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CHALLENGES IN POLICY TRANSITION: *IN SITU* UPGRADING OF INFORMAL SETTLEMENTS IN JOHANNESBURG AND NAIROBI

MIRIAM MUTHONI MAINA

A dissertation submitted to the Faculty of Engineering and the Built Environment, University of the Witwatersrand, Johannesburg, in fulfilment of the requirements for the degree of Master of Science in Town and Regional Planning.

May, 2013

Declaration

I declare that this thesis is my own unaided work. It is being submitted to the Degree of Master of Science to the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination to any other University.

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(Signature of Candidate)

…….. day of …….., ……

(day) *(month)* *(year)*

Abstract

There has been a gradual shift in informal settlement intervention policies across the world, with *In situ* upgrading being considered an ideal approach as it addresses poor conditions in settlements without negatively impacting on beneficiaries' lives. However, despite policy and programme shifts, implementation outcomes have remained limited.

This study focused on the gap between informal settlement policy intents and implementation outcomes in Johannesburg, South Africa and Nairobi, Kenya. It draws from implementation experiences from the two case studies, building contextual accounts of this challenge into a comparative study.

Implementation gaps in the two cities were attributed to a number of issues, including: how policies were designed; tensions and challenges within and between implementing agencies; politics of beneficiaries and other stakeholders; among others. The study's key argument is that policy has given insufficient regard to the context of implementation and the means of implementation before coming into effect.

To all those who had faith in my dreams, and supported me with unfailing love...

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List of Acronyms

AFD - Agence Française de Développement

BNG – Breaking New Ground

CCN – City Council of Nairobi

COHRE - Center on Housing Rights and Evictions

CoJ – City of Johannesburg

DPME – Department of Monitoring and Evaluation

ePHP - Enhanced People's Housing Process

FBO – Faith Based Organization

IFRA – Institut Francais de Recherche en Afrique (French Institute for Research in Africa)

IRDP – Integrated Residential Development Programme

KENSUF – Kenya Slum Upgrading Fund

KENSUP – Kenya Slum Upgrading Programme

KIDDP – Kenya-Italy Debt for Development Programme

KISIP – Kenya Informal Settlements Improvement Programme

KLGRP – Kenya Local Government Reform Programme

K-SUP – Korogocho Slum Upgrading Programme

KZN – Kwa-Zulu Natal

MINA – Minimum Intervention Approach

MoF – Ministry of Finance

MoH – Ministry of Housing

MoL – Ministry of Lands

MoLG – Ministry of Local Government

NGO – Non Governmental Organization

NISCC – Nairobi Informal Settlements Coordination Committee

NUSP- National Upgrading Support Programme

RC – Resident's Committee

RDP – Reconstruction and Development Programme

SEC – Settlement Executive Committee

SIDA – Swedish International Development Cooperation Agency

UISP – Upgrading of Informal Settlements Programme

WB – World Bank

1 INTRODUCTION

1.1 OVERVIEW

Informal settlements continue to pose a considerable challenge for policy makers and urban managers, particularly in developing countries. This is both because of the complexity of the informal settlements challenge and because, over time, the share of urban residents living in these conditions has continued to increase (UN-HABITAT, 2003). These settlements also manifest a myriad of issues that require urgent policy attention including high levels of congestion, inadequate access to services or community facilities, sub-standard housing, and socio-economic challenges such as high rates of poverty, tenure insecurity, unemployment, marginalization and vulnerability. Despite these challenges, informal settlements play a significant role in these cities, offering access to housing for majority of the low-income population (UN-HABITAT, 2011).

At country and city scale, policy intervention is expected to sustainably address the physical and socio-economic concerns of existing settlements without negatively affecting residents' livelihoods. Urban managers are also tasked with the role of curbing the formation of new informal settlements. Informal settlements however present only one of many issues competing for limited urban and national resources. Policy makers must therefore balance the need to address the socio-economic needs of the urban poor with other issues such as urban management, service delivery and growth enhancement for global competitiveness (Huchzermeyer, Baumann, & Roux, 2004).

The last decades have witnessed a gradual shift in state-led policies towards informal settlements, with supportive approaches such as settlement improvement and upgrading increasingly being upheld as ideal (UN-HABITAT, 2003). *In situ* upgrading is promoted as the most ideal intervention approach as it seeks to improve the negative physical conditions within the informal settlements without negatively impacting on residents' social, physical or economic capital. Ideally, such interventions are formulated in collaboration with informal settlement residents (Cities Alliance, 2011). However, despite this acknowledgment that support-based intervention (through *in situ* upgrading) is an appropriate model, it is yet to be implemented to scale. In Sub-Saharan Africa for instance, it is still limited to small scale pilot projects (UN-HABITAT, 2003).

Further concerns arise from the fact that where policy makers have attempted to integrate *in situ* upgrading into national policies and programmes, implementation structures seem unable to translate policy goals into meaningful outcomes. This gap between policy intentions and implementation outcomes has been observed in Kenya and South Africa. Here, despite notable policy transitions and formulation of intervention programmes to implement these policies, implementation structures have failed to respond. Instead, implementers rely on outdated approaches such as neglect, redevelopment or relocation to greenfield sites (see Omenya & Huchzermeyer, 2006; Huchzermeyer & Karam, 2006; Huchzermeyer, 2008, 2008b, 2011; Tissington & Royston, 2010; and Tissington, 2011).

Challenges of policy implementation are however not unique to the informal settlements arena. The assumption that once policy has been formulated it will be implemented has long been challenged. McLaughlin (1987) argued that the consequences of even the best planned, best supported, and most promising policy initiatives eventually depends on what happens as individuals throughout the policy system interpret and act on them. Research on policy and implementation continues to highlight the complexity and unpredictability of these arenas. From this, we identify a number of factors that contribute to implementation success, or failure. Some of these include: the structure of policy and its programmes; factors between and within implementing organizations; commitment and capacity of actors within these implementing agencies; the complex and dynamic implementation environment; or the behaviour of target groups and other stakeholders (Najam, 1995).

What are some of the factors constraining the implementation of progressive informal settlement policies? This study reviews the implementation of informal settlement policies in Kenya and South Africa. My focus is the intended policy shifts in the two countries (towards *in situ* upgrading) and the experience of effecting these changes through implementation. For a review of implementation, I narrowed analysis to two cities – Nairobi in Kenya and Johannesburg in South Africa. The study took a comparative case study approach, employing a number of methods to gain an understanding of the policy framework, and to study the implementation experience in the two contexts. I first reviewed the policy transition in the two countries, with the goal of identifying how the shifting policy goals and objectives are being translated into implementation programmes. This was followed by detailed implementation analysis of on-going programmes in Nairobi and Johannesburg in order to identify how

policy goals were being implemented. Through this, I sought to identify some of the challenges facing policy implementation.

A key emerging issue from this study concurs with what policy studies continue to emphasize, namely, that the field of policy implementation is indeed complex and highly dynamic. This is further worsened by the fact that the policies are attempting to address a 'problem' that is ever changing. Similarly, institutions, organizations and agencies in charge of policy implementation are also highly complex, and this often compounds the issue. In the two country cases, efforts are underway to better address the 'informal settlements challenge'. From the two case studies, we discover that challenges of implementation can be mainly attributed to a number of key factors. These include the nature of the policy (its approach, goals and objectives, and how it is framed for implementers); and the capacity and commitment of implementing agencies to meet policy goals. Other factors, such as the implementation environment and behaviour of beneficiaries and other stakeholders, also affected implementation progress, though this was mainly because policy and programme design hadn't taken into consideration how these would be adequately handled.

This chapter presents an overview and introduction to the study. It outlines the justification for the study, the main argument, methods applied for data collection and analysis, before outlining the structure of the following chapters.

1.2 JUSTIFICATION FOR THE STUDY

The main purpose of the study was to investigate the challenges that hamper the implementation of informal settlement intervention policies and programmes. The study was undertaken through an inductive approach, using the case study model to explore this theme of policy implementation. The two cities, Nairobi, and Johannesburg, provided unique and dynamic implementation contexts through which the selected analytical model could be tested and applied. The different political, socio-economic, and informal settlement contexts in the two countries provided insightful scenarios that demonstrated the complexity of policy implementation study.

The study's analytical framework borrowed concepts and models from policy and implementation studies. In particular, I used Najam's model of implementation analysis (Najam, 1995) to frame an understanding of the implementation structures in the two countries. These analytical models

were applied to the informal settlement intervention field – which is the study's main focus.

The study offers contributions for both urban informal settlement studies and policy implementation studies. Informal settlement literature focuses on a number of themes, as we shall see in the following chapter. These include descriptive analysis of settlements' physical, spatial and socio-economic characteristics; discourse on policy approaches and best practices for intervention; as well as actual studies on policy outcomes and impacts on settlement beneficiaries. While the literature touches on the growing gaps between policy intentions and implementation outcomes, there has yet been limited study into the actual implementation environment. This study seeks to contribute to filling this gap, drawing from the two case studies and trying to follow the trail from policy through to programme implementation. As it is an academic research study, however, the scope was limited to the policy-programme interface, and did not track implementation to the output level.

The report demonstrates the challenges of formulating and implementing responsive policies and programmes across various contexts. The lessons from implementation in Nairobi and Johannesburg also offer practical lessons for the field, by highlighting how policy makers and implementers are trying to address the challenges. Due to their dynamic and complex nature, urban informal settlements pose a unique set of challenge for implementers. Firstly, their multi-dimensional nature implies that policy has to be both flexible and sensitive in order to be successful. However, the growing scale of the 'problem', set against the context of increasingly scarce urban resources, necessitates rapid and efficient intervention. Drawing from the Kenyan and South African experiences helps broaden the scope for understanding some of these concerns as both countries are experiencing fairly similar challenges of informal settlement policy implementation within different political, social and economic contexts.

This research also contributes to the study of policy and intervention, particularly within sub-Saharan contexts. The selected case studies depict how policy makers and implementers are attempting to deal with a particularly complex issue. Their different social, political and economic contexts however illuminate a variety of issues related to policy and implementation. For instance, though the state in both cases is attempting to address a similar challenge – informal settlements – the intervention approaches and structures feature notable differences, producing different outcomes. Secondly, the structures of policy and implementation in the

two countries significantly differed, thus enabling a broader understanding of implementation dynamics.

The study also offers practical relevance to professionals and practitioners within the field of urban policy and informal settlement intervention. The comparative and case-specific issues that emerge from the two cities provide lessons and ideas that may be applicable across many contexts. The study's aim to track policy goals through to programme implementation, for instance, allows readers to reflect on how effectively or efficiently this has been achieved. Furthermore, analysing programme implementation – with direct input from implementers – allows a closer, realistic appraisal of the challenges facing implementation.

1.3 RESEARCH QUESTIONS

MAIN RESEARCH QUESTION

How do we explain the discussions between policy intentions and implementation in relation to informal settlement upgrading in Kenya and South Africa?

SUBSIDIARY QUESTIONS

1. What are the current informal settlement intervention policies and programmes in the cities of Johannesburg and Nairobi?
2. How have these policies and programmes been implemented on the ground?
3. What are the challenges facing the implementation process?
4. To what extent can we explain the gap between policy intentions and implementation progress in the two cities?
    a) Are there any aspects of the content of policy or constituent programmes which affect the progress of the implementation framework?
    b) To what extent can we explain the implementation gap through the implementing agencies?
    c) To what extent does the target group or other stakeholders affect the implementation framework and process?
    d) How does the implementation context or environment affect the implementation process?
    e) Are there any other factors to be considered?

1.4 GUIDING HYPOTHESIS/MAIN ARGUMENT

Although there have been progressive developments in the informal settlement policy sector and though there is apparent commitment to implement these policies, implementation outcomes remain limited. This could (to some extent) be explained by factors including: the nature and content of the policies and programmes; their means of implementation; challenges within and between various implementing agencies; the behaviour and politics of target groups and of other non-governmental stakeholders; or other local and contextual challenges emerging during the implementation process.

Within the specific context of Johannesburg and Nairobi, all these factors have played a role. My argument is that policy has given insufficient regard to the context of implementation, and the means of implementation is given little consideration before the policy came into effect.

1.5 REPORT OUTLINE

This research report is organized into nine chapters. The following two chapters review the existing literature on informal settlements intervention, and policy implementation. Chapter 2 tracks the literature on informal settlements, reviewing how the shifting global perspectives on informal settlements have led to shifting policy approaches over the years. I also focus on the literature on the two countries, tracking what the literature documents on informal settlement policy and implementation in Kenya and South Africa.

Chapter 3 reviews the literature on policy and implementation, with focus on the challenges facing policy implementation. These highlight the shifting debates on the approaches to understanding policy and policy implementation. I also review a number of models that have been developed to frame and study the policy implementation sphere. These are then used in the following chapter to frame the study methodology.

Chapter 4 provides a detailed explanation of the conceptual approach that was used to frame this research. It also details out the methods that were used for the research.

Chapter 5 provides a broad contextual background into the two countries with a focus on urban growth, informal settlements formation, and policy transition. This chapter serves two key roles. First, it frames the general context for Kenya and South Africa, outlining the historical, political, social and economic context within which these polices are being implemented. It also tracks the ‘informal settlements challenge’ in the two countries, identifying the policies that were implemented in recent decades.

Chapters 6 and 7 draw from fieldwork in Nairobi and Johannesburg, documenting the implementation experience in the two cities. They seek to understand how national policies are implemented through programmes, and what challenges are faced by implementers in the two contexts. Chapter 8 provides a comparative analysis of the two cities, drawing on the two country experiences to track first, the policy transition, then the implementation framework, and challenges facing implementers within the two case study areas.

Chapter 9 is the final chapter in this report. It reflects back on the study, discussing the key emerging issues. This section also reflects on the methods and conceptual models applied, drawing on the key lessons on policy, policy transition, and implementation experience. Within this chapter, I also highlight the emerging issues from Nairobi and Johannesburg's informal settlement intervention efforts. Lastly, I reflect on the study's experience, identifying gaps for further research.

2 PERSPECTIVES ON INFORMAL SETTLEMENTS

2.1 INTRODUCTION

The phenomenon of informal settlements has been widely captured through various forms of documentation and academic research, and these sources vary, from empirical studies depicting the scale and complexity of the 'problem'; to theoretical analyses of the phenomena of informality; and others that explore the various intervention policy approaches (UN-HABITAT, 2003). Some studies describe and analyse the diverse characteristics of informal settlements across the world (Neuwirth, 2005; Davis, 2006). This body of literature depicts a phenomenon that is complex, dynamic and multi-faceted, yet requiring urgent policy attention. At the same time, there are studies which reveal that these settlements are vibrant, active spaces which are not merely spaces of lack and despair requiring policy intervention, but also areas full of innovation and creativity with established community life (for instance Roy, 2005; Saunders 2010).

How does policy respond to such a complex phenomenon? From the literature, it becomes evident that policy has gradually shifted with increased understanding of the phenomenon (UN-HABITAT, 2003). On a global scale, it is argued that informal settlement improvement through *in situ* upgrading is an ideal intervention model, particularly as it seeks to improve beneficiaries' lives without negatively impacting on their present circumstances (Cities Alliance, 2011). Furthermore, policy-makers are encouraged to adopt participatory approaches, in order to formulate and implement intervention strategies with the intended beneficiaries. As we see in the next section, however, improved understanding of the problem (and what policy ought to do to respond) has not necessarily led to shifts in policy at the national and local levels. Where policies have shifted to adopt these approaches, implementation outcomes have not been as expected.

This chapter grapples with some of these issues. The first section focuses on the shifting perceptions of informal settlements over time, and the diverse implications for policy. Here, we see how shifting perceptions have influenced shifts in policy over time, both at global and local levels. In the next section, I provide a review of the literature on Kenya and South Africa respectively, tracking the main themes that emerge from the country-specific literature. I also track literature on shifting policies in the countries, inquiring how policies have sought to address the informal settlement issues, and how these have fared.

2.2 PERCEPTIONS OF INFORMAL SETTLEMENTS AND POLICY

Literature on informal settlements and policy over the years demonstrates a gradual shift in perceptions on informal settlements and an enhanced understanding of the challenges facing these settlements. This has prompted a shift in policy approaches and intervention programmes aimed at addressing informal settlement problems. From the literature, one can therefore track the expectations of policy interventions depending on the prevalent understanding of the 'informal settlement problem'.

Policy makers' views and understanding of informal settlements (and what to do about them) have gradually shifted over time (UN-HABITAT, 2003). Most notable is the shift from the long-held view that informal settlements are unsightly, disruptive parts of the city, towards an understanding of the settlements as integral and useful components (see reviews by Koenigsberger, 1986 and UN-HABITAT, 2003). Subsequently, there have been changing expectations of policy, whereby rather than attempt to remove or demolish settlements, state agencies are expected to improve settlements and support residents (Cities Alliance, 2001).

However, a key concern arising from the literature is that improved knowledge and understanding of informal settlements and the challenges faced by residents do not necessarily lead to actual shifts in intervention policy. This has been observed in sub-Saharan Africa (UN-HABITAT, 2003). This first section tracks the progression of research and policy-makers' understanding of informal settlements over time and what this has meant for policy intervention. The next section narrows down to Kenya and South Africa, inquiring on how these two sub-Saharan countries are addressing informal settlements respectively, and the emerging implementation challenges arising from various policy approaches.

Although global informal settlement literature can be traced further back in time, literature on sub-Saharan Africa points out the emergence of the problem in the late colonial and early post-colonial period (1950's and 1960's). This era, which also coincided with the post-World War II phase, was marked by demographic change, with large masses of people flowing to urban areas (Koenigsberger, 1986). This rapid influx led to demand for housing and the growth of informal settlements. During this phase, shack settlements were therefore viewed as unwanted intrusions of rural population into the city. Freund (2007, p. 148) notes that residents were seen as 'social parasites, absenting themselves from the export-producing agrarian and mineral zones to settle in seething slum quarters', thus

triggering state intervention which involved 'systematic round-ups and expulsions'.

These forced removals and demolitions failed to curb the rapid growth of urban population. Roddel and Skinner (1983) note that initial housing policy in this era held that the enormous growth of slum and squatter settlements stemmed from people's inability to pay for conventional housing and that government would solve the problem by building and subsidizing the necessary units. This triggered the era of state-led public housing programmes, aimed at reducing the housing deficit by increasing low income housing stock (Koenigsberger, 1986).

The initial reading of informal settlements as negative facets of the otherwise formal city however continued to dominate state-led interventions. Whether through shack demolitions, resident relocation or mass housing programmes, the key aim of policy was to remove these areas of 'lack' and replace them with formal, planned areas. It has however been recognised that despite notable attempts, many states were unable to meet these goals. Koenigsberger (1986) attributes this to lack of administrative and technical manpower within state agencies while Freund (2007) points to broader economic, social and political challenges in the post-colonial African countries.

The realization that governments were unable to mobilize adequate resources to meet a steadily worsening situation led to a shift in intervention approach (Roddel & Skinner, 1983; Koenigsberger, 1986). This was rooted in the understanding that informal settlements manifested considerable efforts of the urban poor to solve shelter needs and, as Roddel and Skinner (1983, p. 1) point out, where these efforts fell short of desired standards, poverty was not always the cause. Rather, residents' efforts at improving their shelter and settlements were often hampered by the risk of relocation, lack of adequate sites, public services and construction credit. Stokes also noted:

> However disturbing these slums may be to the sensibilities of the casual observer, they are serving a necessary purpose. To be sure, better organization might reduce the need for this type of slum but it is not likely that developing nations will have either the resources or the governmental techniques which will permit a less disturbing way of handling the movement of labourers into the cities (Stokes, 1962, p. 193).

This period was also marked by a critique of the product-led mode of mass housing delivery. Key authors in this phase (most notably John Turner)

raised strong criticism of the top-down, technical based approach which failed to incorporate the needs and expectations of users. Policy makers were encouraged to expand user autonomy and augment residents' efforts at providing shelter through processes that were already underway within these informal settlements (see Turner, 1972, 1976 for instance). Emphasis was placed on formulating and developing outputs that were best suited to the changing needs and circumstances of occupants (Harris, 2003). They proposed supportive intervention approaches such as self-help which were based on increased dweller autonomy (Turner, 1972). The progressive ideas stemming from this phase were however not fully actualized, as Huchzermeyer (2004, p. 30) notes:

> Firstly, they were conveniently collapsed with already existing 'self-help' housing concepts used in the West, which transferred housing responsibilities that had traditionally rested with the state, on to the poor. Secondly, the World Bank moulded the self-help approach to its own framework which relied on free markets, individualism and payment by users (rather than state subsidies). Important aspects of the Turner concept, such as sophisticated roles for government and decentralized institutions enabling choice as well as dweller control over the housing process were thus discarded.

The dominant role of the World Bank in shaping low income housing policy and practice has been documented (Pugh, 1991; The World Bank, 2006). The neo-liberal principles guiding the Bank centred on affordability and cost recovery, which meant that costs of development and operation were to be recovered from project beneficiaries. The approach also advocated for a reduced role of government, to that of enabler or facilitator of development, and an increased role of NGOs, the private sector and other market based players (see UNHCS, 1996; and The World Bank, 1993 for instance).

While this shift marked an improvement in the general understanding of informal settlements, the phase was also critiqued for depoliticizing the housing problem and failing to recognize informal settlements as a structural manifestation of broader socio-economic forces. Burgess (1978) argued that the housing problem was a product of the general conditions of capitalist development and not the result of a particular technological or organizational system as Turner would argue. He warned that this oversight would lead to the formulation of intervention policies that perpetuated the same system of production, thus failing to benefit the poor.

This argument can be linked to other sources of literature that sought to articulate the social and economic forces that lead to informal settlement formation and growth. This literature links dynamics of urban development and macro-economic characteristics to the risks and vulnerabilities faced by the urban poor (see Amis, 1985; Chambers, 1995 for instance). This broader view illuminated the social, economic and political factors that contributed to informal settlement formation and perpetuation; thus expanding the view of settlements (and residents) as more than manifestations of housing needs. Rather, policy-makers were urged to broaden the scope of intervention towards reducing vulnerability; expanding livelihoods, and strengthening the resilience of the urban poor against short term and long term risks. To do this, there was need to shift approach from the generic top-down model to one that was 'people centred, empowering and sustainable' (Chambers, 1995, p. 200). The vulnerability and livelihoods approach significantly broadened understanding on informal settlements. Today, informal settlements are not simply seen as signs of a housing deficit, but rather as evidence of social, political and economic challenges.

This claim is further extended by the 'right to the city' discourse which aims to not only improve the physical conditions within informal settlements, but also to strengthen their collective rights as inhabitants of the city. These rights, as listed in the World Charter on the Right to the City[1] include: right to work in equitable, satisfactory conditions; to social security, public health, clean drinking water, energy, public transportation; to food, clothing, and adequate shelter; to quality public education and to culture; to information, political participation, peaceful coexistence, and access to justice; and the right to organize, gather, and manifest one’s opinion (World Charter on the Right to the City, 2004).

The right to the city debate encompasses a broader urban discourse that reaches beyond informal settlements (see, for instance, Friedmann, 1995 or UN-HABITAT, 2005). However, principles and ideals from this have guided informal settlements intervention practice, particularly in Latin American countries (Cities Alliance & Ministry of Cities, Brazil, 2010; Fernandes, 2011). Literature from these regions demonstrate intervention that does not only seek to improve the physical conditions under which residents live, but also to secure residents' social and political rights to the city (UN-HABITAT, 2005b). This is achieved through a combination of legal reforms, institutional changes and social mobilization.

[1]The World Charter on the Rights to the City was drafted by a group of representatives from NGOs, and Urban social movements in 2004.

Another discourse that offers insightful perspectives to understanding informal settlements is the Post-colonial debate. This also encompasses a broad discussion spanning across various urban management issues, most of which are not discussed here. These sources stand out in their harsh critique of the formal/informal dichotomy which dominates current informal settlement debates. They strongly counter the developmentalist notions which perceive informal settlements as areas of lack, poverty and deprivation, choosing rather to focus on residents' potential for political, cultural and economic creativity. 'Informal' settlements are therefore seen as integral, functional part of the city (Neuwirth, 2005; Urban Think Tank, 2005; Hernandez, Kellet, & Allen, 2010; Mehrotra, 2010; Saunders, 2010).

Like the 'right to the city' discourse, the post-colonial debates speak to a broader sphere of urban management issues and not informal settlements alone. However, proponents of this approach do provide practical arguments for management, especially for developing countries where urban informality exists on a larger scale (see Urban Think Tank, 2005 on Caracas, Venezuela). Writing on informal settlements, Neuwirth (2005) and Saunders (2010) choose to demonstrate the essential roles and functions played by various informal settlements. This discourse therefore urges policy makers to shift from the dominant perception that these settlements are 'informal' and therefore need to be transformed into something 'formal'.

Although this model has been criticized for its aestheticization of informality (Varley, 2010) it does offer a significant shift in the informal settlement debate. It contends that the informal does not present a 'problem' that needs to be addressed, but rather, a system of innovatively providing access to housing, employment, services and the city (see Saunders, 2010 for instance). Some of the sources also caution against viewing informal settlements through the formal/informal lens, pointing out that this only triggers interventions that seek to *formalize* the informal. Rather, they argue, policy makers should strive to develop diverse and multi-faceted cities - rather than attempting to extend the 'formal city' and it's regulations into the irregular spaces of the so-called 'non-city' (Urban Think Tank, 2005; Roy, Strangely Familiar: Planning and the Worlds of Insurgence and Informality, 2009).

Table 2-1below summarizes the shifting perceptions of informal settlements, and expected policy interventions for each. The shifting approaches do not follow a strict chronological timeline.

Table 2-1: Shifting perspectives on informal settlements over time

BROAD PARADIGM	VIEWS ON INFORMAL SETTLEMENTS	POLICY APPROACHES	SELECTED SOURCES
Modernist	Informal settlements as areas of 'lack' 'decline' or 'despair'. Informal settlements are disfiguring or disruptive to the city. Informal settlements represent a housing deficit. Informal settlements are signs of rural intrusion into the planned city.	Informal settlement clearance. Mass public-sector led housing. Rural development policies.	(See reviews from Koenigsberger, 1986; Pugh, 1991 UN-HABITAT, 2003 and Freund, 2007 for instance).
Self Help Approach.	Informal settlements are positive phenomenon. Informal settlements represent efforts and creativity of urban poor to cope and survive in the city. Need for the state to augment residents' efforts.	Facilitation of incremental self-help, including site & services and slum upgrading. Housing as process, and not a product.	Turner, 1972, 1976
Neo-Liberal Approach.	Problems in housing market are a result of state-induced rigidities. State regulation and interference limits private-sector participation in the market.	Government as enabler of development to provide financial, institutional and legal framework for development. Private sector to provide housing.	UNCHS, 1996 World Bank, 1993
Marxist Approach	Informal settlements represent more than inadequacy of physical facilities. Informal settlements are manifestations of social, political and economic exploitation.	Social mobilization of informal settlement residents. Pay more attention to achieving equity in land markets, rather than physical improvement.	Burgess, 1978
Urban Poverty, Livelihoods Approach.	Informal settlements present more than lack of housing and infrastructure. The realities of urban poor are complex, diverse and dynamic. Informal settlements represent various elements of vulnerability, risk and insecurity, but also resilience.	Intervention should be people centred, participatory, and empowering. Intervention should strengthen resilience and not create new dimensions of vulnerability.	Amis 1985 Chambers, 1995
The Right to the City Approach.	Informal settlements are not temporary. Informal settlements are integral parts of the city. Need for a broader rights-based intervention framework. All urban residents should be entitled to access to urban services and to participate in shaping the future of the city.	Physical intervention linked to broader legal reforms, institutional change and collective social mobilization. Strengthen residents' status as inhabitants of the city. Involve all urban residents in decision-making processes.	Cities Alliance & Ministry of Cities Brazil, 2010; Fernandes, 2011.
Post-Colonial Approach	Informal settlements are not areas of lack, poverty or deprivation. Informal settlements should not be seen as 'not-formal' but rather, as different, functional parts of the city. Informal settlement residents demonstrate potential for political, cultural and economic creativity and dynamism.	Policy should not seek to extend the 'formal city' and its regulations to the 'informal'. Policy should aim at developing a diverse and multiple city.	Neuwirth, 2005 Urban Think Tank, 2005; Hernandez et al., 2010; Mehrotra, 2010 Saunders, 2010 Roy, 2009 Varley, 2010

Source: Own formulation from cited sources.

Informal settlements could be viewed either as physical environments, deficient of basic infrastructure and services, or as complex and changing social processes that play themselves out in intricate spatial arrangements. The former view would have external agents intervene through provision of the lacking infrastructure and services, treating residents as passive recipients of technologically designed interventions (and) primary concerns would be around efficiency. The latter view would have agencies in close alliance with the residents, intervening by communicating with and encouraging organized residents initiatives, recognizing their endeavours for improvement, acting in their demands while also responding to their vulnerabilities. Its central concern would be to build long term capacity among the residents for on-going survival and upliftment (Huchzermeyer, 2004, p. 47).

Table 2-1 above illustrates that state or policy-makers' perceptions of the 'informal settlement problem' significantly affect what they choose to do about it (policy). With improved understanding of the challenges of informal settlements, intervention policies are expected to shift towards improvement.

Informal settlement upgrading is defined as a process that seeks to secure rights to land and housing and improve the existing infrastructure - water supply, sanitation, storm drainage and electricity - in informal settlements up to a satisfactory standard (ibid). Cities Alliance (2011) expands this definition further, noting that upgrading does not simply include provision of services or housing, but also puts into motion the economic, social, institutional and community activities that are needed to turn around downward trends in an area. Participation is encouraged in the identification, formulation and implementation of intervention programmes since residents have 'the best knowledge of how their settlement works, the characteristics of their community and the nature of their needs and priorities' (UN-HABITAT, 2011b, p. 10).

It should however be noted that the documented shift in global understanding of informal settlements does not automatically lead to changes in policy at country level. For instance, while it has already been established that slum upgrading is a more effective intervention approach (Cities Alliance, 2001); this is yet to be fully applied across the world. In sub-Saharan Africa, for instance, *in situ* upgrading is still limited to 'demonstration projects', with few governments adopting these into policy frameworks (UN-HABITAT, 2003).

The reluctance of these states to implement support-based informal settlement interventions has already been pointed out. This is however not merely in the informal settlements field, but has been observed in the implementation of broader urban interventions. Berrisford (2010), for instance, writing on the challenges of transforming planning laws, notes that one of the key challenges is the failure to understand and incorporate the interests, concerns and needs of diverse stakeholders. Are informal settlement intervention policies plagued by similar challenges? From the global literature, it appears that the informal settlements problem is clearly understood, as is what is expected of policy makers. However, as we shall see in the sections below, national-level policy transitions are not automatically implemented. The section below draws some of the literature from my two case-study countries, Kenya and South Africa, identifying some of the emerging concerns.

2.3 INFORMAL SETTLEMENT POLICY IN KENYA AND SOUTH AFRICA

Informal settlements policy transition in Kenya and South Africa has followed different models and achieved varying results. Though the two countries differ in social, economic and political structures, they share some similarity in their urban informal settlements. Settlement characteristics are however manifested in different ways. This section presents an overview of the literature documenting informal settlements policy in the two countries, capturing the emerging issues on policy, implementation frameworks, and the implementation experience.

2.3.1 INFORMAL SETTLEMENT INTERVENTION IN KENYA

The emergence of informal settlements in Kenya's cities has been traced back to colonial years, mainly as a result of inadequate housing for African residents (Obudho & Aduwo, 1989; Olima, 2001). Colonial urban policy was focused on spatial segregation based on race and this was enforced using planning laws and exclusionary zoning (Olima, 2001). During this era, the state 'resisted the idea that Africans should have a permanent place in the town and cities' (Harris & Hay, 2007, p. 196). Policies here therefore included migrant control through Pass Laws, and provision for subsidized employer housing for African workers. African housing was limited to small bachelor quarters since it was assumed that accommodation for Africans would be required on a temporary basis and only for employed single men (Obudho & Aduwo, 1989).

The literature points out that overall, colonial policy failed to keep unemployed migrants out of town, persuade employers to provide adequate housing for their employees, or even facilitate municipalities to play their supportive role. Despite allowing Africans to develop their own housing through self-help programmes, demand outstripped all efforts to supply housing, thus the emergence of slum and squatter settlements (Obudho & Aduwo, 1989; Temple & Temple, 1980). Olima (2001) citing Kobia (1991) affirms that informal settlement growth was not an accidental result of modernization, but rather, a direct result of rural and urban policies from this colonial period. Rural migrants moved to the city in search of work and most of them earned incomes that could not meet basic needs. This problem was further worsened following the country's independence in 1963 when, with the lifting of the Pass Laws, massive influx of population into the towns increased the demand for urban housing (Obudho & Aduwo, 1989; Syagga, Mitullah, & Karirah-Gitau, 2001).

Literature on post-independence Kenya documents a number of state-led initiatives to meet this challenge. The informal settlements problem was

seen as evidence of a housing deficit and state policy was focused on production of housing to meet this demand. However, despite apparent commitment in policy and development plans to deliver low-cost housing, the state was unable to produce housing in adequate numbers to meet the demand. In addition to provision of subsidized housing, the state also instituted a number of informal settlement intervention programmes. These included support-based policies such as slum-upgrading and site and service schemes, mainly in collaboration with bilateral and multi-lateral donor agencies (Obudho & Aduwo, 1989; Syagga, Mitullah, & Karirah-Gitau, 2001). The housing units produced in this era were unaffordable to low income earners and most were taken up by middle-income residents (Temple & Temple, 1980; Olima, 2001). Within this era, the state also implemented repressive policies, including slum clearance, forceful evictions and exclusion from urban services. These however were unable to check the growth of informal settlements (Obudho & Aduwo, 1989; Olima, 2001; Klopp, 2008).

Obudho & Aduwo (1989) and Syagga et al. (2001) observe that shifting global development paradigms and geo-political trends impacted on state policy and on informal settlements. For instance, the Neo-liberal policies instituted in the 1980's affected both national and urban economies:

> The country continued to suffer economic decline that led to cutting down on public spending, reduction in subsidies, postponement of projects awaiting funding leading to increased unmet demand for housing, basic services, infrastructure and amenities. This situation led to increased unemployment, under-employment and widespread poverty, making living conditions of a large proportion of the population worse off. Informal settlements become the prevalent housing solution for the majority urban poor falling within this category (Syagga, Mitullah & Karirah-Gitau, 2001, p. 20)

This era also marked a gradual decline in state-led intervention in informal settlements. Olima notes that from this period onwards, the state settled into a 'laissez faire' approach, whereby it 'generally did not demolish any settlements, but also made no effort to institute improvement programmes' (Olima, 2001, p. 11). State resources were redirected to other development sectors, leaving the 'housing concern to the private sector' (Obudho & Aduwo, 1989, p. 21).

