a juridical space and another metaphoric site of struggle for belonging. The politics of belonging was central to how people saw their struggle for land and services. The chapter showed that the institutionalised committee structures expressed a politics of place. Protest had multiple political meanings for residents including resistance, advocacy, dignity and pain. Representatives participated in formal politics via ward structures in efforts to claim recognition and assert legitimacy, without significant evidence of material gains, although benefits were debated. Residents asserted their right to housing and resisted eviction by activating the juridical space. The chapter now turns to a discussion of the main findings through a focus on the issue of identity, community and belonging, the politics of “home” and the possibilities of expropriation.

\textbf{IDENTITY, COMMUNITY AND BELONGING}

In Marikana shared identity co-existed with the differentiation to which leadership often referred. The former was conferred externally, both in the institutional space of the Ward Development Forum and the juridical space of the courts. Yet shared identity also featured strongly in people’s personal narratives about their land struggle, especially in

\begin{itemize}
\item \textsuperscript{61} \textit{Fischer} paras. 201, 204 and 212.
\item \textsuperscript{62} See footnote 55
\end{itemize}
the idea of community, as the first section in this chapter demonstrated. A reciprocal notion of belonging emerged from the research as people saw themselves belonging to Marikana, as much as they saw the land as being theirs to keep.

Marikana residents actively built a sense of collective identity that rested primarily on the need to secure a home. It would appear therefore, that people drew on their shared identity strategically, making use of the possibilities conjured by the political spaces they were navigating and by the nature of the actors and interests that they were engaging.

The notion of “community” was significant in how Marikana occupiers secured their homes. Although the length of time spent in a place is often an indicator of membership in the community that exists there, in some ways the Marikana experience confounds this expectation. The residents had constituted themselves as a community relatively recently and lacked the kind of common history that often fosters a shared identity. Their diverse origins in the Eastern Cape and backyards in Cape Town allowed them to claim a common experience of migration and exclusion, but it was the heavy contestation over their claim to land that served to strengthen their bonds. It was recourse to an idea of “community” that gave people a sense of legitimacy in their struggle to establish a home. In practice, relying on “the community” meant relying on the social networks developed in Marikana, especially relationships with neighbours. These practical experiences provided the basis for a more metaphoric understanding of Marikana as a community.

THE POLITICS OF “HOME”
Arguments about the meaning of “home” were central to the internal politics of Marikana. They came to life on the roads, footpaths and alleyways and in the neighbourhood blocks that constituted the settlement. They were deployed to resist the course of the evictions in 2013 and 2014, as well as in the courts in the years afterwards, where arguments were heard and judgment handed down in February and August 2017.

When the Marikana residents resisted their eviction in the High Court, the City defended its action by arguing that a shack is a home only when it is “regularly occupied with some degree of permanence” and “comfort”. The City added that it was appropriate for a junior official of the City’s Anti-Land Invasion Unit to determine when these criteria are met, thereby using a self-created distinction between what is and is not a “home” to prevent shack dwellers from accessing the legal protection afforded by the PIE Act. The City

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63 See Fischer v Ramahlele 2014 (4) SA 614 (SCA) 88 (4 June 2014) (Fisher interdict application).

64 Another example where the state attempted to defend otherwise unconstitutional demolitions, evictions and housing conditions by arguing that the structures in which the people subject to these live are not “homes” was Dladla and Another v City of Johannesburg and Others 2018 (2) SA 327(CC) (1 December 2017). In Dladla the state sought to distinguish between “homes” and temporary alternative accommodation suggesting that because temporary alternative accommodation does not amount to a home the standards in such accommodation do not need be consistent with those that would amount to homes.
sought to distinguish between the “structures” built by the occupiers in the settlement and “homes” in order to suggest that they did not have to comply with the requirements of PIE and section 26(3) of the Constitution when demolishing the so-called structures and evicting their occupants. Factors considered in this process, according to the City’s operating procedures, appear to have included the state of completion of the structure such as the presence of furniture and belongings, as well as whether or not the structure was vacant when officials arrived at it.

