Responses to Questionnaire for the Special Rapporteur on the Right to Adequate Housing

Socio-Economic Rights Institute of South Africa (SERI)

**Section 1: Impacts of COVID-19 on groups at risk of marginalization**

**In your country or local context, which social groups are most at risk of marginalization due to the impacts of the COVID-19 crisis on the right to housing?**

Residents of informal settlements, inner city occupiers, tenants and mortgage payers are most at risk. Many people in these groups experience a double risk as the pandemic renders both their access to housing and their livelihoods vulnerable. People with comorbidities such as HIV and TB are particularly at risk from Covid-19. South Africa has a high rate of HIV infections with 8 million people living with HIV and 2 million people who are not on treatment.[[1]](#footnote-1)

**Residents of informal settlements** face multifaceted challenges during the pandemic from the disease itself in addition to lockdown measures which have resulted in loss of income of for many residents.[[2]](#footnote-2) Hand hygiene and social distancing are prohibitively difficult to implement in areas where there is a lack of clean water, overcrowding and inadequate shelter.

**Occupiers of inner-city buildings** live in inadequate housing, with severely compromised access to water, sanitation, refuse collection and energy. Inner city buildings are overcrowded with people living in proximity and utilising sub-standard and generally poorly maintained communal water sources and sanitation.Covid-19 guidelines have thus been difficult to follow for inner city building occupants, particularly regarding social distancing and regular hand washing.

Our consultations with clients in inner city buildings and informal settlements during lockdown emphasise inadequate public education, exclusion from relief measures and the identification of own isolation sites in preference to de-densification or quarantine facilities.

In our experience, landlords are not formally cancelling lease agreements, but **tenants** are being told to leave the premises or rectify their arrears. Although large scale landlords indicate that they enter into payment arrangements or utilise tenant deposits to cover the rent, our consultations with tenants reveal unlawful disconnection of electricity supply and the deactivation of fingerprint access at properties where biometric access systems are in use. Tenants in rental arrears with small scale landlords identify unlawful disconnection of services such as water and electricity, threats of eviction and harassment by the landlord/agent or caretaker, as well as lockout. Small scale landlords have made us aware of their constraints: their obligation to satisfy their mortgage payments; rental income sustains their households; their obligations to pay municipal rates and services; and the availability of tenants with the ability to pay due to the high demand for rental accommodation.

**Mortgage payers**: South Africa’s larger banks have responded with payment arrangements, payment holidays and restructures.[[3]](#footnote-3) Relief measures tend to favour homeowners who were in good standing and up to date on their loan repayments before lockdown.[[4]](#footnote-4)

**What measures (if any) have been taken to protect persons in informal settlements, in refugee or IDP camps, or in the situation of overcrowding from COVID-19?**

The National Department of Human Settlement (NDHS) has responded to the pandemic with a de-densification programme. Although the department has not yet published its own directions under the Disaster Management Act, we are aware that this programme entails temporary relocation of some residents of informal settlements to temporary relocation areas.

De-densification without informed consent constitutes eviction. It can also undermine people’s livelihoods and social networks, which are already being impacted upon due to the Covid-19 lockdown. People living in informal settlements [need to rely on their social networks now more than ever](https://www.seri-sa.org/images/NGO_Submission_re_de-densification_and_COVID-19.pdf).[[5]](#footnote-5) Tenure arrangements in informal settlements are social in nature and neighbours play a critical [verification and witnessing role](http://www.seri-sa.org/images/SERI_Synthesis_FINAL_WEB_READY.pdf).[[6]](#footnote-6) De-densification is likely to disrupt these networks and, although it is too soon to say, could well have a negative impact on how tenure is secured and maintained locally. Furthermore, the temporary nature of relocation poses potential risks to housing rights: the nature of residential rights in this context is uncertain. We know from experience that what is designed and implemented as temporary generally becomes permanent. Whether or not this will be the case with the temporary relocation areas remains to be seen.

Based on our review of draft NDHS directives and engagements, officials accept, and in some cases support, that consent is required. It is too soon to report on how the housing rights of people who will be relocated are affected. On the other hand, we are concerned about the impact of the de-densification programme on the households who remain “behind” in the original settlement. With the redirection of resources from upgrading projects already underway, the upgrading programme, which progressively secures the right to housing, is likely to be affected.

