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Source: *Review of African Political Economy*, 2026, Vol. 53, No. 188 (2026), pp. 235-258

.Published by: ROAPE Publications Ltd

Stable URL: https://www.jstor.org/stable/10.2307/48872647

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Review of African Political Economy, 2026
Vol. 53, No. 188, 235–258

The moral economy of sanitation provision in informal settlements in Cape Town and Nairobi

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ABSTRACT

This article compares how Cape Town and Nairobi approach sanitation provision in informal settlements, where residents experience vastly different levels of access to safely managed services. The City of Cape Town metropolitan municipality provides free sewered and container-based sanitation, while Nairobi City County offers limited infrastructure, leaving most residents reliant on private providers. Using a moral economy framework, the study examines expectations between citizens and the state, and the role of civil society in shaping sanitation claims. Based on in-depth interviews and a photovoice project, the analysis finds that South Africa's rights-based post-apartheid social contract and strong activist culture drive the City of Cape Town's provision of free sanitation. In contrast, Nairobi's fragmented institutional and policy environment, combined with weak citizen mobilisation, reduces state accountability. The study highlights how seeing sanitation as a political, rather than a technical, concern influences both citizen claims and state responses to inclusive sanitation in informal settlements.

KEYWORDS

Sanitation; moral economy; Cape Town; Nairobi; South Africa; Kenya; informal settlements; social contract; civil society

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Accepted: 30 October 2025; published online: 18 April 2026

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Introduction

Residents of informal settlements in Cape Town and Nairobi are among the millions of people in the world who have only limited access to safely managed sanitation (WHO and UNICEF 2019). In Cape Town, approximately 20% of the city's households are in informal settlements. The City of Cape Town provides, at no direct cost to users, sewered and container-based toilets to all informal settlements.[1] In Nairobi, more than 60% of the city's population are low-income informal settlement residents (Coville et al. 2025). Despite these demographics, sanitation provision in informal settlements is mainly donor-driven, resulting in a sparse, uncoordinated and market-driven environment for sanitation provision to informal settlers (Mansour, Oyaya and Owor 2017).

This article examines the structural reasons for the different approaches to sanitation governance in informal settlements in Nairobi and Cape Town. It uses a moral economy framework to explore why the City of Cape Town provides free sanitation services to informal settlement residents while the City of Nairobi does not. How does the nature of the relationship between state and citizen[2] shape the demand for and provision of sanitation? These questions facilitate the study of the political nature of the capability of the state and, in turn, its willingness to deliver sanitation provision to marginalised populations.

This research makes timely and important contributions to two key debates, demonstrating in the process how they are intricately related: the capability and expectations of the local state in African cities and the infrastructural governance of informal settlements. We explore the expectations, and reality, of the contemporary social contract, specifically as it relates to infrastructural provision of basic services such as sanitation. This intervention is timely because Cape Town and Nairobi are among cities that are facing rapid population growth and increasing numbers of informal settlements. Cape Town has a population of approximately five million people, with an annual growth rate around 1.7% (World Population Review 2025a). The city has over 650 informal settlements, a number that has escalated notably since the Covid-19 pandemic (CCT 2023; Ruiters 2025). Nairobi's population, at 5.8 million residents, is also on an upward trajectory, with an annual growth rate of 4.1% (World Population Review 2025b). Almost 60% of Kenya's urban residents live in areas that would be defined as slums (Kamunyori 2018).[3] This renders the existing infrastructure, and specifically that of sanitation, inadequate to meet the growing demand. While there have been increases in the number of people with access to sanitation in South Africa and Kenya over time, challenges, albeit at different scales, remain (WHO and UNICEF 2019). For example, in South Africa 4% of faecal sludge is unsafely managed nationally (Jack, Mackintosh and de Sousa 2020), while in Nairobi, only 33% of excreta *is* safely managed (Teyie 2022). In Kenya only 15% of the urban population is connected to a sewerage system, while the rest of the urban population is using on-site technologies, most of which are not linked to a sanitation chain for safe disposal or reuse of waste (Water Services Regulatory Board 2018). In both contexts the local state holds the formal responsibility to provide and maintain dignified infrastructure, and yet its support for the implementation of sanitation infrastructure differs widely. The article explores and explains these differences.

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To analyse the social and political dynamics that inform citizen–state relations regarding sanitation provision and management we used a comparative case study approach. Our case studies are BM Section in Khayelitsha, Cape Town and Mukuru Kwa Reuben in Nairobi. These sites were chosen as they face analogous challenges, including deep-rooted socio-economic and spatial inequalities, shaped by colonial and apartheid (Cape Town) or postcolonial (Nairobi) histories. The research is underpinned by extensive key informant interviewing, surveys and 'photovoice' activities extending over a two-year period from 2021 in both sites. The rest of the article is divided into four sections. The next section outlines the relevance of a moral economy framework as an analytical lens for the exploration of social and political dynamics in the state facilitation of access to safely managed sanitation. The third section provides details on the methodological approach, offering a contextual outline of the case study areas, BM Section and Mukuru Kwa Reuben, and an overview of the legislative frameworks that govern sanitation provision in South Africa and Kenya. Next, we present three emergent themes from the application of a moral economy lens to sanitation provision in the research sites: (1) differential social contracts in relation to sanitation provision; (2) legitimising notions behind demands for sanitation; and (3) the role of civil society actors in relation to shaping demands for the provision of safely managed sanitation. The conclusion draws lessons from the case studies and highlights their implications for global goals on access to dignified and safely managed sanitation in informal settlements.

The moral economy of sanitation provision

The concept of a 'moral economy' was developed through the work of E.P. Thompson (1971) and James Scott (1976) and is a critical lens through which the political and economic relations among citizens and between citizens and the state can be analysed. For Thompson, it was a 'moral economy' that guided the expectations of the English crowd and fuelled the outrage that generated food riots in the eighteenth century. Importantly, these riots were not 'rebellions of the belly' but were reactions against the abuse of a set of cultural conventions of that time, a moral economy that shaped shared expectations of what principles should guide a community and what was socially just (Calabrese 2005; Götz 2015). The model that Thompson offered depended upon 'a particular equilibrium between paternalist authority and the crowd' (Bohstedt 2010, 9) and was based on an interlaced pair of moral economies. The first component was a deeply felt right, on the part of protesters, to an affordable provision of a good. Second was a reciprocal social contract where it is the responsibility of authorities to underwrite popular subsistence necessities (*ibid*.). Scott's work looks beyond riots and protests to examine everyday forms of resistance. Here we see peasant resistance reflected as 'not just a problem of calories and income' but 'a question of peasant conceptions of social justice, of rights and obligations, of reciprocity' (Scott 1976, vii). This approach is particularly useful in our research as we examine citizens' conceptions of the social contract in relation to sanitation. For both Thompson and Scott, collective action or other forms of resistance and claim-making arose because a person's moral expectations had been violated in a sustained manner.