The decline of the state was not only evident within informal settlements, but also in the broader urban environment, and this has been attributed to the Structural Adjustment Programmes (SAPs) which were implemented in

the late 1980's and early 90's. While these adjustments were recommended to developing countries with the aim of generating good governance, efficiency and enhanced private sector involvement; this was not the case. In Kenya, Katumanga (2005) documents how state withdrawal led to an overall decline of order, democracy and social harmony - which was manifested through increased corruption within the state; unregulated deployment of instruments of coercion by ruling elite; illegal land allocation by state and public officials, and the rise of illegal gangs. While this occurred countrywide, its negative impacts were (and still are) most acutely felt by the urban poor.

With time, urban population growth has continued, and with declining economic performance, limited access to employment and rising demand for housing, more and more residents have been pushed into informal settlements (Syagga, Mitullah, & Karirah-Gitau, 2001). State neglect of informal settlements led to a period of unchecked growth and densification across most settlements, particularly in the capital city, Nairobi. However, as Amnesty International (2009) point out, state neglect of informal settlements also meant that settlements were excluded from city planning and budgeting processes, thus denying residents a range of essential services, including water, sanitation, electricity, garbage collection, health, education, access roads and transport. A key outcome of this is that the urban poor are exposed to extreme power imbalances, patronage and exploitation, with limited access to formal processes for redress (COHRE, 2005; Klopp, 2008; Amnesty International, 2009)

The internal functioning and dynamics of informal settlements have been highlighted in various sources. For instance, the absence of the state within the settlements opened up space for multiple actors and agencies to play diverse roles. These actors took advantage of the quasi-illegal environment to perform certain functions - from necessary ones such as shelter and service provision, to exploitative ones such as provision of 'security' by illegal urban gangs (see COHRE, 2005; Katumanga, 2005, Klopp, 2008; Mueller, 2008 for instance). The literature tracking these illegal/informal structures existing within informal settlements focuses mainly on issues of politics; crime and vigilantism; and governance (see also Anderson, 2003, Kagwanja, 2006 and Sasmussen, 2010). However, little inquiry is made as to the implications of these on informal settlement intervention policies.

It is apparent that these systems would present a challenge for policy. For instance, it has been demonstrated that over 92% of Nairobi's informal settlement residents are rent-paying tenants (Gulyani & Talukdar, 2008).

In addition, most services provided in the settlements such as water, electricity, sanitation and refuse collection are commercially provided at inadequate quality, and relatively high prices (see Amis, 1984; World Bank, 2006; Gulyani & Talukdar, 2008; Mueller, 2008 and Dafe, 2009). While some of these services meet a legitimate demand, other services - such as the 'security' offered by urban gangs - are exploitative (Mueller, 2008, p. 192).

A significant implication of this is the introduction of multiple actors - all with stakes and interests in informal settlements. The process of informal land allocation which produces 'absentee landlords' and structure owners is, in itself, highly complex, with these players emanating from both political and state agencies (see Amis, 1984). Similarly, the legal and quasi-legal systems that enable provision of water, electricity, and security provision also introduce different types of actors operating at different scale. Most of these actors do not live in the informal settlements but have economic, social and political stakes within them. They are thus affected by intervention programmes. Amis (1984) also notes that though many of these stakes and claims are 'rooted in illegality', they are nonetheless real. While considering the interests of these stakeholders, however, policy-makers are cautioned against ignoring settlement residents who, in these contexts, are often marginalized:

> [Policy makers must] recognize the political nature of slum upgrading, develop creative strategies to recognize the power imbalance, reduce the circumstances wherein high income stakeholders use political power to affect outcomes; and make lobbying affordable for the poor (Dafe, 2009, pp. 29, 30).

Another emerging concern for informal settlement intervention in Nairobi is the broader housing market. With a growing population, the City of Nairobi has been experiencing growing demand for well-located, affordable housing. This, coupled with inadequate provision of adequate housing or services, presents a highly distorted urban housing market (Huchzermeyer, 2008). Informal settlement improvement that fails to understand and respond to these broader issues will generate outputs which will benefit wealthier urban residents (see also Gulyani & Talukdar, 2008). The policy implications of the dynamics surrounding governance, roles and functions of state actors and citizen-state relationships in Kenya's informal settlements have received limited research attention, although it has been noted that they have direct implications for policy intervention (Huchzermeyer, 2008; Klopp, 2008). Policy documents also

remain silent on these issues, promising only to 'deal with relevant stakeholders' (Republic of Kenya, 2005).

RENEWED STATE EFFORTS: KENSUP AND KISIP

As we have seen in the previous section, informal settlements in Kenya's main urban centres continued to grow with limited intervention from the state. Olima (2001) argued that though the informal settlements situation in the country was a result of many factors, the most dominant cause was state neglect:

> The continued expansion and proliferation of informal settlements in Nairobi is imputable to the rapid rate of growth of the city's population, the poverty of its inhabitants, a deficient national housing policy framework, and the insubstantial, inefficient and corrupt systems of urban governance… The inadequate provision of land, a disposition towards over-regulation, and an institutional framework that is, at best, indifferent to the needs of the urban poor are additional reasons for the continued existence… of informal settlements (Olima, 2001, pp. 12-13).

Within the last decade, however, there has been renewed initiative by the state to address informal settlements. This has been both at the policy front, and the implementation of intervention programmes and projects[2]. On the policy front, there have been significant policy, legislative and institutional changes aimed at supporting informal settlement intervention. These could be seen in the Housing and Lands policies formulated in 2005 and 2009 respectively (Republic of Kenya, 2005; Republic of Kenya, 2009); Kenya's Vision 2030 launched in 2007 (Republic of Kenya, 2007)and most recently, the country's new Constitution (Republic of Kenya, 2010).

The Foundation of current informal settlement intervention programmes is the new Constitution[3]. In particular, the bill of rights grants all citizens access to adequate housing; reasonable standards of sanitation; access to health care services and clean and safe water, noting that 'the state shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed' (Republic of Kenya, 2010, p. 20). Though the Housing and Lands policieswere enacted prior to the Constitution, they echo the rights-based

[2] The policy transition is discussed in depth in Chapter 5.

[3] The Constitution of Kenya (Republic of Kenya, 2010)replaces the 1963 independence constitution. It was promulgated in August, 2010 and most of the administrative, legal and institutional structures are still undergoing formulation.

framework and approach, aiming to address issues of vulnerability, enhancing security of tenure and access to adequate shelter, and delivering basic infrastructural facilities, services, housing and socio-economic facilities to target communities (Republic of Kenya, 2005; Republic of Kenya, 2009).

These policy documents present a framework signifying a deliberate shift in state intentions regarding informal settlements. These include a transition to support-based intervention, participatory decision making; collaboration with target groups and other stakeholders; and the plan to implement upgrading *in situ*. The goal of implementing programmes that reach beyond housing and physical infrastructure to poverty alleviation and socio-economic development also echo the principles of Kenya's Vision 2030 (Republic of Kenya, 2007).

This policy framework is yet to be fully articulated through to proper implementation. So far, a number of programmes have been formulated, mainly from the Housing policy, most notably, the Kenya Slum Upgrading Programme (KENSUP). The limited literature focusing on this phase has therefore focused on these programmes, highlighting a number of concerns. Omenya & Huchzermeyer (2006) note that the Kenya Slum Upgrading Programme's pilot project has failed to reflect the policy's principles of participatory slum upgrading. This claim is affirmed by the Centre on Human Rights and Evictions (COHRE) who also note that there was limited community engagement during the planning phase, and that 'there was a general feeling amongst community members that all the key issues had already been decided and the community was simply expected to rubberstamp the process (COHRE, 2005, p. 76).

There has been little academic inquiry into the forces, interests and implementation dynamics shaping KENSUP although it is evident that despite crucial policy changes, some implementation concerns raised over 30 years ago still persist (see Temple & Temple, 1980). In the City of Nairobi, for instance, the programme's pilot project is pursuing redevelopment as the main intervention approach, with multi-storey apartments as the final output. Huchzermeyer (2011) critiques this, noting that unit designs and proposed funding models are similar to Nyayo Highrise Development - a failed redevelopment scheme whose final output benefitted middle income consumers at the expense of informal settlement residents. It is unclear why redevelopment was chosen over *in situ* upgrading (or who made this decision), despite the former being the costlier option (Okoth, 2011).

In 2011, the government launched another programme - The Kenya Informal Settlements Improvement Programme (KISIP). This also targets urban informal settlements and is to be funded by the World Bank, Swedish International Development Agency (SIDA) and the French Development Agency (The World Bank, 2011). Like KENSUP, KISIP aims to improve living conditions in Kenya's informal urban settlements by addressing issues of tenure security while upgrading physical infrastructure (Republic of Kenya, 2010c). The programme is also fairly recent, and is yet to be documented through academic research.

It is worth noting that in addition to state-led informal settlement intervention, there have been a number of programmes implemented in informal settlements. These were mainly steered by non-state actors such as religious organizations, non-governmental agencies in collaboration with the communities and the state. An example is Mathare 4A upgrading initiative which was collaboration between the state, external funding partners (Germany, in this case), religious organizations, community organizations and the private sector (Otiso, 2003; Kusienya, 2004). Another initiative is the Kambi Moto project, which was a community-led *in situ* upgrading project steered by the community and a non-governmental agency in collaboration with the City Council of Nairobi and other state agencies (Weru, 2004; Alam et al, 2005; Huchzermeyer, 2008).

Although such programmes have been small in scale, they demonstrate considerable innovation, particularly when dealing with settlement-level contextual challenges. These include negotiating conflicts between 'illegal' structure owners and residents, usually tenants, negotiating with the state for reduced standards, resolving land ownership and tenure concerns and enabling meaningful participation for most stakeholders. Basset (2005) also documents an upgrading process in Voi, Kenya, which also formulated innovative tenure models to respond to contextual challenges. Surprisingly, however, the state has been reluctant to build on the success of these programmes, choosing to return to generic models and approaches.

2.3.2 INFORMAL SETTLEMENT INTERVENTION IN SOUTH AFRICA

The story of squatter and informal settlements in South Africa can be traced back to the 19th century. Literature documenting informal settlements and policy intervention draws back to the early 1900s. Wilkinson (1983) tracked the roots of the 'squatter problem' and respective intervention approaches up to the 1940's noting that although the housing crisis was averted through township development and site and service schemes, the broader problem of exploitation and oppression was merely

recast in different form. Harrison (1992) also traced the changing informal settlement phenomenon over the years, noting that though policy has changed with time, the main intervention rationale and approaches have remained the same.

The perception of the informal settlement problem as manifestation of a housing need has prevailed in South Africa:

> A relatively small formal housing stock, low and progressively decreasing rates of formal and informal housing delivery in South Africa have resulted in a massive increase in the number of households forced to seek accommodation in informal settlements, backyard shacks and in overcrowded conditions in existing formal housing (National Department of Housing, 1994, p. 5).

As a result, intervention efforts were rooted in the delivery of housing and physical infrastructure. Literature documenting this phenomenon is therefore concentrated within this field. Some of the sources engaging with South African housing policy include: policy review, policy analysis and analysis of policy implementation across the country. The literature underscores the acute housing challenge that faced the country's first democratic government (see for instance (Goodland, 1996; Blumenfeld, 1997; Wilkinson, 1998).

As the Housing white paper outlines above, the ‘scale’ of the problem was both vast and complex. In terms of numbers, it was estimated that approximately 1.5 million units were needed to meet the ‘urban housing need’, in addition to over 1 million residents in serviced sites and hostels that would require upgrading. It was also estimated that the backlog would increase at a rate of around 178,000 units per annum (National Department of Housing, 1994). The question was however not merely that of meeting the housing needs, as there were institutional, administrative and legislative restructuring in the country in the post-apartheid period.

The first question for policy was, therefore, how to address this housing need in the country and with it, the challenge of informal settlements. The housing strategy aimed to establish communities within which all residents could have access to a permanent residential structure with secure tenure, portable water, adequate sanitation, and domestic electricity supply (National Department of Housing, 1994). The process of policy formulation identified a number of possible approaches influenced by diverse models (Huchzermeyer, 2001). The main intervention approach (for low income residents) would however be a once-off capital subsidy for the provision of full tenure, basic infrastructure and housing for qualifying beneficiaries.

Although this model was effective in delivering housing at a fairly rapid pace, it has been strongly critiqued for a number of reasons. For instance, despite massive delivery (over 1 million units in 7 years) it was observed that the quality of housing built was often very poor (Pithouse, 2009). Furthermore, most of the settlements could only be located on the peripheries of existing townships, far from employment areas, thus perpetuating the social and spatial marginalization of the poor (Wilkinson, 1998; Huchzermeyer, Baumann, & Roux, 2004; Charlton & Kihato, 2006; Misselhorn, 2008). The strategy also failed to respond to the challenge of informal settlements as, by reducing the phenomena to a technocratic problem of housing delivery, it did not:

> address the complex social, legal, political and economic realities of poverty as manifested in informal settlements … (or) recognize the popular initiative that created the informal layout, nor does it accept popular ideas for settlement improvement (Huchzermeyer, 2004, p. 151).

Within this era, there were also other smaller-scale intervention projects which sought to undertake alternative approaches to informal settlement upgrading. These provide useful lessons on innovative models for informal settlement improvement, but also highlight some of the challenges of implementing *in situ* upgrading within the stringencies of the broader policy programme. Nell & Charlton, (2002) writing on the Cato Manor Development Project, note that the national subsidy programme offered a 'narrow and limited set of tools with which to respond to a highly diverse and complex set of housing conditions and a wide range of expectations' (ibid, p.9). Sepuru (2009) also raises similar issues while documenting community-led upgrading in Limpopo province. Charlton's (2006) case study report on Durban - also on *in situ* upgrading - offers positive results, particularly on adapting policy and programmes to local contexts and community needs.

In 2004, changes in the housing policy were instituted as an effort to respond to some of the identified implementation challenges. The Breaking New Ground (BNG) strategy represented an effort to move away from standardized housing delivery by providing broader services, including community facilities. It also sought to facilitate acquisition of well-located land in order to address the location challenges. The BNG also introduced a programme for informal settlements - the Upgrading of Informal Settlements Programme (UISP) - which sought to support *in situ* upgrading of informal settlements in well located sites (Department of Human Settlements, 2009c).

Recent analyses have observed that the policy remains largely unimplemented across the country (Charlton & Kihato, 2006; Huchzermeyer, 2008; 2010; Pithouse, 2009; Tissington, 2011). One of the identified causes for this is the unreformed nature of the broader implementation structure (Huchzermeyer, 2011). Tissington (2011) quoting Huchzermeyer (2010) identifies a number of shortcomings within the UISP which ought to be addressed before efficient implementation. A noted concern is that the UISP fails to break away from the individual-subsidy model based on qualified households as this constrains funding and programme implementation. Rather, it is proposed that an area-based or community-based subsidy be crafted, which can allow for broader intervention. Other challenges include: the lack of clarity over relocation and use of the Emergency Housing Programme which could be easily misused by Municipalities to relocate households indefinitely; lack of clarity over tenure issues; lack of non-subsidy linked top-structure support which implies that residents who don't qualify for subsidy could be affected at later stages among others.

The City of Cape Town's recent attempt to implement the UISP within Hangberg Informal settlement confirms some of these challenges while raising other contextual issues. Documentation from this literature points out community-city conflict, challenges of participation, bureaucratic delays, among other issues (Pithouse, 2009; Development Action Group, 2011; Tissington, 2011). Despite these challenges, the Hangberg programme represents the first initiative in to implement the UISP in South Africa, and requires further interrogation and study.

The literature also points to another challenge facing implementation of the UISP across the country. This is the contradiction between policy goals and political guidance. While the policy recommends a more support-based approach to informal settlements, there has been parallel political pressure to 'eradicate informal settlements'. This has been attributed to global and national efforts to achieve the 'Cities without Slums' agenda (Huchzermeyer, 2011). This political pressure to 'eradicate informal settlements' has forced state agencies to ignore the policy goals of the BNG, choosing to either continue with the earlier models of mass-delivery, or even resort to authoritarian and repressive 'anti-poor' practices such as criminalization of informal settlements, forced eviction or relocation to transit camps (Pithouse, 2009).

A review of different approaches processes and implementation systems formulated by various implementing agencies represent varied local level interpretation of government policy. Although they share a broad mandate

- to control and manage (or eliminate) existing settlements, prevent the re-emergence of informal settlements, and to improve living conditions in informal settlements - the practices, procedures and systems utilized at local level differ considerably. The Province of KwaZulu-Natal's Elimination and Prevention of Re-emergence of Slums Act (KZN Legislature, 2007) and Limpopo Province's Prevention and Control of Informal Settlements Bill (Limpopo Legislature, 2011) for instance, represent more aggressive efforts to adhere to the commitment to 'eradicate informal settlements', sometimes even resorting to repressive, unconstitutional methods[4]. While these laws represent provincial governments' efforts to respond to the informal settlements challenge, it has been observed that these could force implementing agencies to resort to negative and repressive tactics, often with negative effects on the urban poor (Abahlali baseMjondolo, 2007; COHRE, 2007; Huchzermeyer, 2011) .

Despite the identified implementation concerns, there has been intensified support for the UISP from national government as evidenced by increased budgetary support - with dedicated funding being provided within the 2011 budget (Gordhan, 2011) and support for the National Upgrading Support Programme[5] (NUSP, 2010). There is also political commitment - which included the setting of delivery targets to upgrade 400,000 units on well-located land by 2014 (POA, 2011). This demonstrates the high level of commitment from national government, although the system of 'target setting' has been critiqued since it encourages actors to simply deliver 'numbers' rather than attempting to fix the systemic flaws within the implementation system (Huchzermeyer, 2011).

The literature on South African informal settlement policy and implementation highlights the existing challenge for policy makers. The literature notes that despite massive housing delivery since 1994, the country is yet to effectively address the socio-spatial challenge facing informal settlements. Are the policy shifts (such as the introduction of the UISP) capable of achieving better results? How can the new policy goals be effected through the existing structures? The gap between policy ambitions and implementation outcomes has already been pointed out in research; there is limited inquiry into the factors contributing to this. This

[4] Parts of Section 16 of the Kwa Zulu Natal's Act were declared inconsistent with the Constitution thus invalid.

[5] The National Upgrading Support Program (NUSP) has been instituted to support the National Department of Human Settlements (NDHS) in the implementation of the UISP. The agency's tasks include both technical support for implementing agencies at Provincial and Municipal level, development of upgrading strategies and flexible approaches, and capacity building (NUSP, 2010).

case is useful for studying this crucial area in policy implementation, particularly focusing on how the UISP framework aims to achieve a better response to the informal settlement challenge. Furthermore, it is important to investigate how policy-makers anticipate shifting the existing implementation structures to deliver as per the 'new' programmes (see for instance Urban LandMark, 2010).

2.4 CONCLUSION

The literature on the two countries highlights the diverse characteristics presented by informal settlements and the key expectations for policy intervention. In both countries, we see deliberate state-led action to implement intervention programmes. In South Africa, this is a longer initiative, tied with the broader mandate of housing delivery while, in Kenya, intervention is recent, relying to a greater extent on state-collaboration with external funding agencies. In Kenya, we also see policy efforts to steer a more integrated, programmatic intervention approach.

From the literature, we also see that even though policy-makers have acknowledged the need to transform their informal settlement policy systems, and while efforts are already underway to achieve this, implementation structures seem unable to produce the expected results. This underlines the need for research and analysis to pay closer attention not just to policy, but also to implementation systems and structures.

The literature identifies a number of concerns, including the gap between policy and implementation; lack of implementation of 'new' policies; multiple implementation challenges across various contexts just to mention a few. There has however been limited inquiry into the factors contributing to these challenges. The following chapter draws from literature outside the housing and informal settlements field, inquiring on some of the policy and implementation dynamics and challenges.

The literature also reveals the complexity of adequately understanding the challenges facing policy implementation. For instance, while policy frameworks present straightforward goals and strategies for achieving a desired end result, implementation structures could vary depending on the context. In addition, there might be differences between policy and constituent programmes; across various programmes of the same policy; or between an individual programme's goals and its implementation outcomes. Documenting the challenges of implementation - or tracking a single policy through implementation -therefore becomes more challenging. In Chapters 5, 6 and 7 below, I dig deeper into the policy-programme-intervention interface in Kenya and South Africa, inquiring why

these progressive shifts in policy have not been successfully implemented. The following chapter however reviews the policy implementation literature, drawing lessons from this field to build an analytical framework.

3 PERSPECTIVES ON POLICY IMPLEMENTATION

How does one begin to study and analyse the policy implementation sphere? As we have seen in Chapter 2 above, the informal settlements present a complex and dynamic question that necessitates efficient and effective policy intervention. We however begin to see that the 'intervention' sphere is broad and complex. This section looks to the policy and implementation field, inquiring first, how to 'understand' policy and implementation; and then, how to study it within a context as complex as the informal settlements sector.

The study of policy and its implementation spans across several disciplines including policy studies, political science, public administration and management. Drawn from as far back as the 1800s, this literature covers a number of issues including government and administration, policy making, policy implementation, intra- and inter-organizational relations, programme design and implementation, policy analysis and evaluation. The literature also tracks the development of the policy implementation sphere, from when implementation was the mandate of government agencies to the current arena which is marked by multiple actors and agencies operating from the public and private sectors.

This section reviews some of these sources of literature, focusing on those that draw attention to challenges of policy implementation. In the first section, I trace the changing phases of policy and implementation research, drawing out the themes and ideas that have emerged out of each phase. In the second section, I narrow my focus to understanding the policy implementation framework, and identify a number of key models that could be applied in the study.

3.1 PHASES OF IMPLEMENTATION RESEARCH

Literature on policy implementation can be traced back to the 'classical' era in the early 1900's. Here, a more rational view of implementation held that as part of the larger administrative system, policy implementation was a neutral, professionalized and non-political process that would happen automatically (Najam, 1995). Burke (1987) points out that one key factor distinguishing this era was its view of politics (or the process of policy making) and administration (or policy implementation) as distinct and separate realms. Literature from this phase emphasized more on achieving administrative efficiency since, once a policy had been set out, it would be implemented (see Wilson (1887) for instance).

The shortcomings of these assumptions became apparent starting from the massive reconstruction programmes of the post-World War-II period (Berman, 1978). These programmes yielded evidence that implementation could not be separated from politics, and wasn't as orderly and efficient as previously assumed (McLaughlin, 1987). Studies generated in this period focused on demonstrating the complexity of the policy implementation sphere (see Kauffman, 1960, in a study of public administration in the US Forest service; or Pressman & Wildavsky, 1984, on the challenges of implementing policies through multiple agencies for examples). The studies opened the field for actual implementation research, and some key contributions included shifting focus from policy to implementation, and emphasizing the importance of paying attention to policy subsystems. This phase also pointed out some key causes of policy failure, although it was generally criticized for its pessimistic view of the policy implementation process.

The next phase of research thus focused less on demonstrating barriers to implementation. Studies in this phase were driven by a need to move beyond isolated case studies as there was an absence of causal understanding, organizing frameworks, conceptual models, analytic approaches; and predictive theories of implementation (Najam, 1995). The second phase of implementation research therefore sought to develop functional theories and analytical frameworks for policy implementation, with the aim identifyingkey factors what contributed to the realization (or nonrealization) of policy objectives (Lester, Bowman, Goggin, & O'toole, 1987; Winter, 2003).

This phase of research was however hampered by a number of issues, in particular the fact that implementation is so complex and context dependent that there is a real challenge for predictive theory building (Winter, 2003). Researchers were unable to achieve consensus regarding a variety of issues including: the key variables for study and analysis; what constitutes implementation success; the best approaches and strategies for research; evaluation standards; methodologies; concepts; or focal subject areas (O'toole, 1986; Lester, Bowman, Goggin, & O'toole, 1987; Winter, 2003). O'toole (1986), for instance, reviewing over 100 studies of implementation, picked out at least 300 variables identified as *crucial* to the implementation process. The main controversy emerging from this phase however was the divide between the 'top-down' and the 'bottom-up' approaches, with researchers split between those who argued that policy should be viewed from the top-down and those who argued that it should be viewed from the bottom-up starting with the actors closest to the problem (Lester, Bowman, Goggin, & O'toole, 1987).

The Top Down (or Forward Mapping) approach rests on the assumption that policy, through its design and articulation, ought to be able to structure the implementation process. Analysis takes the central decision maker and the policy as the starting point, and then follows this down the administrative structure, inquiring into the extent to which goals and objectives of policy are being achieved through the procedures (see Sabatier & Mazmanian, 1980; Pressman and Wildavsky, 1984; and Hogwood and Gunn, 1984). This model emphasized a 'control' perspective to implementation and was aimed at advising policy makers on how best to structure and control the process from above in order to ensure that policy goals are met. The approach's unquestioned assumption that policymakers are the key actors in the policy implementation process and that they control the organizational, political and technological processes that affect implementation was strongly critiqued (Elmore, 1979; Berman, 1978; Matland, 1995).

The Bottom-Up (or Backward Mapping) approach advocated for a shift in perspective to the operational level, where the implementation system met the target groups. By distinguishing between the macro policy level, where policy-makers created a programme, and the micro-level where local service providers interacted with target populations, for instance, Berman (1978)attempted to dispel the notion that policy implementation could be wholly controlled from the top. Proponents of the bottom-up approach highlighted the need for an understanding of the challenges of policy and implementation from the perspective of actors closest to the problem since, 'the closer one is to the source of the problem, the greater is one's authority and influence (Elmore, 1979, p. 608).

The key argument here was that actors at the bottom - street-level bureaucrats - had better knowledge and expertise on the problems and were better placed to propose purposeful policy (Lipsky, 1978; Hjern& Porter, 1981; Hjern, 1982; and Hull and Hjern, 1982). In moving from the lowest unit backward towards the policy, at the final stage, one would develop a policy that directed resources to the units which are most likely to have the greatest effect (Elmore, 1979).

There have been efforts to reconcile the top down and bottom up approaches in implementation studies (Matland, 1995). Various studies have attempted to formulate integrated models and structures that incorporate the strengths of both perspectives by integrating the positive elements from each perspectives into a joint model (Winter, 2003; Hjern and Porter, 1981). Winter (2003) however notes that this divide went beyond perspective and approach to capture deeper issues such as the

basic understanding of the policy process, the implementation process, identification of standards, or formulation of intervention models. As a result, synthesis of the two models has been difficult.

It has long been acknowledged that 'implementation matters', and that 'the consequences of even the best planned, best supported, and most promising policy initiatives eventually depend on what happens as individuals throughout the policy system interpret and act on them (McLaughlin, 1987, p. 172). The process of policy implementation is complex, dynamic, multi-level, multi-actor, and influenced both by the context, and content of the policy being implemented (Najam, 1995). This process is further complicated by the fact that implementation takes place over a long period of time, thus introducing other dynamics which complicate the process of documenting and monitoring the effects and impacts of policy (Anderson, 2011). While research has not yet generated theoretical explanations for policy success or failure or agreed on the specific factors that contribute to this, most of the literature points to some key factors which directly influence the policy implementation process. Ryan (1996) summarizes these as the **policy** (goals, objectives and causal theories); **implementation structures;** (actors and agencies); and **external influences** (including environmental factors and the policy environment).

The various phases of implementation research do not follow a strict chronological order. Most of the literature on policy implementation falls within these broad categories, spans across diverse contexts and policy fields. Recent research includes both empirical studies, analytical studies, and research aimed at synthesis and predictive theory building. Table 3-1 below summarizes some of the key issues emerging from the main phases of policy and implementation literature, in particular, the factors which lead to policy success or failure, and ideas on implementation.

Table 3-1: Phases of policy implementation research

PHASE	CHARACTERISTICS & PERSPECTIVES ON IMPLEMENTATION	IDEAS ON IMPLEMENTATION SUCCESS	SAMPLE SOURCES
Classical Phase	Implementation as scientific, rational, predictable, and technical. Implementation is a small, purely technical unit of the broader policy process.	Need to separate politics (policy making) from administration (implementation). Administration should be neutral, professional and non-political. Implementation success relies on organizational hierarchy and administrative efficiency.	Woodrow Wilson (1887); Frederick Taylor (1911); Max Weber (1964);
Empirical Phase	Implementation and administration are far more complex than assumed by classical writers. Sought to demonstrate the complexity of the implementation process. Consisted mainly of empirical case studies to describing the barriers to implementation. Criticized for being a-theoretical, case specific, non-cumulative and overly pessimistic.	Policy implementation is also political, and not only a mechanical or administrative problem. Need to shift focus from how a bill becomes law to how law becomes a programme. Policy sub-systems are equally important. Highlighted factors contributing to programmatic failure include inter-organizational issues (Pressman &Wildavsky, 1973), or challenges facing street-level bureaucrats (Lipsky, 1980).	Kaufman (1960); Pressman &Wildavsky (1973); Bardach (1977); Hogwood and Gunn (1978); Lipsky (1980)
Analytical Phase	Sought to move beyond singular case studies. Driven by the need for causal understanding and the need to formulate organizing frameworks, conceptual models, and analytic approaches for studying implementation. Attempted to develop explanatory and predictive theories to implementation. Also sought to explain the factors that led to implementation success or failure.	Implementation success or failure depends on a number of variables. This phase has been marked by lack of consensus on various issues, including the best approaches and strategies for research, key variables for study and analysis, what constitutes implementation success, evaluation standards, methodologies, concepts or focal subject areas. Major rift between the top-down and bottom-up proponents.	Van Meter & Van Horn (1976); Sabatier and Mazmanian (1980); Elmore (1979, 1982); Berman (1978)
Synthesis Phase	Criticizes both the top-down and bottom-up approaches. Seeks to integrate the strengths of both approaches into a single model.	Identification of key variables crucial to the implementation process. Narrowing down of key factors crucial to implementation success: The policy itself. Implementation agencies (capacity, commitment) Inter-organizational issues. Target group behaviour. Behaviour of other stakeholders. Implementation environment	Hjern& Porter (1981); Linder and Peters (1987); Sabatier (1986); Matland (1995); Najam (1995); Winters (2003);

Source: Own formulation from cited sources.

3.2 FRAMING THE IMPLEMENTATION PROCESS

Current research on policy and implementation is broad and diverse, spanning across multiple fields and disciplines. The studies vary in approach, methods and models of analysis, focusing on various stages of the policy process, policy formulation, policy studies, implementation analysis, policy monitoring and evaluation (for instance Williams et al, 1982; Hill & Hupe, 2002; or Peters & Pierre, 2003). While some studies focus on analysis and documentation of the policy and implementation processes, others still seek to formulate predictive theories (see Winters, 2003, for instance). All these studies are aimed at understanding the complex and dynamic process of policy formulation and implementation; identifying how policy changes its surroundings and how it is changed itself in the process; and most importantly, to see how policy can be influenced to better accomplish the goals it set out to achieve (Bynard, 2005).

The task of understanding the policy implementation process involves making sense of the complex linkages, relationships and networks across a number of critical variables (Najam, 1995). In addition to the top-down and bottom-up approaches, a number of other models have been developed which seek to either synthesize the two into a unified model for analysis, or to develop alternative models for framing and understanding the policy implementation process. Examples include Matland's ambiguity-conflict model (Matland, 1995); Winters' integrated implementation model (Winter, 2003a); Sabatier's advocacy-coalition model of policy change (Sabatier, 1988); Hjern and Porter's implementation structures (Hjern & Porter, 1981); or Najam's 5C framework (Najam, 1995). These models do not provide theoretical or predictive frameworks, but rather formulate structures for framing and understanding the policy and implementation process. These are further discussed below.

MATLAND'S AMBIGUITY-CONFLICT MODEL

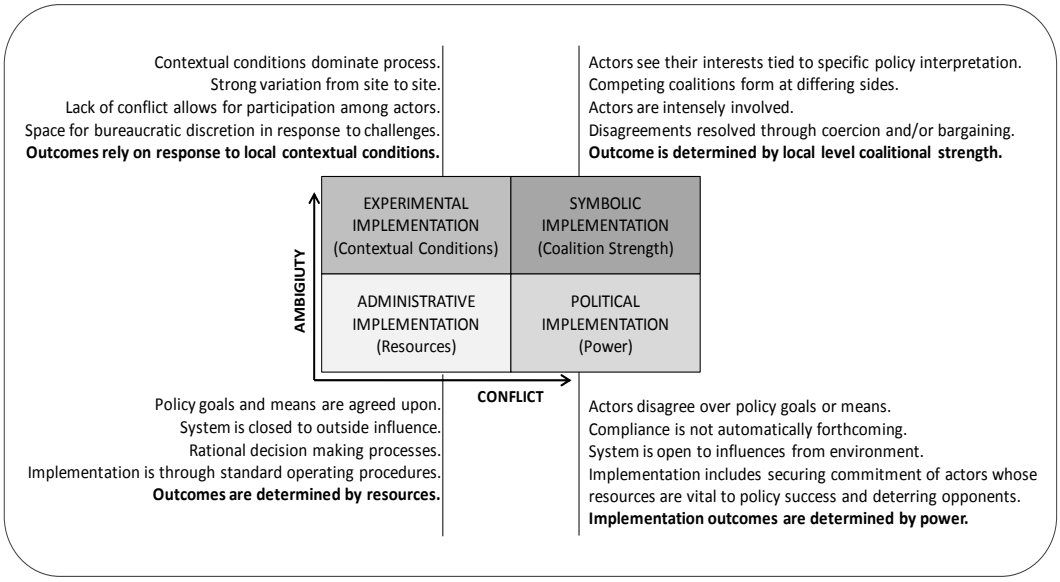
Matland's Ambiguity-conflict model (Matland, 1995) is based on the premise that policy varies depending on the problem it seeks to address, arguing that to build a more effective implementation model, one would have to carefully evaluate policy characteristics. He formulates a contingency model which relies on a policy's ambiguity and conflict levels to understand the nature of the policy, the issues at stake, and the ideal implementation approaches.

According to the model, policy conflict would arise when more than one actor sees a policy as directly relevant to its interests, and when actors

have incongruous views about the policy's goals, or means (Matland, 1995, p. 156). The intensity of conflict would increase with the incompatibility of concerns, and with an increase in perceived stakes. Various conflict levels would therefore require different implementation approaches and conflict resolution mechanisms. Similarly, the levels of policy ambiguity also influence the ability to monitor implementation activities, the likelihood of the policy being understood across the board.

Figure 3-1below illustrates the four policy types as identified by the model, highlighting the characteristics of each policy, key emerging issues, and the factors necessary for implementation success.

Figure 3-1: Ambiguity-Conflict model of policy implementation



Source: Own formulation based on Matland (1995).

Administrative policies, for instance, are those that have low ambiguity and conflict levels. Matland gives an example of Smallpox eradication policies, noting that such policies would have fairly simple standard operating procedures which would be easily monitored and controlled from the top down. Here, implementation success would depend on resource adequacy, and efficiency of implementation mechanisms. In contrast, symbolic policies have high levels of ambiguity and conflict, and these are difficult to manage from the top. Here, there would be multiple actors and stakeholders, often with competing interests tied to specific outcomes. The success of these policies would rely less on resources, but more on local level coalitions and consensus building to negotiate conflicting interests.