The National Department of Water and Sanitation (DWS) has responded by procuring a planned 41,500 water tankers. So far approximately 20,000 have been delivered. Emergency provision is essential because water services are inadequate in informal settlements, but it has worrying limitations. One is the impact of emergency services on long term sustainable services delivery, including reducing two thirds of the budget for maintenance and refurbishment of wastewater treatment plants and bulk infrastructure, which is potentially catastrophic to public health and the environment, and will have severe financial implications such as the need for DWS to seek expensive loan finance. Two is that that it is by no means sufficient or reliable. While many informal settlements now have access to emergency water tanks, the majority still access irregular water supply a few times a week and do not have access to adequate hand sanitiser or soap.[[7]](#footnote-7)

Concerns exist about a lack of transparency regarding the operations of the DWS and emergency procurement contracts during the pandemic which, alongside the Health Department, retain the majority of the Covid-19 budget reallocations.[[8]](#footnote-8) Furthermore reports in the media raise concerns about influence-peddling and corruption, [[9]](#footnote-9) involving DWS chief water advisor and two former officials. A taped discussion surfaced in late May 2020 of their plan to siphon money from the department’s emergency R200 billion budget. The money was allocated to provide emergency relief water for South African residents in Free State during Covid-19.[[10]](#footnote-10) The two officials have been fired, whilst the advisor has taken indefinite leave from work.[[11]](#footnote-11)However, the *Daily Maverick* has reported that the remaining 19 members of the national rapid response team continue their work, with Human Settlements, Water and Sanitation Minister Lindiwe Sisulu peddling back on a commitment to disband the team amid her drive to stamp out corruption.

Regulation 6.2 of the Alert 5 regulations directed municipalities to provide water and sanitation to people living in overcrowded circumstances:

6.2.1. Municipalities are directed to:

(a) Ensure that communities are provided with the necessary means to prevent transmission, whilst preventing disruptions in services that are rendered through both municipal programmes and customer interaction.

(b) Provide potable water and sanitation services to high population density settlements, rural communities, informal settlements.

(c) Provide other appropriate means, like water tankers, boreholes and storage tanks in water constrained communities that have limited access to municipal water supply.

A Covid-19 Informal Settlement Sector Task Team and Engagement Platform has been established to engage with CSOs. The stakeholders agreed to partner but the compact took many weeks to sign.[[12]](#footnote-12) In the meantime, the NDHS did not revisit the de-densification programme and the Minister merely changed the terminology to “re-blocking” in order to align better with CSO discourse. The department had not, at the time of writing, provided any information regarding progress with the programme, despite repeated requests.

**What measures have been taken by the national or local government to protect persons living in institutions such as prisons, shelters for homeless, women or children, persons with disabilities, older persons, or collective accommodation for refugees, asylum seekers or migrant workers, including staff working in these institutions from the COVID-19?**

In response to this question we address measures, or the lack thereof, in respect of domestic workers and homeless people.

**Domestic workers:**

For weeks after the implementation of the national lockdown, the Department of Employment and Labour neglected to directly address the one million domestic workers and their employers, leaving this vulnerable sector without clear direction. When the Department did pay attention to the sector, it only addressed issues pertaining to wages and the Temporary Employer Employee Scheme (TERS). Sectoral determination 7, which regulates the domestic work sector, only addresses the issue of accommodation with respect to deductions and termination.

Due to gross non-compliance by employers of domestic workers, it is often the case that in the instance that domestic workers are dismissed (fairly or unfairly) the stipulations regarding accommodation are rarely followed and domestic workers are removed from employers’ properties without following the correct process. Live-in migrant domestic workers are most vulnerable in these situations as they are rendered homeless when their work is terminated.

**Homeless people:**

Section 11D of the Disaster Management Act require the State to establish temporary shelters that meet the necessary hygiene standards for homeless people. Drawing from research undertaken by Ndifuna Ukwazi, we report on the measures taken in respect of homeless people by region.[[13]](#footnote-13)

Gauteng province announced a plan in tandem with 241 NGOs to house displaced persons in facilities to provide shelter, clothing and food. In addition, 30 boarding schools with hostel facilities were identified to be utilised if the other shelters became full. However, several boarding schools pushed back and refused to house homeless people. They therefore had to be housed in camp-like tented accommodation instead. The Gauteng government originally estimated that 15,000 people would need temporary accommodation, but this had to be adjusted to 54,000 one week into lockdown.

In Tshwane, the Caledonian Stadium drew media attention. The municipality closed the stadium on 6 April, citing the need to house homeless people in spaces that enable conditions for successful social distancing measures. The sites include churches, parks, sports grounds and a facility for older people with special needs. At least 1,000 people were rounded up and housed in the stadium. Overcrowding was such that there were ten people for every tent designed to sleep two to three people and the media reported that people felt they would have been safer on the street, with some escaping by jumping over the fences. At the height of lockdown there were a reported 2,000 people housed at Caledonian Stadium, which was only intended to shelter 340.

In Johannesburg, on 31 March 2020 there were nine centres housing 2,000 homeless people, including in shelters and temporary accommodation sites. Local community organisation Mould Empower Serve opened an additional facility to accommodate specifically women and disabled people. However, it is estimated that 13,000 people still require accommodation.

In the metro of Ekurhuleni, four shelters have been established, with the shelter at Coen Scholtz Recreation Centre in Birchleigh North housing 124 people. Each person receives food and drink and are allowed to leave the community hall twice per day for 30 minutes whilst staying in visible distance from security guards.