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The concept of a moral economy is most appropriately applied when it relates to a struggle over a particular good rather than a struggle over a significant economic shift (Arnold 2001; Cooper-Knock 2021). This follows Arnold's (2001, 85, 90) view that a moral economy forms specifically over a *social* good, by which he means one that is at 'the intersection of nested sets of meaning and value' and 'establishes and symbolises an important sense of self'. These social goods are 'identity orienting' and 'role-shaping' and hold a value that stretches beyond only material or commercial properties (*ibid.*, 91). The claims for the goods 'should be supported by a wider population than the claimants alone' (Thompson 1993, 338). Those goods should also 'carry particular significance' (Götz 2015, 154). The claims to dignified provision of sanitation in Cape Town and Nairobi's informal settlements are thus well suited to a moral economy analysis as sanitation can fulfil this idea of a social good.

Both Thompson and Scott saw moral economy as 'a norm-based economic system in which people's cultural notions of justice govern the exchange of essential resources' (Beresford et al. 2023, 2). Beresford et al. also note that

> in a well-functioning moral economy, people mobilize common notions of a morally understood social order to make claims to vital resources from others. Reciprocally, people are socially obligated to fulfil those claims and provide vital resource access to those in need. (*Ibid*.)

The contribution made by both Thompson and Scott was that those collective actions were 'an ideological reaction to violations of the morally understood social order' (*ibid*., 3). In Thompson's work, the bread riots reflected a 'vision of a better world' (Thompson 1971, 78). The values related to food were formed through legitimising notions that were supported by a wider group.

Legitimising notions that drive a demand for goods or services surface political values that underpin a shared understanding of what is perceived as socially just (Anciano and Wheeler 2021). Applying this framework to sanitation allows us to understand in our case studies whether sanitation is seen as a 'social good', whether citizens think it should be provided by the state, and by who and how it should be paid for and managed. Furthermore, it enables us to explore the legitimising notions, and concomitant values, behind these views. Siméant (2015, 171) explains that values can be 'linked to the reciprocal expectations of elites and the people, which are at once pragmatic and normative, and which concerns the fair distribution of wealth and the responsibility of leaders'. If values are understood as socially constructed norms emerging from experiences, then it is also useful to reflect on how these norms are woven into legal, political and economic systems. This links to the idea of a social contract, the agreement between the state and citizens concerning rights and duties of each, and allows us to explore these in regard to sanitation during key political moments, transitions and the founding of the modern city and state in Cape Town and Nairobi. What do founding documents such as a constitution and various pieces of legislation promise in terms of sanitation and what does this signify in relation to formalised expression of moral economy? But also, critically, what does a failure to honour embedded formal commitments imply with respect to the *actually existing* moral economy in particular societies at particular moments?

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Many scholars (Götz 2015; Anciano and Wheeler 2021) highlight the aspect of temporality when using the concept of moral economy. Some claim that the concept was only useful in the analysis of a specific context and period of major changes in the economic system. We make a temporal adjustment to analyse the demands for sanitation services that are imagined, rather than a moral economy focused on preserving the status quo (see Cooper-Knock 2021). While we highlight the changing moral economies of sanitation from the colonial and apartheid to postcolonial and post-apartheid eras, we do not restrict our analysis to those transitional eras. Rather, we focus on the contemporary struggles for sanitation with an understanding of the *longue durée* of colonialism. We use the concept of moral economy to explore what is deemed as just in relation to sanitation provision in the cities of Cape Town and Nairobi. This use of the concept allows us to show how the claims to sanitation by informal settlement residents are shaped by the ideals reflected in the South African and Kenyan social contracts and (non)fulfilment of the same.

A moral economy framework thus supports analysis along three dimensions: 1) exploring how values and norms are reflected (or not) in policy and legislation and whether this leads to a social contract of sanitation; 2) surfacing legitimising notions and values in relation to demand (or lack of) for a service or good; and 3) acts of citizenship, including civil society–state engagement and protest, in demanding the provision of a service. A moral economy framing implies that civil society–state engagement, including protests, is a reaction against the violation of a set of cultural conventions of a time, or perhaps even constitutes support for a status quo. We thus reflect on societal norms and values in approaches to sanitation. In applying this threefold framework to sanitation in informal settlements in Cape Town and Nairobi we can better understand the differences in demand and provision for sanitation between the two cities.

Methodology and case studies

This article uses a comparative case study method to analyse sanitation provision in informal settlements in Cape Town and Nairobi. The cities were chosen for comparison as they share similar structural challenges, including a high rate of expanding informal settlements, deep-rooted socio-economic and spatial inequalities and rapid urbanisation and population growth. At the same time both cities operate within countries committed to the right to sanitation (as framed in both Constitutions) and the United Nations Sustainable Development Goals (SDG 6: Clean Water and Sanitation), and with a state focus on providing sanitation, giving a common policy framework for comparison.

Data were collected as part of a collaborative international research project on container-based sanitation (CBS). First, we conducted over 60 in-depth interviews with: residents of BM Section, Khayalitsha and Mukuru Kwa Reuben; City of Cape Town and Nairobi City Council officials; and private companies hired to service CBS in Cape Town. In Nairobi, interviews were also conducted with staff from a non-profit sanitation organisation, Sanergy. We also use secondary data (both peer-reviewed journal articles and grey literature) on past protests about sanitation provisions in

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order to understand the nature of demands and how they were articulated. This approach is useful in surfacing state-centric perspectives on the provision of sanitation contained in policy documents, reports and other materials. Third, all the authors conducted transect walks in both informal settlements.[4] Fourth, we draw on the research project's data on intersectional vulnerabilities and sanitation, collected through participatory action photovoice research with 30 respondents. We provided respondents with a camera to take their own pictures related to sanitation and they then described their photographs to us in an interview. This generates insights into cultural views that may otherwise be hard to uncover.