Matland's model is useful as it distinguishes between various policy types, this allowing a better understanding of the policies under study. Although it

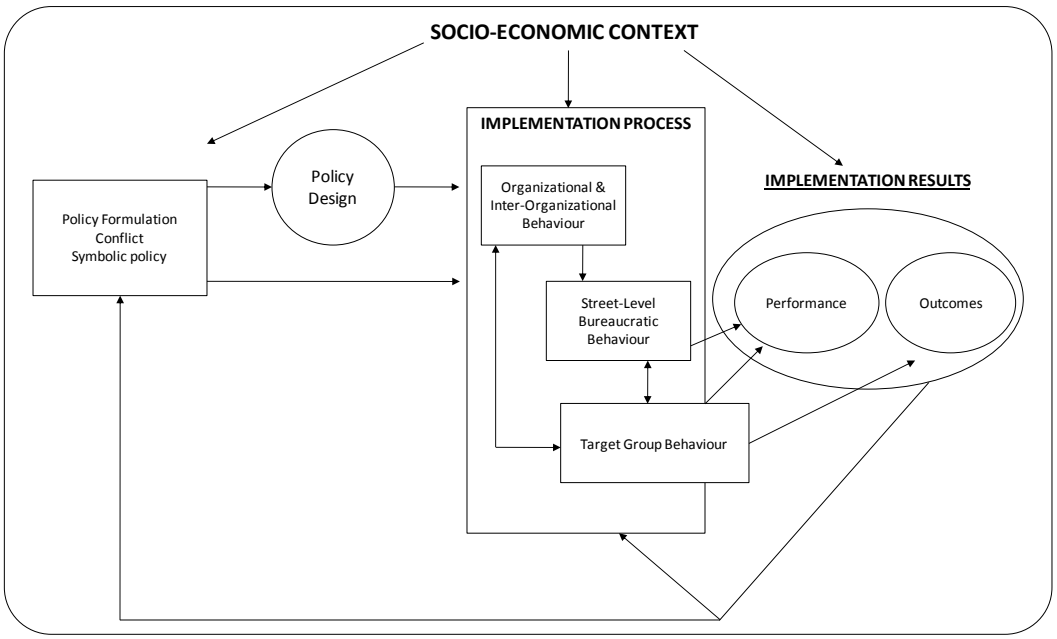
was aimed at guiding policy makers to strategically design programmes and implementation structures that are appropriate to a given policy, it also allows one to gain a better understanding of the issues and challenges that would arise during implementation. The model has been applied in various studies on policy implementation for instance, Hill &Hupe (2002), Popkin et al. (2003) and Chun & Rainey(2005).

WINTER'S INTEGRATED IMPLEMENTATION MODEL

As mentioned in Section 3.1 above, recent phases of policy and implementation studies have attempted to synthesize the top-down and bottom-up approaches into integrated models. Matland's model partially achieves this by separating policy types, thus highlighting the areas of focus and in-depth analysis per policy.

Winter's Integrated Implementation model represents a more deliberate synthesis attempt at 'integrating some of the most important … variables into a common framework of analysis' (Winter, 2003, p. 207). Rather than focus on a single aspect of the policy process, this model takes a broader perspective, identifying the key factors which could affect a given policy from formulation through to implementation. By identifying these key factors, the model provides a framework for tracking and measuring policy performance and outcomes (Winter, 2003). The model is outlined below.

Figure 3-2: Winter's Integrated Implementation Model



Source: Adapted from Winters (2003).

Winter's model differs from Matland in that while Matland's model seeks to anticipate (through analysing the policy itself) some of the challenges which might occur during implementation, Winters identifies key variables which could affect the entire process of implementation aiming to track these variables throughout the implementation process. The model could be used in longer studies and policy research processes, and is particularly useful as it provides feedback mechanisms for policy and programme improvement.

ANALYSIS OF IMPLEMENTATION STRUCTURES

Hjern and Porter (1981) provide an alternative approach to understanding the implementation process, arguing that it is impossible to follow a single analytical model or path while studying policy implementation since most policies are implemented by a multiple network of actors working across various agencies often with diverse goals, motives and objectives for participating in the implementation process. Therefore:

> Arbitrarily selecting one motive for participation will not solve the problem of defining and assessing implementation structures. Neither organizational theory, with its emphasis on finding a single goal...nor inter-organizational theory, with its emphasis on exchange or power dependency, have been successful in defining and assessing organizations or inter-organizational fields using an analysis based on a single motive. Why follow the same path in defining and assessing implementation structures? (Hjern & Porter, 1981, pp. 220 - 221)

The authors propose a phenomenological approach which focuses on implementation structures for a given policy. Using these, one could analyse 'purposive action within a framework where parts of many public and private organizations cooperate in the implementation of a programme' (ibid: 214). This model begins at the policy and programmes, identifying the administrative imperatives behind the legislation. These then guide in the detection of the pool of organizations and actors directly involved in implementation, thus framing out the implementation structure. This model has been utilized to understand inter-organizational models of policy implementation (see Hill &Hupe, 2002; Agranoff & McGuire, 2003).

THE 5-C FRAMEWORK

Najam (1995) acknowledges the complexity of the policy implementation process, arguing that one must understand and track the process of policy through this detail:

> In understanding implementation as a complex, political process, rather than a mechanical administrative one, the study of implementation becomes an attempt to unravel the complexity - of following policy as it travels through the dynamic maze of implementation; to understand how it changes its surroundings and how it is changed itself in the process; and most importantly, to see how it can be influenced to better accomplish the goals it set out to achieve (Najam, 1995, p. 35)

The 5C Framework represents a model for understanding the policy implementation process by identifying the crucial variables which directly affect policy implementation. The model identifies five interconnected variables which frame the policy environment, noting that the actions and behaviour of each variable affects other variables and the policy process at large. These are the policy content, the commitment of implementing agencies, thecapacity of implementing agents, the behavior of target groups (clients) and other stakeholders (coalitions), and the implementation context (ibid).

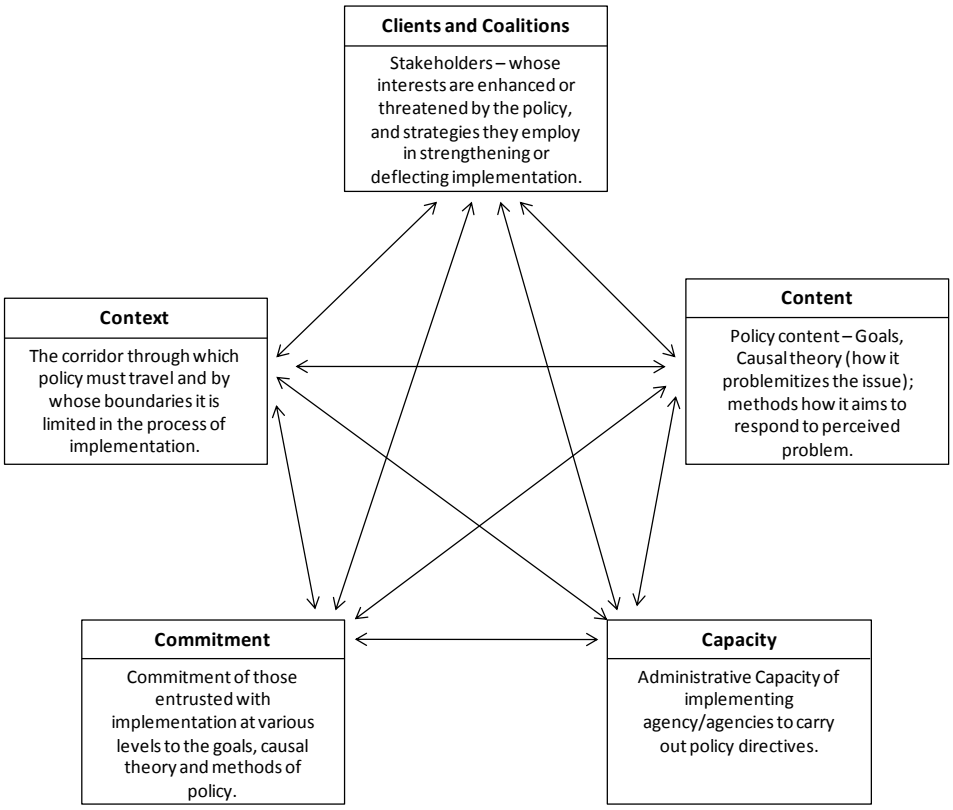
Under this model, analysis involves monitoring how these variables operate, how they relate to other variables during the implementation process; how they respond to changes or external factors during implementation and how their actions affect other variables in the framework. These variables (illustrated in Figure 3-3) are briefly discussed here.

POLICY CONTENT

Montjoy and O'toole (1979) noted that while some problems usually appear during a policy's implementation, some may be predictable from the nature of the policy itself. The type of policy (distributive or re-distributive self-regulatory or regulatory; organizational or non-organizational; material or symbolic; incremental or non-incremental) affects the resources, process and methods required to implement it (Smith, 1973; Anderson, 2011).

The 5C model also identifies the policy as a key variable for implementation. The key factors for analysis within the policy include its causal theory (or how it perceives the problem); it's goals and objectives (or what it sets out to do) and it's means (or how it seeks to address the problem).

Figure 3-3: The 5C Model of implementation analysis



Own formulation based on Najam (1995).

IMPLEMENTING AGENCIES, CAPACITY AND COMMITMENT

In a synthesis of over 300 implementation studies, O'toole (1986) lists some of the key variables identified as crucial by multiple researchers. Many of the studies flagged implementing agencies and actors as crucial to implementation success or failure. The studies identified different characteristics of implementing agencies: their understanding of policy requirements; their agreement with policy goals; their motivation; intra and inter-organizational dynamics; and capacity to implement tasks among others. The 5C model focuses on two key elements of implementing agencies: their **capacity to deliver** as per policy requirements; and their **commitment to the objectives and goals** of policy.

Hope (2011) defines capacity as the competency of actors (individuals, public sector, private sector, civil society organizations and communities) to engage in activities in a sustainable manner for positive development impacts. Bynard (2005) extends this definition, noting that capacity captures tangible - human, financial, material, technological and logistical - and intangible resources such as leadership, motivation, commitment, willingness, guts and endurance needed to transform policy into action. This broader definition emphasizes the challenge of 'building institutional

capacity' as while human, financial, material and technological demands could be addressed, intangible factors such as attitude or motivation are 'less amenable to policy intervention' (McLaughlin, 1987, p. 172).

Najam (1995, p. 49) also acknowledges this challenge, but adds that 'the critical question in understanding how capacity may influence implementation effectiveness is not simply one of *what capacity is required, where?* But also of *how can this capacity be created and operationalized?'* (my emphasis). Within the 5C model, the focus also narrows down to administrative resources, arguing that undertaking the broader all-inclusive conception would render analysis unmanageable.

CLIENTS AND COALITIONS

Clients (or target groups) are identified as people in organizations or groups most affected by policy and whose behaviour must change to meet policy demands (Najam, 1995). While target groups are often viewed as passive recipients of policy outputs, this is not always the case. Target group behaviour could enhance or deter policy implementation. Another identified characteristic of target groups is their political culture, which Anderson (2011) defines as the attitudes and actions of groups towards policy and government. He notes that a group's political culture illustrates citizens' view on policy; their perceptions of themselves within the framework of the policy and their expectations from the state. This in turn determines their role in the political and policy process; their participation and involvement in policy formulation and implementation; and their reactions to various policy outcomes.

Coalition groups are actors within the policy framework who may not be directly affected by the policy, but might have sufficient motivation and ability to actively seek out particular outcomes of policy (Najam, 1995). These could vary from state to non-state actors, to community based groups and their behaviour could enhance or deter the policy implementation process.

POLICY CONTEXT

The environment or context of policy includes the factors which influence and are influenced by the process of policy implementation (Smith, 1973). Through the literature, it is evident that a policy's environment - from the local context; inter and intra-institutional factors; national social, political and economic factors and even global issues - affects the implementation process. However, while it has been pointed out that this context poses

considerable concerns for implementation, there has been (limited) documentation on this (Najam, 1995; Bynard, 2005).

Najam (1995) attributes this to the complexity of documenting the policy environment as it is multi-dimensional and dynamic. In the 5C model, he proposes focusing on the *institutional environment* of the implementing agencies. This looks at the key actors and agencies influencing and being influenced by the process; implementation networks, intra and inter-agency environments and the influence of the overall social, economic, legal and political setting on the implementing institutions.

3.3 CONCLUSION

The above review outlines the key phases through which policy study and understanding has evolved, and some of the emerging perspectives on this. From the literature, it is apparent that the policy and implementation environment is both dynamic and complex, and heavily dependent on the context of implementation. We also see that policy is not a simple process leading to a known outcome, but rather, a lengthier process that often involves the interplay of multiple actors and agencies. The literature however underscores the importance of understanding the policy and implementation field in all its complexity, as a means of gaining information and knowledge as to how policy works, and how it is implemented.

Informal settlements literature has attempted to grapple with the complexity of policy and implementation. Due to the multi-faceted nature of the 'problem', we note that the literature mainly focuses on individual aspects of the policy framework. From Chapter 2, we see that the bulk of literature on Kenya has focused on outlining various dimensions of the informal settlement phenomenon – outlining key questions for policy intervention. More recently, we see an engagement with actual state policies, and some studies on implementation outcomes (see Huchzermeyer (2011), for instance. In South Africa, the literature takes a deeper engagement with the broader implementation framework. Here, we see researchers engaging with the policy and how it perceives and seeks to address the problem; policy formation processes; and policy outcomes.

Literature on both Kenya and South Africa depict a clear gap between informal settlements policy intentions and implementation outcomes. This is attributed to a number of factors, most pertinently, gaps in the actual policy. In this Chapter, we see the need for a closer look at the implementation structures – actors, processes and interactions within the implementation process. By broadening the view of policy and the

implementation environment, one begins to appreciate the unpredictability of the process, but also identify the areas where implementation challenges occur.

The following chapter outlines the conceptual and methodological approach that was used when framing the implementation environment for this study. Some of the experiences of applying this model for the study are also discussed.

4 CONCEPTUAL APPROACH AND STUDY METHODOLOGY

4.1 INTROUCTION

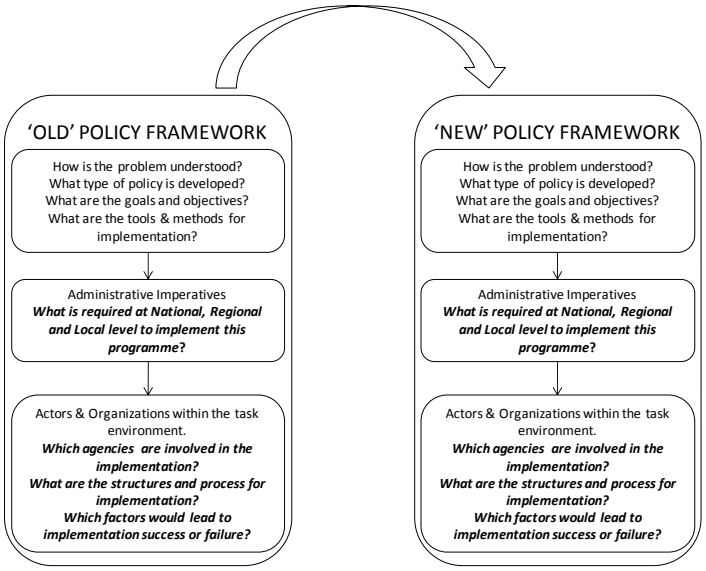
Informal settlements literature emphasizes the fact that policy-makers' understanding of, and attitudes to, the problem under review is key. In studying informal settlements intervention policies, it is therefore not enough to focus on the actions of the state (implementation), but also, the understanding, ideologies and attitudes driving these policy actions. The South African and Kenyan policy literature provided further detail of the national policy formulation initiatives and local-level implementation experiences. Although policy frameworks in the two countries reflect (to some extent) the global shifts in informal settlements policy, they also illustrate the challenges of integrating new policy goals (such as *in situ* upgrading) through existing implementation systems. While the literature highlights these challenges of policy implementation, it is limited in its analysis and exploration of policy and implementation dynamics.

Policy literature delves deeper into these issues. Firstly, it affirms that the policy-implementation gap is not unique to informal settlements, but can be observed across all fields. The literature also underscores the difficulty of analysing or documenting the policy implementation sphere as it is dynamic, complex, and highly unpredictable. A third emerging issue from this literature is the need to focus not just on policy, but also on policy sub-systems. In order to understand some of the factors contributing to policy success or failure, the literature focuses on the systems and structures through which policies are articulated and implemented. Although policy-related research has actively investigated these fields, there has been little success in formulating explanatory theories as to why policy goals are not implemented as expected. Various sources of literature identify different factors and variables, all which affect implementation systems.

Although the literature does not provide replicable models for explaining (or predicting) the policy implementation process, it offers diverse models and systems which could be applied when studying and understanding a particular policy. These models can help frame the complex, crowded and confusing policy arena into coherent structures; and thus can be applied in research to gain better understanding of policy, implementation process. The models discussed in Chapter 3 above were used to understand the informal settlements' policy field; frame the implementation systems, and study the challenges facing implementation.

The study was implemented in two phases. The first phase included comprehending the 'policy transition' in the two countries and here I used Matland's ambiguity-conflict model (Matland, 1995) and Hjern and Porter's Implementation structures (Hjern & Porter, 1981). The goal of the first phase was to understand the 'new' policy frameworks that are to be implemented. This also included identifying the shifting perceptions of the policies towards informal settlements. From this, we could identify the implementing frameworks anticipated under the 'new' policies; and what was expected of the actors, agencies and institutions under the new framework. This is illustrated in Figure 4-1 below.

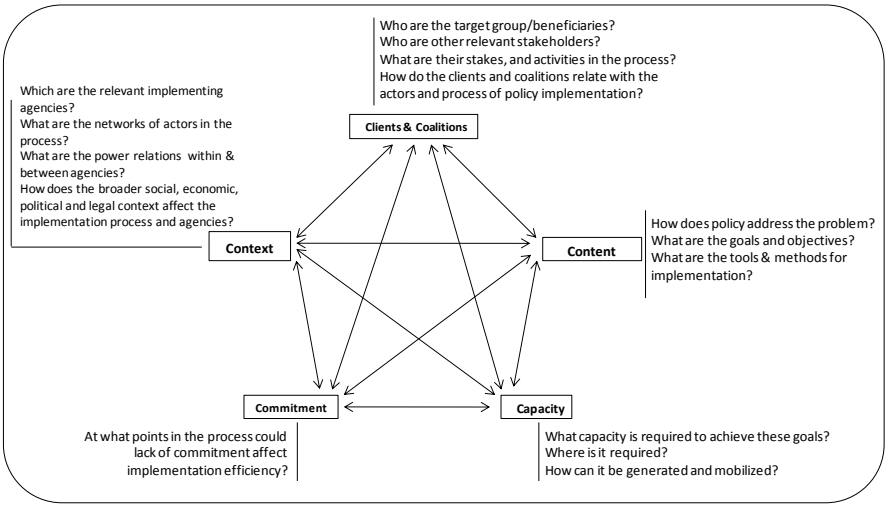
Figure 4-1: Tracking the policy transition process



Adapted from Hjern & Porter, 1981.

Since the goal of the study was not to understand the policy transition but to identify the challenges affecting implementation of these 'new' policies, the second phase of the study involved a deeper analysis of the implementation frameworks to identify how the new goals and objectives of policy were being achieved through programmes and projects. I inquired how policy shifts were being actualized through programmes; and how these programmes were to be implemented. For this, I applied Najam's 5-C framework (Najam, 1995) as illustrated below.

Figure 4-2: Framing the informal settlements policy intervention system



Adapted from Najam (1995)

4.2 METHODOLOGICAL APPROACH

The key approach for this research was the case study method. This method was selected for its detailed and in-depth approach to understanding the subject of analysis or study. This approach is used to investigate a contemporary phenomenon within its real life context, and is especially valuable in cases where the boundaries between phenomenon and context are not clearly evident (Yin, 2003). It can also be applied where there is little understanding of how and why processes or phenomena occur, and therefore, the experiences of individuals and the contexts of actions are critical (Darke, Shanks, & Broadbent, 1998; Hartley, 2004).

The difficulty of translating informal settlement intervention policy into meaningful results presents such a phenomenon. This is because of the complex nature of the informal settlement challenge; and also, because of the nature of intervention policies and programmes that are being implemented. Literature documenting intervention efforts in various informal settlements worldwide highlights various levels of success and failure. These have been attributed to various factors namely: the intervention approaches, procedures, and stakeholder behaviour.

As we have seen, policy and programme documentation in Kenya and South Africa presents a fairly coherent framework through which the informal settlement challenge is supposed to be addressed. However, evidence from the ground reveals that implementation is falling far behind policy expectations, and in some instances, implementation outcomes are not what is expected. Why are policy implementers (both in Nairobi and Johannesburg) unable to translate policy goals into meaningful outcomes?

What are the factors and dynamics contributing to this? I considered the case study approach relevant for studying the informal settlements policy environment in the two countries as it would allow for deeper inquiry into the field of informal settlement policy implementation to gain better understanding of these challenges.

The case study approach has often been criticized, particularly for the fact that it produces outputs which are not generalizable; and that the use of individual cases does not build predictive theories. Flyvbjerg (2001; 2006), however, points out that the critiques of the approach are based on over-simplifications about the nature of case study research. Stake (1995), for instance, argued that case studies are selected for their uniqueness, and the aim is for better understanding of that particular case, rather than using that one case to understand others. One of the key strengths of the approach lies in the fact that it studies a particular phenomenon in depth; thus generating clearer and more profound knowledge concerning the issue under study (Darke, Shanks, & Broadbent, 1998). This is especially so within the 'study of human affairs', where it is impossible to separate the 'subject' from the contextual environment, or to generate predictive theories about the same (Flyvbjerg, 2001).

The 'case' under study is informal settlement intervention policy, and challenges of implementation of these policies in Kenya and South Africa. I sought to understand why, in spite of notable shifts in informal settlement policy, implementation structures seemed unable to deliver as expected. The gap between policy and implementation has already been documented in Kenya and South Africa. There has however been limited inquiry into the factors contributing to this.

While studying the entire chain from policy to project would be ideal for accurately tracking and identifying implementation challenges, it would not have been possible within the anticipated timeframe. For this research, I focused on the link between policy and programme in the two countries, inquiring as to the implementation concerns arising from this. Narrowing the scope to the policy-programme interface provided an opportunity to probe the initial phase when policy goals and objectives are reflected through programme strategies; and programme strategies and objectives are designed into practical projects. This would provide a snapshot into the key issues, challenges and conflicts that arise during this phase of the policy process.

The unit of analysis for my study was the intervention programme. In Kenya, this included the Kenya Informal Settlement Improvement

Programme (KISIP), the Kenya Slum Upgrading Programme (KENSUP), and Korogocho Slum Upgrading Programme (K-SUP). In South Africa, I reviewed the Upgrading of Informal Settlement Programme (UISP). I focused in particular on the Cities of Nairobi and Johannesburg, tracking how the programmes were operationalized through administrative structures. In the two cities, the policy-program interface was notably different, thus necessitating the consultation of different actors depending on the context.

In the City of Johannesburg, the housing program was coordinated through Gauteng province's Department of Housing and the city of Johannesburg's Department of Housing. The Regularization program was a local government initiative that was being introduced via the Planning department. Similarly, the National shift in policy to the UISP was under the guidance of the National Upgrading Support programme. Interviews in this city therefore included engagement with officials from this department, with very limited inquiry on ground-level implementation.

In Nairobi, however, the situation was slightly different. Here, there was less focus on policy changes and coordination, and more engagement with the pilot program and individual projects. Since there was more than one initiative targeting informal settlement intervention, I interviewed officials involved with the design and implementation of programs and projects on the ground. These included officials from the Ministries of Housing, Lands and Local Government; City Planning Officials, and partner agencies, including UN-HABITAT, the World Bank and the Kenya Italy Debt for Development Program (KIDDP). Challenges in implementation could also be observed from the implementation of pilot projects, and this led me to interview a number of respondents from target settlements, in particular, Kibera in Nairobi. I also engaged with NGO representatives in the projects.

Multiple case studies enable better understanding of one context by comparing it to a different context; but also, by exploring the differences within and between the cases, allows for a better understanding of the issue at large. The aim of drawing from the Kenyan and South African experience is to understand how the two countries are grappling with addressing the 'similar' challenge of informal settlements; and how different social, economic and political contexts affect the process of policy formulation and programme implementation.

One of the major drawbacks of comparative research, particularly across countries, is the fact that owing to the different contexts, terminologies,

languages and definitions could differ. Furthermore, data and general statistics are rarely comparable. However, drawing from multiple cases provides more evidence, which is more compelling for argument than a single case study (Yin, 2003). Furthermore, multiple cases allow not only an enhanced understanding of the broader issues under study, but also, of the individual cases (Baxter & Jack, 2008). Yin (2003) however cautions that since multiple case studies require time and resources, every case selected must serve a specific purpose for the study.

The selected case study areas presented different implementation frameworks experiencing similar policy implementation challenges. The social, political and economic structures of South Africa and Kenya are notably different, and the informal settlement challenge manifests itself differently. Furthermore, intervention policies, programmes and implementation models were different. Interestingly, however, in both countries, implementation outcomes were falling below policy expectations. This has been attributed to various factors: the policies themselves; the programmes; the implementing frameworks; target group behaviour; and the behaviour of other stakeholders. This similarity, despite the different implementation structures, called for a comparative review.

4.3 CASE STUDY AREAS

For this research, I looked at two case study areas - Nairobi, Kenya and Johannesburg, South Africa. National policy in Kenya and South Africa demonstrates intentions to implement *in situ* upgrading in informal settlements (Department of Human Settlements, 2004; Republic of Kenya, 2005). The different models employed for informal settlement intervention in the two countries offered useful insights for understanding some of the challenges of policy implementation.

This study focused on the different models and approaches to informal settlement intervention as interpreted by the two countries; and the emerging challenges from implementing these. I used the two countries to understand how informal settlement challenges were addressed in different policy contexts; the actors and agencies involved (and how these actors influence the process); the linkages between the policies and programmes; and how these programmes are finally operationalized. The goal of comparing the two countries was not to develop any recommendations for the countries, or to decide the better or worse of the models. Rather, I drew from the two cities' experience to understand different approaches of informal settlement intervention, demonstrating the different implementation dynamics arising from different contexts.

Drawing from two case studies in this manner did not constitute duplication of efforts. Rather, it expanded the scope of understanding of state-led informal settlement intervention and related implementation challenges. This research did not undertake detailed inquiry into the policy transition process. Focus and analysis was on the programmatic interpretation and implementation of 'new' policy goals. This implied an unquestioned assumption that the intention of national policy in the two countries is *in situ upgrading* of informal settlements. This study includes a brief review of policy transition in the two countries, though this was mainly to provide background for a more detailed study of the implementation process.

I also undertook an analysis of the implementation frameworks and contexts in the two countries, mainly to construct the existing structures before analysing their response to the emerging policy changes. This, together with the policy transition, provided a background to guide detailed study and analysis of the programmes and projects in the two cities. Figure 4-3below illustrates the focus of the study in detail.

4.4 STUDY DESIGN

The case study approach consists of a thorough investigation of phenomena within their unique context and relies on multiple sources of evidence (Yin, 2003). This involves relying on diverse methods, drawing from a variety of data sources, and viewing the phenomena using multiple lenses to 'provide the complete story' and better understand the issues (Neale, Thapa, & Boyce, 2006, p. 4; Baxter & Jack, 2008).The study employed an inductive approach, seeking to use the two case study areas (Johannesburg and Nairobi) to generate and build contextual accounts of the phenomena.

I. Framing the policy transition and implementation context at national and city level.

The study began by understanding the framework of implementation of informal settlement policies. This included formulating broad contexts of the two countries' social, legal, economic and political environments and framing the policies, programmes and systems of implementation. This provided a broad understanding of the implementation framework to guide the field-based research. By tracing out the process from policy, through programme to project, I sought to inquire how policy goals and objectives were translated into practice, and how policy implementers responded to local contextual characteristics at settlement level. For this phase, I

collected data and information from existing literature sources and through interviews with key informants.

Through a review of various policy documents, related research and other sources of grey literature, I searched for the rationale behind the changes in policy; the goals, objectives and expectations of the new policy framework; the shift in intervention approach (if any) and the means through which policy-makers intended to achieve these new goals.

II. Analysis of implementation structures against the conceptual framework.

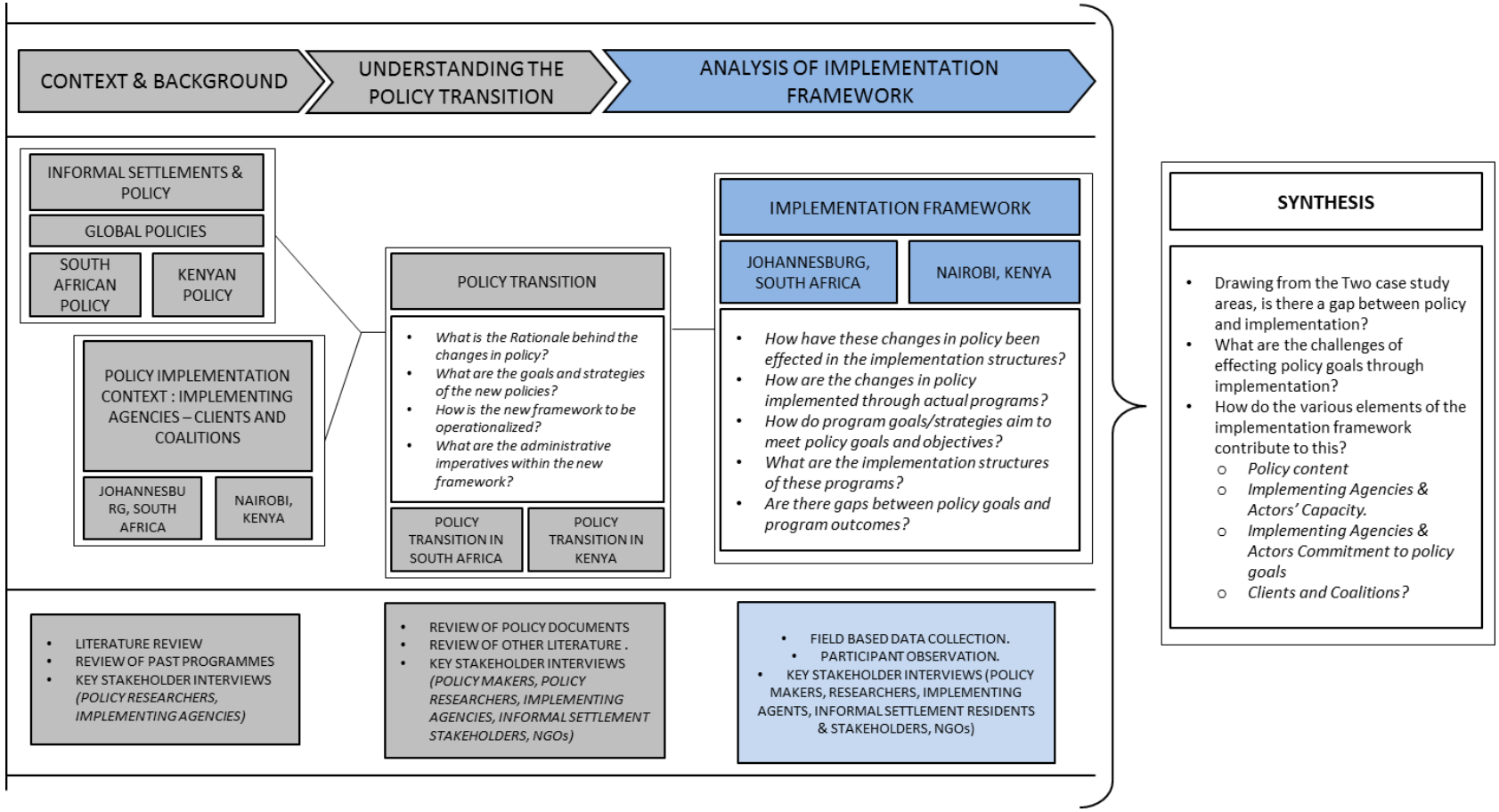
To understand how the changes in policy were effected through existing implementation frameworks, I then focused on actual programmes in the cities of Johannesburg and Nairobi. Since the key focus was the link between policy and programme, I inquired how programmes planned to actualize policy goals and objectives. This involved two key activities: analysis of the implementation experience (through interviews with implementers) and analysis of on-going programmes and projects (through site visits, review of project documentation and literature and stakeholder interviews). Here, the aim was to gain perspectives from actors in these agencies.

I also spent some time within the various implementing institutions in Nairobi and Johannesburg to gain an understanding of the everyday setting and gather more information on project implementation. Though this time was limited [6] , and spent in various implementing units, it nonetheless provided a more detailed picture of the implementing context. While this approach does not amount to ethnography, it contributed to my understanding of how policies are practiced as it gave me an opportunity of observing the process through the eyes of implementers. Though applied at a limited scale, this process allowed me to go beyond standard depictions of institutional structures and policy implementation processes, to begin to edge out the issues, influences and power relations within the informal settlement policy implementation sphere.

Figure 4-3 below outlines the framework that guided my fieldwork and data collection. The following chapters present the study's findings: first, the policy and implementation framework; and then the implementation experience in the two cities.

[6] 2 weeks in Nairobi and 1 week in Johannesburg.

Figure 4-3: Study design and methodological approach



Source: Own Formulation (2011).

5 POLICY AND IMPLEMENTATION STRUCTURES IN KENYA & SOUTH AFRICA

5.1 INTRODUCTION

Though Kenya and South Africa bear some similarities in their informal settlement policy frameworks, they are also strikingly different, thus providing opportunities for comparative analysis. As we saw in Chapter 1, the two countries have different social, political and economic systems. Furthermore, their structures of policy making and implementation also differ, as do their administrative structures. Despite this, major cities in both countries are experiencing a fairly similar 'informal settlements challenge', though at different scales. The manner in which state structures in the two countries seek to address this challenge is the focus of the following chapters.

This chapter draws information from secondary sources and primary interviews, to provide a brief outline into the structures of informal settlement policy implementation in the Kenya and South Africa. The main aim is to orient the reader to the two countries' political and administrative systems. The chapter does not seek to provide an analysis of the policies, but rather, a brief outline of the main policy transitions. This is aimed at a number of issues: clarifying the goals and strategies of the 'new' policies; identifying how the implementation is framed; and outlining the 'administrative imperatives' within the new frameworks.