In KwaZulu-Natal, the evening before lockdown began, between 1000 and 2000 homeless people were taken to temporary accommodation in order to be screened and triaged, with those at highest risk transported to 14 shelters, camps and buildings. However, people held at the site reported that officials denied them food and adequate shelter. Facilities used in eThekwini range from small tented communities on sites such as stadiums to rooms in municipal buildings. The number of homeless people was underestimated by local government, with 1,500 people accommodated by 3 April, exceeding original estimates of 1,000. Officials have cited difficulties in dealing with substance withdrawal, including provision of adequate medical care and psychological support. Programmes have been put in place to introduce treatment and support homeless people for family reunification post-lockdown.

In Nelson Mandela Bay, Eastern Cape province, community halls have been utilised as temporary accommodation during lockdown. There have been issues in this area around a lack of communication regarding the virus and the requirement that they be placed in temporary shelters. There have also been problems in delayed opening of the sites, with some homeless people arriving to find them closed.

Detainments for non-respect of stay at home orders have varied by region. For example, in Gauteng the formal line from politicians was that nobody would be forced into temporary shelters and this was mostly adhered to due to the strength of civil society monitoring. However, an example where this was not the case is the Strandfontein Camp, which received significant media attention and pushback from civil society groups.

Located at the Strandfontein Sports Complex in Cape Town, Western Cape Province, the camp was established around 31 March 2020.[[14]](#footnote-14) It has been the source of much media attention due to allegations of overcrowding and unsanitary conditions unconducive to protection from the spread of Covid-19.

On 20 April 2020, Ndifuna Ukwazi filed a case in the Western Cape High Court seeking an order to declare the camp to be in violation of the regulations of the Disaster Management Amendment Act. The Strandfontein Social and Economic Development Forum and Strandfontein Ratepayers Association also filed, asking for the camp to be shut down.[[15]](#footnote-15) After the High Court granted an interim order allowing SAHRC to monitor the camp, the City began proceedings to interdict the SAHRC, accusing its monitors of interfering without legal standing.[[16]](#footnote-16) The shelter was shut on 20 May and on 9 June, the City abandoned the court application,[[17]](#footnote-17) citing that the case was no longer required due to the closure of the camp.

**What social support has been made available to persons who live in informal settlements or who have relied on informal work as income for their survival, food, and housing? (for example, persons informally working as domestic workers, persons informally employed in the care of children or older persons, in restaurants, on construction sites, or in other sectors of the informal economy including migrant labour)**

Our response to this question comes in two parts. First, we provide information on implemented and planned adjustments to the social safety net in response to the crisis. Second, we outline how the State has approached social protection of people whose livelihoods are based in informal economies.

**Social safety net:**

In response to the health crisis, the State has introduced or extended several social safety net measures to support individuals who would lose income, wholly or partially, because of the pandemic.

Workmen’s Compensation

On 23 March 2020, the Compensation Commissioner published a notice in terms of section 6A of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA), stating that an employee contracting the coronavirus in the course of their employment is entitled to claim compensation, thus establishing COVID-19 as an occupational disease under COIDA.[[18]](#footnote-18) This however excludes individuals working in the informal sector who are not included in the ambit of COIDA. The directive also excludes domestic workers, despite the Committee’s recommendation that COIDA be extended to include domestic workers.[[19]](#footnote-19) The inclusion of domestic workers in COIDA is the subject of [Mahlangu v Minister of Labour](https://www.seri-sa.org/index.php/19-litigation/case-entries/846-mahlangu-coida-constitutional-challenge-sylvia-bongi-mahlangu-v-the-minister-of-labour), a case recently heard at the Constitutional Court and awaiting judgment.

Temporary Employer Employee Relief Scheme

In March the Department of Employment and Labour set up the COVID-19 Temporary Employer Employee Relief Scheme (TERS) to support businesses and employers temporarily closed due to the lockdown and unable to pay workers’ salaries. Initially, the benefit was only available to employers who are registered with the Unemployment Insurance Fund (UIF) but due to pressure from civil society organisations the Department made two significant amendments to the TERS directive. It now allows individual employees to apply for themselves if their employer failed to do so and it extends TERS to non-registered workers who had previously been excluded from the scheme because their employers had unlawfully failed to register them.[[20]](#footnote-20) These two victories, however, have not yet been felt on the ground.

After several reports from foreign nationals that their TERS claims had not come through, the Department issued a statement clarifying that foreign nationals get payment later than some of the South African workers because the applications of foreign nationals need to go through a verification process with the Department of Home Affairs and at times the South African Revenue Service (SARS).[[21]](#footnote-21) TERS is not open to foreign nationals without a valid work permit.