The arguments made in court resonated with the arguments being made by residents on the ground. Efforts by the municipal state in the legal proceedings to de-legitimise Marikana and its residents in the arguments to define people’s shelters as “structures” rather than “homes” echoed people’s experiences in the settlement. They argued that the City of Cape Town and the former ward councillor had refused to recognise Marikana or its residents when they would not acknowledge them as part of Ward 35. They felt that they had been unable to express their voices externally in the area-wide political space, along with other informal settlements, and that their absence in state-backed formal participative processes severely impacted on local organisation and social cohesion. This placed pressure on internal leadership structures, which fragmented around the questions of how to engage with the official, structured processes.

**ACCESS TO LAND AND THE POSSIBILITIES OF EXPROPRIATION**

In addition to the meaning of a home addressed above, the juridical space in the Marikana case also sheds light on the question of land expropriation in cases of occupied private land.

By drawing on the legal authority of the Housing Act, the Marikana case demonstrates that, for people who are excluded from market driven land allocation and to whom the state subsidy programme is yet to deliver, expropriation is an instrument that can facilitate land access. The case, on appeal at the time of writing this report, also shows that municipalities resist expropriation despite the framework that Section 9(3) establishes: expropriation requires the consent of provincial government and can only be used to implement a national housing programme.

Section 25 of the Constitution requires that “just and equitable” compensation be paid in all cases of compensation but as SERI argues, it is conceivable that just and equitable may be market value or as little as one rand, depending on the context. Marikana will be an important case to watch as it will exemplify how to secure legal access to private property.

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“Our Land to Keep” is the second of three site specific reports in the series “Informal Settlement in South Africa: Norms, Practices and Agency”. The other two reports document local norms and practices through the same four themes in the Ratanang informal settlement, outside Klerksdorp, in the North West Province, and the Siyanda settlement, outside KwaMashu, in KwaZulu-Natal province. These themes are tenure security and land use management, access to basic services, political space and economic life. The fourth report of the series shifts perspective from local, site specific research to provide a comparative analysis and synthesis.

This research report investigated the local realities and existing practices that characterise life in Marikana informal settlement. The purpose of researching local norms in Marikana, and the two other sites, is to inform in situ informal settlement upgrading policy and implementation with a better understanding of the existing realities in informal settlements.
This report documented findings regarding how people in the Marikana settlement:

- are getting by without legally secure tenure and how land is managed in the absence of official planning (Chapter 3);
- attempt to secure access to water, sanitation and sources of energy without state provision of even the most basic services (Chapter 4);
- make a living in the context of precarious residential circumstances (Chapter 5); and
- assert their agency in the different spaces that define political life and how litigation figures alongside local tenure arrangements and their other tools for claiming the dignity of a right to belong (Chapter 6).

At the heart of the project lay a concern that in situ informal settlement upgrading tends to adopt a roll-over approach which over-writes and replaces people’s agency and existing systems, arrangements, procedures and patterns in the settlement. In this way a conventional undeveloped or vacant land approach is applied even if the settlement is being upgraded in situ. The research therefore turned on a single question: if informal settlement upgrading interventions are to result in meaningful change on the ground, how should they address the existing realities in the places they seek to improve?

In this chapter of the report we summarise the findings about those local realities in two different ways. Firstly, Section 7.1 summarises key findings within each theme, to provide a high-level overview of existing realities in Marikana. Secondly, Section 7.2 shifts focus to a cross theme appraisal of the findings by turning to the title of the research series characterising life, practice and agency in Marikana. The characterisation identifies key features that describe the life-world of Marikana, emphasising the agency that ordinary people exercised. This section is intended to cut through the detail of the findings to provide a concluding overview of the site-specific research. Both sections, on local realities and characteristics, aim to indicate how the particular experiences of the residents of the Marikana settlement can be understood in the light of the broader purpose of the work to inform informal settlement upgrading.