Within both countries, we see a deliberate shift in policy. This takes notably different forms. In Kenya, there is a notable move to active state-led intervention in informal settlements while in South Africa, this is a shift from a 'housing led' delivery model to one that embraces *in situ* upgrading. In Kenya, policies also outline intent to shift to upgrading, though this is expressed as a broader goal, rather than an implementable mandate. The processes of policy transition in the two countries would provide useful material for deeper analysis, though this is not captured in this chapter.

The first section tracks the Kenyan structures of policy making and administration. This includes a brief outline of the country's historical development, policy and administrative structures, then the informal settlement intervention efforts. This is followed by an outline of the South African systems of policy implementation, and policy changes. The third section then presents a comparative analysis of the policy transition in

Kenya and South Africa, highlighting the key similarities and differences across them.

5.2 THE KENYAN POLICY AND ADMINISTRATIVE CONTEXT

5.2.1.1 BACKGROUND

The Kenyan state structures of administration and policy implementation have been gradually evolving over time. Initially, the post-independence state was organized in a devolved administrative structure which had a system of vertical checks and balances across the various organs. Between 1963 and 1993, however, this system was gradually transformed through a series of Constitutional amendments to a highly centralized state (Republic of Kenya, 2011b). Key documentation on this phenomenon tracks this systemic transformation, particularly how it affected the systems of government, policy formulation and administration (Menon, Mutero, & Macharia, 2008; The World Bank, 2008; Sihanya, 2011b; Republic of Kenya, 2011b).

Sihanya (2011b) tracks how increased centralization of the state led to the creation of a powerful, imperial presidency that was not subject to adequate checks and balances. This in turn affected the structures of the state, as it created (and perpetuated) a system of patronage within state institutions (Republic of Kenya, 2011b). A more pertinent transformation, however, was the systematic weakening of local authorities, which ultimately rendered them incapable of undertaking basic service delivery roles. This process was undertaken over a series of years, whereby local authorities were stripped of their responsibilities, revenue sources, and autonomy[7].

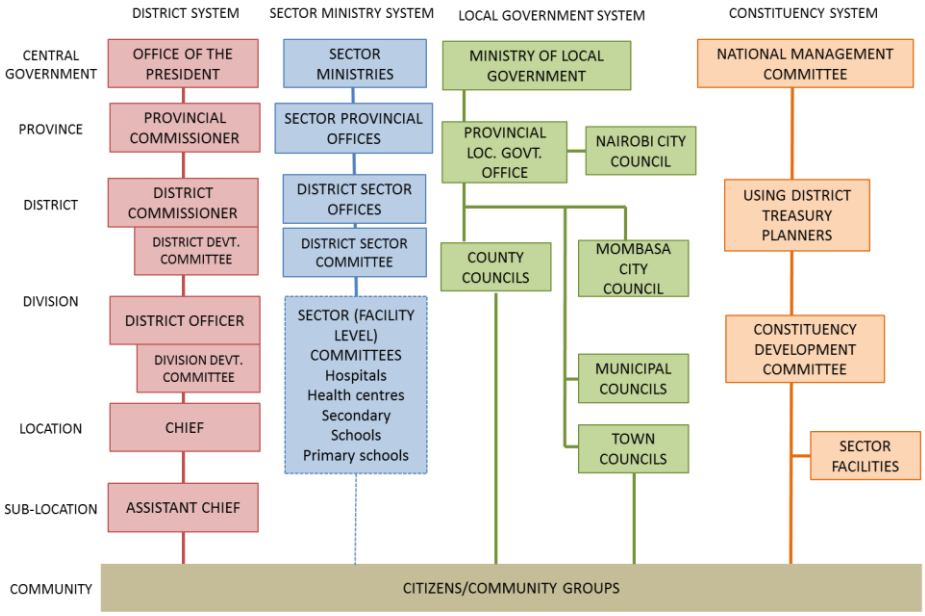
This dual process – the systematic weakening of local authorities and the gradual decline of state institutions – had negative effects on the service delivery capabilities of the state. Local authorities, which were tasked with delivering basic services to residents, were incapable of undertaking their role as they had been stripped of their resource base, autonomy and capacity. Secondly, the gradual decline of state institution meant that central government was also unable to deliver as expected.

The effects of this were varied, and affected the entire country. The main effects were: skewed allocation of resources and development opportunities; alienation of communities from the mainstream economy; duplication of efforts; wasteful public investments; growing poverty; ethnic animosity; and, political competition among others (Republic of Kenya,

[7] For a more detailed analysis of this, see World Bank (2002, 2008) and Menon et al. (2008).

2011c). Within urban areas, local authorities were unable to respond to local needs and priorities, or meet the basic service delivery demands of the population (PDM, 2007).The resulting administrative structure was highly centralized, but also, highly inefficient, with overlapping roles across various levels of government. This is illustrated in Figure 5-1below:

Figure 5-1: State systems of service delivery in Kenya



Source: Adapted from The World Bank (2002), Menon et al. (2008)

As Figure 5-1 above illustrates, a number of central government agencies were in charge of delivery of services to the communities. The management of cities and urban areas was undertaken by local authorities, but these were not autonomous, but rather, under the national Ministry of Local Government. The overlapping state systems of service delivery meant that policies were formulated (and resources utilized) within a disconnected framework.

In Kenya, policies are made through a series of processes that take a considerable period of time. After preparation and drafting, policies are first presented to Cabinet and once approved, become sessional papers[8]. Sessional papers have to gain parliamentary approval and presidential consent before they become laws, or Acts of Parliament. It is important to bear in mind that the timeframes for policy formulation are not clearly determined, which means that policies could remain at Sessional Paper phase (thus unenforceable) for a considerable period of time. For

[8]The National housing policy - Sessional Paper No. 3 of 2004 and the National Land Policy – Sessional Paper No. 3 of 2009 are examples of this. These are similar to the White Papers in South Africa.

instance, since their approval by cabinet in 2005 and 2009 respectively, the housing and land polices have remained at sessional paper phase and are yet to be prepared into bills for parliamentary approval.

5.2.1.2 STATE REFORMS, POLICY TRANSITION AND THE NEW CONSTITUTION

From the late 1990s, the Kenyan government began implementing a number of initiatives aimed at reforming state institutions and improving the performance and service delivery capacities of local governments. A notable intervention was the Kenya Local Government Reform Programme (KLGRP), which included funding and planning support, and management support initiatives varying from financial management, results based management and performance monitoring. These reforms were in line with broader public sector reforms and so far, reports note that there has been significant improvement in the management of local authorities (Republic of Kenya, 2003; Menon, Mutero, & Macharia, 2008).

As we saw earlier, however, the poor performance of local government was not only a result of mismanagement, corruption, weak governance, or inadequate managerial capacity. A main contributor was the systematic weakening and marginalization brought about by centralization of state functions. Public sector reforms therefore, while highly necessary, would not be sufficient to achieve the required changes, as there was also need to restore the autonomy, capacity and resource base needed to efficiently manage local authorities. This is affirmed in state policy documents, and they noted that these reforms were applied in preparation for the new constitutional regime which would restore a devolved structure of government, hence increasing the autonomy and resource base of local authorities (Republic of Kenya, 2003).

Kenya's new Constitution strengthens these reform efforts. The law plans to fundamentally transform the culture, structure, systems and performance of the state. The Constitution changes the structure of the state from a centralized system to a devolved structure that re-introduces checks and balances across and between the organs of the state. It also provides a number of rights to all people, according the state with the duty of achieving the progressive realization of these rights. The introduction of a normative set of values and principles that guide the functioning of state agencies and officials would also lead to a more effective state (Republic of Kenya, 2010).

Currently, the country is still within this period of transition and structural transformation. Within this phase, a number of policies and laws are being drafted to align with the new Constitution. Similarly, state agencies and

departments are being re-structured to accommodate the transition to a devolved structure of government. The policies and laws that pertain to devolution and local government are already in place, and these envision a greater role for local government [9] .Before these adjustments are completed, state functioning remains within the existing centralized system of government where the task of policy formulation rests on central government agencies and implementation is distributed between central government and local government.

5.2.2 INFORMAL SETTLEMENT INTERVENTIONPOLICY IN KENYA

Informal settlements in Kenya share characteristics with other such settlements across the world. Settlement feature high residential densities; inadequacy of basic services including water, sanitation and electricity; high rates of unemployment, poverty, socio-economic marginalization and limited access to social and community facilities such as education, health and community facilities (Matrix Development Consultants, 1993). These settlements however play a key role in Kenya's cities and towns, offering shelter and limited services to the population, and feature particular characteristics which pose special concerns for policy makers.

Section 5.2 above briefly tracked the socio-economic, legislative and political environment that developed with the increased centralization of service delivery functions and the gradual decline of the state. This depicts the macro-context within which most informal settlements evolved in Kenya's main urban centres. The so-called 'slums' developed and grew over time – almost uninterrupted – into complex settlements which vary in size, density and socio-economic character. The literature review on the interplay between Kenyan policy and informal settlements in Chapter 2 highlighted the growth and development of these settlements, highlighting how a mix of economic, administrative and socio-political factors contributed to (and perpetuated) their growth.

The growth and development of informal settlements in Kenya was a result of a variety of factors. Mainly, they grew due to inadequate supply of land and housing to meet the needs of growing urban populations; and rising poverty levels which – in the context of inadequate low-cost housing – pushed people into informal settlements[10]. Since local governments, which are in charge of development control, planning and service delivery, were largely incapable of undertaking their duties, informal settlements could not be upgraded, improved, or provided with improved services.

[9] See, for instance, the Urban Areas and Cities (Republic of Kenya, 2011) and the Draft Sessional Paper on Devolved Government (Republic of Kenya, 2011b).
[10] See Obudho & Aduwo for a detailed analysis of this (Obudho & Aduwo, 1989).

The weak administrative environment however did more than facilitate the growth of informal settlements in cities. As described above, the decline of the formal state was manifested in a variety of ways: increased corruption within the state and government agencies; unregulated use of state resources by the ruling elite; illegal land allocation by state and public officials; decline of law and order; and the rise of illegal urban socio-political gangs. This environment also affected the functioning of informal settlements (Amis, 1984; COHRE, 2005; Katumanga, 2005; Klopp, 2008; Amnesty International, 2009).

Current informal settlement conditions are therefore complex and multi-dimensional, and this bears certain implications for intervention. In addition to the physical challenges: inadequate housing, infrastructure and services, high densities, limited access to social and community facilities, high rates of unemployment, vulnerability and poverty, there are also socio-political challenges such as power imbalances and entrenched systems of patronage and exploitation. While these challenges are present across the country, in informal settlements, they pose special concerns for intervention efforts[11].

5.2.2.1 POLICY IMPLEMENTATION STRUCTURES

As described above, the role of policy formulation and implementation in Kenya is highly centralized, with central government agencies playing a major role, and local government institutions taking on minor implementation duties. The main national agencies involved in informal settlements intervention have been the Ministry of Housing, the Ministry of Lands, and the Ministry of Local Government.

Over the years, informal settlements have been perceived as manifestations of a housing need. In this regard, the Ministry of Housing is often considered the lead ministry to address the concern. Although the Ministry's roles are clearly articulated – with relevant structures and agencies in place – we see that its performance has been weak in the past. The National Housing Corporation (NHC), whose main role has been the development of housing to meet the nation's demand, has yet to efficiently play its role. In particular, the NHC has been unable to develop housing that would be affordable to low income residents, a challenge that has been evident from the agency's inception to date (Stren, 1975; Huchzermeyer, 2008).

[11] For instance, the informal systems of land acquisition and development have created complex system of stakeholders in informal settlements. Though unregulated, the system of shelter and service delivery in informal settlements introduces another level of stakeholders who must be considered in an intervention effort (Amis, 1984; Dafe, 2009).

The Ministries of Lands and Local Government are also involved in the informal settlements sector, mainly at programme level. The Ministry of Land's core mandates are the formulation of land policy, physical planning, management and coordination of land transactions, surveying and mapping, land adjudication, land registration, valuation, and administration of state and trust land. The Ministry aids the informal settlement intervention efforts by facilitating access to land through planning and land use regulation (Republic of Kenya, 2009). The Ministry of Local Government's core functions are the formulation of local authorities' policy and the support and management of local governments. In this role, the Ministry has oversight over all local authorities, and is in charge of supporting their management and functioning. Some of the roles here are supporting local authorities, capacity building, formulation of by-laws, and the administration of funding support. The dominance of national government on local authorities functioning has however reduced their autonomy and capacity:

> Local authorities are not responsible for land policy and therefore do not have the administrative and legal powers to resolve land issues in slum areas. This, together with their poor financial health and limited institutional capacity, deprives them of the ability to devise effective strategies for responding to slums. Indeed, local officials reported that even where it made sense to upgrade infrastructure in slum areas (for instance opening up of roads and building schools), the lack of legal authority over land issues ruled out such interventions. Moreover, the lack of current physical development plans makes it difficult for municipal authorities to devise strategies for managing slums (The World Bank, 2008, p. 80)

The structural, administrative and technical challenges facing local authorities have been most evident in the service delivery sphere. Though evidence of this could be seen across the cities and towns, it was also apparent in informal settlements, as the World Bank outlines above. As we shall see in the following chapter, this was also noted in Nairobi where city officials acknowledged the informal settlement challenge within their boundaries, but also highlighted the lack of capacity to undertake meaningful intervention (CCN Official, personal communication, 18.11.2011).

5.2.2.2 INFORMAL SETTLEMENT INTERVENTION EFFORTS IN KENYA

The Kenyan government has undertaken a number of informal settlement intervention efforts since independence. These gradually transformed with

the changing perceptions of the informal settlement challenge in the country's main cities. Initially, informal settlements were seen as a problem of housing deficit, and the state sought to respond by providing affordable housing. Over the years, however, the policies failed to meet the growing demand for housing (Obudho & Aduwo, 1989; Harris & Hay, 2007). The situation deteriorated after independence as more residents moved to urban areas[12].

The state also implemented a series of programmes aimed at curbing the growth of informal settlements. These included slum clearance, exclusion from urban services, forceful evictions, provision of public housing, upgrading programmes, and site and service schemes. These programmes however failed to either stop the growth of informal settlements or provide adequate housing to meet the growing demand. By the early 1990's, informal settlements continued to grow and develop with very little intervention from the state. In the main cities, these settlements housed a significant number of residents[13].

In addition to the previously mentioned administrative reforms, the government from the year 2000 renewed its efforts at informal settlement intervention. This was both in the policy front with the formulation of the Housing and Lands policies, and in the implementation of a number of key programmes and projects targeting informal settlements. These were bolstered by the country's new Constitution and its right's based perspective which resonates with both policy and programme goals. Collectively, these have created a legal framework that strengthens the rights of informal settlements residents while assigning to the state the responsibility of securing these rights. The following section outlines the key policies and programmes introduced from the year 2000 in the country. A notable factor is that thought the programmes are introduced chronologically, the process of formulation, design and implementation does not follow a single, coordinated process.

2001 - KENYA SLUM UPGRADING PROGRAMME (KENSUP)

The Kenya Slum Upgrading Programme was initiated in 2001 as a joint initiative between the Kenya government and UN-HABITAT. The

[12] This was after abolition of the Pass Laws which had been instituted as a way to keep the native population from the cities (Obudho & Aduwo, 1989)

[13] The population estimates for informal settlement residents in Kenya are widely disputed and varied. Nonetheless, it was estimated that by 1993, over 55% of Nairobi's population lived in informal settlements (Matrix Development Consultants, 1993). Similarly, a UN-HABITAT survey on Kisumu estimated that in 2005, over 60% of the population lived in 'areas that lack the basic necessities required in a dense form of urban environment' (UN-HABITAT, 2005).

programme contributed to meeting MDG's, and planned to improve the livelihoods of people living and working in informal settlements through provision of security of tenure; housing improvement; income generation; and physical and social infrastructure provision (UN-HABITAT, 2008). KENSUP was jointly funded by the government and UN-HABITAT, and UN-HABITAT also offered technical support and capacity building.

KENSUP was to be implemented in three key phases: inception, preparatory and implementation. Though the programme was initiated in 2001, its implementation phase was only launched in 2004, with a number of projects countrywide. These included: slum redevelopment projects; greenfield housing projects, and social and physical infrastructure projects (Muraguri, 2011).

2004 – SESSIONAL PAPER NO. 3 OF 2004 ON NATIONAL HOUSING POLICY

The Sessional Paper on National Housing Policy (Republic of Kenya, 2005) presents the overall goals and objectives for meeting the housing needs of the country. It was formulated by the Ministry of Housing as an effort to streamline with the country's broader development objectives[14]. The policy's overall goal was to facilitate the provision of adequate shelter at affordable costs to all socio-economic groups across the country. This would be achieved through: promotion of housing development; facilitation of access to land for public housing; mobilization of finance for the housing market; and infrastructure provision, among others.

The policy identified informal settlements as an area requiring 'urgent intervention', and accords high priority to upgrading of informal settlements. Here, the intention is to undertake intervention with minimal displacement of residents catering for proper planning and provision of necessary infrastructure and related services. The policy also seeks to reach beyond housing intervention, proposing to address security of land tenure, provide basic infrastructural facilities and services and improve the socio-economic challenges facing communities. The policy outlines the tasks for the state as follows:

> [to] streamline acquisition of land; adopt appropriate tenure systems and planning standards to suit informal settlements; prevent unwarranted destruction of existing housing stock and displacement

[14] Kenya's 2003 National Development Plan - *Economic Recovery Strategy for Wealth and Employment Creation* – highlighted the importance of housing in poverty reduction. It sought to facilitate increased production of housing as a means of achieving this goal (Republic of Kenya, 2003).

> of residents; undertake integrated planning to accommodate socio-economic activities; enhance employment and income-generating activities; facilitate slum upgrading through integrated institutional frameworks and participatory approaches involving relevant stakeholders; and implement appropriate slum upgrading measures responsive to individual informal settlement needs (Republic of Kenya, 2005, p. 10).

So far, the Sessional Paper on Housing Policy remains at this phase, and it has not yet progressed to the law-making stages. In addition, the policy goals and intentions outlined above have not been coherently developed into implementable frameworks. Without legal backing or a strategy for implementation, these policy goals and objectives have remained as such, and have not triggered any form of action on the administrative front.

2005 – KENSUP IMPLEMENTATION & FINANCING STRATEGY, 2005 - 2020

Although KENSUP was formulated in the year 2001, and launched in 2004; the implementation strategy and financing plans were only released in 2005. These outlined the programme's rationale, strategy and scope of work for the time period 2005 – 2020. The strategy was developed by the then Ministry for Lands and Housing. The goals and objectives of the KENSUP strategy align both with state policies (such as the National Development Plan, and the Housing Policy) and global goals such as the MDGs. The key goal of the strategy is to develop the framework through which nationwide slum upgrading would be achieved. The framework outlined the rationale and approaches for intervention, implementation activities, financing strategies, institutions and agencies for achieving implementation (Republic of Kenya, 2005a; Republic of Kenya, 2005b).

The KENSUP strategy also presents an initiative to coordinate the slum upgrading efforts in the country. In the past, informal settlement programmes in the country had been multiple, diverse, and highly uncoordinated. They are implemented by state agencies, local and international NGOs, FBOs and community organizations. So far, this has only led to the dispersal of resources and duplication of efforts, with very little output even at settlement level. Under KENSUP, the government established a fund – the Kenya Slum Upgrading Fund (KENSUF). This fund would support the various intervention efforts across the country (Republic of Kenya, 2005a).

The question arises as to whether KENSUP is an informal settlements intervention strategy for the Housing policy. Once a sessional paper is

approved by Cabinet, it should be further developed into bills before being passed into law. In the case of the housing policy, however, this process has not yet been completed. Though the Kenya Slum Upgrading Programme predates the Housing policy, the *strategy* document was published in 2005, with the intention of implementing the policy (Republic of Kenya, 2005a, p. 2). A comparison of the programme's strategies with the Housing Policy goals however highlights a number of gaps. The programme's objectives outline two key tasks: formulation of a nationwide slum upgrading and management framework, and the actual implementation of slum-upgrading programmes (Republic of Kenya, 2005a). The first agenda is broader, capturing policy-level activities. These include the formulation of an integrated institutional framework for upgrading, streamlining the mechanisms for securing tenure, and mobilizing private and public sector resources for upgrading. The second agenda would entail guiding the implementation process by identifying ideal intervention models for different settlements, and designing structures for implementation of the various structures.

KENSUP sets out a fairly comprehensive structure for nationwide informal settlement intervention. It outlines a set of principles and values to guide upgrading; formulates an institutional framework for delivery; and establishes a fund through which intervention resources can be channelled (Republic of Kenya, 2005a; Republic of Kenya, 2005b). The strategy however only prescribes two models of intervention: full redevelopment and incremental redevelopment[15]. KENSUP also aims to provide social facilities to upgraded settlements including: schools, health centres, police posts, access roads, water reticulation, drainage, and refuse collection.

KENSUP's implementation and funding strategy therefore does not further the Housing policy's informal settlement objectives towards an implementable framework. In some instances, KENSUP replicates the vague nature of the policy, thus failing to provide clear guidelines for implementers. For example, to deal with the complex tenure arrangements, the strategy plans to:

> integrate settlements into the formal physical and economic framework; legislate tenure and residential security policies regarding slums; designate informal settlements as secure tenure

[15] Full redevelopment includes replacing the informal settlement with modern (high-rise) settlement. Incremental redevelopment includes provision of a serviced site with core units; serviced sites with secure tenure and a slab; or serviced plots with secure tenure (Republic of Kenya, 2005a).

> zones; and determine appropriate tenure security systems in consultation with residents, structure owners and other stakeholders' (Republic of Kenya, 2005a, p. 15).

So far, these intentions have not been translated into implementable, legislative tools. A second concern is that other goals of the policy, such as the adoption of appropriate tenure systems and planning standards for informal settlements, formulation of strategies that 'prevent unwarranted destruction of existing housing stock and displacement of residents' (Republic of Kenya, 2005, p. 10), negotiation of the complexities of land ownership and the compensation for disposed persons are not accommodated in the KENSUP strategy. KENSUP's structures for participatory planning have however proven useful, as we shall see in later sections of this thesis.

2006 – The Korogocho Slum Upgrading Programme

The Korogocho Slum Upgrading Programme (K-SUP) was launched in 2006 under the Kenya-Italy Debt for Development Programme (KIDDP)[16]. Although K-SUP's scale is small when compared to KENSUP, it illustrates yet another state-led effort at informal settlement intervention. Here, implementers chose to apply a different model to intervention, rather than replicate the KENSUP model. The programme sought to pilot the Minimum Intervention Approach (MINA), which seeks to provide 'coordinated support to the community to provide them with security of tenure… and to prepare and implement improvements of the physical, economic and social living conditions of the communities (Republic of Kenya, n.d., p. 1).

The lead implementing agency is the national Ministry of Local Government, and my interviews with programme implementers demonstrated that they did not agree with the approach selected for KENSUP:

> They [KENSUP] forget that there is someone else already providing housing. You know there is a structure owner who put up a structure in that slum. People have been living there... Someone has been supplying housing. So, why is the government putting so much money in constructing housing? The best thing is, *respect the Structure Owner*. Ask him, "How can the government assist him to help him build good houses now?" Most of them say that with

[16] KIDDP was a program funded through a debt-swap agreement between the Government of Kenya and the Italian Government. It included a number of projects spanning various sectors. Korogocho Slum upgrading Program formed one of the programme's urban development projects.

> security of tenure, they will actually build better housing (MoLG Official, personal communication, 5.1.2012) [my emphasis].

While KENSUP sought to transform the physical and social structures within informal settlement, K-SUP's minimum intervention approach sought instead to improve on the existing structures in a more incremental fashion. While the programme's goal in applying minimum intervention approach (MINA) was also upgrading, it sought to achieve this by first investing in addressing the immediate physical and social challenges facing residents; and then tenure and housing. The model also sought to supplement on the existing efforts of residents, and this begins by appreciating the 'status-quo' within settlements:

> This is an acknowledgement that these settlements have helped to solve housing problems for the structure owners and for tenants renting rooms from them. It is also acknowledging that the communities in these informal settlements are also providing some infrastructure facilities such as nursery schools, water connections etc. at their own cost. This infrastructure is considered as an asset not only to the community but also for the local authority (Republic of Kenya, 2004, p. 12).

In this programme, then, the role of the state and other development partners is to assist in the step-by-step improvement of unplanned settlements (ibid). K-SUP applies a similar model for enhancing stakeholder participation to KENSUP, though here, beneficiaries are given a broader role in decision making. In K-SUP, each step of implementation is undertaken with regular consultation and negotiation with stakeholders (Republic of Kenya, 2004). In addition to this incremental and participatory approach, the model also focuses on capacity building, a stronger role for the community, and cost sharing. Rather than injection of massive funds to the community, development agencies are encouraged to assist in technical input and enable the community to marshal its own resources in meeting the cost of improving the living environment.

In addition to facilitating the incremental improvement of informal settlements, K-SUP also aims to provide secure tenure using group approaches. The programme introduces a group-based land management model under the Community Land Trust. Under this model, 'the land belongs to the community under one registered title held in trust…with individual members owning the development and improvements (Republic of Kenya, 2004, p. 2).

2009 – SESSIONAL PAPER NO. 3 OF 2009 ON NATIONAL LAND POLICY

In 2009, the Ministry of Lands published the Sessional Paper on National Land Policy (Republic of Kenya, 2009). The sessional paper sought to 'provide an overall framework and define the key measures required to address a number of critical issues: 'land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, land conflict, unplanned proliferation of informal settlements, outdated legal and institutional frameworks, land information management, and the provision of security of tenure for marginalized groups (Republic of Kenya, 2009, p. ix).

The policy identifies informal settlements among 'land issues requiring special intervention' (Republic of Kenya, 2009, p. 40). Here, it identifies the key challenges as absence of security of tenure, and poor planning. To address this, the policy intends to: facilitate negotiations between land owners and squatters on private land; regularize settlements on public land; establish frameworks for land transfer in the case of under-utilized land or land belonging to absentee owners; develop of flexible tenure systems; and develop of intervention programmes (for upgrading or resettlement) in consultation with the communities (ibid).

Although the policy has been in place since 2009, with strategies, goals and objectives that would significantly benefit the informal settlement intervention effort, it has remained at sessional paper phase as has the housing policy. So far, there has been little effort to formulate laws to implement the various objectives of the policy[17]. This delay does not only apply to the informal settlements sector alone, but is reflected across all target areas.

2010 – THE CONSTITUTION OF KENYA

The Constitution of Kenya introduces significant legislative principles to the informal settlement intervention effort. The most crucial are the economic and social rights that are now accorded to all persons. These include right to health, to access health-care services; to accessible and adequate housing; to reasonable standards of sanitation; to clean and safe water in adequate quantities; to social security and to education. The Constitution delegates the role of securing these rights to the state, noting that 'the state shall take legislative, policy and other measures, including

[17] At the time of this study, the Draft Eviction and Resettlement Bill was being drafted, which would provide guidelines for the processes of eviction and relocation.

the setting of standards, to achieve the progressive realisation of the rights guaranteed (Republic of Kenya, 2010, p. 20).

The inclusion of these social and economic rights in the Constitution would bolster the informal settlements intervention efforts once the necessary laws are in place. Furthermore, the fact that the state is now charged with securing these social and economic rights to all persons implies that the challenges of informal settlements – housing, access to healthcare, access to clean and safe water and education – are now constitutional rights that must be provided. The state is however expected to meet these rights to the extent that it has available resources. Currently, state agencies are in the process of aligning their policies, laws, structures and strategies to the requirements of the new Constitution[18].

2011 – KENYA INFORMAL SETTLEMENTS IMPROVEMENT PROGRAMME (KISIP)

The Kenya Informal Settlements Improvement Programme (KISIP) is the latest addition in the informal settlement intervention effort. This programme was formulated in 2010 and officially launched in 2011 with the aim of improving the challenges facing informal settlements in Kenya. The programme is jointly financed by the World Bank, AFD (Agence Francais de Development), the Swedish Development Agency (SIDA) and the Government of Kenya. KISIP forms one of three major World Bank financed projects in the Kenya Urban Programme. Other programmes include the Kenya Municipal Programme (KMP) and the Nairobi Metropolitan Services Project (NMSP)[19]. KISIP and KMP have been designed to complement each other and they will be implemented in 15 of Kenya's largest Municipalities (The World Bank, AFD & SIDA, 2010).

Like K-SUP, KISIP proposes a different model for informal settlements intervention from KENSUP. Programme documentation highlights a critique of KENSUP's redevelopment model:

> The initiative [KENSUP] includes interventions such as participatory planning and development, strengthening of tenure, security for residents, and provision for housing and infrastructure services… However, limited funding combined with an emphasis on constructing housing units has prevented the programme from achieving large scale and systematic impacts thus far. A lesson

[18] A good example is the Concept Paper on National Slum Policy currently being drafted by the Ministry of Housing, which aims to mainstream the Ministry's goals to the new Constitution.
[19] KMP aims to build the capacity in Kenya's largest 15 municipalities, and NMSP seeks to finance investments in infrastructure and service delivery in the Nairobi Metropolitan Region.

> learned is that *resources for slum upgrading should be focused on provision of public goods, rather than private goods* (The World Bank, 2011, p. 5)[my emphasis].

KISIP seeks to intervene by enhancing tenure security and investing in physical infrastructure and services in informal settlements:

> The key design issue for the project is to determine a 'minimum infrastructure package' that would be cost-effective as well as sufficient to bring significant change at the settlement level, but would not raise the standards so high that too few settlements benefit and/or the improved settlements are immediately bought over by middle-income households (The World Bank, AFD & SIDA, 2010, p. 8).

The selected package of physical infrastructure consists of roads, bicycle paths, pedestrian walkways, street and security lighting, vending platforms, solid waste management, storm-water drainage, water and sanitation systems, electrification, public parks and green spaces. Though KISIP's implementation is coordinated from the Ministry of Housing, its implementation systems differed from KENSUP, and this required the formulation of a parallel implementation structure. The main effect of this is that the capacity of implementing agencies – at both national and local government level – is strained as they must achieve the goals of parallel programmes.

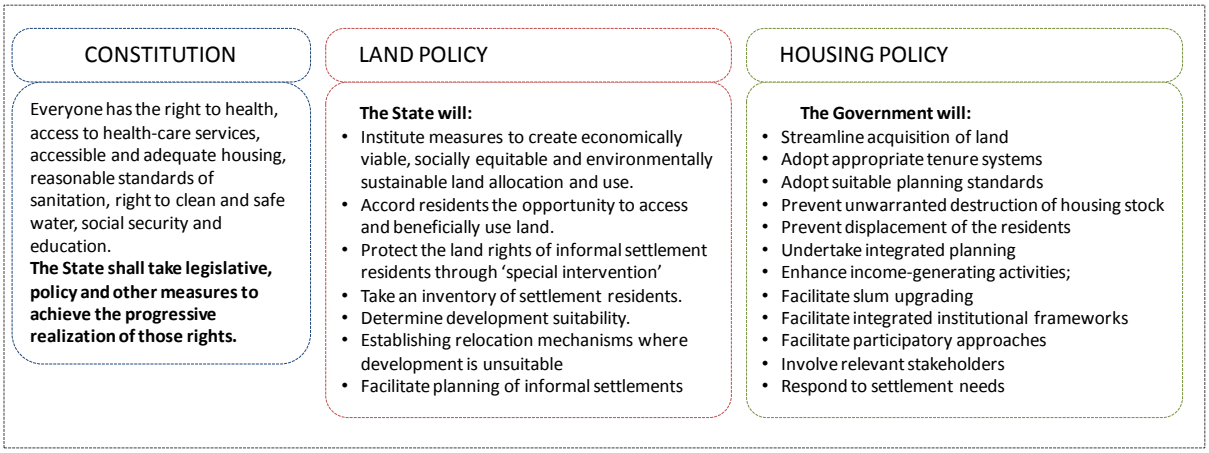
2012 – CONCEPT PAPER ON NATIONAL SLUM POLICY (DRAFT)

Following the promulgation of the new constitution, the Ministry of Housing has drafted a national slum policy which seeks to 'comprehensively deal with the slums and informal settlement menace' (Republic of Kenya, 2012, p. 6). This policy seeks to integrate the policies and programmes intended for informal settlement intervention and anchor them within the framework of the new Constitution. Some of the objectives of the policy are the provision of a legal and institutional framework for sustainable slum upgrading and prevention efforts; the design of an institutional and organizational framework for implementation of slum mainstreaming programmes under the devolved system of government; provision of a framework for securing the right to housing; establishing reasonable levels of sanitation and other constitutional rights; and empowering access to housing units, services and infrastructure (ibid, p.7).While this effort is still at the design and formulation stage, it represents a conscious policy effort to align state programmes and action to the requirements of the new constitution.

5.2.2.3 SYNTHESIS: THE KENYAN CASE

The Kenyan historical, social, political and economic context outlined above has direct implications for the informal settlements sphere. As we saw, the decline of the state's political and administrative machinery caused widespread effects that were also reflected within the informal settlements arena. Similarly, the on-going reforms included renewed attempts at informal settlement intervention. This can be seen in the policy front, and in the various programmes. These policies and programmes signify a shift in state perception and approach towards informal settlements. A key concern, however, is that the policies and programmes are being formulated and implemented in isolation, with little effort at an integrated approach.

Figure 5-2: Policy goals, expectations and strategies for informal settlements



Source: Own formulation from various policy documents (Republic of Kenya, 2005; 2009; 2010)

Literature on policy stresses the need for any given policy to clearly structure the implementation process:

> To the extent that the statute stipulates a set of clear and consistent objectives, incorporates a sound theory relating behavioural change to those objectives, and then structures the implementation process in a fashion conducive to obtaining such behavioural change, the possibilities for attaining statutory objectives are enhanced—even if the amount of behavioural change sought in target groups is considerable (Sabatier & Mazmanian, 1980, p. 544).

The role of 'structuring implementation' involves identifying implementing institutions, providing them with legal and financial resources, guiding the policy orientations of agency officials, and regulating the spaces through which non-agency actors participate in the implementation process (ibid).

Though collectively, the policy framework in Kenya presents a concise understanding of the problem and what needs to be done to address it, there has been little effort to convert these goals into an implementable strategy. In their current state, these policy goals do not amount to actual decisions or formal authorization (see also Hogwood & Gunn, 1984). The only attempt at advancing the policies is through KENSUP, and as we saw earlier, the strategy presents some shortcomings. KENSUP focuses on a single model – redevelopment – and then designs systems of intervention around this approach. The strategy also fails to offer legislative guidance on streamlining tenure, or identifying appropriate standards for informal settlements. As a result, even with the formulation of KENSUP, the informal settlements intervention policy effort remains incomplete.