Social Security Assistance

The State has introduced a special grant for unemployed persons (who are not receiving any other government grants). The COVID-19 Social Relief for Distress Grant is a “temporary provision of assistance intended for persons in such a dire material need that they are unable to meet their families’ most basic needs.” The grant is R350 per month and will only be paid for a period from May until October.[[22]](#footnote-22) The grant is only applicable to South African citizens, permanent residents and refugees registered with Home Affairs.[[23]](#footnote-23) On 2 June the South African Social Security Agency (SASSA) announced it had paid out the grant to only 116 000 people.[[24]](#footnote-24)

Other grant beneficiaries also receive increased amounts to combat the crisis: child support grant beneficiaries will receive an extra R300 in May and an extra R500 from June to October each month. All other grant beneficiaries will receive an extra R250 per month until October.[[25]](#footnote-25) SASSA also provides food parcels and vouchers: the government reported that between 58,000 to 100,000 households have received food parcels since the beginning of lockdown, and that SASSA has also allocated R400 million for food parcels and vouchers.[[26]](#footnote-26) Further, on 21 April, government announced that it allocated R20 billion to provide emergency water supply, food and shelter for the homeless.[[27]](#footnote-27)

For the most part the social assistance measures implemented by the State exclude asylum seekers and other undocumented migrants, particularly vulnerable populations. Furthermore, it has been reported that even when migrants are documented and eligible for social relief, they are often discriminated against and preference is given to South African citizens. Foreign migrants therefore rely heavily on relief efforts by civil society.

**Social protection and informal livelihoods:**

Since the implementation of the lockdown, many domestic workers have been put on unpaid leave, or dismissed unfairly by their employers. An April 2020 survey conducted by Izwi Domestic Workers Alliance in Johannesburg found that only 38% of 600 respondents were being paid full wages in the first month of the lockdown period. This number likely dropped in the months of May and June. Fortunately, the State responded to the call from domestic worker unions and organisations for the inclusion of those domestic workers (and other workers) whose employers had not registered them for UIF and were therefore excluded from TERS. However, individual domestic workers are yet to receive any money as the Department has not yet made it clear how they can go about that process. Under level 3, Izwi Domestic Workers Alliance reports that a significant number of domestic workers have not been called back to work by their employers, even though they are allowed to work according to the regulations. Many domestic workers are currently without an income.

In terms of informal traders, when the lockdown was enforced, street traders were summarily stopped from trading which led to complete loss of income for some and significant losses of stock, especially fresh produce that could not be stored.[[28]](#footnote-28) On 2 April amendments were made to the initial lockdown regulations which allowed spaza shops and informal food traders (excluding those selling cooked food) to go back to business. On April 6, the Department of Small Business Development issued further directions, which stated that all spaza shop owners and informal food traders must hold permits issued by their respective local municipalities allowing them to trade, in line with the provisions of the Business Act, 71 of 1991 as amended. These regulations specified that non-South African citizens are required to have business or asylum seekers permit. Later, the Department of Small Business Development changed its gazetted regulations on 12 May, to exclude non-South Africans from assistance aimed at spaza shop owners contradicting its previous statement. This is seen as an attempt by the Minister of Small Business Development (SBD) to use COVID-19 to introduce exclusionary (and xenophobic) measures. By and large however, where informal traders are organised, they have been able to engage municipalities on implementation of the non-exclusionary process for permitting in the Cooperative Governance and Traditional Affairs (COGTA) directive which overrides the directive from the Minister of SBD.

**Section 2: Impacts and interventions to protect the right to adequate housing**

**Have there been evictions of individuals or communities during the pandemic? If so, please provide details (number affected persons, date, location and background information).**

It is difficult to provide details about individuals who have been evicted in any systematic way as, aside from a “hotline” set up by public interest legal services (PILS) organisations in South Africa, there is no way to identify of track them. For example, using the hotline as a source, we are able to report on an eviction on 6th April, in which four women were evicted from their rented apartments flats in Pretoria (Sunnyside) in Gauteng province together with their children. The women are all asylum seekers from various African countries. They were evicted despite being up to date on their rental payments. The women were assisted by private attorneys who obtained an agreement from the lessor to take back occupation of their flats. Another example of an individual eviction using the hotline as a source is the eviction of a couple from their apartment at the Townsend Estate in Goodwood, Cape Town on 10th April. This happened despite them having paid their rent in full for the month and a moratorium on evictions being in place under lockdown regulations.

It is often difficult to distinguish between individual and community evictions. The section below sets out evictions ranging in scale from a few households to a community of over 200 people, in chronological order:

* In March a group of about 210 occupiers of a building belonging to the City of Cape Town (situated at 414 Main Road, Observatory) were evicted following a Court Order [obtained pre-lockdown]. They were also denied leave to appeal the decision to evict them. The residents were left without alternative accommodation. (Source: data from PILS hotline).
* On 6 April 2020, the City of Johannesburg evicted 23 residents in a building used to accommodate City employees. The matter was challenged in court and the South Gauteng High Court ruled that the city and its law enforcement agency, the Johannesburg Metro Police Department (JMPD) acted unlawfully in evicting the unlawful occupiers from the building. The City agued they were acting to prevent and stop an ongoing illegal occupation or invasion by persons taking advantage of the lockdown but in doing so the law enforcement agencies also evicted people who were already in occupation. Read more [here](https://www.iol.co.za/sundayindependent/news/court-rules-against-city-of-joburg-evictions-during-covid-19-lockdown-46615118).
* 09 April 2020, the City of Cape Town’s Law Enforcement unit forcibly evicted residents of Empolweni. The residents were evicted without any court order or notice. The Law Enforcement unit returned on Saturday, 11 April 2020 to carry out more evictions and demolish shacks. Over a hundred residents were evicted. In these evictions many were assaulted for refusing to leave simply because they had nowhere else to go. On 17 April 2020, the Cape High Court ruled that the Epolweni evictions were illegal. Read more [here](https://www.sabcnews.com/sabcnews/cape-town-high-court-declares-empolweni-evictions-unlawful/).
* At least 20 families were displaced on 16 April 2020 after the Red Ants[[29]](#footnote-29) demolished over 80 shacks in the Kokotela Informal Settlement in Lawley, Johannesburg. Hundreds of Red Ants - who arrived in buses, trucks and vans - descended on the area to execute an order obtained by the City of Johannesburg, which says it is clamping down on illegal land “invasions”. The city later agreed to provide alternative accommodation to those rendered homeless by the demolitions. Read more [here](https://ewn.co.za/Topic/Lawley).
* Ten families were evicted in the early morning of 20 May from their bungalows in the Marievale Military camp. Seven of them are currently living in a “temporary” settlement prepared by the army and the Gauteng office for Human Settlements in Duduza, Nigel. The other three families refused to take the accommodation and went to their old homes in Happiness Village. Happiness Village was formed by people [who were evicted](https://www.groundup.org.za/article/army-has-still-not-complied-court-order-say-marievale-families/) from Marievale in November and December 2017. A year later the Pretoria High Court ordered the SANDF to re-accommodate them as the[eviction](https://www.groundup.org.za/article/court-spells-out-sandf-how-it-must-accommodate-marievale-residents/) was unlawful. The SANDF[appealed the decision](http://www.groundup.org.za/article/sandf-appeal-against-evicted-marievale-residents-dismissed/) but lost. Read more [here](https://www.groundup.org.za/article/we-are-not-evicting-residents-we-are-relocating-them-says-councillor/).
* On 10 June the City of Cape Town evicted residents who sought shelter in two large marquees put up by an Observatory resident to house homeless people ahead of the cold front which made landfall. The two structures were erected in City-owned land. Read more [here](https://www.groundup.org.za/article/observatory-resident-loggerheads-city-over-removal-marquees-homeless/).
* On 11 June 2020, the City of Cape Town’s Law Enforcement and the Anti-Land Invasion Unit, as well as SAPS, carried out a demolition operation in Hangberg, Hout Bay early on Thursday, as a winter storm swept across Cape Town. The City of Cape Town disputed that their actions constituted, saying that they simply “dismantled two unoccupied illegally erected structures, one being a half-built brick and cement foundation.” Read more [here](https://www.groundup.org.za/article/conflict-hangberg-city-demolishes-structures/).

We conclude this response by focusing on evictions in settlements where the shack dwellers movement, Abahlali Basemjondolo, organises.

Since the beginning of the lockdown, the Azania informal settlement has been subjected to at least 11 evictions and demolitions mostly carried the City of eThekwini’s contracted security agency, Calvin Family Security Services. Over 300 people have been affected during these demolitions including two people who were shot with live ammunition, and three with tear-gas canisters on 31 March 2020.

A recent report by the Church Land Programme (<http://www.churchland.org.za/wp-content/uploads/2020/06/STOP-Illegal-evictions.pdf>) documents that in the course of the 11 demolitions occurring during the lockdown, approximately 60 homes, occupied by roughly three people each, were destroyed each time.

* On 31 March 2020, it was carried out by Calvin Security and Anti-Land Invasion Unit.
* On 5 April 2020, it was carried out by Calvin Security, Anti-Land Invasion Unit and SANDF.
* On 9 April 2020, it was carried out by Calvin Security, Anti-Land Invasion Unit, SANDF and SAPS.
* On 17 April 2020, it was carried out by Calvin Security, Anti-Land Invasion Unit, SANDF and SAPS.
* On 22 April 2020, it was carried out by Calvin Security and Anti-Land Invasion Unit.
* On 3 May 2020, it was carried out by Calvin Security, Anti-Land Invasion Unit, and SAPS.
* On 8 May 2020, it was carried out by Calvin Security, Anti-Land Invasion Unit and SAPS. On 12 May 2020, it was carried out by Calvin Security and Anti-Land Invasion Unit.
* On 18 May 2020, it was carried out by Calvin Security and Anti-Land Invasion Unit.
* On 25 May 2020, it was carried out by Calvin Security, Coastal Security and Anti-Land Invasion Unit.

On 15 April 2020, 13 occupied houses were demolished in eKhenana Informal Settlement.[[30]](#footnote-30) On 22 April 2020, the City of eThekwini and its contracted security agency, Calvin Family Security Services demolished 14 homes in the eKhenana informal settlement. These evictions were conducted without a court order and while an interdict was still in effect. SERI filed an urgent application to the High Court for an interdict, contempt and compensation for the damage to the property. The matter was settled and an undertaking was signed on 24 April 2020 wherein the City undertook to “refrain from demolishing, burning and removing or disposing of the Applicant’s informal housing structures in the informal settlement or from causing this to take place”. However, minutes after the judgment was issued the eThekwini Municipality’s Anti-Land Invasion Unit attacked the occupation and shot one of the occupiers who was rushed to hospital with serious injuries.