Cape Town: BM Section

BM Section emerged in the 1990s in one of Cape Town's largest townships, Khayelitsha. It has approximately 14,000 residents in 4,100 households and covers an area of 32.4 hectares. Residents live in individual shacks mostly made of sheets of corrugated iron and wooden planks. The shacks are arranged in an irregular layout, with narrow and winding paths between them. BM Section residents do not have security of land tenure as the land is owned by the state and was, technically, illegally occupied by residents (Dube, Anciano and Mdee 2023). The insecure tenure results in limited investment from the residents and the City of Cape Town which affects the provision of services such as sanitation (Groenewald et al. 2013).

The City of Cape Town provides a range of sewered and non-sewered sanitation, as well as shared and private household sanitation for BM residents. There are four types of sanitation: (i) single-flush sewered toilets in concrete cubicles, each shared by five households (who are given keys); (ii) sewered, shared toilets in two ablution blocks that are publicly accessible; (iii) chemical (non-sewered) CBS toilets, which may be either be vacuum cleaned or have a removable tank, shared on a ratio of one toilet to five households; and (iv) portable flush toilets (PFTs), a form of CBS issued to individual households, with detachable 20-litre waste containment cartridges. The sewered toilets are cleaned and maintained by BM Section residents contracted as short-term City of Cape Town workers. The CBS toilets, including PFTs, are managed and provided through private contractors. Those with detachable tanks or cartridges are transported to, emptied and cleaned at Borcherds Quarry Wastewater Treatment Works more than 10 kilometres away.

The provision of sanitation to informal settlements such as BM Section is part of a monolithic service regime, where sanitation is tightly regulated and controlled by the state (van Welie, Truffer and Gebauer 2019; Mdee et al. 2024). The framing of this regime type starts with the South African Constitution (Law no. 108 of 1996), drafted and enacted after the country transitioned to democracy in 1994. It includes a bill of rights supporting the right to dignity, water and an environment that is not harmful to health or well-being. It further mandates local government to progressively realise the right to basic sanitation. The Water Services Act explains that people in South Africa have a 'right of access to basic water supply and sanitation' and that 'every water services institution must take reasonable measures to realise these rights' (Government of South Africa 1997, 12). According to the country's National Sanitation Policy, CBS, which forms over 60% of what the City of Cape Town provides

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in informal settlements, is legally considered to be temporary sanitation in South Africa (Government of South Africa 2016).

Given the national framework, the City of Cape Town is required to provide basic services to informal settlements. Furthermore, local governments are obliged to provide 'the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic wastewater and sewage from households, including informal households' (Republic of South Africa 1997, 8, definition of basic sanitation). Policies such as the Free Basic Sanitation policy also compel municipalities to provide free basic services to poor households that are unable to pay for such services. To support these services local municipalities receive funds from national revenue and grants from the national government. They also receive grants for the upgrading of informal settlements, which can entail providing security of tenure and access to sanitation and other services. Metropolitan municipalities such as the City of Cape Town also use their relatively large revenue from rate payers to provide free services to poor residents in informal settlements (Taing 2017).

Nairobi: Mukuru Kwa Reuben

Mukuru is one of Nairobi's five biggest slums, with over 600,000 people (Mutinda and Otieno 2016), spread over 243 hectares. Our research focused on Mukuru Kwa Reuben, one of the many villages within the slum, with an approximate population of 100,000 (Corburn et al. 2017; Mbae et al. 2020). Mukuru Kwa Reuben, which dates from 1958, was previously owned and farmed by a white settler named Reuben. In the post-independence era, the Kenyan government took ownership of the land and allocated it to private developers, and later issued titles for light industry development in the 1980s. The land remained largely undeveloped and was settled on by migrant families drawn to nearby industrial jobs. Since then, the slum residents have been repeatedly threatened with eviction by the private landowners (Murumba 2021). Residents live in single- and double-storey shacks arranged in compounds of between four and ten rooms. The average monthly income of residents is approximately 12,000 Kenyan shillings (*c*.U$93) (Corburn et al. 2017). Ninety-four per cent of the slum dwellers pay a monthly room rent of approximately KSh2,000–3,000 (between US$15 and $22) to landlords (CURI, University of Nairobi and Muungano Wanavijiji 2014; Mutinda and Otieno 2016; also confirmed in field interviews, Nairobi, 26 February 2024).

Sanitation for residents is largely provided by landlords. Landlords and/or structure owners build sanitation facilities while constructing houses and maintain them for the rent-paying occupants. Most slum residents share a single toilet, usually a pit latrine, in their compound. There is a high ratio of users to latrines as landlords and housing developers are more inclined to build additional rooms for renting out than to build more toilets on their land (see also Ali 2013):

> structure owners do not consider constructing proper toilets for the people to use; they construct poor facilities without proper sewage draining systems. This is because constructing a unit structure for rental is more beneficial [to their income] than a toilet which will require emptying. (Focus group, local leader, Nairobi, 1 August 2022)

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Many pit latrines are emptied into rivers by private manual emptiers (Sverdlik, Mitlin and Dodman 2019). Households may also use buckets and empty these into the makeshift drains outside dwellings, or may use open defecation or defecate into plastic bags. In other instances, latrines are strategically placed next to drains, with a system that allows direct discharge into the drains.

The provision of sanitation in Mukuru is reflective of a splintered sanitation sectoral regime found across Nairobi (Mdee et al. 2024). Responsibility for sanitation is fragmented between state departments, including, in theory, the Nairobi City County (NCC) and a range of actors in informal settlements seen as 'illegal' and beyond state responsibility (Nyanchaga and Ombongi 2007, 271; Greenwood and Topiwala 2020). The different service regimes demonstrate high levels of misalignment and lack of interoperability.

The NCC derives its mandate from the 2010 Kenyan Constitution which stipulates that the state must fulfil the right of 'every person' to 'reasonable standards of sanitation' and clean and safe water in adequate quantities (Republic of Kenya 2010, Article 43(b); Kibet and Fombad 2017). As with South Africa, the Constitution was a break from the colonial past, developed within the context of the country's broader transition to multiparty democracy. Additional legislation, including the Urban Areas and Cities Act (2012) and the County Government Act (2012), mandates local authorities to progressively realise a range of socio-economic rights and delegate responsibility for service provision and spatial planning to cities. Government spending on sanitation and hygiene in Kenya is low, however, accounting for less than 0.5% of the nation's gross domestic product (GDP) (Mansour, Oyaya and Owor 2017).