The Kenyan policy transition process is therefore 'incomplete', and this presents both an opportunity and a constraint for implementers. In the absence of strict guidelines and rigid frameworks to which they must adhere, local-level implementers have adequate space to customize and apply diverse approaches to unique local contexts – provided they meet the said policy goals. This can be seen in the fact that there are at least three programmes in place – KENSUP, K-SUP and KISIP. Each differs in rationale and approach from the next, and all three claims to be implementing state policy (see Republic of Kenya, 2005a; World Bank, 2011). This diversity of approach yields different lessons that can be replicated in other settlements.

An emerging challenge, however, is that the progressive goals in the various policies – which signify an intended shift towards informal settlements improvement and *in situ* upgrading – currently remain vague, and lack legislative backing. Implementers therefore cannot immediately translate them into meaningful action. Unsurprisingly, there has been little administrative effort to meet the 'new' policy goals. As we see in the following sections, implementers have continued to rely on existing structures and processes and this has sometimes gone against policy objectives. Furthermore, the space for innovation and flexibility has remained largely untapped.

5.3 THE SOUTH AFRICAN POLICY AND ADMINISTRATIVE CONTEXT

5.3.1.1 BACKGROUND

The policy-making and implementation structures in present-day South Africa cannot be viewed in isolation from the country's historical context. This provides useful insight into the existing state of affairs in the country

during democracy; the roles and responsibilities that accrued to the first post-democratic government; and into the rationale behind the design of state structures and administrative systems.

The most significant influence in the country's history was the system of segregation and apartheid, which focused on separating the population on racial lines. This was enforced both through policy, state systems of administration, service delivery, and the structuring of cities and urban areas. Policies of spatial separation, influx control, and legislation of separate administration structures for separate groups would ultimately lead to skewed and uneven development across the country (Republic of South Africa, 1998). Apartheid policies and systems of administration, management and resource distribution were also uneven, particularly against the African (black) population. These left a considerable bulk of the population disenfranchised, impoverished, and isolated from the mainstream economy.

The task that accrued to the post-apartheid government was monumental and this was envisioned in the Government of National Unity's commitment to 'effectively address the problems of poverty and gross inequality evident in almost all aspects of South African society' (Republic of South Africa, 1994, p. 4).The key goals outlined in the ANC's Reconstruction and Development Programme (RDP) were: meeting of basic needs, development of human resources, building the economy; democratization of the state and society, and implementing the reconstruction and development programme (Republic of South Africa, 1994, p. 9). Each of the goals was broad and detailed and would require concerted coordination and efforts to achieve. The task of 'meeting basic needs' for instance, spanned from job creation, to land and agrarian reform, provision of housing, water, sanitation, energy supplies, transport, nutrition, health care, social welfare, environment, and security (ibid).

5.3.1.2 POLICY IMPLEMENTATION STRUCTURES

Prior to 1994, South Africa had 'fragmented administrations' based on the geographical (and racial) divisions. The period of transition to democracy also necessitated the formulation of new structures of the state. As per the Constitution, the government would constitute 'national, provincial and local spheres of government which are distinctive, interdependent and inter-related' (Republic of South Africa, 1996, p. 42). The Constitution also outlined a series of guiding principles to steer the functioning of these spheres, stressing on the need for cooperation and coordination. A number of literature sources explore the emerging issues on inter-governmental relations in South Africa (e.g. (Tapscott, 2000; Reddy,

2001). Reddy (2001, p. 24), for instance, notes that the document's emphasis on 'spheres of government' (as opposed to tiers) is indicative of a shift from the hierarchical power structures in which some structures are lesser than others. Instead, each sphere of government would enjoy relative autonomy to perform its duties and tasks as per the Constitution.

The Constitution outlines the legislative and administrative roles and responsibilities of each sphere of government. Here, efforts have been made to ensure the efficient coordination and cooperation across the agencies, whilst ensuring efficiency, transparency and accountability. This is supported and sustained through legislation. A number of inter-governmental forums have also been created to facilitate dialogue on matters of mutual interest such as implementation of national policy and legislation, planning coordination, alignment of strategic and development plans (Department of Provincial and Local Government, n.d.).

From the Constitution, it was apparent that the bulk of legislative and policy implementation roles would accrue to national government, with provincial governments coordinating implementation. Though local governments were charged with the role of service provision, social and economic development, and urban management, they would undertake this role under the guidance of provincial and national governments. The Constitution also provided for the delegation of powers and functions to local governments, once the capacity was available (Republic of South Africa, 1996).

Current structures of policy implementation therefore involve all three spheres of government. As we shall see in the following section, and in Chapter 7, this structure has presented both opportunities and challenges for implementation at local government level.

5.3.2 INFORMAL SETTLEMENT INTERVENTION POLICY IN SOUTH AFRICA

The emergence and growth of informal settlements in South Africa, and the state's response to them, cannot be detached from the country's historical context. The systems of segregation and apartheid that were implemented between 1910 and 1993, however, had the most profound effects on the country's social, political, spatial and economic development, ultimately impacting on the housing and informal settlements sphere. For example, legislation limiting Africans' access to land forced masses of the population to look for work in cities. This led to growth in demand for housing and basic services, which was not adequately met (Republic of South Africa, 1994). Furthermore, policies of

racial segregation and separate administrative agencies for various groups meant that former ‘black’ areas were under-resourced and lacking in basic infrastructure and services (ibid).

The structure and characteristics of the country’s urban areas are also a direct consequence of state policies of segregation which focused on separating population groups based on racial lines. In an effort to control the movement of Africans into the main cities, for instance, the government instituted pass laws which limited movement for Africans without a designated pass. Similarly, Municipal Authorities were authorized to provide housing for residents in racially segregated townships. These were mostly located in the outskirts of the towns and cities

As with many other countries, informal settlements grew out of the imbalance between housing supply and demand in the cities. While the government provided mass housing for Africans over the years, literature shows that this was often inadequate, and this led to the formation of informal and unauthorized settlements (see Harrison, (1992). The initial manifestation of informal settlements in the country was therefore a result of inadequate housing for low-income residents in the cities. Over the years, as masses of the population migrated to the urban areas in search of labour, the need for housing grew, and the incidence of informal settlements (and renting of backyard shacks) increased.

The informal settlement challenge that faced the post-democratic government was therefore intertwined with the country’s broader issues of social, spatial, economic and political marginalization. Challenges facing residents – such as insecurity of tenure, poor housing conditions, and inadequacy of basic services and infrastructure – were related to broader issues of marginalization and exclusion that would have to be addressed in the reconstruction process:

> The large scale of the housing and services backlog, and the rapid growth in housing demand represent a mammoth task for future housing policy. Coupled to the scale of the problem are other key constraints that need to be addressed: Geographic disparities; and low incomes... [which] imply that people are unable to afford adequate housing using their own financial resources (National Department of Housing, 1994, p. 8).

An important factor to note is that even before the democratic period, the government in South Africa had been implementing a number of programmes to address the informal settlements challenge. These varied,

from mass removals and relocations to townships, to formal housing provision. Though these programmes managed to reduce the incidence of informal settlements, they also led to displacement, and residents were relocated to sprawling townships which were located in the cities' peripheries. Furthermore, the mere provision of housing and basic services did not address the broader issues of social and economic marginalization[20].The following section tracks the post-democratic informal settlement intervention policies.

INFORMAL SETTLEMENT INTERVENTION POLICIES AND PROGRAMMES IN THE POST-DEMOCRATIC ERA

As mentioned earlier, the chief task of the first democratic government was to reverse the negative effects of socio-economic exclusion and marginalization of Africans and establish a democratic, non-racial society. These goals were reflected in the country's new Constitution (Republic of South Africa, 1996) and also in sector-specific policies. These policy documents are briefly discussed below, with special focus on how they perceived and sought to respond to the informal settlements challenge in the country.

1996 - THE CONSTITUTION OF SOUTH AFRICA

The Constitution of South Africa provides everyone with the right of access to adequate housing and delegates to the state the role of achieving the progressive realization of these rights (Republic of South Africa, 1996, p. 28) and served as a blueprint for Kenya's new Constitution. The South African Constitution goes further, providing the right against arbitrary evictions. As we shall see below, the various policies formulated for housing and informal settlements intervention have been geared towards fulfilling this Constitutional obligation. The 2009 Housing Code (2009c, p. 9) for instance, notes that it is the government's duty to work towards 'ensuring that all South Africans have access to secure tenure, housing, basic services, materials, facilities and infrastructure on a progressive basis'.

1994 - RECONSTRUCTION & DEVELOPMENT PROGRAMME; WHITE PAPER ON HOUSING AND THE HOUSING ACT

A number of targets were formulated to meet the RDP's goal of meeting basic needs. In urban areas, the government aimed to develop urban development and investment strategies, extend municipal infrastructure and services; create jobs, and achieve human development. The RDP

[20](See Harrison (1992), Wilkinson (1983) for a more detailed analysis of this).

also set out objectives for the goal of housing provision such as land release; legislative review; establishment of an institutional framework for housing delivery; and for providing support to the assist the poor in accessing housing (Republic of South Africa, 1994). The White Paper on Housing (National Department of Housing, 1994) therefore picked up on these goals, outlining in further detail how the RDP housing goals would be met. From the preamble, it was evident that the scope of the task was monumental. The policy, for instance, noted that:

> 'the extent of the challenge derives not only from the enormous size of the Housing backlog and the desperation and impatience of the homeless, but also from the extremely complicated bureaucratic, administrative, financial and institutional framework inherited from the previous government (National Department of Housing, 1994, p. 1)

A number of literature sources examine this policy in detail, analysing the process of policy formulation, policy implementation, and the key emerging challenges in the early years[21]. The process of formulating the first housing policy, for instance, was a highly complex and contested one, with a number of perspectives all competing to shape the policy's approach (Huchzermeyer, 2001; Charlton & Kihato, 2006). Similarly, the broader political, economic and institutional environment also affected how the policy was shaped, and implemented.

One of the main goals of the housing policy was the facilitation of rapid delivery of housing opportunities for all. This would be achieved through stabilization of the housing environment to maximize both state expenditure and private sector investment; establishment of institutional, technical and logistical mechanisms to enable communities access housing; mobilization of savings at scale to ensure consumer protection; provision of subsidy assistance to enable disadvantaged individuals gain access to housing; and facilitation of speedy release and servicing of land (National Department of Housing, 1994, p. 20). The subsidy model was intended to be flexible, in order to 'accommodate a wide range of tenure and delivery options and enable the flexible application of subsidies at the delivery (provincial and local) level in order to obtain maximum gearing with private investment, savings and sweat equity' (ibid, p.23).

Although the state outlined a variety of approaches for addressing the housing challenge in the country, major focus and emphasis was placed in the subsidized mass housing programme (Huchzermeyer, 2001).

[21] See Tomlinson (1998), Huchzermeyer (2001) and Charlton &Kihato (2006) for examples.

Tomlinson (1998), in an analysis of the first 2 years of implementation, also highlights a number of factors that affected implementation. Firstly, implementation of the programmes was taking place amid massive institutional restructuring, and this strained both their capacity and performance. Secondly, she identifies a number of contradictory and conflicting principles in the policy which affected its implementation. For example, while private developers were urged to facilitate community involvement and participation in the implementation process, they were also under pressure to deliver at pace within a rigid policy framework. These and other challenges notwithstanding, the programme's implementation facilitated the development of over a million housing opportunities to beneficiaries by the year 2004 (Department of Human Settlements, 2004).

From this policy, it is apparent that informal settlements were understood as part evidence of the vast housing need in the country:

> A relatively small formal housing stock, low and progressively decreasing rates of formal and informal housing delivery in South Africa have resulted in a massive increase in the number of households forced to seek accommodation in informal settlements, backyard shacks and in overcrowded conditions in existing formal housing (National Department of Housing, 1994, p. 5).

As a result, the key intervention approach for informal settlements was entrenched in the broader policy approach which was geared at providing formal housing for beneficiaries. This set in place the main framework and approach for policy intervention which has prevailed to date.

2004 - 2009 BREAKING NEW GROUND STRATEGY AND THE NATIONAL HOUSING CODE

By the year 2004, the state had provided over 1.6 million 'housing opportunities' to beneficiaries (Department of Human Settlements, 2004). Despite this achievement, however, a number of serious challenges had emerged, and it was noted that the programme was not delivering as initially anticipated. First, there had been an overall 'slow-down' in the delivery, under spending of budgets, and decreasing private sector participation in the sector (Department of Human Settlements, 2004).

The programme had also led to some unintended negative effects. For instance, by locating housing development on the periphery of cities, it had not only perpetuated the apartheid urban structure, but also the marginalization and isolation of low income residents (Department of

Human Settlements, 2004). This meant that low income residents were unable to efficiently access livelihood opportunities. The housing that was provided was mostly devoid of social infrastructure; therefore communities did not have access to public transport, schools, clinics, and libraries. It was also noted that the housing provided to beneficiaries had limited impacts on poverty alleviation (Charlton & Kihato, 2006).

The new housing plan in 2004, Breaking New Ground Strategy, sought to address some of these concerns with the aim of facilitating the provision of sustainable human settlements (Department of Human Settlements, 2004; Huchzermeyer, 2004; Charlton & Kihato, 2006; Pithouse, 2009). The objectives of the housing policy were also broad, capturing many issues on housing. A notable factor is that the policy did not shift from the mass-housing model of intervention. Its key goal regarding housing for the poor was to 'accelerate the delivery of housing as a key strategy for poverty alleviation (Department of Human Settlements, 2004, p. 7). The policy however aimed to provide a broader package, advocating for a transition from the delivery of uniform products to a more responsive delivery which addressed the multidimensional needs of sustainable human settlements.

> Present and future inhabitants of these settlements would have access to 'economic opportunities, a mix of safe and secure housing and tenure types, reliable and affordable basic services, educational, entertainment and cultural activities and health, welfare and police services (Department of Human Settlements, 2004, p. 12).

The policy sought to provide a greater role for local authorities in housing provision. This would allow the state to play a greater role in determining the location and nature of housing, and to link the demand for and supply of housing. The policy also acknowledged the need to enhance the appropriate location of human settlements as a key means for reforming the apartheid city structures. This could be achieved by locating future housing development on well-located land, and integrating settlements into the cities.

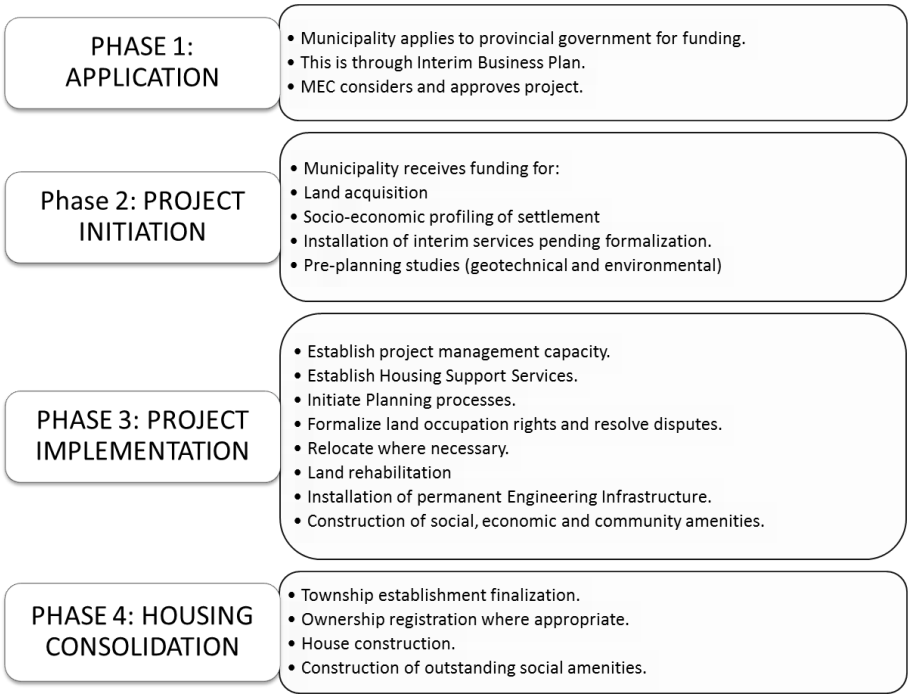
The question arises as to whether BNG offered a new approach to informal settlement intervention. From the policy, we see the call for a 'shift in approach' towards informal settlements intervention. BNG intended for a 'support-based' model which would guide '*in situ* upgrading in desired locations, coupled to the relocation of households where development is not possible or desirable (Department of Human Settlements, 2004, p. 12). Although *in situ* upgrading of informal settlements has been implemented

in settlements in the country (Nell & Charlton, 2002; Charlton, 2006), it had not yet been adopted as a policy approach with a dedicated funding mechanism. BNG therefore sought to adopt this approach into policy, and formulated the guiding framework for its implementation, the Upgrading of Informal Settlements Programme (UISP).

The UISP's main objectives were to facilitate the 'structured *in situ* upgrading of informal settlements' in order to facilitate the provision of tenure security, health and secure living environments and also to empower area communities (Department of Human Settlements, 2009c). The implementation of the UISP is to be done in a participatory manner, with funding specifically allocated for this.

Though the UISP was conceived as a separate programme from the housing delivery programme, it borrows some aspects from it. An example is the beneficiary qualification criteria (for funding allocation) which accords first priority to households that complied with the housing subsidy scheme qualification criteria, and non-qualifying residents being considered on a case-to-case basis (Department of Human Settlements, 2009c). It is important to note that this was a later addition, as BNG documentation in 2004 had initially envisioned upgrading at an area-wide basis, so as not to disrupt fragile community networks and support structures (Department of Human Settlements, 2004).

UISP provides grants to municipalities for the implementation of *in situ* upgrading programmes. The municipality acts as the developer, applying for funding from the Provincial Department of Housing. As per the policy, in case a municipality was unable to implement the programme, the province would act as implementer on their behalf. The process of implementing an *in situ* upgrading programme is outlined below.



Source: Adapted from Department of Human Settlements (2009c)

Implementation of Breaking New Ground

Research and documentation on the BNG notes that there has been little shift within the implementation front to meet the new policy goals (Huchzermeyer, 2006; 2008; 2011; Pithouse, 2009; DPME, 2012). Documentation tracking the implementation of the UISP's pilot project notes that the approach to implementation still strongly geared towards modernization through redevelopment, and not *in situ* upgrading of settlements (see Tissington, 2011 and Huchzermeyer, 2011 for example).

The N2 Gateway project was one of the key pilot programmes for the UISP, and its evolution over time is therefore of interest. Huchzermeyer (2011, p. 141)notes that this project was shaped by 'modernist conceptions of slum eradication… which translated "upgrading" into redevelopment with expensive, attractive-looking multi-storey blocks of flats'. She traces the process that the government undertook during the project's implementation, highlighting a number of challenges such as complex inter-agency relations; concerns with community participation and involvement; and a series of complications that arose with the actual progression of the project. Eventually, the state argued that it was unable to undertake *in situ* upgrading in the settlement due to the following reasons:

> South Africa as a nation has little experience of in-situ redevelopment and none of it on a scale such as would be required at Joe Slovo; such developments require a high degree of skills and much more commitment of human resources than a roll-over development; The time scales are extended and the delivery rates slowed down; There were specific difficulties in respect of Joe Slovo given that de-densification is needed and an in situ upgrade would require the community to reach consensus on who would go and who would stay; In situ upgrading is hard to implement from an engineering and construction level; Engineers, builders and surveyors are generally averse to in situ developments from a safety and practical point of view; Soil conditions at Joe Slovo require rehabilitation which militates against an in situ development; [and] there are no institutional mechanics available to the Housing Department to undertake an in situ upgrade (Minister of Housing, 2008, pp. 121 - 123).

The N2 Pilot case above highlights some of the key challenges – chief among them, the reluctance and discomfort of the state with implementing *in situ* upgrading. Unsurprisingly, across the rest of the country, the UISP still remains largely unimplemented. Pithouse (2009, p. 8)attributes this to the broader policy framework, which has presented informal settlements as 'temporary phenomena that will soon be replaced by formal housing'. The situation has been worsened by increased political drive to 'eradicate' informal settlements by the year 2014, which was influenced by international goals such as the Millennium Development Goals and the Cities without Slums initiative (see Huchzermeyer 2008, 2011, Pithouse, 2009 and Tissington, 2011 for instance). Political interpretations of these international goals have clashed with BNG's shifts towards improvement and *in situ* upgrading (Huchzermeyer, 2010). As we shall see in the following sections, provincial policies have been geared towards the removal and eradication of informal settlements.

It is important to note that BNG provided for a number of approaches to housing provision. These included strengthening the People's Housing Process (PHP) – a policy initiative which was aimed at leveraging community efforts at housing development. While this facility had been part of the housing policy, it was not actively implemented. A number of drawbacks had also been identified in the policy from inception[22]. The BNG sought to improve on this programme by introducing 'a new funding mechanism, appropriate institutional arrangements, and capacity building'

[22] For more on this, see Huchzermeyer (2001), Charlton & Kihato (2006) and Tissington (2011).

(Department of Human Settlements, 2011). The Enhanced People's Housing Process (ePHP) therefore represents another approach to the housing provision efforts. Here also, the policy sought to focus more on 'the housing process as a whole, rather than just how the housing product was delivered' (Department of Human Settlements, 2009, p. 9). It could also be applied in a number of settings, including upgrading informal settlements. BNG also provided further opportunities for social housing provision, and subsidy options for provision of affordable rental housing (Department of Human Settlements, 2008).

Overall, we observe that despite policy changes with the BNG, there has been little shift in within implementation structures, particularly for the implementation of UISP. The bulk of implementation efforts have remained focused on development of formal housing. One respondent attributed this to implementers' behaviour, whereby funding for the UISP was utilized for IRDP[23] housing projects:

> What became apparent immediately, with the pilot programme, was – you can say it was deliberate or unconscious – but it's hard to tell. But what happened was under the UISP, nobody used those subsidies in this way. Because, look at it. [UISP] is very similar to [IRDP phase 1 without the top structure]. So, what they basically did in the pilot projects was take UISP, and use it for these [initial] phases of the IRDP to make the IRDP subsidies go further. Because all you have to do is to find R55, 000 for IRDP top structures. During that period, there was a call by Academics and NGOs, that we need a different kind of subsidy, or we need a different subsidy instrument. But I'm not convinced that we do. I think we need to use this [UISP] in the way that it was supposed to be used. And get officials to use it in the way it's supposed to be used (NUSP Official, personal communication, 30.08.2012).

One interviewee however attributed the reluctance to adopt upgrading to deeper political issues, particularly when the model is seen as less illustrious than the larger housing delivery solution:

> We've got a big housing programme here, unlike many other countries. We've got a big housing machinery, a big budget, and we're delivering the houses almost unlike anywhere in a similar context to us….Therefore, it's extremely hard to motivate for

[23] IRDP – the Integrated Residential Development Programme was introduced to facilitate the development of integrated human settlements within Breaking New Ground (Department of Human Settlements, 2009b).

> informal settlement intervention in a light touch sort of way - that it doesn't end up looking like a great place to live from the outside. In other words from the politician's eyes, it's very hard to think of *that* as a kind of solution when you've got this other programme. When you don't have such a programme, then you can see. You can celebrate improving sanitation; improving water (and) improving energy… you can celebrate that in a big way, because it's dramatically better than what you've got. But now you're asking people to celebrate much less than they're giving other people in similar conditions. And that's much harder to do. I can understand the political dilemma around this issue (Charlton S., personal communication, 28.06.2012).

The non-implementation of the UISP however also points to more complex administrative and structural factors. For instance, it was pointed out that the state implementers, used to a more rigid, detached and standardized system of housing delivery, were unaccustomed to the participatory model of implementation proposed in the UISP:

> Bureaucracies are really great at standardizing things (but they) fail when it starts getting a bit complicated. You've got a standard product, a standard approach, but the circumstances where you're trying to apply it vary. Every informal settlement is different… UISP says, engage, discuss, negotiate, [and] look up livelihoods, look up local circumstances. And when we build, we build *in situ*. In terms of the subsidy amount, it can get quite a lot, but in terms of the expectation for discussion, facilitation, conflict resolution, the subsidy amount is 3%. It's for community facilitation, e.t.c. It's probably too low, but at least it's got the element in there (NUSP Official, personal communication, 30.08.2012).

PROVINCIAL APPROACHES TO INFORMAL SETTLEMENT INTERVENTION

As we saw earlier, the state was structured in a manner that ensured distinctive yet inter-dependent levels of government (Republic of South Africa, 1996). Within this context, provincial governments are expected to formulate policies and legislation to guide the development of their jurisdictions. These policies however must be in accordance with the Constitution, national policies and legislation.

A number of South African provincial governments have formulated policies and plans to address informal settlements within their jurisdiction, and these provincial-level plans could either facilitate or stall the

intervention process. An example is Kwa-Zulu Natal's Elimination and Prevention of Re-emergence of Slums Act, 2007 (KZN Legislature, 2007) which sought to enforce a more targeted set of approaches for the 'progressive elimination of slums in the province' (KZN Legislature, 2007). Though the policy intended to meet national policy goals, it also provided opportunity for repressive approaches. Sections of the act were declared inconsistent with the country's Constitution.

Gauteng Province's Department of Housing also formulated a plan for the 'formalization and eradication of informal settlements' by the year 2014. This would be through the processes of upgrading of well-located settlements, and the relocation of communities where upgrading conditions were not favourable. This programme would be implemented in informal settlements across the province (Gauteng Department of Housing, 2009). Such provincial initiatives have significant leverage over local government plans and actions. Huchzermeyer (2006)asserts that provincial-level goals and objectives – such as the drive to enhance 'global competitiveness' or to eradicate informal settlements – have influenced the actions and practices of policy implementers on the ground. She notes that these provincial goals – technical and political – are considered as 'a real instruction to local government officials' who, in making decisions, 'refer to this dictate from above rather than to the constitutional rights of those affected' (ibid, p.7).

RENEWED NATIONAL GOVERNMENT SUPPORT

In 2010, the South African government formulated a number of key focus areas to fast-track delivery in a number of areas. This culminated into a set of delivery agreements based on 12 key outcomes. Each outcome would have a number of measurable outputs, and it would be the responsibility of all government actors and other partners to achieve these goals (The Presidency, 2010). One of the outcomes, Outcome 8, is the delivery of sustainable human settlements, and improved quality of household life.

Outcome 8 raised concerns about the slow implementation of informal settlement upgrading (despite the presence of the policy instrument). It attributed this to a number of factors, including lack of capacity, inconsistency and misalignment of national and provincial programmes with policy goals; weak communication, and weak engagement with Municipalities and communities. The programme sought to emphasize the role of upgrading, setting a target of 400,000 upgraded units by the year 2014 (ibid). To meet these outputs, delivery agreements were signed

between all spheres of government, and it was anticipated that this would facilitate a cooperative effort across state agencies to meet the goals:

> All provinces will be required to have in place informal settlement upgrading programmes, and project plans will be needed to demonstrate the eventual transformation of the informal settlement into a sustainable human settlement… These integrated and comprehensive development plans will be included in Municipal IDP [Integrated Development Plans], Housing Chapters, Multi-Year Delivery Plans and Medium Term Expenditure Frameworks (Department of Human Settlements, 2010, p. 15).

The National Upgrading Support Programme (NUSP) was created to support the National Department of Human Settlements in the implementation of the UISP (NUSP, 2010). The agency's roles are to offer technical support and build the capacity among implementing agencies; to evaluate the legislative and institutional environment among others. A mid-term review of Outcome 8 however noted that implementation of the upgrading initiative still remains slow. By 2012, only 83,412 had been delivered across the country (DPME, 2012). The delay has been attributed to 'significant technical capacity constraints in provinces and municipalities (DPME, 2012, p. 28). Oddly, to remedy this, the review calls for the formulation of 'a full informal settlement upgrading implementation programme', negotiated between national government, provinces, and municipalities (ibid). Why this is proposed despite the presence of a national, fully implementable programme, the UISP is unclear.

REVIEW PROCESS ON HOUSING POLICY 2012 AND NATIONAL DEVELOPMENT PLAN (VISION 2030)

The process of housing policy refinement and development in South Africa is still actively underway. The planned review process on the Housing policy, dubbed 'rethinking the housing programme' (Department of Human Settlements, 2012), represents such an effort. This process is aimed at developing a strategic long-term approach to housing development. Here, again, we see deliberate initiative from the national Department of Human Settlements to identify means of sustainably responding to the housing needs of the country:

> With South Africa having a history of dispossession through housing, high levels of unemployment and increasing informality, it is clear that market-led housing policy framework will not be an appropriate response. What is more, housing is a constitutional obligation the state has to the poor. Therefore, in relooking

> government housing strategy, it will be important to not only consider economic but the political, historical, constitutional and social context of South Africa (Department of Human Settlements, 2012, p. 5).

South Africa's National Development Plan (Vision 2030) also highlights the housing concern, asserting that 'there is urgency to the matter as the current trajectory of the housing provision must be changed if the overall objectives of human transformation are to be achieved (Republic of South Africa, 2012, p. 272). Noting that policy implementation challenges in the country have not been a result of a vacuum in policy, but rather, insufficient institutional capacity, a lack of strong instruments for implementation and lack of coordination; the plan encourages a more innovative use of available instruments by implementers. For informal settlements, *in situ* upgrading, and upgrading with minimum disruption to existing communities is recommended (ibid).

5.3.2.1 SYNTHESIS: THE SOUTH AFRICAN CASE

In South Africa, we see a constant effort by the state to adjust policy and implementation efforts to achieve efficient informal settlement intervention. This has however been slow, with implementation still relying on the larger housing development (formalization) programme. Since 2004, the BNG has tried to facilitate *In situ* upgrading of informal settlements through a more incremental approach, but this is yet to achieve widespread implementation. The reasons for this are diverse and varied, as the previous section highlights. The effect is that the dominant model for intervention still remains that of housing provision, which has also slowed over the years. The increasing inadequacy of well-located land, rising cost of materials, and other market-related factors have made it increasingly difficult for the state to meet the ever growing demand for affordable housing. It has also been noted that despite considerable effort, the state has failed to achieve spatial transformation and reshape the apartheid city.

What are some of the challenges facing implementation of the UISP? Why are transitions in policy not being reflected within the implementation front? Various sources of literature highlight a number of concerns, including an incomplete policy evolution (Charlton & Kihato, 2006), entrenched negative attitudes towards informal settlements; and high political pressure for 'eradication' and 'elimination' of informal settlements (Huchzermeyer, 2006; 2008; 2011; Pithouse, 2009; Tissington, 2011), which conflicts with the upgrading objective. In Chapter 7, we shall review the policy implementation experience in the City of Johannesburg, and this

offers a closer view of how difficult it is to translate policy shifts into shifts in implementation practice.

5.4 CONCLUSION: POLICY TRANSITION IN KENYA AND SOUTH AFRICA

Kenya and South Africa present notably different contexts in their historical, political, administrative and socio-economic contexts. As we have seen, informal settlement challenges in the two countries are strongly linked to the broader environment in each country. The policy efforts in the two countries feature a number of similarities. First, despite their different contexts, the two countries are experiencing a fairly similar informal settlement challenge. Though this is at different scales, with the levels of informality being higher in Kenya's main cities, settlements pose similar challenges for implementers. Furthermore, the challenges facing settlement residents such as insecurity of tenure, inadequate access to basic services and infrastructure, poverty and unemployment; and inadequate housing are similar across the two countries.

In both Kenya and South Africa, there is apparent willingness and initiative from respective state agencies to address the informal settlement challenge. In South Africa this has been a longer initiative while in Kenya this is a renewed effort after years of benign neglect. Both countries have notable policies geared at steering informal settlement intervention, implementation structures that would meet these policy goals, and on-going programmes that seek to meet these goals. Most importantly, we see an effort by policy-makers to implement *in situ* upgrading, though this is merely implied in the Kenyan context, while in South Africa, it is explicit policy intent. Policy envisions the implementation of programmes and interventions with as little disruption to residents and beneficiaries as possible. Furthermore, the participation and involvement of residents and beneficiaries is seen as instrumental for policy success.

The policy and implementation frameworks in the two countries are, however, markedly different, and this poses separate implementation concerns. For instance, in South Africa, there is a single state-led programme initiative targeting informal settlements intervention, the UISP. In Kenya, there is a similar initiative – KENSUP under the Ministry of Housing, though other programmes are being implemented by other state agencies. This multi-programme approach in Kenya offers opportunity for broader learning and experimentation which is missing from the South African context. However, we also see that it has the potential to strain implementers, as they have to commit to more than one policy/programme.

South Africa's main programme is predominantly funded through state resources, which gives policy makers stronger leverage in steering implementation as required. This is not the case in Kenya, where the multiple programmes are funded by the state in collaboration with other non-state actors. Here, the government experiences some stringency in guiding implementation as it must also accommodate the goals and expectations of funding partners and agencies. The challenge in Kenya, as we saw, is that progressive policy intents are yet to be realized, as programmes are only indirectly linked to the policy framework.

The policy frameworks in the two countries are also different. In South Africa, policy is rigid and structured, offering guidance for implementers. In Kenya, policies (in their current state) offer a broader guiding framework, outlining the key goals that are to be met. This leaves space for implementers to structure programme design to policy goals, though, as we saw, there is still need for further articulation of policy. In South Africa, however, the rigid policy framework has proven a hindrance, as implementers have little space to flexibly respond to informal settlement challenges – which are ever shifting.

Another difference is that while Kenya's policy frameworks are still undergoing formulation, in South Africa, policies have been articulated through to implementable frameworks. In Kenya, the nature of the policy offers little guidance for implementation, and this can be identified as one of the causes for the gap. In South Africa, surprisingly, we see that despite comprehensive policy guidance, there is yet to be a full transition within the implementation sphere. As several interviewees noted, there is still need for further articulation of the South African policy frameworks to ensure that upgrading objectives are achieved.

From this chapter, it can be concluded that the nature of policy and state administration structures are instrumental in guiding and influencing the implementation process. It is not enough to simply outline the 'new' policy goals and objectives; as these have to be followed through into implementable programmes. However, even where programmes are designed (and funding provided) there is still need to coordinate implementation, and ensure that policy goals are indeed met by implementers. In the following section, we follow the policy-programme links, investigating how implementation has sought to meet these 'new' policy goals. Chapter 6 will review implementation in the City of Nairobi, while Chapter 7 reviews implementation in the City of Johannesburg.

6 INFORMAL SETTLEMENT INTERVENTION IN THE CITY OF NAIROBI

6.1 INTRODUCTION

This section presents the current state-led intervention programmes in the City of Nairobi. As Kenya's capital city, Nairobi presents a unique informal settlement concern for implementers. This is both because these settlements provide shelter and services to majority of the city's population and also, for the contextual complexities that have been discussed in earlier sections. As discussed in Chapter 5, local government structures in Kenya have played a minimal role in the planning or management of urban areas. This was mainly a result of increased state centralization, which reduced local governments' financial, legislative and administrative capacity. This was also true of the City Council of Nairobi.