Section 7.3 then ends the report with preliminary directions for upgrading. It indicates Marikana-specific upgrading issues and provides more general indications for upgrading policy and implementation. The preliminary directions and general indications are further developed in the synthesis report, which compares and analyses them. SERI will develop the policy and implementation implications more fully in a set of informal settlement upgrading policy briefs, using the evidence of this report, the two other site-specific reports and the synthesis report.
7.1 THEMATIC FINDINGS

TENURE SECURITY AND LAND USE MANAGEMENT

In Chapter 3, the report showed that social relations played an important part in how tenure was configured locally. For example, people accessed land via word-of-mouth and networks informed how people heard about the occupation and later the actions they undertook in occupying the land. Land use rules were locally constituted and aimed to introduce and then maintain order in the settlement. For example, residents kept existing footpaths and access routes free of construction and economic land use allocation occurred along Protea Road. Other examples are how residents co-operated with the committee in maintaining the open space land use and the one residential site per person rule. Enumeration was a significant land management process that provided two related forms of evidence that conferred local legitimacy on the tenure arrangements and land use management practices, thereby improving people’s tenure security. First, the registers were a written record of who had a right to live in Marikana and the shack numbers provided on-site evidence. The shack numbers were also recorded on the lists, reinforcing the local system of recording land rights. Social relations conferred legitimacy on the local tenure arrangements and land use management rules, and the authority of the committees backed this up.

In spite of the “informal” nature of the settlement, tenure was also legally configured: PIE provided blanket, statutory protections to the occupiers, which they invoked in the courts when their land access was threatened with eviction. The local tenure relationships and the housing rights protected by PIE co-existed with the underlying registered property rights of the land owners. However, the relationships between the statutorily protected right to housing and the registered property rights were heavily contested in court.
ACCESS TO BASIC SERVICES

The fourth chapter explored water supply, sanitation, energy and solid waste. The minimal provision of these services by the City did not meet emergency or temporary services standards, let alone basic service level standards: only 371 chemical toilets and 100 communal taps were provided for 60 000 people, and neither electricity nor refuse removal services were consistently provided. Despite ongoing attempts at engaging the City about access to services, no administrative communication mechanisms worked for the residents of Marikana. And so they stepped into the gap to create their own, very often unsafe, connections to water and electricity and in some cases to household latrines, engaged politically in ward structures or resorted to protest. The experiences of the residents of Marikana reveals how the manner in which (extremely minimal) temporary services are provided can shape municipal/resident relations in service delivery. The forms that these relations take can include self-provision when municipal delivery is near-absent but with severe compromises in terms of health and safety; an absence of accountability with implications for a sense of ownership and dignity; and profound disconnect between provider and consumers which compounds already contested terms of engagement. The experiences of the residents of Marikana also highlight the manner in which municipal provision to occupiers on land that is privately owned can obscure the state’s constitutional obligations to those occupiers. When it comes to private land, municipal reluctance is often attributed to concerns regarding property rights, and wasteful expenditure.

Marikana residents experienced significant safety and security challenges and the research shows that the absence of visible, effective policing is one of the most important reasons why.
To the extent that economic life in Marikana can be characterised in any definitive way, the research highlighted the overarching characteristics of precarity and instability. It also identified that economic life in Marikana was heterogeneous, given the co-existence of desperately poor people with households experiencing relative economic stability. Relative stability was evident in three factors: businesses being able to diversify their offerings; businesses being able to employ other residents and in some cases non-residents; and the capability to physically extend the business premises. The scale and pace of settlement, combined with a diverse internal economy and a permeable relationship with areas in the external economy, confound a consistent representation. However, geographic location and heterogeneity provide clues for insight. Households and individuals who managed to overcome precarity did so due to a combination of factors. Proximity to nearby transport facilities and economic opportunities generated by the settlement itself were two significant features. Access to financial capital, mainly savings and distributions from the state in the form of social grants were others. Social capital, such as existing kinship networks outside of the settlement, or recent networks of support which residents established in the settlement also contributed to overcoming precarity. Conversely, those residents who were unable to successfully leverage the opportunities in the settlement, by far the majority, were not able to access the features which made it possible: well serviced roads and paths which encourage footfall and easily accessible water and electricity. Their constrained access was compounded by the lack or collapse of social support networks, especially familial.