While there is a constitutional responsibility for NCC to support sanitation provision in Mukuru, in practice there is little evidence of local government involvement in sanitation in the area. Toilets are built by landowners, housing developers or landlords (who can in practice be the same person). The landlords pay non-state providers of sanitation, including cartels and manual pit emptiers. Cartels in this setting should be understood as patronage and rent-seeking networks enmeshed with the powerful interests that also run the formal state (Mdee et al. 2024).

Donor-funded non-governmental organisations (NGOs) like Sanergy and Sanivation are additional actors in Kenya's splintered sanitation regime. They provide CBS for slum residents, which includes removal and transportation of faecal waste to central processing plants. Sanergy provides CBS under three business models: 'commercial' toilets serve the public as pay-per-use systems; 'school' toilets are used by pupils and teachers; and 'residential' toilets are operated by landlords for use in their compounds (World Bank 2019). An employee of Sanergy estimates the number of their currently leased toilets across Kenya to be more than 7,600 as of February 2024, with a majority of these toilets in Mukuru. The cost of this service to residents is relatively low, as the NGO collects fees that are less than its operating costs (Mdee et al. 2024). Although these eco-toilets can safely capture and reuse waste, the rate of five Kenyan shillings (US$0.04) per use for public toilets may be too expensive for poor people (Sverdlik, Mitlin and Dodman 2019). Sanergy would like, ideally, to align its service regime with the Nairobi City Water and Sewerage Company through a public–private partnership management contract model with the government (Waldman-Brown and Flatter 2018).

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Analysing the moral economy of sanitation

In this section we draw on Thompson and Scott's framing of a moral economy to analyse the shared notions of justice that govern the provision of sanitation in the two case study sites. First, we interrogate who citizens turn to in their claims for sanitation – which state or non-state actors play a key role, and is there a 'sanitation social contract' in either case study? Second, we discuss the notions that legitimise citizens' demand for sanitation, unravelling their conceptions of social justice in relation to sanitation. Third, we analyse whether there are collective demands for sanitation across the case studies. We do this through examining the role of civil society in relation to acts of citizenship; are there key actors driving demands for sanitation, and if so, what is their engagement with the state?

A social contract of sanitation?

A moral economy framework is helpful in highlighting which public authorities citizens believe are responsible for sanitation provision at any one point in time. By analysing who residents target in their claim to sanitation, it is possible to better understand if there is an explicit or implicit social contract between citizens and the state regarding sanitation.

BM Section

Residents of BM Section think that the state is wholly responsible for sanitation provision and maintenance; this was evidenced in all interviews on the topic. When asked what toilets they use, residents explain that they only use state-provided sanitation: 'we are all using the potties this side'[5] (Interview, Amahle, Khayelitsha, 31 March 2021); or 'there are public toilets that we use' (Interview, Khula, Khayelitsha, 31 March 2021).[6] Beyond provision of sanitation there is also a widespread expectation that the state should improve infrastructure generally: 'It's been years we've been living here, and they said "We gonna upgrade." …. Every time, promises …. It's been a long time we are living in here, but no progress' (Interview, Ntombi, Khayelitsha, 1 April 2021). The 15 residents involved in the photovoice activities all asked for their pictures to be shared with the City of Cape Town, with the belief that the City has responsibility to provide and maintain sanitation. As Lindo explained about his photovoice images, 'The information you have, take it to City [government], City is able to take this information forward' (Interview, Lindo, Khayelitsha, 11 May 2023). No other actors, private or from civil society, were mentioned in the interviews as being responsible for sanitation.

Our respondents' views largely reflect the constitutional rights and obligations related to sanitation. The expectation that the City of Cape Town will provide sanitation to informal settlements operates within this legislative context. As a resident in BM Section explained in reference to sanitation, 'Constitutionally, in South Africa these services must be provided' (Focus group, Khayelitsha, 30 November 2023). The legislation reflects a South African post-apartheid-era social contract which articulates the state's moral duty to counter the exclusion of some groups from service provision. This is a departure from the apartheid era, where the Constitution had no

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bill of rights (Dugard 1990). For example, one of South Africa's key post-apartheid programmes, the Reconstruction and Development Programme, emphasised the need to provide sanitation to previously excluded groups in order to achieve equality and dignity. The post-apartheid social contract sought to ensure that previously excluded citizens were included in service delivery. The commitments and actions taken by the state thus far to provide sanitation in informal settlements, in turn, legitimises demands for sanitation.

Mukuru Kwa Reuben

Respondents in Nairobi present a far more complex view of who they feel is responsible for sanitation provision. Certainly, there is some, albeit limited, perceived state obligation. As with South Africa, Kenya's pre-independence Constitution did not have provisions for socio-economic rights (Arwa 2013). The 2010 Constitution presented a potentially new social contract wherein powers and responsibilities were decentralised among local government actors, such as NCC's mandate to fulfil the right to water and sanitation (Kibet and Fombad 2017; Murumba 2021; Coville et al. 2025). While the Constitution acknowledges socio-economic rights, including access to clean and safe sanitation as a basic human right, and gives people the right to institute court proceedings for denial of these rights, for many Kenyans these rights are unrealised.

While the provisions in the 2010 Constitution could potentially enable local government authorities like the NCC to have more control over privately owned land on which slums such as Mukuru are located, the actually existing patterns of sanitation provision are characterised by informality, illegality and control by the cartels described above (Mallory et al. 2021; Muindi et al. 2022). This is attributed to the splintered sanitation regime, including fragmented legal and regulatory sanitation structures with sanitation-related laws scattered across various legal instruments (Mallory et al. 2022). For example, at the national level, sanitation responsibilities have historically been divided between the Ministry of Health and the Ministry of Water and Sanitation (Nyanchaga and Ombongi 2007).