One notable policy effort from the City Council of Nairobi, however, was a declaration of a moratorium on demolition of informal settlements in 1997. The moratorium sought to stop the arbitrary demolition of informal settlements, and this was to be followed by tenure regularization and targeted intervention within the settlements (CCN Official, personal communication, 18.11.2011). Following this, the Nairobi Informal Settlements Coordination Committee was formed, and this body comprised of actors from various state agencies, settlement residents, and civil society. The role of the NISCC was to coordinate informal settlement intervention [24](ibid). The impact of this programme was however small, and achieved only the upgrading of one settlement in the city.

A main factor to note, therefore, is that large-scale programmes in the City of Nairobi are not coordinated from the city, but from national government. The City Council is actively involved in all programmes, though mainly as an implementer. The three main state-led programmes discussed below - The Kenya Slum Upgrading Programme (KENSUP), Korogocho Slum Upgrading Programme (K-SUP); and the Kenya Informal Settlements Improvement Programme (KISIP) are all steered and managed from central government.

All three programmes have pilot projects in Nairobi, and each applies a different rationale, approach and model for intervention. As highlighted in the previous chapter, the flexibility of approach and rationale is enabled by

[24] The NISCC was chaired by The Provincial Commissioner, the City Planning Department, Civil Society and informal settlement residents as some of the members (CCN Official, personal communication, 18.11.2011).

the broad nature of the policy framework. The intervention programmes involve a broad network of agencies and actors operating at international, national and local level. This chapter presents a joint analysis of the implementation experience in all three programmes, tracking the policy-programme interface, implementation structures, and the implementation experience in the city.

6.2 IMPLEMENTATION EXPERIENCE IN NAIROBI

6.2.1 POLICY-PROGRAMME LINKS AND IMPLEMENTATION STRUCTURES

The three programmes being implemented in Nairobi can be broadly linked to national policy. None of the programmes however emanates as a direct product of the policy frameworks. As a result, each programme adopts a different rationale and intervention approach to the problem. As observed in Chapter 5, the three programmes all seek to meet the policy's goals, but each takes a different approach: redevelopment in KENSUP, incremental upgrading in K-SUP, and physical infrastructure improvement in KISIP.

The presence of multiple programmes in the city is a result of differences in rationale and approach, funding sources; and also, due to the fact that various programmes started at different times. While this has provided opportunity for diversity in approach, it has also strained implementing capacity. This then raises the question of the necessity of multiple programmes. As discussed in chapter 5, it was envisioned that KENSUP would guide coordination of nationwide slum upgrading. In this regard, funding agencies would pool resources into a joint fund – Kenya Slum Upgrading Fund – which would be utilized for this purpose. Would it not have possible, for instance, to pool KISIP funding into KENSUF, and adjust KENSUP to enable the objectives and expectations of KISIP to be met without having to formulate a parallel, separate programme? One respondent argued that this was difficult:

> We took them through KENSUP. KENSUP is the government's initiative for Slum upgrading. So any other initiative must come through KENSUP. And we have a fund, which is called KENSUF – The Kenya Slum Upgrading Fund. It was agreed that any donor who wants to contribute towards slums in Kenya (should) put their money there. But they said 'No.'… We negotiated, but we could not convince them to do it (MoH Official, personal communication, 21.12.2011).

This hints at the ability of funding agencies to drive specific agendas in spite of state goals and objectives. The main effect of this is that the capacity of implementing agencies at both national and local government level is strained as they must achieve the goals of parallel programmes.

6.2.2 IMPLEMENTATION STRUCTURES

The three programmes feature one similarity in the structures of implementation. national government agencies (line ministries) are involved in the design, coordination and implementation process, with local government playing a minimal role. All three programmes planned to involve the beneficiary communities in the intervention programmes, though communities' participation varies. KENSUP's Settlement Executive Committee (SEC) would comprise of elected representatives of various community groups, though their role mainly to relay state plans and decisions to beneficiaries. K-SUP adopted a similar structure – called the Residents Committee (RC). Due to the programme's participatory approach, the RC's role was greater and beneficiaries' choices and expectations were adopted into implementation. KISIP also applies KENSUP's model of SEC, though the intention here is to encourage greater community participation in the planning, visioning, and project identification process (The World Bank, 2011, p. 18).

The matrix below presents an overview of these three state-led programmes, highlighting the differences in approach, scale, scope, and implementation structures between them.

Table 6-1: State-led informal settlement intervention programmes in Nairobi

	KENSUP (Kenya Slum Upgrading Programme)	K-SUP (Korogocho Slum Upgrading Programme)	KISIP (Kenya Informal Settlements Improvement Programme)
Year (of programme launch)	2004	2006	2011
Programme Scale	National KENSUP's goal is to implement full upgrading in informal settlements across the country. The pilot upgrading programme was launched in Kibera, Nairobi, but other projects are underway across the country.	Single Settlement (Korogocho) Though K-SUP is part of a broader, National development programme, the slum upgrading programme is being implemented in a single settlement in Nairobi.	National KISIP's target is Kenya's 15 largest Municipalities. Within the Municipalities, settlements will be selected based on predetermined criteria. Lessons from these projects would then be replicated in other settlements countrywide.
Intervention Approach	Comprehensive (full and incremental) upgrading	Minimum Intervention Approach (MINA)	Physical Improvement (Minimum Infrastructure Package)
	• Provision of security of tenure. • Provision of improved housing through full redevelopment or incremental redevelopment through various models of site and service. • Provision of social and physical infrastructure services i.e. schools, health centres, police posts, access roads, water reticulation, drainage, refuse collection centres. • Enhancing opportunities for income generation.	• Securing tenure. • Gradual improvement of living conditions in settlements. • Mobilization of community resources to supplement state intervention efforts.	• Enhancing tenure security. • Investing in physical infrastructure and services. • Provision of a 'Minimum Infrastructure Package' i.e. roads, bicycle paths, pedestrian walkways, street and security lighting, vending platforms, solid waste management, storm-water drainage, water and sanitation systems, electrification, public parks and green spaces.
Decision making &programme monitoring	Inter-agency Steering Committee: Representatives from national government ministries, local authorities & development partners.	Steering Committee: Representatives from funding & partner agencies; central government institutions, local government and Faith Based organizations (The Comboni Fathers)	World Bank Ministry of Finance Ministry of Housing
Lead Coordinating Agency	Ministry of Housing	Ministry of Local Government	Ministry of Housing
Other Implementing Agencies (in Nairobi)	City Council of Nairobi Ministry of Lands	City Council of Nairobi Ministry of Lands UN-HABITAT	City Council of Nairobi Ministry of Lands Water Services Board
Funding	Government of Kenya UN-HABITAT Swedish Development Agency (SIDA)	Government of Kenya & Italian government	World Bank AFD (Agence Français de Development) Swedish Development Agency (SIDA) The Government of Kenya.

Source: Author's own construction from relevant policy documents (Republic of Kenya, 2004; 2005a; The World Bank, AFD & SIDA, 2010).

6.2.3 IMPLEMENTATION PROGRESS

6.2.3.1 KENSUP

Soweto East village in Kibera settlement, Nairobi, was selected for piloting KENSUP in the country. Due to the high population densities and the dire physical, socio-economic and environmental conditions in the settlement, it was recommended that full redevelopment of the settlement was necessary. Though the programme had intended to involve the beneficiary community in all stages of the process (Republic of Kenya, 2005a, p. 15), this was not so. According to project documents, implementers would undertake socio-economic and physical mapping to 'capture the existing situation of residents, then *prepare a master plan proposing the most appropriate land use plan for the area*' (Republic of Kenya, 2005a, p. 9 - my emphasis). The involvement of residents would be to 'agree on formation of cooperatives, service provision and relocation, house development types and approaches, forms of tenure, housing development modes, and estate management' (ibid).

The top-down approach selected by government would turn out to be a disadvantage. Interviewed residents complained about the programmes implementation right from the enumeration phase:

> I feel that here, some people were already displaced... if you lived in a single room; you were photographed with your room. But if two or more people shared a room, you were asked to produce one person (Respondent 4, personal communication, 25.11.2011).

While this model was selected to minimize instances of duplicate registration, it is also clear that it failed to acknowledge the incidence of multiple tenants – a common feature in informal settlements. Amnesty International (2009) also noted that in the case of family units, the registration of the man as sole beneficiary put the rest of the family in a vulnerable position in the case of separation. Such oversight would not have occurred if the community's voice was included in the design of the programme.

The neglect of residents' voice would however only affect implementation later on, when implementers selected an inconveniently distant location for temporary relocation of residents. Implementers had chosen the initial 'decanting site' in Athi River – a town located 23 kilometres from the current settlement site [25]. This decision was strongly contested by

[25] Kibera's location in the City is central and highly convenient to residents who can walk to the main commercial and industrial centres, and other employment areas. Relocation to another town would significantly have affected residents' access to employment opportunities.

residents, and implementers were forced to identify an alternative decanting site (COHRE, 2005).

The temporary relocation site for Kibera was to land adjacent to the settlement, and comprised of modern, high-rise apartments, which would be rented to beneficiaries. Rental prices were opposed by beneficiaries as these were slightly higher than were paid in the settlement, though for improved quality housing and services. Residents were also not involved in the design of the final upgraded units which would replace their slum (Huchzermeyer, 2011). The new units constructed on the cleared settlement site comprised of 2-bedroomed residential houses that would be owner-financed. It was envisioned that beneficiaries would finance the mortgages by renting out some rooms. Interviewed respondents questioned this approach, both for its' non-participatory style, but also for developing an output that was considered unaffordable:

> We never sat down [with the state] to explain to them whether we would be able to afford these houses. If someone is a charcoal vendor, or a small scale trader, I don't see how you can give them a Kshs. 3 million house and expect them to pay. He won't afford it. Unless they knew that the people would be unable to pay the houses, and they could come and acquire them later. Why did they not want the resident to contribute and say what type of house he/she wanted? (Respondent 6, personal communication, 27.11.2011).

KENSUP's implementation however progressed, and construction at the decanting site ended in 2009. Approximately 1200 families were to be moved from Soweto East Zone A. However, when Ministry officials issued notices for residents to vacate the Zone, area structure owners sought a court order to bar the demolition of their structures. Initially, the court ruled in their favour, issuing a court order that allowed the state to relocate the tenants, but not demolish the structures (Fernandez & Calas, 2011). Therefore, while the relocation of residents to the decanting site could ensue, the state was unable to roll out the first phase (IRIN, 2010; Muraguri, 2011).

The dispute between area landlords and the state is complex and relates to issues of tenure and land administration reaching back to the Colonial period. In the colonial era, residents in Kibera settlement were issued with temporary occupational license for occupation of the area. After

independence, it was anticipated that these rights would be formalized[26] with time, and beneficiaries would gain formal development rights. This process however never took place, and the land remained under state ownership. The phenomenon of landlordism in informal settlements in Nairobi grew out of this scenario, as more actors acquired such rights to provide shelter and services to tenants within informal settlements:

> The terms "landlord" and "structure owner" are used interchangeably… In the context of the settlements, structure owner is more prevalently used as the equivalent of a landlord in the slums. The use of structure owner often expresses the reality that in most cases, landlords do not have legal rights over the land on which houses/structures in the settlements are built. There are owners of small structures who are mainly resident in the settlements and reside in their structures, and owners of larger structures who often own and rent out structures/housing units (Amnesty International, 2009, p. 33).

This again relates to the contested issues of land tenure, governance and urban management. Literature documenting these systems of land acquisition, shelter provision and 'estate management' in Nairobi's informal settlements highlights a complex structure through which land rights are acquired through semi-legal processes, shelter and services provided for a price to city residents (see (Amis, 1984; Gulyani & Talukdar, 2008; Dafe, 2009) for instance). In the city of Nairobi, It is estimated that over 92% of informal settlement residents are rent-paying tenants (Gulyani & Talukdar, 2008).

The landlords – or structure owners – often vary in type and character, from resident structure owners, non-resident structure owners, and small scale structure owners and multiple-structure owners who rent up to 100 structures. My interviews with area landlords and structure owners[27]demonstrated that though they clearly understood that they did not have claim on the land, they hoped for some compensation for their investments (Respondent 7, personal communication, 11.12.2011). The landlord's request to the courts was that their temporary rights be recognized and, that the state be ordered to complete the process of

[26]Under the Government Lands Act (Cap 280), the process of formalization involves allotment, payment of a premium in consideration, and issuance of a lease for the land (Republic of Kenya, 1984).

[27]I undertook fieldwork in November-December 2011. At this time, the court case was still in progress and demolition had not begun, and respondents were still living in the now demolished area.

formalization. They also requested for KENSUP to formally acknowledge these rights. The court however ruled that the landlords' rights were those of temporary occupation, and such claims could not be upheld.

> I am satisfied that the petitioners … do not therefore, possess any proprietary interest on the land they occupy recognized by statute. In my view, the occupants of Kibera settlement are either trespassers or licensees *who occupy the settlement with the implied permission of the government. As a bare licence, it can be determined and withdrawn at the licensor's pleasure* (Republic of Kenya, 2011) - (my emphasis).

The question of KENSUP's ability to address this issue arises here. As we see in the box below, the phenomena of landlords/structure owners presents a unique challenge for implementers. First, it represents a 'new' stakeholder (that is not a resident) who must be accommodated in the intervention efforts. Landlords however vary, and their expectations of the upgrading process are different, which means that policy implementers must flexibly 'deal' with the issue on a case to case basis. Interviews with state officials demonstrated that they initially sought a negotiated agreement with the structure owners of Soweto East, but this had proven futile:

> The problem is that they want too much. For example, in the decanting site, we are telling them that we will give them a unit. They have one unit. Even though you are not living here, we are still going to give you one unit[28]. And you will be paying like the rest of the residents. But they refused. They want us to build the houses, and leave for them to be renting out (MoH Official, personal communication, 21.11.2011).

Interviewed landlords/structure owners presented a fragmented front. While some vehemently countered that they denied the state's offer as it was too little, considering what they 'stood to lose', others hoped for more collaboration with the state, seeing their role as that of 'fellow implementer', and not mere beneficiaries (Respondent 6, personal communication, 27.11.2011; Respondent 7, personal communication, 11.12.2011). Still, other interviewees took a more pragmatic stance, acknowledging that though their losses would be significant, they knew that their situation was temporary:

[28] Structure Owners in informal settlements vary in type and character. There are resident and non-resident structure owners; small-scale structure owners (who rent a few units) and multiple structure owners, some renting up to 100 units (see (Amis, 1984), (Gulyani & Talukdar, 2008), (Dafe, 2009) and (Amnesty International, 2009)

> The only dilemma we have, as structure owners, even though this is where we get your daily bread, and educate your children with… this land where we have invested in belongs to the government. We have been here for the last 10, 20, 30 years, without remitting a single penny to the government. They have been giving you free of charge… you have raked in millions… Now (the government) wants to take it back (Respondent 7, personal communication, 11.12.2011).

The state perceptions and attitudes to landlords were also equally complex. While KENSUP demanded that implementers formally involve structure owners in the process, there was also an underlying perception that their claims were not legitimate:

> This person has come on government land, and they have grabbed it, and built on it. Now they want us to legitimize that? What are we trying to tell other Kenyans? (MoH Official, personal communication, 21.12.2011).

The court case highlighted some of the complex, tenure related concerns within informal settlements that could not have been avoided in KENSUP'S implementation. The mechanisms designed in the programme to address this were however inadequate, and this delayed programme implementation, while also creating a rift between the state and structure owners. This problem will doubtless continue to affect implementation in future.

Seven years after the programme was launched, the planned redevelopment of Kibera still remains at the pilot phase - Soweto East, which is but one of Kibera's villages and Kibera one of Nairobi's many informal settlements. Though programme implementation resumed in January, 2012, it is evident that KENSUP's implementation schedule is significantly delayed, and project (in Kibera settlement) will not be completed in 2020 as initially planned.

6.2.3.2 K-SUP

While MINA has been implemented in smaller towns around the country, it had not been applied to larger informal settlements, particularly in Nairobi. Korogocho therefore represented the first attempt to test this model in a fairly large urban settlement. The first phase of the programme included community mobilization, where programme proponents sensitized the beneficiary community about the project. Once the beneficiary community accepted the programme, implementers then initiated the process of

enumeration, mapping, and needs prioritization with the community (UN-HABITAT Representative, personal communication, 6.12.2011).

In the process of needs prioritization, the community identified a number of key challenges. These included insecurity, poor accessibility, and inadequate health facilities. To address this, three direct projects were formulated - improvement of the main access road, construction of a footbridge, and upgrading of the local dispensary. Implementation of these projects began in 2007 and so far, the road and footbridge have been completed (KIDDP Representative, personal communication, 13.12.2011).

The next phase was the provision of collective security of tenure to area residents on communal basis, which would eventually lead to upgrading. At the time of this study, this phase was already underway, and, negotiations were underway on the tenure options available for residents. This phase was to be conducted by consultants on behalf of the state, and a number of planning forums had been held with the community. A draft upgrading plan had also been prepared. A follow up interview revealed that the plan had been accepted by the community as follows:

> [T]he community agreed to have all the villages re-planned into plots of $100m^2$, with roads of 9 metres to every plot. Since it's difficult to fit everybody into the slum, it was agreed that the structure owners will group depending on the size of the structure they previously owned. (Those owning land) above $100m^2$will have a full plot, 90-$100m^2$will be in groups of two, 50-$89m^2$ in groups of three, 30-$49m^2$ groups of four and $29m^2$and below groups of 5. At least 10% of the long term tenants will be accommodated. With this formula of grouping the plan is able to fit all the structure owners and at least 10% of the long term tenants (KIDDP Representative, personal communication, 13.12.2011).

K-SUP's incremental approach has achieved significant results in comparison to KENSUP. In addition to the physical improvements, the process of tenure security is also underway. It had been suggested that this approach has encouraged 'greater participation from the beneficiary community' (IFRA, 2011, p. 164). The programme has however been critiqued for a number of issues. One respondent, for instance, noted that the results were too little, thus creating 'a gap between the expectations of the community and the results that are achieved by the government' (NGO Representative 1, personal communication, 14.12.2011).

State officials also conceded that the programme's pace was slow, though this was attributed partially to its participatory approach. This required

lengthy processes of community mobilization; and deliberation at each point of the process. K-SUP was also plagued by weak inter-agency coordination which slowed down implementation. Further critique has been raised on the incremental approach of intervention which might lead to market displacement:

> The fear is when you start with infrastructure like tarmac roads, it transforms the area. It changes the economy of the area. But what does that mean? The land value has gone high. Now some people want individual titles, and they are setting up the poor to sell (NGO Representative 2, personal communication, 29.11.2011).

Project documentation also noted this risk, though little was said on how implementers would minimize it (Republic of Kenya, 2004). As we see, the planned upgrading will benefit all landlords/structure owners, and only 10% of the long term tenants. How does the programme aim to protect the other tenants from market displacement?

6.2.3.3 KISIP

As KISIP has only been operational for a year, not much had been achieved at the time of my fieldwork. So far, implementers had only put structures in place, and formed implementing units at national and local levels. In the City of Nairobi, the Project Coordination Team had been formulated, and this team had: Formed the KISIP secretariat at the city, prepared the Municipal agreement as per stipulated requirements; selected 2 target settlements for the first implementing year; and began interacting with the communities in the target settlements. They had also applied to the Ministry of Housing and World Bank for project financing (CCN Official, personal communication, 18.11.2011).

There were already concerns raised on the slow uptake of the programme. City officials, frustrated by the slow pace of the decision-making processes, had resorted to utilizing their own resources for mobilization processes as they awaited project approval and funds disbursement from national government and the World Bank (CCN Official, personal communication, 18.11.2011). Officials from the Ministry of Housing have also expressed concern with the slow pace of project approval by the World Bank (MoH Official, personal communication, 21.12.2011).

While the World Bank acknowledged that the programme's uptake has been slow, they also noted that this is normal with new projects, particularly for such a programme which introduced new procurement and financial management processes. As implementers faced a steep learning curve – having to adapt to the new procedures – initial processes were

slow. One interviewed official expressed optimism that once this phase was complete, the project would progress faster (WB Official, personal communication, 16.12.2012).

Although the programme is still in its inception stages, it does highlight unique factors that arise from the initial phase of implementation. Firstly, it highlights the challenge that state officials encounter with the introduction of parallel programmes for implementation. Though this is necessary as it allows for the state to acquire funding for informal settlement intervention efforts, it strains the human resource capacity both at national and local government level. Furthermore, the slow programme uptake implies that target goals (10 settlements in 5 years in Nairobi, for instance) will not be met.

6.3 EMERGING ISSUES FROM POLICY IMPLEMENTATION IN NAIROBI

SLOW UPTAKE AND PACE OF IMPLEMENTATION

The main challenge facing implementation in Nairobi is the slow progress of programme implementation. This manifested itself differently in all three programmes. KISIP is at the initial stages of implementation but concerns were raised about its slow uptake. Though this was attributed to the fact that implementers were adapting to the programme's requirements, the implications are that the intended results will not be met in the planned time-frames:

> It has now been 6 months since the documents were signed, and still, there is very little progress on the ground. The initial formulation processes are too slow. Currently, we are still hiring the technical staff who will guide the implementation of KISIP. The advertising and hiring processes are too slow. This pace implies that by the end of the 5 year funding period, the programme will not be complete, and most likely, the funds will not be fully utilized (KISIP Official, personal communication, 21.11.2011).

The slow uptake has been attributed to the fact that the programme introduces new structures of implementation, decision making, project reporting, and resource disbursement (WB Official, personal communication, 16.14.2012). This was proposed to ensure effective monitoring of the project. However, while this change is seen as a simple requirement for implementers - to learn, adapt and apply – it is evident that this is more complicated. Firstly, the requirement means that implementers on the ground have to quickly adapt to new and unfamiliar structures and implement within a narrow timeframe. Secondly, the process of decision

making and project approval is significantly lengthened. Interviews with implementers on the ground also revealed that they perceive this as an implication that they (and their structures) were unreliable. The immediate effect is that they treat the programme with caution and, as one official noted; few actors were willing to take direct responsibility for the programme:

> I think there's a misunderstanding about the procedures. They fear, you see? You might not know whether you are doing the right thing. Like those people who say that they are not using the money right, like KKV[29]. You might find that the money was spent correctly, but it flouted some procedures. The Bank, for example, wanted you to sign this form, and you didn't sign. So they say that you stole the money. *So, people are reluctant. Nobody wants to risk their reputation. It's better for the money to return, but you remain. We prefer that, because these people don't trust us* (Respondent 3, 2011– my emphasis).

The cautious approach to programme implementation will further stall implementation. In an effort to fast-track the programme, the World Bank has attempted to encourage the use of consultants to undertake implementation activities. While this might not necessarily speed up implementation – as consultants would be selected through equally long procurement procedures – the idea is yet to gain full buy-in from the state. This rests on the perception that the role of policy implementation belongs to the state which is directly accountable to the people. Delegating this role to consultants therefore seems a challenge:

> It's an idea...I don't know whether it will work, because we are not sure. As much as we agree that we are not able to roll out KISIP effectively because of capacity, them bringing in consultants to fully take charge of KISIP, and we are just there... for consultants to come and work on our behalf... it's still a debate which is going on (MoH Official, personal communication, 21.12.2011).

In KENSUP, very little has been achieved in Nairobi within the programme's 7 years of implementation. This could be due to a number of reasons, though the most significant contributor was the conflict between the state and area landlords/structure owners. This stalled implementation for 3 years. Though the High Court decision paved the way for the state to

[29] 'Kazi Kwa Vijana' - a youth empowerment program funded by the World Bank and coordinated from the Office of the Prime Minster. This program has been plagued by claims of corruption and illegal misuse of funds.

proceed with the programme, it is evident that the pace has been disappointing, and the dispute between the state and landlords/structure owners will only continue to stall implementation in future.

K-SUP has not experienced any considerable lags in implementation, though it has been criticized for achieving 'very little for the time it has been operational and the money that has been spent' (NGO Representative 1, personal communication, 14.12.2011). Implementing agencies attribute this to the fact that a lot of time was spent mobilizing residents and gaining community confidence (Kenya Italy for Debt Development Programme, 2010). The limited outputs are however also related to the selected programme approach, which requires deliberation with the community. While this allows for representation of community interests at every stage of the process, it also considerably slows project activities and implementation.

Further delay was linked to the weak inter-agency coordination in the programme, a challenge apparent in all three programmes. Project review reports highlighted that funds allocated to partner implementing agencies went unutilized for long periods of time. Project reporting was also significantly delayed, which rendered programme monitoring difficult (Kenya Italy for Debt Development Programme, 2010, p. 51).The slow pace of programme implementation therefore is caused by different factors, and manifests itself in diverse ways. Some of the above mentioned causes and effects are further discussed in the following sections.

LACK OF CLEAR POLICY GUIDANCE ON CORE ISSUES

Implementing policy in the context of an incomplete policy framework means that policy guidance on key issues is often lacking. A useful example of this is the tenure dilemma within Nairobi's informal settlements. Both the housing and land policies acknowledge the complex land tenure issues in informal settlements and both intend to formulate strategies that resolve this concern. The housing policy even goes further to note that there is need to determine 'appropriate compensation measures for disposed persons where necessary[30]' (Republic of Kenya, 2005, p. 10). To date, little attention has been paid to converting these goals into implementable strategies.

The implementation of KENSUP in Kibera encountered this issue when area structure owners sought compensation for the loss of their investments. As discussed above, aggrieved landlords resorted to the

[30] The policy does to define who would be 'disposed persons' in an upgrading process.

judicial process as they felt that the programme did not provide them with adequate means of representing their interests. The court case highlights some of the challenges that face implementers when confronted with a challenge that needs policy guidance. The structures and systems of land acquisition and development in Nairobi's informal settlements are highly complex. These have developed and transformed over time – some from as far back as the pre-independence years. The claims of various stakeholders to the land vary widely, posing a unique challenge to the state (Muraguri, 2011).

In Korogocho, implementers have opted to maintain the status quo, leaving structure owners to continue supplying housing to the tenants. The decision to accommodate the interests of landlords in Korogocho was partly based on the settlements' political and socio-economic environment[31]. The programme was compelled to address this concern within its implementation. Despite the fact that tenants outnumbered landlords, it was the landlord's interests that received priority in Korogocho. This has been attributed to the economic power that the landlords wield, and also to the fact that they enjoy backing and support from political and administrative leadership (UN-HABITAT, 2010). Although this model seems to have reached a compromise, it has also exposed tenants to the risk of market displacement.

The question of tenure therefore remains largely unresolved, both at policy and at programme level. This delay could be due to the complicated politics and vested interests often associated with this issue. Since this crucial phase remains incomplete, implementers formulate strategies as per their convenience. For K-SUP and KISIP, the decision – to meet said policy goals – also rested on funding and development partners. Here, the customization of programme objectives and implementation structures depends more on resource availability and the agencies rationale.

PRESENCE OF MULTIPLE PROGRAMMES

The broad nature of the policy framework allows for multiple programmes to be formulated and implemented – all addressing informal settlement intervention. This yields a clear benefit in that it creates space for customization of policy goals to different settlement contexts. Diverse programme rationale also enables different experiences, providing useful lessons that can be applied across other settlements. However, it also

[31] In a political rally in 2001, the former president 'orally' allocated land in Korogocho settlement to the residents. While this verbal dictate was never legalized, it nonetheless sparked a dispute between structure owners and tenants as to who constituted real beneficiaries of the settlement (UN-HABITAT, 2010, p. 6).

means that implementation capacity is strained, as the same actors are involved in most of the programmes. Furthermore, with actors committed to more than one programme – often reporting to different people – inter-agency coordination is strained, which obviously slows implementation across all programmes. This was most acutely noted in K-SUP, where programme milestones were delayed:

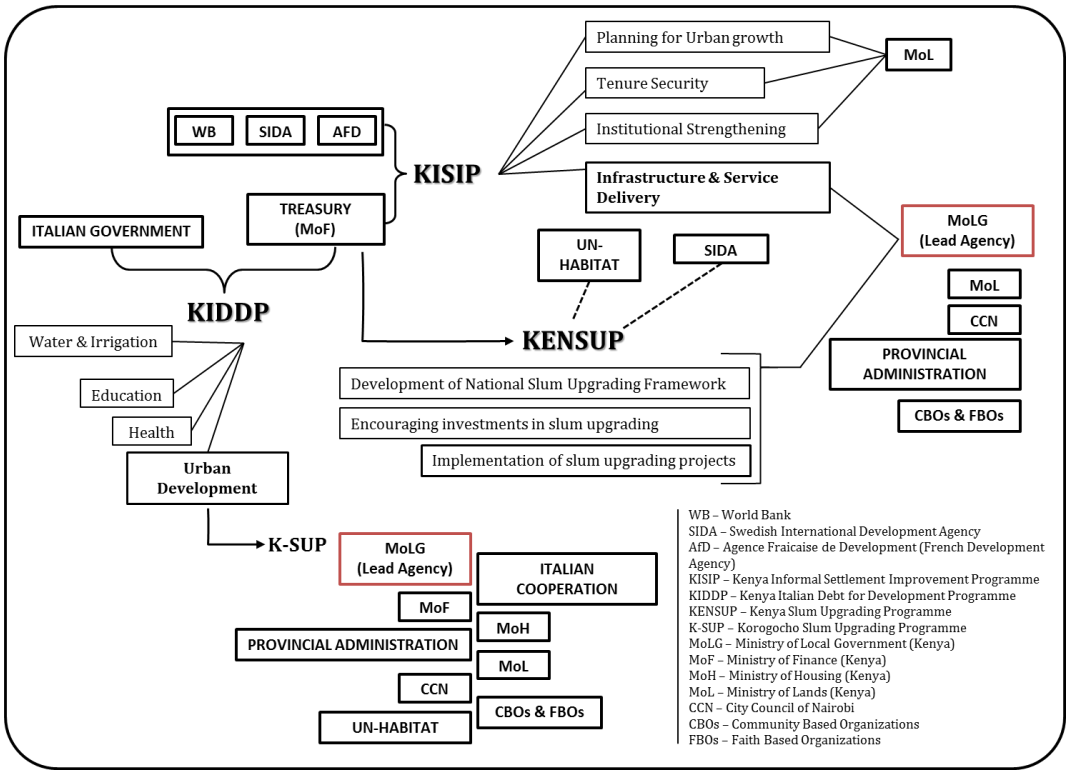
> Whereas it had been agreed that Lead Agencies submit their progress reports monthly to MoLG to compile monthly reports and annual reports, this was not the case. As explained elsewhere in this report, failure to be proactive among some agencies and subsequent delays in implementation of required activities meant there were no reports availed. Without regular reports and feedback from other lead agencies it is impossible for the programme to document consistently on the progress of the programme as earlier planned. It appeared that the Ministry of Local Government occasionally stepped in to undertake some activities of other agencies for the sake of programme continuity (Kenya Italy for Debt Development Programme, 2010, p. 51).

This delay was however not only in project reporting, but also in implementation of project activities. It was also noted that there were instances of 'low absorption of funds by some lead agencies, and where funds were absorbed, some went unimplemented' (Kenya Italy for Debt Development Programme, 2010, p. 48). While programme implementers attribute this behaviour to inadequate capacity, it points more to lack of commitment to K-SUP activities. This was because officials assigned to the programme were committed to other duties in their agencies where they reported to their departmental heads (ibid).

WEAK INTER-AGENCY COOPERATION AND COORDINATION

The complexity of implementing intervention programmes through a broad network of actors and agencies ranging from international, national to the local level was apparent in all three programmes. This was evident at both the macro and micro-level. The Government of Kenya has partnered with UN-HABITAT and SIDA for KENSUP; the Italian Development Cooperation for K-SUP; and the World Bank, AFD and SIDA for KISIP. These work with the national Ministries of Housing, Ministry of Lands and the Ministry of Local Government. In Nairobi, the City Council of Nairobi is also involved in the implementation of all three programmes. These structures are simplified in the graphic below:

Figure 6-1: Partnership structures in state-led programmes



Source: Own formulation, 2012

A clear benefit from this arrangement is that it draws the collective technical expertise of these agencies, thus strengthening the general implementation process. It has been however noted that the diverse interests, rationales, approaches and structures employed by all these agencies often cause strain to the implementation process (Muraguri, 2011). This was observed in the three intervention programmes in Nairobi.

When KENSUP was launched in 2004, it was jointly funded by the state, UN-HABITAT and SIDA and implemented by the state and UN-HABITAT. However, during the project's course, UN-HABITAT gradually withdrew from its high-level role, shifting focus to basic infrastructure and service provision (see also Huchzermeyer, 2011). Similar tensions are also apparent in KISIP. This began right at inception when funders declined to pool their funding in KENSUP, demanding instead for the creation of a new, parallel programme.

Since the state needs financial support to implement its informal settlement intervention plans, they agreed to take on an additional programme, but it is apparent that the programme has yet to gain full buy-in, both at national and Local government levels. Interviews with city officials demonstrated that while they saw their role in the implementation process, they still perceived the programme as being external:

> *They* gave us criteria... [for settlement selection] There were people who came to us, explained about the programme. There were some consultants, and they gave us a template [for eligible settlements]. Size…density…all that...Then *they* selected 10 settlements for the 5 years (CCN Official, personal communication, 18.11.2011).

According to the above interview, the implementing agencies at the city were excluded from all key decisions, including selecting the target settlements. Rather than identify settlements that were most in need of intervention, officials in the city had to select eligible settlements based on predetermined criteria.

At the 'micro-level' of implementation, there was also evidence of poor coordination. The working relationships between national ministries; between departments in single ministries; between national and local government institutions; between departments within local government, and between local government and non-governmental agencies are complex and multifaceted. K-SUP's mid-term review documentation identifies such weaknesses as one of the challenges to the implementation process. Though the various actors were brought together to form the technical implementing team, they still 'reported to their respective departments, in addition to K-SUP coordinators' (Kenya Italy for Debt Development Programme, 2010, p. 51).

KENSUP has been able to bypass this challenge as it is a predominantly state-led programme coordinated through a single agency. Activities of KENSUP are therefore given first priority. In KISIP, this has not yet been achieved, and while introducing the programme, the World Bank and other programme implementers tried to encourage state officials to add KISIP activities to the implementers performance contracts (The World Bank, 2011).

There was also evidence of strained relations between national and local government agencies as well as between different departments of local government. Central government officials pointed out that the cause of this was inadequate technical capacity within local government which affected project implementation (MoH Official, personal communication, 21.12.2011). Interviews with local government officials however highlighted that his challenge was more complex than this. Often, local government officials were assigned to multiple programmes in addition to their departmental responsibilities, and this strained their capacity to deliver on any of them (CCN Official, personal communication, 18.22.2011). While this highlights the inadequacy of human resource

capacity in local government, it also demonstrates the disadvantage of having multiple programmes running within a city.