Five separate evictions and demolitions have occurred during the lockdown in the Ekuphumeleleni Informal Settlement, directly affecting70 people. The last demolition occurred on 18 May 2020 and the security company promised to return after lockdown to destroy the remaining homes.[[31]](#footnote-31)

* On 29 March 2020, they were carried out by Calvin Security and the Anti-Land Invasion Unit.
* On 8 April 2020, they were carried out by Calvin Security, the Anti-Land Invasion Unit and SAPS.
* On 17 April 2020, they were carried out by Calvin Security, the Anti-Land Invasion Unit, Counsellor Sibusiso Khwela and SAPS.
* On 12 May 2020, they were carried out by Calvin Security, the Anti-Land Invasion Unit and SAPS.
* On 18 May 2020, they were carried out by Calvin Security and the Anti-Land Invasion Unit.

The three biggest metropolitan municipalities were all involved in eviction of occupiers and they justified these as attempts to repel ongoing ‘land invasions’. Despite a firm commitment to the moratorium on evictions, national and provincial government failed to reprimand municipalities. Civil society has made recommendations that the moratorium should also prohibit the demolition of structures built with the intention to occupy as a home except on the authority of the high court.

It is important to distinguish between occupiers and tenants. Many of the previous cases constitute evictions of occupiers. Cancellation of lease agreements and disconnections of services are examples of how tenants may be threatened with eviction or face constructive eviction. However, these cases can be hard to track. When tenants face a threat of eviction it is often on an individual basis. It is impossible to report on how many people face the threats of eviction only that a threat places people in extremely vulnerable circumstances. In addition to the strain that both threats to evict and unlawful evictions place on tenants, small scale landlords, who rent out anything from space in a room to a single room to a few units, are themselves extremely vulnerable due to the impact of the pandemic on their livelihoods.

**Have there been any cut-offs of utility (heat, water etc.) for any community or individuals during the pandemic? If so, please provide details (date, number, location etc.)**

SERI has received numerous reports of service disconnections in the Johannesburg inner city but there no systematic data is available at this time.

A [submission](http://seri-sa.org/index.php/more-news/1008-statement-urgent-call-for-immediate-action-to-suspend-and-resolve-water-and-electricity-disconnections-24-april-2020) by SERI in collaboration with Ndifuna Ukwazi, Lawyers for Human Rights, Consortium for Refugees and Migrants in South Africa, Legal Resource Centre and ProBono.Org, addressed to the National Command Council, relevant Cabinet Ministers and respective Provincial Departments of Human Settlements, notes that, in April, these organisations collectively received more than 80 reports and requests for assistance from people being evicted or threatened with eviction by private landlords. The threats to evictions are often preceded by the disconnection of water and electricity.

These reports comprise a fraction of the likely total number of service disconnections. Compiling data from the PILS hotline:

* In April, a resident was unable to pay his rent due for the month of April 2020 as he was unable to work due to the Lockdown. The landlord cut off tenant’s electricity in response.
* On 2 April, a tenant in Bloemfontein had her electricity connection cut off by the landlord when her rent was two days overdue.
* In April, a tenant in Hillbrow had her electricity cut off when she could not pay her rent for the month due to loss of income.
* In April, a tenant in Klerksdorp was threatened with an eviction when she failed to pay her weekly rental. The tenant has been unable to work due to the lockdown. Her water was cut off by her landlord when she did not pay her rental for two weeks. On 27 April, her electricity was also cut off by the landlord and she was subsequently informed to vacate the property by 01 May 2020.
* A tenant in KwaZulu Natal was forced to live without electricity for two months after the landlord cut off the connections due to the tenant’s inability to pay rent for the two months.
* In June, a resident in Pretoria reported that her electricity was cut off by his landlord for failing when he did not pay his monthly rental on time. He was without electricity for over a week.

**Has a prohibition of evictions and/or utility cut-offs been declared? If yes, please provide more details, to whom it applies, and if possible the official regulation governing it (URL or use upload field at the end of the questionnaire).**

In South Africa, no-one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. At alert level 5, the execution of any eviction was prohibited, whether or not it was authorised by a [court](https://www.gov.za/documents/disaster-management-act-regulations-address-prevent-and-combat-spread-coronavirus-covid-19). The prohibition was the result of a call for a moratorium on evictions during lockdown, in which SERI participated. Courts were also prohibited from making any eviction orders at all, even if the date of execution was stayed until after the end of the lockdown period.

At alert level 4, courts were permitted to make eviction orders, but the execution of those orders was stayed until the end of the lockdown period. At alert level 3, the execution of eviction orders remained prohibited, except where a court decided that it was just and equitable for the order to be executed during alert level 3.