A further cause of poor service delivery is attributed to the historical development of Nairobi city, which was based on the racial segregation of the native population and white settlers (Kaarsholm and Frederiksen 2019). The eventual Nairobi master plan for a colonial capital was primarily fragmented along racial lines, where white people were given raised grounds to live on and the native population was restricted to the environmentally problematic areas in the east. Planned distribution of sewerage works in the 1950s, for instance, was implemented on a priority basis, beginning in European quarters and neighbourhoods and the local authority did not provide essential services (Kaarsholm and Frederiksen 2019; Ese and Ese 2020). The Nairobi Master Plan of 1984, and other major urban development plans, abandoned the development of informal settlements (Ese and Ese 2020). Today, little has changed regarding recognition of informal settlements, as the local government still does not want to interfere in the daily operations of slums, given that powerful political actors and criminal gangs compete for control in these spaces (Kaarsholm and Frederiksen 2019).

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Some of our respondents did feel that although the state was responsible for sanitation provision, cartels have been more instrumental in providing key public services, including water, sanitation and solid waste management. For instance, one of our photovoice participants, in describing the history of water and sanitation provision in Mukuru, explained:

> It's the cartels who actually brought in a very steady supply of water here. Back then, we used to have places that had water, but it was like a disaster because it did not run throughout … The cartels brought some positive impact when it comes to water supply here, but recently the government is trying to take that from them … the same thing about sanitation. … Yeah, the idea of public toilets came from them – the cartels. (Interview, Participant 14, Nairobi, 26 February 2024)

Most Mukuru residents, however, are indirect in their approach to putting their demands for sanitation to the state. Demands that do exist are largely implied through engagement with the 2011 Kenya Informal Settlement Improvement Project. This project mandates that development be carried out in consultation with the 'community' to improve livelihoods, offer housing improvement, provide security of tenure and implement physical and social infrastructure. The use of the word 'community' is often vaguely defined and does not refer to specific governance structures and responsibilities. Provision of basic water and sanitation services has been used as focal entry points to upgrade slums, thus, residents can petition for sanitation services that provide dignity and safety in line with the project goals (UN-HABITAT 2007). Nonetheless, Mukuru residents are uncertain of the state's role in sanitation provision, and hence it was more difficult to identify a social contract of sanitation with the state, as compared to BM Section residents.

Residents in Mukuru more commonly claim sanitation services indirectly from non-state authorities, including land and housing owners, cartels, traditional leaders, NGOs (local and international) and community-based organisations (CBOs). These actors mediate relations between residents and the City County. Landowners, who are not the developers of the land in some cases, and structure owners, who are usually not the occupants of the structures (shacks), mostly provide sanitation and determine the type that their tenants have access to. The residents' claims for sanitation from the landlords is direct, while their engagement with the City County is at best indirect and mediated. As a local leader explains:

> There are no government toilets in this area. Land tenure limits what government can do here. Most of the toilets in this community are donated by well-wishers. Women and youth groups are currently running the public toilets. They charge people to use the facilities [three to five Kenyan shillings per use]. Some of these are clean because the groups organise with manual pit emptiers who provide the services. (Focus group, local leader, Nairobi, 1 August 2022)

Where landowners do not provide sanitation or maintain the facilities, tenants depend on the government-appointed local leaders (known as chiefs and alleged by some respondents to be part of cartel groups) to force them to make such provision. One landowner commented: 'Sometimes tenants report you if you are not offering safe sanitation and you will be punished by the chief or village head because they will discourage people from renting our houses' (Focus group, landowner, Nairobi,

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1 August 2022). Landlords are expected to uphold fair practices and, by extension, the dignity of their tenants, while the local leaders are expected to play an oversight role and are thus called upon to mete out sanctions against those who violate residents' access to sanitation. The Kenyan legislation which outlines the role of chiefs empowers them, among other things, to ensure the implementation of government policy in their jurisdiction and to issue orders to prevent pollution and the spread of disease (Republic of Kenya 2013).[7]

In the absence of the state, cartels become major players in the provision of sanitation services: they 'control all the services … the only service without cartels is the Fresh Life toilet business', said a cartel representative (Interview, Cartel 2, Nairobi, 23 July 2022). Another representative argued that 'cartels took over due to government's laxity. People need these services and will take what is available to them even though cartel services are very costly' (Interview, Cartel 3, Nairobi, 23 July 2022). In the few instances where the county government engages in sanitation provision, residents who are the intended beneficiaries are rarely involved and the ownership of facilities is deliberated upon between the government and the cartels. This often creates resistance to local government initiatives, particularly where residents are expected to make financial contributions for connection or a service:

> Nairobi Water and Sewerage Company is currently working on a simplified sewer network. This is already bringing problems. People were not involved. They are required to pay 5,000 [shillings as a] connection fee. We are not prepared for this. Just laying a trunk [pipe] is not adequate. Who will provide the toilet infrastructure? 5,000 is a lot of money for connection. … Cartels have come up with plans to hack and connect illegally to that trunk. (Focus group, local leader, Nairobi, 1 August 2022)

In relation to a social contract of sanitation, a key difference between the residents in Mukuru and those in the BM Section is that, whereas in South Africa the lines of responsibility for sanitation provision are clearly directed to the state, in Kenya this responsibility is contested and confused in practice and in people's expectations: there is no public consensus.

Legitimising notions behind claims to sanitation

In this section we examine what collective values underpin a perceived right to access, and responsibility to provide, sanitation. Are there notions that legitimise demands for or claims to sanitation? What might these be and what are their social or cultural origins? Our cases appear to demonstrate that the values guiding informal settlement residents' approach to sanitation differs markedly in the two sites.

BM Section

As we have shown, in BM Section residents focus their demands for sanitation on the state. These demands are broadly based on three legitimising notions: first, the right to equality – to be provided with sanitation services that are equal to those received by wealthier citizens in the formal parts of the city. Second, the need for historical redress – the notion that in a democratic era the sanitation service should not resemble that of the apartheid era, where black[8] populations were excluded

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from dignified sanitation provision by the state. Third, the belief that sanitation is a public good and in turn a social good.