CAPACITY

In all three programmes, it was noted that inadequate technical and human-resource capacity posed a considerable challenge to programme implementation, though the nature of this concern differed across the programmes. In KENSUP and K-SUP, programme funders and implementers all agreed that there was adequate technical capacity in the lead agencies to implement programme activities (UN-HABITAT Representative, personal communication, 6.12.2011; KIDDP Representative, personal communication, 13.12.2011). Similarly, KISIP funders were relying on the national Ministry of Housing's expertise to coordinate countrywide implementation (The World Bank, 2011). The challenge of inadequate technical capacity was therefore not in the lead agencies but rather, in partner agencies, particularly at local government level.

Programme implementers in KENSUP, K-SUP and KISIP, noted that the City Council of Nairobi did not demonstrate adequate technical capacity to implement slum-upgrading activities (Republic of Kenya, 2004; Kenya Italy for Debt Development Programme, 2010; The World Bank, AFD & SIDA, 2010). Although the city had better technical expertise in comparison to other local authorities, it was still considered incapable of addressing its informal settlement concerns. An interviewed official for instance, argued that the city provided very few resources to slum upgrading, and this was clear evidence of a lack of commitment (MoH Official, personal communication, 21.12.2011). Local authorities were also plagued by high rates of staff turnover which made capacity-building efforts difficult:

> [In] local authorities, you go to work with somebody and you train them. Like KENSUP, we trained the people working in the programme. But all of a sudden, they are transferred to another municipality where we don't work... It's (the Ministry of) Local Government. They transfer staff whenever they want. They don't car (MoH Official, personal communication, 21.12.2011). e

This challenge highlights the weak inter-agency relations between national government agencies. The decision to transfer staff in local authorities would rest on the Ministry of Local Government, whose decisions were not linked to the Ministry of Housing's activities. Such decisions however nonetheless affected policy implementation, within the Ministry of Housing as the officials would have to brief and train new officials.

The problem of inadequate capacity is perceived differently at the local government level. While city officials admitted that they lacked adequate staff numbers to meet the city's planning and development control needs, they also asserted that they were technically capable of implementing informal settlement intervention programmes (CCN Official, personal communication, 18.11.2011). A key challenge was that they were expected to implement multiple programmes simultaneously, and this strained their capacity and commitment (ibid).

This was also reflected at national government level where officials in the Ministries of Local Government, Lands and Housing were assigned to multiple programmes. In the Ministry of Local Government, the Urban Development Department is in charge of implementing K-SUP and all other KIDDP activities (see Figure 6-1). Programme managers agreed that the officials were spread too thin, and could not cope with the workload (KIDDP Representative, personal communication, 13.12.2011). This was also observed in other partner agencies in K-SUP:

> Due to many other programmes and activities within the various ministries, KIDDP activities were not treated as a priority and as such, the staff involved preferring to concentrate on activities stipulated in their performance contracts (Kenya Italy for Debt Development Programme, 2010, p. 53).

At the Ministry of Housing, the Slum Upgrading Department was created to consolidate KENSUP activities under a single agency. It was assumed that all slum upgrading interventions would be incorporated into KENSUP, thus providing the department with a consistent mandate. However, the department still remains fairly understaffed – due to delays in hiring at government level[32]. The Department was therefore considerably strained with implementation of KENSUP, which is a national programme. The addition of KISIP to the same Department can therefore only worsen the situation.

This underscores the key concern arising from the presence of multiple programmes for implementation in a single context. The immediate solution to this problem would be to increase the human resource capacity in the key agencies. However, this might not be easily achieved, as the state's hiring procedures rest on yet another agency, whose decisions rest

[32]The MoH does not directly hire staff, as this task belongs to the Public Service Commission which employs all public servants. At this scale, the needs of the Slum Upgrading Department - a single department in one Ministry are not treated with urgency (State Official, personal communication, 21.11.2011).

on budgetary capacities. The challenge of capacity will therefore continue to plague programme implementation in future.

It is however evident that programme implementers are searching for solutions to make implementation more efficient. In K-SUP, implementers proposed the formulation of a different structure where 'one implementing agency is set out as the key lead agency so that it can engage other line Ministries when need be in the implementation process (Kenya Italy for Debt Development Programme, 2010, p. 53). This structure however already exists in Ministry of Housing's Slum Upgrading Department, and yet, this agency was not considered in the programme's implementation. KISIP implementers are contemplating the introduction of private consultants in an effort to increase programme efficiency. This idea is however yet to gain buy-in from the state.

The challenge of 'capacity' is therefore equally complex. Actors in both national and local government have adequate technical understanding of the challenge and what ought to be done to address it. The inability of these institutions to deliver as expected is a result of diverse factors that are often beyond their control.

UNEVEN ATTENTION TO PARTICIPATION/STAKEHOLDERS

Another factor contributing to slow programme implementation is the challenge of ensuring that all stakeholders' interests are met. Informal settlements are complex, with multiple stakeholders who all have diverse stakes in the settlement. The manner in which programme implementers address the diverse concerns in the aim of meeting the overall goals could speed up or slow the implementation process. All three programmes have included structures to accommodate beneficiaries' voice in the process. In implementation, however, these structures have displayed inadequacies.

The roles of the Settlement Executive Committee and Residents Committees are to represent the community's voice, ideas and expectations to programme implementers. In the event of dispute, SEC is also expected to facilitate resolution within the programme. We see, however, that this role has not been effectively played. In KENSUP, aggrieved landlords faulted the structure's role in presenting their demands, arguing that this was why they resorted to the Courts (Respondent 6, 2011). In K-SUP, conflict has been minimal, though it was noted that 'the process in Korogocho has been dominated by landlords thus denying tenants an active, legitimate role (NGO Representative 2, personal communication, 29.11. 2011).

The SEC/RC structure therefore presents opportunities and challenges to the implementation process. One emerging challenge (in all three programmes) is that the agency's role is not yet clearly defined. If it is, it is not yet well understood or applied. This was observed in KENSUP where residents complained that the SEC was not sharing information about the project's progress (Respondent 14, personal communication, 25.11.2011). The weak role played by SEC has created an information vacuum between implementers and the beneficiary community, therefore opening up space for rumours and miscommunication which eventually stall implementation activities.

In both KENSUP and K-SUP, we observe that SEC/RC's role of facilitating consultation was also limited. Without adequate information, community members were incapable of actively participating in the process, and thus their voice was left out. While in KENSUP this was by design, as SEC was merely a tool for relaying state plans and decisions to the community (Republic of Kenya, 2005a), in K-SUP, this led to a dominance of landlords' in the process (NGO Representative 2, personal communication, 29.11.2011). Though structures were in place, therefore the larger community's voice was still missing from the process.

This is however not to downplay the crucial role of these committees. Despite their limitations, SEC and RC have attempted to include beneficiaries' voice, and challenges arising from this process only highlight the diversity and complexity of informal settlements. The structuring and composition of beneficiaries' representatives (in proportion to the target community), their role and functions, issues of accountability and expectations all represent crucial aspects that must be considered and carefully articulated for efficient implementation.

6.4 CONCLUSION

The three state-led programmes in Nairobi are running concurrently, all attempting to meet the policy goal of informal settlement upgrading. As we saw in Chapter 5, they are being implemented within the context of an incomplete policy framework, and this has posed concerns for implementers. The broad nature of the policy framework enables implementers to focus on select, individual goals with little (or no) reference to the main policy goals. An apparent challenge is that often, individual programmes are unable to respond to issues that require clear policy guidance and this sometimes hampers implementation. KENSUP's conflict with landlords/structure owners is a good example of a case where implementation would have benefited from clearer policy guidance, but this was not the case.

The programmes demonstrate that the ‘broad’ nature of the policy framework has presented some opportunities for implementers, as three separate intervention approaches are currently being implemented in the city – redevelopment in KENSUP, incremental *In situ* upgrading in K-SUP, and infrastructure-led upgrading in KISIP. Lessons garnered from each programme would strengthen the implementation experience across the city and country, though this remains to be seen.

Overall, however, it can be observed that despite there being three national programmes in operation in the city, informal settlement intervention remains slow. Furthermore, policy intents to achieve large-scale upgrading remain largely unmet. Though one of the main contributing factors has been the incomplete policy transition process, other settlement-level challenges have also affected the pace of implementation. As the policy formulation process in the country is yet to be completed, there is an opportunity to build legislative tools from the experiences of the three programmes. This would facilitate a more efficient and effective process of intervention in future.

7 INFORMAL SETTLEMENTS INTERVENTION IN THE CITY OF JOHANNESBURG

7.1 INTRODUCTION

This section focuses on informal settlements intervention experience at the City of Johannesburg. As we saw in Chapter 5, the urban growth and informal settlements formation in South Africa was strongly influenced by apartheid policies. This is evident in the city, where both the spatial layout and the socio-economic profile demonstrate the high levels of inequality and marginalization that are replicated across the country. As with the rest of the country, informal settlements in Johannesburg are both a result of inherited apartheid spatial planning legacy, and continued urban inequality.

Informal housing is manifested in a variety of ways in the city of Johannesburg, varying from free-standing informal settlements (or slums); backyard shacks; hijacked buildings; among others. These manifestations require targeted policy interventions and as yet, there are no clear policy approaches by the city to address them individually (Huchzermeyer, Karam, & Maina, forthcoming).The focus of this chapter is on free-standing informal settlements, also known as squatter settlements although this term has apartheid era connotations.

Within the city, it was estimated that at least 190,000 households lived in at least 180 informal settlements (CoJ Housing Department, 2009). Detailed settlement characteristics include: physical challenges such as poor housing conditions, inadequate basic infrastructure (water, sanitation or basic electricity), high densities in some areas; and social challenges, including high rates of unemployment, income and asset poverty, vulnerability, exclusion and marginalization. Informal settlements are often located on the city's periphery, thus forcing residents to travel long distances to work and employment areas.

In Chapter 5, it was noted that the main policy approach adopted for informal settlement intervention in South Africa has focused on the delivery of formal housing. The nation-wide model of intervention is therefore present in the City of Johannesburg, as we shall see below. National policy shifts have also been translated at this local level. At the municipal level, however, we see an independent effort to fast-track informal settlements intervention. This municipal programme echoed (to some extent) the shifts in national policy that were implemented from 2004.

The experiences of introducing and implementing this shift are elaborated below. The City of Johannesburg's approach to implementing state policy and meeting local government goals provides a useful insight into how policies are actualized at the local level. As we shall see, however, this is not without challenge. A key emerging factor is that the shifts envisioned in the policy towards informal settlement upgrading are not easily implementable within the context of the current framework.

7.2 IMPLEMENTATION EXPERIENCE IN JOHANNESBURG

7.2.1 POLICY-PROGRAMME INTERFACE

The City of Johannesburg's informal settlements interventions efforts must be viewed within the context of the national drive to provide housing; and also, within the provincial government's plans and policies for informal settlements' "Formalization and Eradication" (Gauteng Provincial Government, 2009). In Chapter 5, we have reviewed the national policy transition process, and the progress of informal settlement intervention in the country. From this, it is evident that there is an active drive within the state to meet its constitutional mandate. At province level, there is also deliberate initiative to meet similar targets.

Gauteng Province formulated a plan to formalize all informal settlements on safe, habitable & appropriately located land by 2009 and to eradicate all informal settlements by 2014 (Gauteng Provincial Government, 2009). The intention was to upgrade *In situ* (or formalize) settlements where conditions were favourable; and relocate settlements that were on ill-located land to housing projects; and the Province intended to work with municipalities to upgrade an estimated 405 settlements (ibid).

The City of Johannesburg's programme for informal settlement formalization was therefore not being implemented in isolation, but rather, as part of this broader provincial strategy:

> Specifically… in Gauteng and the Johannesburg region, how it works with us, is that the projects are ours. We are the people who manage and implement the projects. We then have implementation agents – which could be private sector agencies, to the city. These are contractors... Implementing agencies. It could also be Municipalities. So, when you hear of Municipalities achieving the eradication goal, or formalizing informal settlements, they are actually doing it on our behalf. It is not them (Gauteng Official, personal communication, 27.09. 2012).

Though the housing delivery mandate currently rests with Gauteng Province, the City of Johannesburg is directly involved in informal settlements intervention and management, both through service delivery, and the Formalization and Eradication programme. The main intervention programme is the Formalization programme, which is linked to the Province's programme. As I will show in the following section, all intervention programmes and 'approaches' are in one way or another, related to this programme which is linked to provincial and national programmes.

7.2.2 IMPLEMENTATION STRUCTURES

The structures set aside for the coordination and management of informal settlement upgrading in the City of Johannesburg are as follows: registration and documentation, conducting of feasibility studies to establish most appropriate plan of action, settlement categorization and implementation of programmes and projects for each category. Box 1 and Figure 7-1 below outline the various categories for informal settlement management and intervention in the city. It should be noted that this identification and categorization features some inaccuracies [33] (Huchzermeyer, Karam, & Maina, Informal Settlements, forthcoming).

In 2011, the city increased this list from 180 to 189 (City of Johannesburg, 2011:3). There is at least one substantial informal settlements that is not included in the most recent list, while several settlements on this list no longer exist, and several others do not match the definition for informal settlements contained in national policy..

[33] The city's database of 189 informal settlements (City of Johannesburg, 2011) features settlements that are no longer in existence and some that don't match National policy's definition of informal settlements (Department of Human Settlements, 2009c) while omitting other settlements altogether.

INFORMAL SETTLEMENT CATEGORIES AND INTERVENTION ACTIONS

Category 1: Formalization – refers to settlements to be upgraded *In situ* through township establishment processes.

Category 2: Relocation – settlements that are hazardously located and cannot be developed in their current location. Settlements in this category would be relocated to Greenfield developments. An important factor to note here is that relocation can only occur when such housing is available.

Category 3: Regularization – settlements that can be upgraded *In situ*, but Township establishment procedures not initiated. To be regularized as they await full formalization.

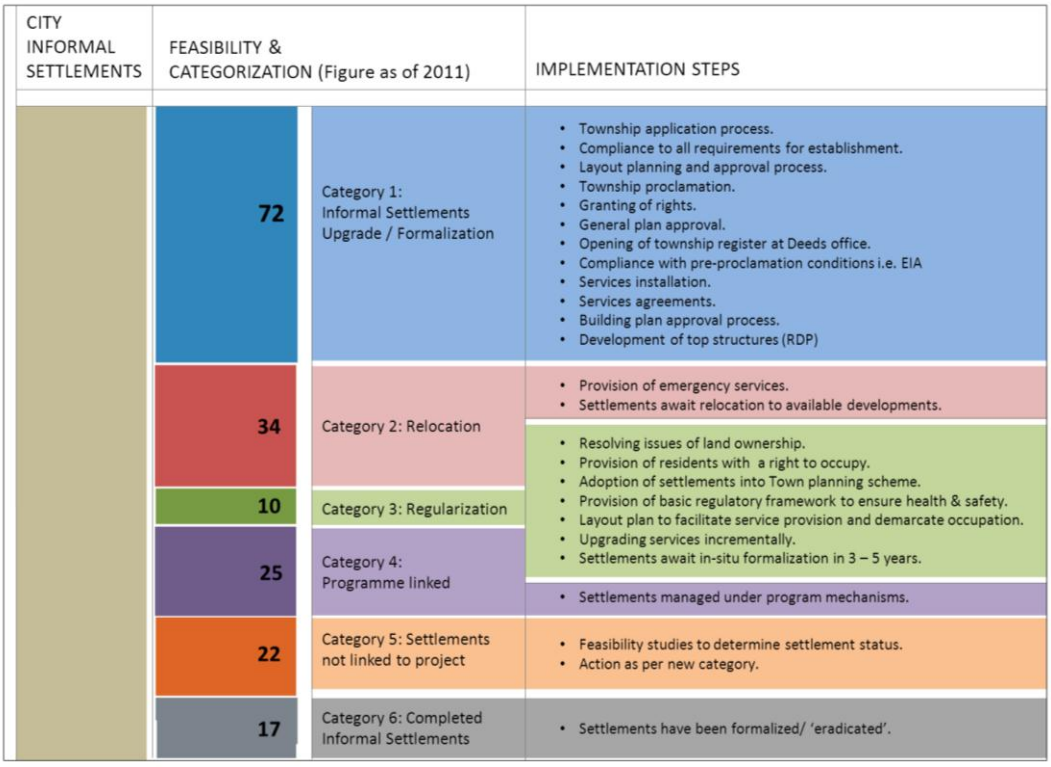
Category 4: Programme linked - settlements linked to a broader program such as the Alexandra Renewal Program. These were wholly managed under program structures and mechanisms.

Category 5: Not Programme Linked – settlements not linked to any project. Here, feasibility studies had not yet been done to determine settlement status and intervention action.

Category 6: Completed settlements also called 'Eradicated' settlements – settlements that have been formalized, and transfer has been facilitated.

Source: Adapted from COJ policy documents.

Figure 7-1: Categorization of informal settlements in City of Johannesburg



Source: Created from COJ project documentation, 2011

INFORMAL SETTLEMENTS FORMALIZATION AND UPGRADING

Informal settlement formalization is a process which includes provision of formal legal recognition to a settlement and layout planning to improve health and safety and access to basic services, and to allow for state

investment (City of Johannesburg, 2003). The ultimate goal of formalization is to convert an informal settlement into a fully established, legal settlement thus adopting it into the formal property market. A formalized settlement would also have access to the highest level of services provided at the city – water, electricity, waste management among others. It is however important to note that the process of formalization is not always equivalent to *In situ* upgrading. Formalization could be achieved through roll-over upgrading[34], or by the relocation of residents to Greenfield housing developments (Huchzermeyer, 2011).

At city level, the Formalization Programme is coordinated by the Housing Department. This department however works in collaboration with other city Departments, including the Infrastructure Department, Development Planning and Urban Management Department among others.

7.2.3 IMPLEMENTATION PROGRESS

Informal settlements intervention in the City of Johannesburg has progressed along with the rest of the country and experienced similar challenges. As we see in Figure 7-1 above, the process of settlement formalization, which would be a precursor to formal housing provision, is both long and complex. Furthermore, these implementation steps have to be coordinated across various local and provincial level departments, thus lengthening the process further. The full process – excluding the delivery of housing – takes an estimated 2-3 years, and this process of township establishment was pointed out as a key cause for delay:

> The current township establishment processes are very cumbersome, complex… there's a whole load of processes that you have to do, checks and balances that you have to go through to try and create a single property market. (Furthermore) formalization may be concluded by 2014, but shacks will still remain. We may create a scenario where we have fully formalized everything – which means that we can legally transfer but we cannot build as fast as we transfer. So the shacks will still be there, whereby the people will own it, but what you may find is if they are formalized but we can't build, they may build for themselves (CoJ Official 2, personal communication, 14.08.2012).

As we see above, implementation of this programme was not only lengthy and complex; but it also would not guarantee the delivery of the final output – top structures – on time. Some of the causes for this included

[34] This is the phased removal of existing shacks and their replacement with formal layouts (and, eventually, formal housing).

inadequate capacity at both province and city to meet the demand; and the rising costs of acquiring land and implementing development programmes. These increases in costs implied that the city would be 'producing less and less with more and more resources' (CoJ Official 1, personal communication, 2.08. 2012).

The delay in settlement formalization however has significant implications. First, without legal recognition, settlements could not be provided with improved infrastructure services, thus delaying the functioning of the Infrastructure department:

> [T]he infrastructure department in its performance management requirements, had to provide services to informal settlements. Water, electricity, road upgrades, toilets, e.t.c. But they couldn't do that legally, unless the informal settlements were formalized. Because you can't legally invest state money into something that is not legal[35]. So, infrastructure was always waiting for Housing to formalize, but Housing never really managed to do it, because the processes were too complex, and they didn't have the capacity to project manage the formalization process. It was very slow (Former CoJ Official, personal communication, 28.06.2012).

On the other hand, the beneficiary communities were increasingly growing impatient, as their expectations remained unmet:

> Inevitably what happened was that processes were delayed, promises were made, communities became agitated… a lot of the service delivery protests were really about the promises that were made, for housing by 2014. Everyone would have a house by 2014. But this became a pipe dream (Former CoJ Official, personal communication, 28.06.2012).

7.2.3.1 THE INFORMAL SETTLEMENT REGULARIZATION PROGRAMME

In 2008, the city's Development Planning and Urban Management programme introduced the Regularization Programme. The chief motivation of this initiative was to develop a mechanism that would allow for a more efficient way of upgrading informal settlements:

> What are we trying to do? By 2014 no settlement without legal status… about 120 settlements would remain but there would be

[35]Since access to water and sanitation is a Constitutional right in South Africa, all informal settlement residents in Johannesburg had been provided with some levels of service (CoJ Official 1, personal communication, 2.08.2012), but this was of a basic quality and needed to be improved or upgraded.

> security of legal status which would incentivise households to invest, gradually or depending on available resources rapidly improve their homes. This includes the possibility of obtaining or having access to micro-financing. There would be a basic layout which would enable some de-densification, emergency services access, better refuse collection, house numbering, pegging, fencing and better containment (City of Johannesburg, 2010b)

The aim was to adopt 'as many settlements as possible' into the city's legislative mechanisms by regularizing land tenure (Former CoJ Official, personal communication, 28.06.2012). The programme planned to introduce an amendment to the Town Planning Scheme that would recognize informal settlements by declaring them 'transitional residential settlement areas'. This granting of formal recognition would serve two purposes: allow some level of security to residents; and create an environment that would be conducive for state-investment (ibid).

The programme enjoyed relatively high political support in the city[36], although implementers also note that there were some political concerns from ward councillors:

> The proposal was very enthusiastically accepted because it was the [former] Mayor had been looking for. He was very keen, it went to Council and Council accepted it, but there were some complications. So many of the ward councillors were very hesitant about it because they believed that people should get formal top structures, and what we were saying was that give people some form of legal recognition, but we weren't saying anything about the top structure. And this didn't allow us to access subsidies. So they were saying, 'No, you're giving us second best… because it's about incremental upgrade, and not a formal house' (CoJ Official 1, personal communication, 2.08.2012).

The programme also encountered technical challenges that had to be addressed prior to implementation. For instance, the level of services to be provided for regularized settlements had to be articulated. Furthermore, registration systems for the settlements had to be designed, and structures for occupation rights and development control within the settlement legislated.

[36]Mayoral Addresses in 2008, 2009 and 2010 demonstrate that informal settlements improvement was high on the city's agenda (see City of Johannesburg 2008; 2009; 2010a, 2010b).

The Regularization Programme could have facilitated speedier start to informal settlement upgrading, particularly since it allowed for the incremental improvement of services within settlements. The programme however had to be accommodated within the already existing Formalization programme:

> There's a list in the city of 180 informal settlements. The idea was that we needed a plan for all these informal settlements. Now *already there were plans on the table for many of them, from [Department of] Housing*. And they didn't want to deviate from these categories. There was another category - which was settlements that no-one knew anything about (Category 5). They existed, but no one knew whether they could be formalized, or regularized, or what. So we said, 'Ok, we want to take responsibility for planning for those settlements, do an assessment. But [Department of] Housing said, “No,” they were already doing rapid assessment, had sent consultants (Respondent 17, 2012 – my emphasis).

The tensions over settlement categorization have been linked to conflicting departmental priorities and the selected intervention approaches for each:

> So there were a lot of tensions around categorization, around which settlements were in which category. And [Department of] Planning [and Urban Management] tended to argue for more settlements in the Regularization category [Category 3], and [Department of] Housing tended to argue more for the Relocation and Formalization category [Categories 2 and 1], because *only when they were formalized or relocated could you say they've been eradicated*. There was a direct tension between the eradication objective and the regularization objective, and the eradication was still on the table, although people were beginning to see that it was unrealistic (Respondent 19, 2012 – my emphasis).

The effect of all this was that ultimately, the programme could only be implemented in settlements that had not already been identified for formalization or relocation (Categories 1 & 2). As we see in Figure 7-1 above, this would only be 5% of known settlements as per the 2011 listing. As a result, the intentions of the programme – to regularize as many settlements as possible – could not be achieved. The majority of the city’s settlements would remain within the lengthy formalization process, others awaiting relocation.

IMPLEMENTING THE REGULARIZATION PROGRAMME

According to project implementers, one of the simpler procedures within the regularization process was that of adopting settlements into the city's regulatory mechanism in terms of a Zoning amendment. Subsequent steps and processes would however prove more challenging. One of the more pertinent procedures was that of securing tenure for all settlements:

> A problem was a number of these settlements were on private land. If it was on state land, then it was easy. But if it was on private land, then you had to get permission from the landowner, to change the status of the land. And private land ownership proved to be a very complex issue, [because] it forced us into complex negotiations with the land owners which were very protracted, either to give permission to change the status, or to sell the land. But the budget was too small to sell the land. I mean, the ultimate would have been expropriation, but that's procedure… But it was quite a challenge, especially when you had limited capacity to undertake these negotiations (CoJ Official 1, personal communication, 2.08.2012).

As we see from the above statement, an emerging concern that affected programme progress was the inadequacy of funds for implementation. This, according to implementers, included funding for the required human resource capacity, and for programme implementation:

> It was one thing to have approval for the programme, but the programme has to be funded. So although we had huge approval by the Mayor, the budget panel only gave - we had asked for about R 30m - but they gave R 5m, for regularization, which was hardly anything… so that was the first problem, that [we were] immediately hamstrung (Former CoJ Official, personal communication, 28.06.2012).

> Treasury did not give us the budget. If I [had] a budget, [I would] then go ask the Water Department to provide water [and if] they would say, 'Where is the money going to come from?' I would then say, 'Here's the money.' [And] then they can do it for me. But if you don't have money, you say to them, '[check] in your budget.' But they have to do maintenance, build new infrastructure for the rest of the city. So this… is like an unfunded mandate for them. And they don't want to cut some money away from something else to fund this (CoJ Official 1, personal communication, 2.08.2012)..

The inadequacy of and lack of clarity on funding during the initial phases of the programme significantly slowed its implementation. Currently, the

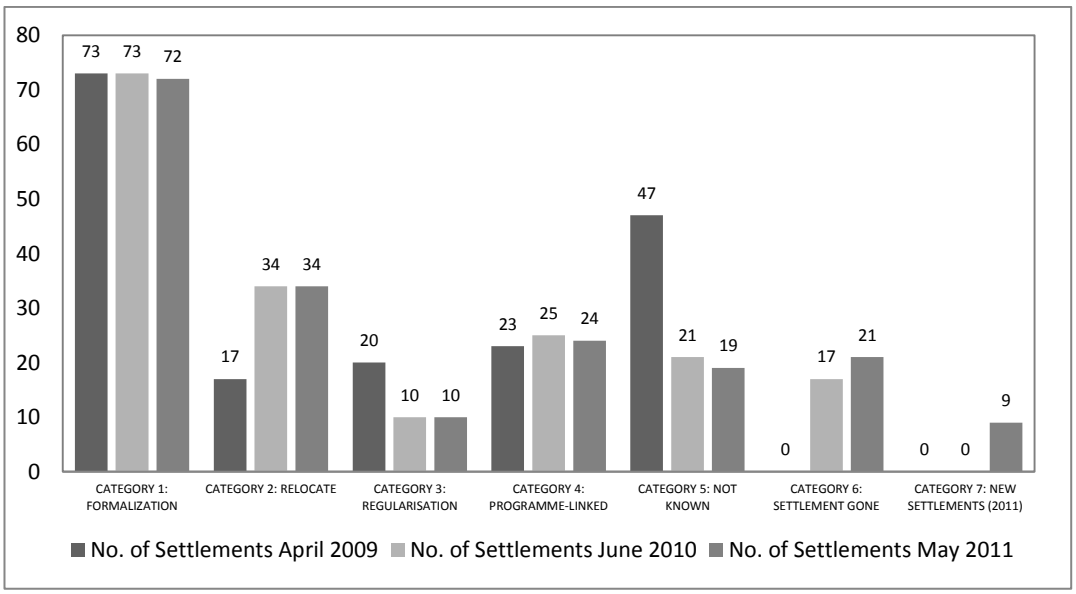
programme has been allocated separate municipal funding within the 2011-2012 Budget, and this should enable faster implementation.

7.3 EMERGING ISSUES FROM POLICY IMPLEMENTATION IN JOHANNESBURG

7.3.1 SLOW PACE OF IMPLEMENTATION

An emerging factor in the City of Johannesburg is that overall, informal settlement intervention outputs have been slow. Figure 7-2 below presents an outline of intervention progress in the city between 2009 and 2011.

Figure 7-2: Implementation per category, 2009 - 2011



Source: Author (2011) with data from City of Johannesburg

The changes in categories present an interesting picture. A large proportion of settlements are still undergoing Formalization, with only one being completed between 2010 and 2011. The increase in settlements slated for relocation (Category 2) could either be a result of identification of settlements that cannot be upgraded in their present location, or the re-categorization of settlements initially slated for Regularization (Category 3), then found to be unsuitable for regularization. The decline in Category 3 settlements between 2009 and 2010 therefore does not present 10 regularized settlements, but settlements identified to be unsuitable for *in-situ* upgrading, thus re-classified. In Category 4, we see that one settlement which was linked to a programme was upgraded. The decline in Category 5 settlements between 2009 and 2010 implies that feasibility studies were done, and settlements assigned to various categories for intervention. Category 6 includes upgraded or relocated settlements. While settlements in Category 7 are termed as 'new' this does not

necessarily represent emerging settlements, but rather, settlements that have only been included in the city's register.

Arguably, overall implementation has been relatively slow in the City of Johannesburg. The number of fully upgraded (or eradicated) settlements – Category 6 – has not changed and as we see, new settlements – Category 7 – are being added to the list. However, it is important to note that the processes of Formalization and Regularization have been initiated for most settlements in Categories 1 and 3 respectively, and settlements are within various points in the processes. While formalization and regularization processes are underway, the levels of services within these settlements remain basic, as the full processes have not been concluded to enable services upgrading. Some of the factors contributing to slow programme uptake and implementation are briefly outlined below.

7.3.2 DEMAND VS. SUPPLY

Interviews with implementing agencies from Gauteng Province and the City of Johannesburg demonstrated an admission that the current rate of delivery would not be sufficient to meet the demand for housing in the city (and province). This was attributed to insufficient funds (Gauteng Official, personal communication, 27.09.2012), to lengthy legislative procedures and to inadequacy of well-located land for housing (CoJ Official 2, personal communication, 14.08.2012). These challenges were deemed – by implementers – to be beyond their influence. Funding limitations, for instance, were a broader problem that linked to government development priorities:

> What government is trying to do is satisfy infinite needs with a finite amount of money. So, they have to prioritize their money. The priority of the current ANC government is education. That's where all their money goes... Housing is not a priority of the government… It has never been. If you look at the (national) budget, we get less than 5%. It's around 2.5%... Education gets 51%.... and then Health. By the time you finish with Education and Health, about 70-75% of the budget is gone (Gauteng Official, personal communication, 27.09.2012).

With limited funding, it is apparent that implementation can, overall, achieve little. While the Formalization programme remains the dominant intervention approach in the city (and region), it is admittedly slow. Interviewed implementers attributed this to the lengthy and complex legislative procedures which would also be difficult to adjust:

> That's out of our hands. We need to – as a collective - go to provincial government, to national government to say change the law. Those are national legislations that we have to comply with. And they're mostly planning instruments, the township establishment processes. Most of the things you have to do are critical to safety… so we can streamline them, where we take several processes concurrently… but it's out of our hands. We'd have to change the law to do it differently (CoJ Official 2, personal communication, 14.08.2012).

7.3.3 LIMITED IMPACT OF THE REGULARIZATION PROGRAMME

The introduction of the Regularization Programme in the City of Johannesburg was therefore an effort to bring about a shift in policy that would significantly fast-track informal settlement intervention. This was both aimed at facilitating service delivery and developments at the city level, but also, to strengthen the status and role of settlement residents in the city. The programme sought to shift the policy approach towards informal settlements, by providing steps for a more incremental development model. The provision of housing – which was a crucial step in the formalization process – was seen as a separate phase that would follow tenure regularization and service provision.

Though the programme received considerable political support at inception, it was not strongly adopted through implementation structures. Over time, the programme was adopted as a support programme for the broader Formalization system, thus reducing its scope and influence. Initial intentions, therefore, of rolling out the programme to scale, could not be achieved. Why did the programme achieve such little impact – despite the fact that it was the most realistic approach to fast-tracking intervention and service delivery? Some of the emerging issues from analysis are discussed below.

DOMINANCE OF FORMALIZATION AND ERADICATION OBJECTIVE

The dominance of the housing-led, formalization and eradication objective in South Africa cannot be under-estimated:

> Managing informal settlements and dealing with informal settlements are two different things. *Managing* informal settlements involves development control issue – ensuring that it doesn't get bigger; and that adequate water and sanitation is provided. *Dealing* with informal settlements means that these people should get out of these shacks *and be given houses*. One mandate belongs to Municipalities – that is managing informal settlements and development control. Our job (as Province) is to identify informal

> settlements, and do one of two things. We either formalize it, or we eradicate it (Respondent 15, 2012 – my emphasis).

The respondent above – a representative of Gauteng Province's Department of Housing - articulates the systematic nature of the intervention process that guides their operations. This is supported by a fairly comprehensive and rigid funding, budgeting, planning and implementation framework. This is the dominant model for informal settlement intervention applied across most of the country.

It is clear that the dominance of the Formalization programme limited the opportunity for introduction of new programmes into the City of Johannesburg. Firstly, the fact that the programme was not only managed by the city alone (but by a larger structure incorporating the Province) implied that shifts in approach could not be introduced without considering this broader programme. Furthermore, the fact that projects were already underway (and funding committed) under the Formalization Programme meant that the Regularization Programme could not guide an overall shift in approach.

INTER-GOVERNMENTAL DYNAMICS

Another factor that contributed to the limited impact of the Regularization Programme was the intricate and complex relations between the various spheres of government. As we have already seen above, the structuring of the housing programme meant that provincial government was actively involved in the city's intervention efforts. This, as one interviewee noted, was cause for friction and conflict in implementation:

> The power rested with [Gauteng] province, because it decided when and where it allocated the housing subsidies. But Municipalities (including Johannesburg) set up their own Departments of Housing. So, the Municipalities took on a housing function, but without the power. And it was completely dependent on provincial government actually allocating the subsidies. It had to follow provincial government's dictates because *the subsidy was a critical instrument* (Former CoJ Official, personal communication, 28.06.2012).

While in time, the acquisition of full accreditation would enable the City of Johannesburg to undertake full planning and development roles, its activities are currently under Provincial support. This means that Municipalities act as housing implementing agencies on behalf of the Province, and because of this, the Province had considerable power and leverage over the city's policy decisions. Implementers noted that the

proposal to pilot the regularization approach within the City of Johannesburg was not well received by Provincial officials:

> (Gauteng) Province was not too happy about this. They had a list of settlements to be upgraded, and the list we were giving didn't comply with their list. They wanted eradication, and now we were saying, 'here's a programme that would allow the shacks to exist'. There was a lot of unease. So provincial government became involved, and it was a very tenuous negotiation because there were a lot of interests represented in the committee (Former CoJ Official, personal communication, 28.06.2012).