An exploration of economic life along Protea Road demonstrated that a robust and varied informal economy relied on several factors including favourable location to wholesale stores at the intersection of Protea and Stock Roads. Easy access to the stand pipes and toilets which had been erected along Protea Road also contributed to the informal economy there. Easy vehicular and pedestrian access to the settlement on Protea Road made economic activity there more favourable than elsewhere, as did comparatively well-maintained road surfaces because they encouraged high footfall along Protea Road.
POLITICAL SPACE

Politics was expressed in Marikana in multiple spaces, in a range of diverse ways. Respondents characterised politics in Marikana as simultaneously a struggle for access to land and for belonging, identifying the importance of a metaphorical, non-physical political engagement which underpinned their claims. This politics of belonging featured in Marikana in significant ways: residents actively built a sense of collective identity that rested primarily on the need to secure a home, despite or perhaps because they did not possess a shared history as settlement was recent and the occupation was enormous at 60,000 people. "Community" was also forged by engagement in the external spaces of ward committee and the courts. However, shared identity could fracture and fragment. In the local-level institutional spaces, Marikana was formally organized into committees and, in the case of Marikana II, geographically defined sub-structures. Diversity was also evident in approach and styles which gave way to differentiation in strategies and tactics. Association with external formations was dynamic with indications of affiliation with both Ses'khona and SANCO. In the local-level settlement spaces, residents used the formal channel of ward participation as well as the informal route of protest action. Protest was a material claim to services, as well as an assertion of belonging and a claim for recognition.

Beyond the geographic limits of the settlement, politics was articulated in an area-wide or sub-regional space as representatives participated in a councillor convened ward forum with leaders from other informal settlements in the area. Although these channels were active, the research did not find that they were effective in securing recognition or access to services. Residents made use of litigation to defend their housing rights and articulate belonging. Occupation of large-scale private land holdings was a site of contestation in court, giving rise to the order that the properties should be expropriated, should negotiations fail. Further, in the litigation process the occupiers contested the question of what constitutes a home and overturned the state’s attempts, in arguing that the dwellings in Marikana were not homes, to circumvent their PIE obligations. Finally, the Marikana narrative reveals the reciprocal nature of “belonging”: the occupiers belonged to Marikana and their dwellings were homes which belonged to them.
7.2 CHARACTERISING NORMS, PRACTICES AND AGENCY IN MARIKANA

Overall, taking a step back from the theme-based findings, the research suggests an overarching characterisation of life in Marikana. Marikana is a site of agency, resilience, order and cooperation. Marikana is also a place of contestation, vulnerability and disruption. In this sub-section we briefly summarise findings from the rest of the report to provide the evidence for this broad characterisation of Marikana. We also suggest that the characteristics offer preliminary directions for upgrading interventions.

Agency was evident in the self-provision of basic services, local tenure arrangements and land use management rules, as well as the assertions of belonging and active creation of “community”. Resilience was activated in the face of unlawful eviction, brutal demolition, conflict over services access, and profound lack of safety in the absence of visible policing. Order could be observed in the way people organised residential and economic land uses, numbered their homes and mobilised themselves in designated blocks or sections. The experience of cooperation around fencing and site demarcation to observe agreed boundaries, abiding by locally determined building lines to ensure accessibility on footpaths and access routes, and communicating land use change and new arrivals demonstrates how people cooperated with each other, grounding the interaction between the residents of the settlement. These characteristics of Marikana are important starting points for upgrading interventions. Agency, resilience, order and cooperation all offer a basis on which to build a participative upgrading process, giving some concrete direction to the alternative upgrading logic that the research set out to inform.

Locally, contestation occurred in the interactions between councillors and occupiers, in the electricity conflict between residents in neighbouring Lower Crossroads and Marikana and between leadership structures over strategies and tactics. It also arose around the provision of services on privately owned land and over balancing housing and property rights in the litigation processes. The residents’ vulnerability was evident in relation to clandestine criminal activity, exacerbated by the dense layout of the settlement. Vulnerability was gendered in the context of limited access to temporary emergency basic services such as minimal, poorly lit chemical toilets along Sheffield Road. Disruption featured into their lives in the street protest to raise public awareness and press for services. The disruptions of old order, common law conceptions of the sanctity of private property came into being as the residents and their lawyers invoked the statutory protections of the PIE Act and the constitutional right to housing, as well as the mechanism of expropriation as an option to secure the land. Outside of the settlement, this also meant a disruption of conventional urban planning notions of large-scale development and land allocation with rapid occupation that created a settlement the size of a small town within the space of a few short years.