Cape Town has a history of segregation and unequal citizenship. Under apartheid legislation the black and coloured populations were deliberately pushed to the peripheries, often outside the city's sewered sanitation grid. Informal settlements were a direct outcome of city planning that sought to exclude the black African and coloured racial groups from central locations (Enqvist and Ziervogel 2019). However, even in the post-apartheid era, 'sanitation services in South Africa remain both unequal and inequitable between different demographic groups as compared across race, gender of head of household and settlement type' (Pan, Armitage and van Ryneveld 2018, 436). The demands around the provision of sanitation must thus be seen within the broader contestations around urban infrastructure provision which have persisted since the colonial and apartheid years (McFarlane and Silver 2017; Jackson and Robins 2018).

Thus, a key legitimising notion informing the moral economy of sanitation provision in BM Section is the ideal of equality in service provision. Residents in informal settlements are sensitive to the lack of equity in the implementation of sanitation technology between and within formal and informal areas (Pan, Armitage and van Ryneveld 2018). We see this concern among some of our respondents who consider that sanitation in Khayelitsha is not well maintained. Referring to a shared container toilet, a photovoice respondent explained that the toilet

> is not far from my house and we breathe [in the fumes of] the toilet when it's hot. So the environment is not good …. There is no good hygiene because when I come back from the toilet I have to wash and take a jug and put it in a bucket and wash my hands. (Interview, Zola, Khayelitsha, 8 March 2023)

The comparison with wealthier areas was a concern that was often raised during our research. As Tom explained, 'Our toilets are dirty, broken and unusable …. In Camps Bay [a wealthy, historically white area] faults are fixed quickly, but not here in BM' (Interview, Tom, Khayelitsha, 8 March 2023). For residents such as Tom the provision of dignified sanitation includes a clear commitment by authorities to provide services equitably across the city.

A second notion informing residents' demand for dignified sanitation is the need to redress historical injustice. Our research reveals that complaints about poor sanitation are sometimes expressed by drawing parallels between the forms of sanitation provided during and after the apartheid era. Some residents compare them to a system that was introduced during the apartheid era where black residents in townships were provided with buckets instead of flush toilets. PFTs were rolled out to eradicate the bucket system, however, a number of residents feel PFTs are no better: 'it is not a flushing toilet. These [PFTs] are not flushing into the ground. It's still the bucket system, and it's degrading and dehumanizing' (Civil society protester quoted in Gontsana 2013).

Third, informal settlement residents base their claims for sanitation on the Bill of Rights in the South African Constitution as they view sanitation as a public good. Protests and litigation have been used in cases where residents feel that their right to sanitation has been violated. In a workshop hosted by researchers in 2023, with over

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40 residents from BM Section, a participant explained, 'I pay tax. I pay VAT [value added tax] when I buy food. The government, the City of Cape Town, must give toilets and they must clean those toilets' (Workshop participant, Khayelitsha, 21 June 2023).

Mukuru Kwa Reuben

The public authorities that residents of Mukuru turn to in their claims for dignified sanitation are largely different to those in BM Section. As discussed earlier, it is not the state that residents primarily engage with, or have expectations of, but a range of non-state actors including landlords, cartels and NGOs (van Welie, Truffer and Gebauer 2019; Mallory et al. 2021). Thus, the notions that legitimise claims for sanitation by informal settlement residents differ depending on the authorities who provide it.

When Mukuru residents' demand sanitation from the City County, this is not explicitly based on citizenship rights and human dignity. These values are largely implicitly claimed through demands for informal settlement upgrading – implying the need for services and dignity (CURI, University of Nairobi and Muungano Wanavijiji 2014). Where our participants were vocal in stating their right to services, they most often referred to water and seldom mentioned toilets. Thus, while sanitation is seen as a public good in BM Section, this is less the case in Mukuru Kwa Ruben.

Additionally, while some residents feel sanitation is a public good, and thus should be provided by the state, these views were limited. Sanitation is most often seen as a private, household concern, to be managed through a privatised relationship with landlords, who in turn work with cartels. This sentiment was largely shared when, during focus group exercises, participants' answers to the question 'Who is responsible for providing sanitation?' pointed to individual responsibilities. There was a recognition that the state could play an oversight role but less emphasis on the notion that sanitation is a basic right. First, we observed a moral economy of sanitation based on tenants' rights and supposed fair business practices by landlords. Tenants expect and sometimes demand sanitation from land or shack owners (especially resident landlords):

> It is the role of a landowner to ensure that there are sanitation facilities. … My son also consistently checks if sanitation facilities are well managed. … I hire someone or appoint one tenant to ensure sanitation facilities are well managed. (Focus group, landowner, Nairobi, 1 August 2022)

However, landlords expect tenants to pay before this provision can be made: 'Residents have to pay rent before I organise for emptying. If not, it is difficult to get my money from them'. A resident added:

> Most of the landlords have leased structures from cartels and have to remit some money every month to them. To remain in business, they don't provide toilets and when they do, the toilets are connected to drains.

This meant that in Mukuru, residents see payment for sanitation as their responsibility, even if through their general rental contract, whereas residents in BM

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Section were clear that they would not support paying for sanitation (Focus group, Khayelitsha, 30 November 2023).

Civil society and the moral economies of sanitation

To conclude our analysis, we look at whether there are collective demands for sanitation in our case studies. We do this through the lens of civil society, examining the actions of groups who are beyond the family, but not part of the state or the market. Understanding the role of civil society in relation to demands for sanitation tells us whether there is a moral economy of sanitation and, if so, who drive demands for sanitation and how these demands are enacted. We start with Cape Town and then turn to Nairobi.

BM Section

Civil society organisations, largely in the form of NGOs, have played a significant role in demanding dignified sanitation in BM Section. This mirrors South Africa post-apartheid civil society organisations which emerged around socio-economic issues such as the provision of houses and against the evictions and privatisation of services (Stokke and Oldfield 2005). Civil society organisations that campaign for socio-economic rights (re)frame the demands for sanitation in social justice and human rights terms, which is a reflection, if at times only implicitly, of their members' views. When a photovoice participant was asked what her picture of a broken toilet in a shared ablution block meant, she explained:

> It says we're not important because we defecate in a place like this, they do not treat us right because we're not important. We were supposed to have the right toilets, in good condition, as we are humans. (Interview, Kanyi, Khayelitsha, 1 May 2023)

For this resident, dignified sanitation is a human right, due to all.