No such prohibitions have been declared in respect of utility cut-offs. In mitigating the impact of COVID-19 on residents, some municipalities have undertaken not to disconnect any water and electricity cut offs during the lockdown period. For example, two days before the lockdown started, the City of Johannesburg announced it would not engage in any service disconnections during lockdown. It further indicated that it would reconnect water and electricity of any residents who had previously had their utilities cut due to non-payment.[[32]](#footnote-32) However, some landlords have not extended the same consideration to tenants, cutting off water and electricity supplies in response to unpaid rent.

**Can you provide details about any measures taken by your national or local government to assist tenants or mortgage payers, to pay their rent or mortgage during and after the pandemic? If possible, please provide also the text of the regulations governing these measures (URL, or use upload field at the end).**

Lockdown regulations do not provide mitigation measures such as a prohibition on the cancellation of leases for non-payment during the lockdown. We are aware that South Africa’s largest banks are offering payment holidays and restructuring loans for a three-month period. Although this relief measure is significant it favours people who were in good standing when lockout began, putting the access of more vulnerable homeowners at risk.

**In April 2020, the previous Special Rapporteur on the right to adequate housing, Leilani Farha, published five guidance notes on COVID-19, which can be accessed on the official webpage of the Special Rapporteur. Can you provide any comments if they have been useful for your work or advocacy? Would you have any additional recommendations to protect the right to adequate housing during the pandemic and in its aftermath?**

Yes they have been useful. For example, they have been posted on the Informal Settlement Sector engagement platform google group and circulated widely amongst NGOs. They provided an external authority to which reference could be made in engagements with the state.

Regarding additional recommendations, prescriptions against unlawful evictions remain essential. Raising awareness about the impact of the pandemic, and lockdown, on housing rights is another critical recommendation. Presumably responses to this questionnaire will inform dissemination of responses and recommendations.

Furthermore, contributions to developing a “new narrative” for a “new normal” would assist in shifting mind-sets. Some ideas:

* To the extent that an opportunity exists to press for addressing the violations and shortfalls which the socio-economic rights sector has always identified, can the mandate assist in ensuring that we seize it?
* The pandemic has opened the wound of inequality wider – what arguments about systemic issues might have traction in ways that were not possible before?
* How can a new “compact” be formed between ravished communities and a stripped state?
* How can private interests be brought in, in new ways?
* Could “humanising” the impact of the pandemic work: disseminating lived experiences about the impacts using multi-media?

