LIFE IN THE SUBURBS AFTER GROOTBOOM: THE ROLE OF LOCAL
GOVERNMENT IN REALISING HOUSING RIGHTS IN THE EASTERN
CAPE

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ABSTRACT

When the Government of National Unity took office in 1994, it inherited a country with severe inequalities in resource distribution and land ownership. In particular, it inherited a housing crisis which was, to a large extent, caused by apartheid legislation and policies. This research focuses on the housing crisis post-1994 by considering the impact and effect of the constitutional right to have access to adequate housing, especially for those living in intolerable conditions. It does so by utilising a social-scientific approach to the law. This approach acknowledges that the housing right must exist alongside other social phenomena and as a part of everyday life in South Africa. Accordingly, the implementation of the housing right by three local municipalities in the Eastern Cape is examined.

Following an initial overview of the history of housing and local government in South Africa, the study focuses on the current legislative framework for housing and the interpretation of the housing right (and other socio-economic rights) in certain court decisions. These decisions are discussed, not only because of the impact they have had on communities living in intolerable situations, but, as importantly, because they have developed standards against which policy and planning should be measured. These standards are used in the study to evaluate housing provision in three municipalities. The evaluation (by means of interviews and assessment of planning documentation) demonstrates that the recognition of the housing right in the Constitution and by the courts, does not necessarily translate into effective recognition and implementation by the state. The research shows that the failure to plan proactively, lack of co-operative governance and inadequate controls over financial and human resources thwart the realisation of the housing right by local government. It is recommended that, in order to make the housing right a reality, research into the housing right (and indeed other socio-economic rights) should scrutinise the management of financial and human resources of the state in the context of the policy, planning and implementation environment. Where research is able to show evidence of unspent budgets, insufficient planning and mismanagement of resources, courts would be able to focus on the implementation aspect of the housing right, and ensure that it may yet have a meaningful impact on the lives of millions of some of the most vulnerable people in society.
To me a Constitution is like a house, carefully designed, built and handed over for use. Whether it becomes a happy family home or a house of ill fame depends on its inhabitants

-- Professor RH Christie 'Editorial' (1968) RLJ 3

These restless broken streets where definitions fail – the houses the outhouses of white suburbs, two-windows-one-door, multiplied in institutional rows; the hovels with tin lean-tos sheltering huge old American cars blowzy with gadgets; the fancy suburban burglar bars on mean windows of tiny cabins; the roaming children, wolverine dogs, hobbled donkeys, fat naked babies, vagabond chickens and drunks weaving, old men staring, authoritative women shouting, boys in rags, tarts in finery, the smell of offal cooking, the neat patches of mealies between shebeen yards stinking of beer and urine, the litter of twice-discarded possessions, first thrown out by the white man and then picked over by the black – is this conglomerate urban or rural? No electricity in the houses, a telephone an almost impossible luxury: is this a suburb or a strange kind of junk yard? The enormous backyard of the whole white city where categories and functions lose their ordination and logic ... a 'place'; a position whose contradictions those who impose them don't see, and from which will come a resolution they haven't provided for.

-- Nadine Gordimer Burger's Daughter (1979)
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