Some of the most notable work of civil society in Cape Town has been to organise informal settlement residents to directly claim sanitation as a right, and to protest when sanitation is not provided or the expected quality is not met. In some instances, they also contribute to the formulation of policy on the provision of sanitation. Some represent the citizens to the state regarding sanitation issues. A resident of BM Section explained that he joined the Social Justice Coalition (SJC) social movement:

> So I have been working with the SJC on the issue of sanitation …. These are some of the means that I am trying as an individual in the community … so that we can see how to make sure the lives of the people in BM … can improve. (Interview, Tom, Khayelitsha, 8 March 2023)

There are a range of strategies and tactics that organisations use to further their claims to dignified, free sanitation. First, movements such as the SJC have organised and trained activists and sensitised informal settlement residents about their constitutional rights including the right to sanitation (Dube 2022). The provision of services and dignity for poor people formed a huge part of the struggle against apartheid. Thus, as part of their strategies, organisations in South Africa connect struggles against exclusion in the apartheid era with contemporary informal residents'

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struggles for inclusion. Such values form the basis for collective action that drives claims for sanitation in informal settlements.

Second, some civil society organisations hold the state to account by highlighting the gaps in the fulfilment of the social contract, for example, sanitation provision as reflected in legislation, policy and the Constitution. Civil society groups have leveraged the country's Bill of Rights to push through litigation in courts for access to sanitation as a socio-economic right (Robins 2014; Taing 2017). Residents in BM Section have explained that when there is limited access to dignified sanitation it is seen as a social contract unfulfilled or broken by the state. This heightens the impatience of residents and has in the past given rise to litigation (Dugard 2016). New socio-economic rights are justiciable in South Africa and thus litigation has been used to force the state to provide sanitation services.

A notable court case seeking to force the City of Cape Town to provide permanent safely managed sanitation in informal settlements was lodged in 2016 by the SJC to the Western Cape High Court and the Cape Town Equality Court. In its court papers, the SJC describes the City's use of CBS in long-term informal settlements as evidence of its failure to uphold the informal settlement residents' right of access to sanitation (SJC and Others v. City of Cape Town 2016). It therefore asked the courts to force the City of Cape Town to formulate plans for implementing permanent sanitation facilities in informal settlements. The City eventually sought an out-of-court settlement which would see it working together with the SJC and other stakeholders to develop a plan for permanent sanitation for informal settlements.

Third, alongside community organising and litigation, civil society has used protest to demand dignified sanitation. Highly publicised displays of outrage in Cape Town, termed 'poo protests', were triggered by poor access to sanitation (Robins 2014; Dugard 2016; Jackson and Robins 2018). The term 'poo protests' refers to the protests which happened in Cape Town between 2013 and 2015 and saw protesters using faeces to express their sanitation-related frustration. The protesters emptied human faeces in front of public buildings, major roads and targeted public officials in protest against undignified sanitation. In Cape Town civil society groups have taken centre stage to organise the actions against a City perceived by some informal settlement residents to be violating the moral economy of sanitation.

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While cartels are illicit, they do, however, mediate the relationship between the state and bridge the service gap left by disparities between the state and citizens' imaginaries regarding service provision (Mallory et al. 2021; Muindi et al. 2022; Field interviews, Nairobi, 26 February 2024). Yet residents do not collectively demand sanitation services from them or even protest the exorbitant prices for services because of fear of sanctions, such as losing the already minimal services, eviction and even violence. In fact, the cartel representatives that participated in our research claimed that they fulfil a vital function: 'people here will remain silent because they need [the] protection of cartels to live in slums in terms of security', said one of our key informants from one of the cartels (Interview, Cartel 1, Nairobi, 21 July 2022). 'Cartels can disconnect access to available services and torch houses if you are interfering with their movement', said a representative from another cartel (Interview, Cartel 3,

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Nairobi, 23 July 2022). Furthermore, some residents in Mukuru believe that individuals within both NCC and central government are involved in cartel operations and enable them (see also Muindi et al. 2022). Therefore, residents see little point in collective action to hold the government to account for service provision, as lines of accountability and responsibility are fragmented, entangled and obscure.

Other researchers suggest that there are ongoing changes as NGOs and CBOs advance rights-based claims for sanitation (CURI, University of Nairobi and Muungano Wanavijiji 2014). However, there are more critical activist voices in Nairobi, for example the Mathare Social Justice Centre and allied academic voices. For instance, in their recent book, Mwangi and Maghanga (2023) argue that heavy aid dependence and the fragmentation of activism by issues-based and apolitical NGOs have prevented more politically engaged collective demands. This, they argue, suits the Kenyan elite who have no interest in upgrading slum areas.

In Nairobi, NGOs perform two functions: providing toilets and mediating citizen–state relations. However, the nature and goals of the civil society engagement differ markedly from those in Cape Town and South Africa. Aid and donor funding fundamentally shape the nature of civil society, observed through the presence and donor dependence of NGOs and civil society organisations. Nairobi has a heavy concentration of aid-funded NGOs, particularly in the large informal settlements. While, as we note in practice, basic service provision is controlled by informal cartels, CBOs and NGOs have always played a marginal role, some providing services for free and others presenting themselves as social enterprises and charging a relatively small fee. This form of civil society engagement is, however, not a reflection of a moral economy of sanitation as it does not represent a demand by citizens for a social good in relation to a public authority. For instance, it is understood that NGOs and CBOs 'develop toilets to minimise the rate of pollution from open defecation and "flying" toilets' (CURI, University of Nairobi and Muungano Wanavijiji 2014, 39). Yet, in this context, civil society is fragmenting and obscuring the role of the state and could in some ways be viewed as enabling poor state service delivery. But this is not the full picture, as donors and civil society organisations have tried to lobby the government to support basic service provision in informal settlements. The rationale driving this is a human rights/basic needs approach. The impetus for this state engagement has largely come from drivers external to informal settlements (such as international donors) rather than from residents pushing civil society to represent them. As such, these calls tend to be apolitical and incoherent and are preventing the coalescing of collective political and social movements (Mwangi and Maghanga 2023).