1. Public Health. “Covid-19 Special Public Health Surveillance Datacov: A Sentinel Surveillance Programme for Hospitalised Individuals with Covid-19 in South Africa” 18, no. 1 (2020): 1–15. P. 3 [↑](#footnote-ref-1)
2. SERI “An Urgent Call to Rethink De-Densification as the Dominant Proposed Strategy in the Context of COVID-19,” April 2020 <https://www.seri-sa.org/images/NGO_Submission_re_de-densification_and_COVID-19.pdf> p. 4 [↑](#footnote-ref-2)
3. Matangira, Lungelo “List: these are the lockdown holidays being offered by SAs big banks” April 2020 <https://ewn.co.za/2020/03/30/list-these-are-the-lockdown-payment-holidays-being-offered-by-sa-s-big-banks> [↑](#footnote-ref-3)
4. Ciaran Ryan “The evictions begin” 23 June 2020, Moneyweb. <https://www.moneyweb.co.za/news/south-africa/the-evictions-begin/> [↑](#footnote-ref-4)
5. SERI “An Urgent Call to Rethink De-Densification as the Dominant Proposed Strategy in the Context of COVID-19,” April 2020 <https://www.seri-sa.org/images/NGO_Submission_re_de-densification_and_COVID-19.pdf> p.1 [↑](#footnote-ref-5)
6. SERI “Here to Stay” synthesis report of SERI’s informal settlement action research, May 2019 <http://www.seri-sa.org/images/SERI_Synthesis_FINAL_WEB_READY.pdf> [↑](#footnote-ref-6)
7. Asivikelane. “Voices of Informal Settlement Residents During the Covid-19 Crisis,” June 2, 2020. https://www.internationalbudget.org/wp-content/uploads/asivikelane-release-6-060220.pdf. [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. Haffajee, Ferial. ‘Thami Ka Plaatjie, Sisulu’s Chief Water Adviser, Puts Himself on Indefinate Leave After Being Caught Influence-Peddling’ Daily Maverick, June 3, 2020. https://www.dailymaverick.co.za/article/2020-06-03-thami-ka-plaatjie-sisulus-chief-water-adviser-puts-himself-on-indefinite-leave-after-being-caught-influence-peddling/#gsc.tab=0. [↑](#footnote-ref-9)
10. ‘Water Dept’s Thami Ka Plaatjie on Suspension over Alleged Corruption.’ Accessed June 22, 2020. https://ewn.co.za/2020/06/04/water-dept-s-thami-ka-plaatjie-on-suspension-over-alleged-corruption. [↑](#footnote-ref-10)
11. Haffajee, Ferial. ‘Thami Ka Plaatjie, Sisulu’s Chief Water Adviser, Puts Himself on Indefinite Leave After Being Caught Influence-Peddling’ Daily Maverick, June 3, 2020. https://www.dailymaverick.co.za/article/2020-06-03-thami-ka-plaatjie-sisulus-chief-water-adviser-puts-himself-on-indefinite-leave-after-being-caught-influence-peddling/#gsc.tab=0. [↑](#footnote-ref-11)
12. SERI “An Urgent Call to Rethink De-Densification as the Dominant Proposed Strategy in the Context of COVID-19,” April 2020 <https://www.seri-sa.org/images/NGO_Submission_re_de-densification_and_COVID-19.pdf> p.1 [↑](#footnote-ref-12)
13. Ndifuna Ukwazi. “Temporary Homeless Shelters Research (Draft),” 2020. [↑](#footnote-ref-13)
14. Cruywagen, C, Daily Maverick “Organisations ask court to close Strandfontein Homeless Camp”, 29 April 2020, <https://www.dailymaverick.co.za/article/2020-04-29-organisations-ask-court-to-close-down-strandfontein-homeless-camp/> [↑](#footnote-ref-14)
15. Cruywagen, C, Daily Maverick “Organisations ask court to close Strandfontein Homeless Camp”, 29 April 2020, <https://www.dailymaverick.co.za/article/2020-04-29-organisations-ask-court-to-close-down-strandfontein-homeless-camp/> [↑](#footnote-ref-15)
16. People’s Coalition “Media Statement: Human Rights on Trial as the City of Cape Town Seeks to Interdict Human Rights Monitors”, 9 June 2020, <https://c19peoplescoalition.org.za/media-statement-the-city-of-cape-town-seeks-to-interdict-human-rights-monitors/> [↑](#footnote-ref-16)
17. Cruywagen. V, Daily Maverick “Judge Questions City of Cape Town’s Motives in Abandoned Court Application”, 9 June 2020, <https://www.dailymaverick.co.za/article/2020-06-09-judge-questions-city-of-cape-towns-motives-in-abandoned-court-application/> [↑](#footnote-ref-17)
18. <https://www.mondaq.com/southafrica/employee-benefits-compensation/909610/covid-19-confirmed-as-an-occupational-disease-under-coida> [↑](#footnote-ref-18)
19. UN Committee on Economic, Social and Cultural Rights, “Concluding observations on the initial report of South Africa”, *UN Committee on Economic, Social and Cultural Rights* (November 2018), paragraph 35 (a), p. 7. [↑](#footnote-ref-19)
20. <http://www.cwao.org.za/Press-release-TERS-benefit-extended.html> [↑](#footnote-ref-20)
21. <http://www.labour.gov.za/DocumentCenter/Publications/Unemployment%20Insurance%20Fund/COVID%2019%20process%20foreign%20nationals.pdf> [↑](#footnote-ref-21)
22. <https://www.gov.za/coronavirus/socialgrants> [↑](#footnote-ref-22)
23. <https://www.gov.za/coronavirus/socialgrants> [↑](#footnote-ref-23)
24. <https://www.therep.co.za/2020/06/04/frustrated-r350-relief-grant-applicants-disappointed-with-sassas-slow-services/> [↑](#footnote-ref-24)
25. <http://www.thepresidency.gov.za/speeches/statement-president-cyril-ramaphosa-further-economic-and-social-measures-response-covid-19> [↑](#footnote-ref-25)
26. <https://www.cliffedekkerhofmeyr.com/en/news/publications/2020/probono/probono-alert-12-may-Socio-economic-challenges-in-the-face-of-a-nationwide-lockdown.html> [↑](#footnote-ref-26)
27. <https://www.cliffedekkerhofmeyr.com/en/news/publications/2020/probono/probono-alert-12-may-Socio-economic-challenges-in-the-face-of-a-nationwide-lockdown.html> [↑](#footnote-ref-27)
28. See, “Proposals on Informal Food System: Traders, Street Vendors and Spazas”, compiled by C19 People’s Coalition, Food Working Group, 21 April 2020. [↑](#footnote-ref-28)
29. **Red** Ant Security Relocation & Eviction Services, or the '**Red Ants**', is a private security company in Johannesburg, **South Africa**, whose employees have become notorious for using excessive force in conducting their operations [↑](#footnote-ref-29)
30. Draper, A (2020) Stop illegal evictions: A research report into the eviction of shack-dwellers in eThekwini during the Covid-19 crisis available here <http://www.churchland.org.za/wp-content/uploads/2020/06/STOP-Illegal-evictions.pdf> [↑](#footnote-ref-30)
31. Ibid, p.16 [↑](#footnote-ref-31)
32. https://www.joburg.org.za/media\_/Newsroom/Pages/2020%20News%20Articles/March%202020/Water-and-electricity-suspensions-temporarily-lifted-.aspx [↑](#footnote-ref-32)