Life in Marikana is also characterised by negotiability and heterogeneity. Negotiability here means
the use of social relations to access the land, to secure “belonging” by relying on the testimony of neighbours, to connect to electricity from households across the road in Lower Crossroads and to access space for a second site along Protea Road for business purposes. Negotiability also featured in Marikana because the court ordered that the property owners, municipality and occupiers negotiate with each other to attempt to reach agreement on securing the land, ordering further that expropriation would follow if negotiations failed. And finally, life in Marikana was also characterised by heterogeneity in the relative economic stability achieved by some people who were able to leverage opportunity amidst the predominance of precarity and instability for most Marikana residents.

Although the residents’ considerable agency bodes well for participative upgrading and meaningful engagement, the highly contested nature of life there also signals that mistrust and antagonism will need to be overcome. The contested nature of life in Marikana came at a high price for people residing there because of the uncertainty and unpredictability it created. The Marikana case suggests that upgrading intervention should achieve more security for residents as a starting point towards a more stable and certain future. Provision of basic services will immediately mitigate the most pressing aspects of vulnerability for residents. Disruption provides important clues for where the conventional status quo options fall short, suggesting that different planning and tenure interventions are required.

7.3 PRELIMINARY DIRECTIONS FOR UPGRADING POLICY AND IMPLEMENTATION

The next phase of research will compare and synthesise findings in Marikana with those in Ratanang and Siyanda, producing comparative research to inform policy implications for informal settlement upgrading. In doing so the intention is to recommend how upgrading interventions should engage with the realities in the places they seek to improve, if meaningful changes on the ground are to result. The previous section used the characterisation of norms, practices and agency in Marikana to provide some clues for the alternative intervention logic that this research seeks to inform. What further concrete directions does Marikana offer to this general project objective?

First, Marikana sheds light on the potential challenges and opportunities of in situ upgrading methodologies due to, respectively, its size and density and the existing markers for layout planning.

Regarding large and densely occupied settlements, Marikana shows that, once the private properties underlying occupied land are secured, in situ upgrading confronts the challenges of accessing additional land for de-densification. In the specific case of upgrading Marikana this means additional land for an extremely large, dense settlement without internal roads, only narrow pathways.

Regarding layout planning, Marikana shows that local land management systems can provide clues for
upgrading such as existing activity routes, internal neighbourhood blocks, and locally designated land uses for social activity, open space and economic activity. Regarding Marikana specifically, an urban economic column already exists along Protea Road which lends itself to higher density, mixed use development. Furthermore, reserves for services provision are available along Sheffield and Protea Roads and finally an opportunity for formal open space designation, essential for a large, dense settlement, exists on the adjacent field.

Second, the research found that occupiers easily identified their most urgent priorities as being for visible and effective policing to improve safety and security and for access to basic services to improve their quality of life.

Third, over and above these material needs, and linked to their provision, the research also found that achieving recognition and a sense of belonging were fundamental, non-material priorities for the Marikana occupiers.

At the time of writing, Marikana’s future lay in in situ upgrading. Litigation had resolved that relocating a settlement the size of a small town was not an option. Securing access to the registered properties underlying the occupation is a key determinant in the way forward. Land expropriation is the fourth and final issue that we identify as a direction for upgrading. Considering that private property remains a central blockage to the delivery of basic services, for thousands of people living in informal settlements across South Africa, Marikana highlights the potentially progressive provisions in the Housing Act which may positively influence changes to current approaches to informal settlements.

Section 9(3) of the Housing Act provides for expropriation of land for projects funded by a programme in the Housing Code. UISP funding can be allocated to the “acquisition of land, where the land to be developed is in private ownership, through negotiation or expropriation” during the implementation of phase 2 of the programme. The expropriation provision in the Housing Act remains largely untested. In enlisting the courts in their efforts, the residents of Marikana look set to change this.

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