Some civil society actors claim to have played a role in the writing of the 2010 Constitution, arguing that the inclusion of socio-economic rights such as the right to sanitation came as a result of civil society campaigns, although many such campaigns are donor-funded and elite-driven (*ibid.*). However, the same actors lack incentives and interest in understanding how broadly constituted rights might be implemented in practice. In theory the Constitution obligates county governments to fully involve residents in project planning, implementation and oversight, but such statements are little more than rhetorical in outcome. Some diagnose this as weak capacity among civil society organisations to monitor their local governments (Fonseca, Muturi and Karanja 2020), and this again attests to lack of organised civic activism

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in Kenya (Hermann-Friede 2016). The space for this in Kenya is actually dangerous and contested, and a weak donor-dependent civil society suits elite and government interests (Mwangi and Maghanga 2023).

In comparing Cape Town and Nairobi, there is a drive from civil society to support a moral economy of sanitation in both contexts. However, the extent and scale of civil society action varies widely. In Cape Town, there have been litigation and protests specifically aimed at improving sanitation in informal settlements. In Nairobi, there is ad hoc government engagement around sanitation, but no direct and concerted efforts to shift responsibility for sanitation provision from the private sector and NGOs to the state. This is not to say that there is no civil society protest action in Kenya at all. Action in 2024 against the implementation of a new finance bill to levy increased taxes on a range of goods and services brought youth-led protest to the streets, demonstrating a howl of fury at cost-of-living pressures, lack of decent employment and elite corruption and greed. At least 40 protesters were killed by police in clashes and President Ruto sought to blame organisers on the basis of their being influenced by 'foreign NGOs' (*The Citizen* 2024).

Conclusion

Our analysis shows that South Africa's post-apartheid social contract and robust rights-based activism force the City of Cape Town to provide sanitation in informal settlements. In Nairobi, a lack of cohesion in institutional, legal and policy frameworks, coupled with near-absent demands for sanitation, has underpinned Nairobi City County's lacklustre approach to providing sanitation to informal settlements. Why is this the case, and can a moral economy analysis shed light on the answer?

There is clearly a strong moral economy of sanitation in an informal settlement such as BM Section in Cape Town. Dignified sanitation is viewed as a social and public good provided to residents to ensure rights-based equality and redress historical injustice. There is a near-universal view by residents that it is the state's responsibility, through the local government, to provide free, dignified and well-serviced sanitation. In turn, the state has largely delivered on this mandate, fulfilling to some extent a 'sanitation social contract'. The actions of civil society over the past decade have supported and presented, through both litigation and protest, the strongly held notions of a right to dignified sanitation by residents. This combination of a shared social contract, strong legitimating notions and an active civil society provides a compelling reason for why residents in BM Section and in other informal settlements across the city currently receive a full service chain of free (if not necessarily sufficiently dignified or well-serviced) sanitation.

In Mukuru, on the other hand, we see a different approach to sanitation from residents. Sanitation is largely viewed as a private affair and its provision as being the responsibility of households. Residents consider that this should come from their landlords as part of the rent they pay for housing. The privatised approach to sanitation is not celebrated but tolerated. There is a weaker moral economy of sanitation. First, Kenya is an elite-captured postcolonial state that has little interest in poor people unless they can be mobilised in elections. This has roots in colonial elite

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structures such as education and formalisation, which see poor people as uneducated and responsible for their own poverty (Wilk and Cliggett 2007). Second, residents do not hold compelling legitimising notions as to why sanitation is a social or public good. Civil society has not adequately driven an agenda demanding improved, state-provided sanitation. Finally, the differences in civil society are fundamental in the space given for protest. Whereas critical voices in Kenya exist and continue to be developed, they do not have strong political-party and ideological roots, considering the existence of laws such as the 2013 Public Benefits Organizations Act which prohibits such affiliations. Subsequently, the elite and patronage politics continually empower spaces for cartels, retracting effective demand for public services from civil society organisations. Thus, while respondents in Mukuru indicated that they would ideally like to have a sanitation social contract, this does not yet exist and there is little evidence that it will do so in the near future.

Both case study countries frame sanitation as a constitutional right and provide compelling legislation and policies to support this enactment, yet only Cape Town has delivered largely on these promises. This article demonstrates that improved, dignified sanitation in low-income settlements is easier to achieve with a moral economy that supports the delivery of this service. Technical solutions to sanitation challenges may only provide one avenue to solve the crisis of inadequate sanitation in slums; it is political will and support for sanitation as a social and public good that can lead to meaningful change. In other words, the combination of a political history that legitimates and supports protest for basic services, alongside independent and ongoing organising by residents and CBOs in informal settlements, is central to ensuring that constitutional promises are actually implemented. A moral economy of sanitation is thus intricately bound up with existing political economies, reflecting political will and open space in society to claim rights. Expanding analyses of political economies in African cities to explicitly include a reflection on the normative idea, as well as the actual implementation, of a social contract as it relates to infrastructural provision of basis services pushes our understanding of the triggers of societal change.

Notes

1. While this is significant, research shows that residents often find the infrastructure undignified, broken or inadequate (Taing 2015; Dube, Anciano and Mdee 2023).
2. In this article we use an inclusive and broad conception of citizen to include all urban dwellers, irrespective of legal status.
3. High-density residential areas that are occupied by low-income residents and often do not comply with municipal planning requirements are termed ‘informal settlements’ in South Africa and ‘slums’ in Kenya. We use both terms in this article when referring to the respective countries, but use the term ‘informal settlement’ when writing comparatively.
4. A transect walk is a participatory method where researchers and community members walk a defined route to systematically observe, discuss and

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document social, environmental and spatial conditions, including resources, infrastructure and land use.
5. 'Potties' refers to portable flush toilets.
6. All the research participant names used in this article are pseudonyms.
7. Section 15 of Kenya's National Government Co-ordination Act of 2013 notes that chiefs, as local government representatives, are responsible for implementing national policy and coordinating government functions (Republic of Kenya 2013).
8. This article uses racial nomenclature that aligns with apartheid categorisations and remains in policy in South Africa today. The term 'black' is a broad category and refers to coloured, black African and Indian groups (Anciano 2016).

Acknowledgements

We would like to thank the respondents who participated in the data collection through interviews and the photovoice method, and the non-author researchers who took part in the fieldwork, including Sindisa Monakali, Lindokuhle Mbaso and Malakia Myeki. This work took place as part of the 'Scaling-Up Off-Grid Sanitation' project (SOS; ES/T007877/1), funded with support from the United Kingdom's Global Challenge Research Fund, via the Economic and Social Research Council (ESRC).

Disclosure statement

No potential conflict of interest was reported by the authors.

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