One provincial government official argued that the city's proposed Regularization Programme 'went against the principles of Breaking New Ground, as it was not achieving 'sustainable use of available land' (Gauteng Official, personal communication, 27.09.2012). The provision of tenure and pegged stands, according to this official, meant that development of denser formal settlements in future would be difficult.

INTRA-DEPARTMENTAL TENSIONS

The Regularization Programme was also affected by some inter-departmental issues. Some of the causes for this, as we saw earlier, are inherent in the structuring of the city's administrative systems and the general functioning of various departments.

> Within the metropolitan government, we have the Department of Housing, the Department of Development Planning [and Urban Management], and the Department of Infrastructure. Now, there's an institutional tension between Housing, Planning and Infrastructure, to be honest. Housing is really incentivised to deliver the maximum number of housing units….and so they are incentivised to find the quickest way to roll out a housing programme. Planning, on the other hand, is tasked with transforming the spatial structure of the city – consolidating and densifying the spatial structure. And to do that requires, sometimes, types of development that don't make it easy for Housing to roll out units at scale. It might mean upgrading, but it might also mean brownfields development instead of greenfields development, infill rather than new development. The Infrastructure Department in its performance management requirements had to provide services to informal settlements - water, electricity, road upgrades, toilets, e.t.c. But they couldn't do that legally, unless the informal settlements were formalized. So, Infrastructure was always waiting for Housing to formalize, but Housing never really managed to do it, because

> the processes were too complex, and they didn't have the capacity to project manage the formalization process. It was very slow (Former CoJ Official, personal communication, 28.06.2012)

The quote above highlights that some of the challenges that arise during the implementation process as a result of the design of Metropolitan service delivery structures. The previous policy approach to informal settlements (by providing housing) implied that the role of intervention rested solely in the Housing Department and, afterwards, the Infrastructure Department. The Regularization Programme, however, envisions a more integrated approach that requires the cooperative effort of multiple departments.

Inter-departmental tensions also arose out of the attempt to introduce a policy shift in the city. As we have seen, the role of informal settlements intervention had always rested in the Housing department. The city's Regularization Programme was to be steered by the Planning department. This shift was not easy to implement, particularly since there were programmes already underway, and the contestation arose in the 'categorization' of settlements:

> There's a list in the city of 180 informal settlements. The idea was that we (as Planning) needed a plan for all these informal settlements. But already, there were plans on the table for many of them, from Housing. And *they didn't want to deviate from these categories*…. There were a lot of tensions around categorization (Former CoJ Official, personal communication, 28.06.2012) – [my emphasis].

LIMITED FUNDING

The Regularization Programme was also limited by funding constraints. When it was first introduced, it was a small-scale, city-piloted process to be solely funded through city resources. According to implementers, the initial processes of setting up the programme were not supported through ample funding. This slowed its scope and impact. City Treasury's reluctance to fund the Regularization Programme was related to the fact that this was an 'unfunded mandate':

> If there was a link to housing subsidies, there would have been resources. But there was no link. City Treasury was very reluctant to spend money on housing, because this was an unfunded mandate. They didn't have the powers to do housing projects (Former CoJ Official, personal communication, 28.06.2012)

Political support for the programme was high right from inception. This was apparent in Mayoral speeches and 'State of the City' addresses in 2008, 2009, 2010 and 2011 all demonstrated that the programme received backing and support from the Political leadership (see (City of Johannesburg, 2008; City of Johannesburg, 2009; City of Johannesburg, 2010; City of Johannesburg, 2010b) for example). It is however clear that this political support did not automatically translate into financial support. In 2012, the Regularization Programme was adopted into the city's funding programmes, and implementers are confident that this will translate to positive outputs and results (CoJ Official 1, personal communication, 2.08.2012).

7.3.3.1 OTHER CHALLENGES

AMBIVALENT POLITICAL SUPPORT AT WARD LEVEL

Though the Regularization Programme had considerable political support from the Mayor, some Ward Councillors were less enthusiastic about it. As quoted above, it is clear that the Regularization Programme was seen as 'second best' to the Formalization Programme, and leaders expressed their reluctance to communicate this to their constituency. Though this political question did not affect actual implementation, it is crucial to note, as it once again relates to the concern of introducing a shift in policy within a context of an existing programme. The political commitment (of housing delivery) cannot be easily shifted, and this could have significant impact on the intended shift at national government level.

TECHNICAL CHALLENGES IN IMPLEMENTATION

Though the Regularization Programme hoped to fast-track overall intervention in informal settlements, it also raised unique technical concerns during implementation. A good example was that of addressing the tenure question in the instance of privately owned land. Again, this relates to the stipulated legislative procedures.

7.3.4 EMERGING OPPORTUNITIES: GOVERNMENT TARGETS AND SUPPORT PROGRAMMES

Despite its slow implementation, the Regularization Programme has achieved some positive outcomes. Firstly, it fits within national government's plans and intentions to shift towards '*In situ* upgrading'. As we saw in Chapter 5, the goals and objectives of Outcome 8 require the improvement of settlements through tenure security, service delivery and incremental upgrading (Department of Human Settlements, 2010). It is this shift in national policy (and renewed pressure to deliver upgrading by 2014) that has facilitated the efforts at city level to meet Regularization

goals. It is however crucial to note that, as Figure 7-1 illustrates, the Regularization Programme does not follow the process set out under the UISP.

The Regularization Programme has also provided an avenue for deeper engagement with beneficiary communities. While Formalization involved a more detached model of housing delivery, Regularization necessitates a collaborative approach between implementers and communities. This active engagement would facilitate faster planning, decision making and implementation.

7.4 CONCLUSION

The City of Johannesburg presents a case of a Metropolitan agency that is trying to address its informal settlement concerns as efficiently and effectively as possible within their administrative boundaries. This is manifest to the idea that policy transition is not always effected from national government level, as there were initiatives from the city to shift to incremental upgrading even before Outcome 8 was initiated. These shifts, however, have been as difficult to implement as the shifts in national policy.

Though the Regularization Programme would have facilitated a faster intervention process it was not implemented to the scale that it was intended for. The main cause, arguably, is the presence of the dominant housing program that already had plans for majority of the city's settlements. The presence of the Formalization (and eradication) programme therefore diminished the impact of the Regularization Programme. This was not the only factor as we saw in earlier sections. Political support, inter and intra-departmental dynamics among others all contributed to the program's limited impact. It must be noted, however, that even with the Regularization Programme, it would have been difficult to meet the 2014 deadline for informal settlement eradication in the Province.

The apparent policy shift in South Africa reflects an effort to focus more on the improvement and *In situ* upgrading of informal settlements (and less on the delivery of housing). However, while shifts in national policy have already been effected, implementation remains rooted in the former policies (and programmes). The city of Johannesburg demonstrates in detail, some of the factors that contribute to this. There are notable opportunities that are now emerging, both with the policy shifts at National level, and the gradual strengthening of Local governments. How this plays out in the informal settlements intervention interface is a matter to be

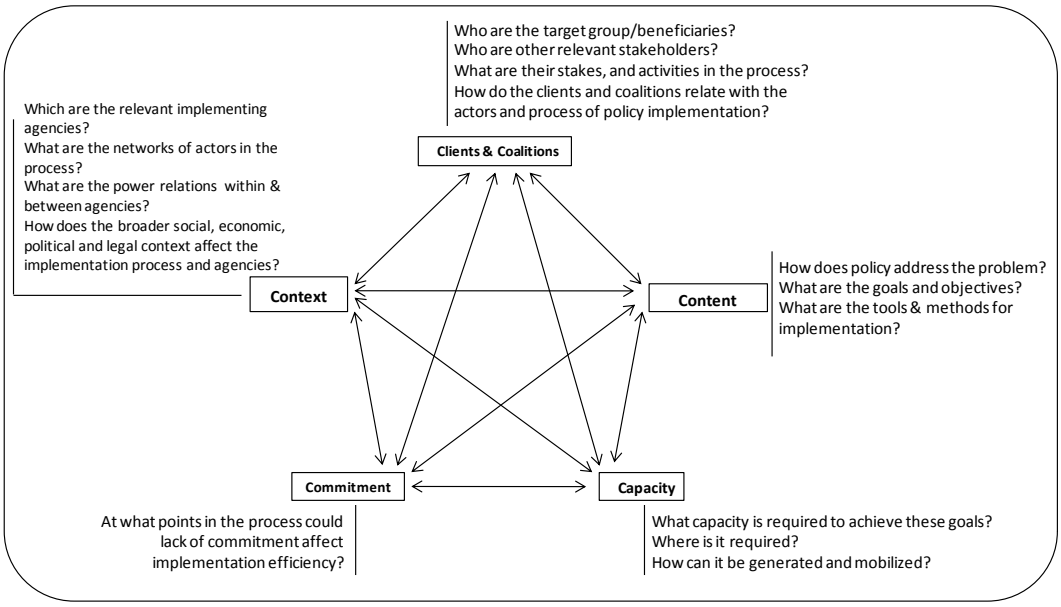
observed, and a possible area for further research. The following chapter draws out a comparative analysis of implementation challenges in the Cities of Nairobi and Johannesburg.

8 POLICY INTERVENTION IN INFORMAL SETTLEMENTS: A COMPARATIVE VIEW

8.1 INTRODUCTION

This research project set out to identify some of the challenges facing policy implementation in the context of policy transition. Using the Cities of Nairobi and Johannesburg as case studies, I started by outlining the emerging shifts in policy in the two countries, then traced through implementation structures how these policies were being implemented. As outlined in Chapter 4, the study follows an exploratory approach, using the experiences of implementers and actors on the ground to track policy implementation. The key findings of the research are discussed in Chapters 5, 6 and 7, and they present a number of similarities and differences in the two contexts. Figure below replicates the model applied for data collection and analysis in the study:

Figure 8-1: Framing the informal settlements policy implementation system



Adapted from Najam (1995)

This chapter brings together the case studies in a comparative discussion, using the frameworks discussed in Chapter 4 for analysis. Though I mainly use these frameworks as lenses for structuring and understanding the case studies, I will later reflect on the opportunities and limitations encountered in applying this lens to study this particular research question. The first section touches briefly on the intents and expectations of policy in the two countries, inquiring the extent to which these policies have attempted to frame the implementation sphere. This is followed by a discussion on the implementation context (in particular, the administrative

environment) and how it affects the process. The next section then focuses on the implementers' capacity and commitment to policy and programme goals, and how this affected implementation across the two case study areas. Finally, I touch on the clients (beneficiaries) and other stakeholders, and how they impacted programme implementation. The aim of this chapter is to reflect both on the broader issue of challenges facing policy implementation, and on the particular case studies that have been used to demonstrate this theme.

8.2 ANALYSIS OF THE IMPLEMENTATION FRAMEWORK

8.2.1 POLICY TRANSITION

In both Kenya and South Africa, we see a deliberate informal settlements policy shift that is manifested in different ways. In South Africa, the shift has been more elusive. The country has a long process of state involvement in informal settlement intervention, though this has mainly been through Housing delivery programmes – most notably, the RDP and later, BNG programme. With the introduction of the UISP, however, we see an effort to separate the informal settlements intervention system from the narrow low income housing delivery programme, though the programme's design is still notably similar to that of the housing programme. With the UISP, nonetheless, the shift is towards informal settlement upgrading, though with the ultimate goal being the facilitation of the delivery of formal housing to qualified beneficiaries (Department of Human Settlements, 2004).

In Kenya, the policy shift is more recent, and is part of broader state administrative transformations. After years of inaction in informal settlements, the government is attempting (thorough policy and programmes) to formulate and implement improvement strategies for these areas. These 'goals' can be see seen in the Housing and Land policies (Republic of Kenya, 2005; Republic of Kenya, 2009), though these have not progressed beyond Sessional paper phase, and in the country's new Constitution (Republic of Kenya, 2010). Crucial policy pertaining to informal settlement intervention is however yet to be strengthened through legislation and therefore, while implementers in South Africa have a clear programme to implement (with dedicated tools and funding attached), in Kenya, we see a more vague mandate for implementers, which can be customized to fit programme and project goals.

In both cases, we see a deliberate shift towards *In situ* upgrading though there are varying definitions or interpretations of this to include redevelopment in Kenya and roll-over upgrading in South Africa. This is

expressly outlined in the South African policy (Department of Human Settlements, 2004) and emerging through policy and practice in the Kenyan case (see (Republic of Kenya, 2005; Republic of Kenya, 2009). The path from policy to programme can be clearly tracked in South Africa (with the UISP being the programme that resulted from the BNG in 2004) while in Kenya, this harder to determine. This has posed challenges for Kenyan implementers, as policy goals lack clear legislative backing, thus proving difficult to implement on the ground. It is however crucial to note that though South Africa's UISP's offers a set of guidelines for implementers, as outlined in the Housing Code (Department of Human Settlements, 2009c); it does not clearly separate itself from the formalization program.

8.2.2 POLICY CONTENT

One similarity emerging from the Kenyan and South African policy frameworks is that they demonstrate a fairly concise understanding of the multidimensional nature of the informal settlement challenge within their respective contexts. The 'problem' is seen as being more than the manifestation of a 'housing need' as policies aim to address issues of tenure security and access to socio-economic opportunities, among others. Policy goals in both countries express the intent to adopt participatory methods in formulating and implementing intervention strategies. As we shall see below, however, the translation of these goals through programme mechanisms has been limited and where these goals have been set out for implementation, as in UISP, this has not been done.

Another similarity apparent in the two countries is the Constitutional mandate to the state for delivery of social and economic rights to citizens. The South African and Kenyan Constitutions accord to residents a number of social and economic rights, with Kenya's Constitution being modelled on South Africa's Constitution. The statutes further mandate the government with the task of ensuring the 'progressive realization of these rights' (Republic of South Africa, 1996; Republic of Kenya, 2010). In Kenya, this mandate is fairly new as it was included in the recently promulgated constitution. As such, the systems and mechanisms of this mandate are yet undeveloped, unlike in South Africa, which has seen legislation and codes, as well as litigation and therefore Case law. It remains to be seen, then, how this mandate will be translated in Kenya, as policies and legislative tools are formulated to meet this obligation. As the South African experience demonstrates, this is a lengthy and constantly evolving process (see (Tissington, 2011a; Tissington, 2011b) for instance).

Arguably, Kenya has a longer way to go in structuring and coordinating the informal settlement drive. This has however not stopped the design and implementation of pilot programs. Kenya's main intervention programme, KENSUP for instance predates the new Constitution and is yet to be amended to adopt the new principles, goals and objectives. The link between policy- program and implementation on the ground is therefore yet to be observed here. Lessons from South Africa highlight that even where national-programs are formulated, funding provided and implementation structures rolled out, issues still arise, thus the need to constantly engage with the implementation process as it progresses.

8.2.2.1 POLICY-PROGRAMME INTERFACE

It is in the link between policy and programme where the Kenyan and South African cases diverge. First, as we have seen, Kenya policy frameworks outline a broad set of intentions that are yet to be bolstered through legislative tools. This is not the case in South Africa where the 1996 Constitution resulted in legislation, notably the Prevention of Illegal Eviction Act, the Housing Act and crucial litigation, as well as policy reviews which led to the policy shifts. In 2004, the BNG strategy was released, and this was followed through by changes to the Housing Code, which includes the UISP. The Upgrading of Informal Settlements Programme has been fitted within the existing legislative, administrative and financial structures for implementation at ground level. In contrast to Kenya's multi-programme system, in South Africa, we see a singular programme designed for nation-wide intervention, though this is stalled at provincial and municipal level as we shall see in the following section.

In Kenya, the broad nature of the policy and the absence of legislative tools have not deterred the informal settlement intervention drive. We see in the country three different state-led intervention programmes, all targeting informal settlement intervention. These programmes are independent of each other and all seek to meet the goals of policy in one way or another. A review of programme goals and objectives however demonstrates a looser link to policy, with each programme employing a different rationale for meeting policy goals. As a result, some policy goals are overlooked in pursuit of others. This policy framework has however presented an opportunity in that, in the absence of a singular programme for implementation, actors have more space for testing different approaches and methods to different contexts.

Although this research does not delve into a comparative analysis of the two intervention models selected by South Africa and Kenya respectively, I

discovered that each presents notable opportunities and constraints for implementers.

South Africa's single-programme approach limits the space for customization in response to unique settlement contextualises, as might be possible in Kenya. This is however mainly due to the interpretation of the UISP by implementing agencies. In the Kenyan context, we also saw that implementers' capacity is significantly strained, as actors have to meet the goals of multiple programmes, unlike in South Africa. We also see that though the Kenyan policy framework provides space for flexibility, this has gone unutilized. In KENSUP, implementers selected a non-participatory model that disrupted residents' livelihoods, eventually developing outputs that were expensive and inappropriate.

8.2.3 IMPLEMENTATION CONTEXT

The implementation contexts in the Cities of Nairobi and Johannesburg are markedly different – with different structures involving different agencies, networks of actors, administrative and legislative environments in each city. In both cases, my review suggests that the implementation environment – political, administrative, legislative and even historical – has posed the most notable implications for any policy. It is also apparent that this is the most complex arena, as it is nearly impossible to control, even with the best policies. The historical trajectories of the two countries, for example, have had a significant role to play in the formation and growth of informal settlements and in both countries, and cannot be overlooked in the formulation of policy and program design.

The issue of funding was not dealt with in depth, though aspects of it were apparent in both cases. The fact that the Kenyan government collaborates with multiple international agencies points to funding constraints for policy implementation. The effect of this, as we observed, have been that the country has less control over informal settlement policy articulation and program design. While this has provided an opportunity for multiple programs (and approaches), it has also led to capacity strain. In South Africa, the State arguably has more financial capacity to meet policy goals, though these resources have been mainly committed to housing provision. Again, we see through South Africa that funding availability on its own is not a solution, and must be accompanied by political and administrative support. The Upgrading of Informal Settlements program seeks to guide the upgrading of informal settlements. Funding is attached to it and yet, it has been largely unimplemented.

Another factor that was apparent in both implementation cases is the relationships and functioning across the various agencies involved in the informal settlement intervention sphere. Here, we see one similarity – that intervention involves the coordination of a vast network of agencies and actors ranging in scale, from various units in local government, regional and national government to international actors in Kenya. The implementation 'environments' presented by these networks of actors, and the dynamics arising from power-relations across them had both negative and positive implications for policy implementation. Though programme and project design attempted as much as possible to structure implementation in a way that enabled efficient functioning within the various contexts and effective coordination of all actors (Department of Human Settlements, 2009c; Republic of Kenya, 2005a; Republic of Kenya, n.d.; The World Bank, AFD & SIDA, 2010), this was not always achieved effectively at implementation level. The Kenyan case depicted, for instance, the challenges of situating KENSUP as the state's main intervention vehicle. Though this was attributed to the stringent rationale in KENSUP, it also points to the complex power-relations that exist between the state and external funding agencies.

In Johannesburg, we observed similar challenges within the city structures, and also between city and province. For instance, the limited scope of the Regularization Programme was notably caused by the 'clash' between the Regularization objectives with the Formalization objectives. At city level, we see that this mainly played out between the Planning department (mandated with the task of development planning and management) and the Housing department (which was in charge of coordinating the formalization and housing programme at city level). An even larger concern in Johannesburg, however, is the fact that so far, the UISP remains unimplemented.

Do these issues point to gaps in the policy and programme design frameworks in the two countries? In Kenya, for instance, could it have been possible to design KENSUP's implementation framework in a way that would have allowed for multiple approaches and rationales in order to consolidate intervention efforts under a single funding and implementation framework? If indeed, KENSUP's redevelopment rationale was the problem; would it have been possible to broaden this approach, so as to encourage K-SUP and KISIP funders to channel resources through KENSUF instead of championing separate programmes? Would this have made for easier implementation?

In the case of Johannesburg, how could the regularization programme have better been seamed into the existing formalization, upgrading and eradication programme to achieve complementarities? Was this feasible, particularly bearing in mind the inter-governmental dynamics and implementation structures that were already underway? How could the active political support at the start have translated into faster adoption of the programme? How could the program have benefited from the National shifts and the UISP? These are detailed questions that could not adequately have been unpacked in the scope of this study. What I highlight in this research is the fact that these factors are present, and that they significantly affect the formulation, design and implementation of programs and policy shifts. These questions remain unanswered, even in this research, though I assert that it is in these spaces that some of the core challenges of implementation were observed.

The case studies also demonstrate the beneficial and deterrent role of politics on implementation activity. This was not dominant in Nairobi, though one interviewed city official admitted that the threat of political action was cause for neglect of informal settlements:

> [The problem] is really politics. This that has come up here [and] it's really complex. And when you find Members [of Parliament] making public pronouncements, 'Don't touch, these are our people.' 'They can't go anywhere.' When people are staring at real danger…So we let them sit there, and wait for more deaths to happen[37]. So, who are we to go remove those people? We'll be stoned. Yeah. We'll be lynched. It's a place we don't even want to be seen going. (CCN Official, personal communication, 2.08.2011).

In Johannesburg's regularization programme, we see both a positive role played by politics in the (former) Mayor's drive to formulate more responsive actions for informal settlements. Ironically, we also see a deterrent role played by this same agency – this time, local ward councillors – through opposition to the Regularization Programme as 'second best' to the formalization and housing delivery programme.

Both case studies therefore offer useful issues for analysis of the policy implementation context. The emerging issues from the actual implementing agencies and networks of actors; the complexities arising from the power-relations between these actors; and the general social,

[37] This was referring to a Fire at Sinai informal settlement in Nairobi in 2011, where the Area Member of Parliament urged residents to resist state eviction, despite the fact that it was for their own safety.

economic, political and legislative environment within which informal settlement improvement occurs, all affected the implementation process. From the case studies, it is clear that though implementation design could have taken this into consideration (thus better preparing for some of the challenges); it is also quite difficult to 'manage' the entire environment. Inevitably, therefore, these issues will always affect implementation, and the manner in which the implementation 'structure' responds to the challenges as they occur that could either fast-track, or delay implementation. This, as we shall see below, relies strongly on the capacity and commitment of implementation agencies.

8.2.4 CAPACITY AND COMMITMENT

The two case studies underscore the fact that capacity is indeed a factor that affects policy implementation. Following the literal definitions of capacity – as the competency of actors to engage in activities for positive outputs and impacts (Hope, 2011), it is safe to argue that implementing agencies in both Kenya and South Africa have sufficient competency and technical know-how to implement policy goals. We however see that this expertise has proven insufficient when dealing with the diversities and complexities apparent at settlement level. This was suggested as one of the factors delaying the implementation of the UISP in South Africa, and in Nairobi, we see it in KENSUP's experience in Kibera.

The case studies have been useful in demonstrating (in more detail) that 'human resource capacity' is more than staff numbers. In Nairobi, we see that the inadequacy of human resource capacity was both a result of low staff numbers but also because of the presence of multiple programmes for implementation which stretched implementers thin and expected them to interpret and achieve different approaches simultaneously. The City of Johannesburg is larger and better staffed than the City of Nairobi, though we saw that when the Regularization Programme was instituted for implementation, human resource constraints were also apparent, particularly when the programme was beginning.

The issue of capacity however nuanced, and requires a more detailed analysis and understanding. Though the City of Nairobi would benefit from a larger Planning Department, for instance, and even though the national programmes could achieve greater efficiency if they were consolidated under a single mechanism as opposed to the current framework, it is also evident that this in itself does not pose a solution. Evidence for this can be sourced from the South African case where the presence of a larger implementation structure and consolidated mechanisms has not translated to faster delivery.

The question of 'capacity' therefore deserves closer policy attention. From both cases, we see a need to strengthen the human resource capacity of implementing institutions at national, regional and most importantly, local government level. There is however need to bolster the technical capacity of actors within these institutions to ensure that they can respond to the needs of informal settlement intervention. In Nairobi, this is needed to ensure that the goals of the Constitution and the Land and Housing policies are meaningfully translated to implementable outcomes and then implemented. In Johannesburg (and South Africa), the need is to creatively adapt existing tools to better respond to existing intervention concerns. The National Upgrading Support Programme in South Africa is, an agency formulated for such a supportive role, and is expected to support the upgrading drive in the country, as we saw in Chapter 5. In Kenya, however, this agency is not in place.

The factor of commitment is closely tied to capacity, and from both case study areas, we observed that political and administrative commitment is required at each point in the process for implementation to succeed. This issue – as all others – is however quite complex. In Nairobi, for instance, concerns were raised about lack of commitment to achieve some programme goals (for example in K-SUP). It emerged however that this was mainly because local level implementers were committed to multiple programmes, and could only offer partial commitment to the programmes.

In the City of Johannesburg, we see a different issue. While it was apparent that there is need to shift policy approach to informal settlement upgrading, this proved challenging, particularly since structures were already in place and committed to housing delivery through the Formalization programme. While the UISP provides for a system of delinking the informal settlement upgrading effort from the housing delivery programme, this has not been adopted, as it would require for both the City of Johannesburg together with Gauteng Province to adopt this shift.

8.2.5 TARGET GROUPS & BENEFICIARIES

The final segment in framing the implementation framework in Najam's system is clients and coalitions. First, it begins by appreciating that there are two key 'groups' for consideration in policy implementation – target groups (or beneficiaries) and other stakeholders. A detailed understanding of these actors, their expectations, stakes and activities in the process; and their behaviour in relating with actors and processes of policy implementation is key in the study of policy implementation (Najam, 1995).

This view was crucial in unpacking one of the key challenges in Nairobi's intervention programmes, the structure-owner dilemma. Though policy frameworks in Kenya acknowledge the presence of these 'stakeholders', promising to devise interventions that would ensure that their stakes are considered, programme designs over-simplify this. KENSUP's assumption that landlords could be treated as 'ordinary' beneficiaries, for instance, was met with considerable resistance. K-SUP's participatory model in turn offered 'too much space' for landlords, thus edging out the voice of tenants in the process. This case clearly underscores the complex and tenuous challenge that comprises participatory decision making, particularly in the informal settlements sphere. There is still need for a more careful analysis of this phenomenon, and a more innovative formulation of intervention strategies that allows for a more equitable solution, and efficient implementation.

The emerging issues in Nairobi also offer lessons for reflection in the South African context. The policy approach in Kenya is similar to the South African model – where the state formulates a policy, devises intervention strategies, and implements them, often with very little input from target groups. Though the policies offer space for 'participation', this is notably limited, as programme approaches, standards and structures are not always debatable. This was also observed in KENSUP, for example. It is important to note that UISP seeks for a more negotiated approach to intervention, where implementers and settlement beneficiaries can jointly formulate and devise strategies for settlement improvement – though this has not yet been practically applied, even in the pilot programmes (Huchzermeyer, 2011).

In Nairobi, implementers did attempted to 'address' the challenge of multiple stakeholders and stakes. The Settlement Executive Committees (SEC) and Residents Committees (RC) provide avenues for beneficiary representation in the process. However, from this, we realize that the mere formulation of this 'structure' is not adequate, as there must be ample space for their participation in actual programme activities. This is a multi-pronged issue: ensuring that the structure is democratically formed and representative of all beneficiaries; thus allowing residents' and stakeholders voice in the process; and ensuring that the mechanism has access to programme implementers to ensure that the target groups' expectations are considered in programme formulation and design.

While SEC in KENSUP fulfilled a few of these requirements, the programme was designed in a top-down fashion, thus offering very little voice for stakeholders. K-SUP has attempted to provide for greater

involvement of all stakeholders throughout the intervention process, though this has not been without challenge. The inclusion of residents' voice in each step of the process has allowed for a smoother albeit slower implementation, but it couldn't deal with the existing power-differences between tenants and structure owners in the settlement. As a result, project outputs will clearly benefit area structure owners and landlords, perhaps at the expense of tenants.

The settlement-level context in Johannesburg is markedly different, and within this scope of this research, I was not able to track implementation effects to this level and identify some of the settlement-level complexities. This was because identified challenges in this city were mainly attributed to programme-related issues, and not settlement level contextualities. What the two cases imply is the need for further flexibility in policy to allow for implementers to negotiate through these stakes and stakeholders without compromising the ultimate goal – improvement of informal settlement conditions.

Policy frameworks in the two countries still reflect limited understanding into the nature of this issue, and seem to focus more on the area beneficiaries. However, as KENSUP demonstrated, other stakeholders in the settlement could hamper implementation activities, and ought to be carefully considered while designing and formulating strategies. Ideally, policies offer space for participatory formulation of intervention strategies – which implies the inclusion of all these stakeholders through more appropriate programme design. Caution still must be taken as not to over-simplify the situation, as even where implementers made an effort to accommodate all stakeholders' expectations and claims in the process in Nairobi, challenges still arose. No quick solution can be offered in this area, and interventions must be carefully negotiated within each unique context.

8.3 CONCLUSION

The above sections indicate that a broader analysis of the policy implementation framework is instrumental as it allows for a more comprehensive understanding of the challenges facing implementation. By disaggregating the framework into its multiple components – policy content; implementation context and structures; implementers' capacity; implementers' commitment; and target groups and stakeholders – we gain a better view of the process and therefore, a better perception of apparent challenges.

Najam's (1995)framework has also been instrumental in demonstrating the complex inter-connectedness of the implementation arena. Each node in the framework represents a detailed, complex field that demands deeper analysis. Policy perceptions of the problem and the funding, legislative and administrative structures put in place to meet intervention goals; the broader social, economic, historical, political and administrative context within which intervention takes place; implementers capacity and behaviour in meeting project goals; and the behaviour of target groups and stakeholders all presented insightful areas that could be studied individually. What this research project presents is a brief snapshot of how these factors manifest themselves within the cities of Nairobi and Johannesburg.

An emerging factor within this analytical model is that though these issues appear separate, they are, in fact, interlinked and interconnected. The selected policy approach in each country, for instance, was strongly related to historical, political and socio-economic contexts within which the policies are formulated. At the same time, the policy's response to the problem – rationale and structures designed for intervention – also created certain environments which triggered different behaviours within target groups, and other stakeholders. Similarly, implementers' capacity and commitment to programme goals cannot be de-linked from the implementation context and administrative environments or the policy implementation structures. As the diagram in Figure 8-1 demonstrates, these factors are inter-linked, and no element can be analysed in isolation from the others.

What this study demonstrates, therefore, is the need for a deeper and broader 'view' of the informal settlements intervention efforts in both countries. In both countries, there is need to understand the policy implementation framework *in its entirety.* We see that this is still lacking in both countries, and as a result, policy efforts to 'improve' the intervention framework fail to achieve the intended results. A broader framework for understanding these challenges (such as the one used here) demonstrates that a broader view of the implementation framework could be useful in the formulation of 'better' intervention strategies.

The following chapter looks back at the research goals, questions and hypothesis, extracting some key findings from this initiative.

9 CONCLUDING THOUGHTS

9.1 INTRODUCTION

The field of policy and policy implementation is a complex and dynamic arena offering a rich area for study and analysis. Similarly, the state is comprised of a multi-faceted, intricate set of agencies and actors, presenting yet another field for theoretical and empirical study. Last but not least, the informal settlement 'phenomenon' continues to pose an ever-changing, increasingly challenging sphere that requires in-depth analysis for closer understanding of the situation. In this research, I brought these three fields together for a comparative analysis of two cities – Nairobi and Johannesburg. This ambitious research has revealed a number of lessons and insights, applicable for research, policy making and programme implementation.

In this section, I reflect back on the goal of the study; research questions and hypothesis; selected research methods and analytical frameworks; and the study in general. This is aimed at articulating the research experience and highlighting research gaps and areas for further study. I also discuss on the implications of the study on informal settlements intervention, policy making and coordination of policy implementation.

9.2 REFLECTIONS ON THE STUDY

The main goal of the research was to understand the factors contributing to the policy-implementation gap in the informal settlements sector. Drawing case studies from Nairobi and Johannesburg, I inquired why implementation seemed unable to translate seemingly progressive policies into meaningful outcomes. I used two case studies – Nairobi in Kenya and Johannesburg in South Africa – to broaden the scope of understanding of the issues under study. The two countries, which are similar in certain aspects, are significantly different, and these provided useful lessons for the study. The nature of the informal settlement 'challenge' in the two countries; the policy frameworks designed for intervention; and the dynamics apparent within the two contexts all provided illustrations for the complex nature of the issues under study.

Though the use of multiple case studies in this particular research provided for a diverse and rich sample of issues and themes for analysis, I also encountered some limitations – mainly due to limited time. Ideally, a study on the policy-implementation gap would have to present a picture of the policy implementation framework and track implementation on the ground, to identify the various issues affecting implementation. In this

exercise, I outline the implementation framework and, with information collected from key informants, begin to draw out some key challenges facing implementation. In this way, the research presents a snapshot of bigger issues.

Despite these limitations, the study demonstrates a number of factors. First, the informal settlements intervention sphere could benefit from a deeper analysis of the policy-implementation framework. This expanded view would appreciate the 'problem', intervention systems and contextual characteristics altogether, thus leading to a better appreciation of the opportunities and challenges, potentially to inform better programme design and more effective implementation.

HYPOTHESIS

The Study's main hypothesis was that though there have been progressive developments in the informal settlements policy sector, these have yet to be effectively translated to meaningful results on the ground. This is true, both in Nairobi and Johannesburg. Some of the factors that I had identified included: the nature and content of policies and programmes; their means of implementation; challenges within and between implementing agencies; the behavior and politics of target groups and other non-governmental stakeholders; and other local and contextual challenges emerging during the implementation process.

All these factors have played a role in Johannesburg and Nairobi, though we see that some factors play a more dominant role than others, depending on the context. The main argument – that policy has given insufficient regard to the context of implementation; and that the means of implementation have been given little consideration before policies came into effect – have been affirmed in both cases. In Nairobi, policy is still at a formative phase, where informal settlement intervention structures and legislative tools are yet to be designed. As a result, programmes and projects are being implemented in the context of 'incomplete policy frameworks'. This – bearing in mind the contextual complexities of informal settlements in the city, has led to slow implementation. Furthermore, progressive goals and objectives in policy remain just that – goals that are yet to achieve implementation.

In Johannesburg, we see a different phase of implementation and thus, a different set of challenges. This case must be understood on these two levels – the National efforts to encourage in-situ upgrading in the UISP, and the Municipal initiative to fast-track the process of improving informal settlements through the Regularization program. As we saw, efforts at

National level to guide a shift to upgrading have not yielded notable results at City level. We are yet to observe the expected shift in implementation structures to accommodate this new approach.

Similarly, Municipal attempts to introduce the Regularization Programme – a programmatic, incremental upgrading approach – were hampered by the dominance of the Formalization and Eradication Programme, logistical and capacity issues, inadequate political support, among other issues. This raises the query as to whether policy and programme frameworks in South Africa have adequately considered and designed the practical (and political) shift to *in-situ* upgrading, either as a means to supplement, or replace the broader formalization program. Efforts at City level to run this program in parallel encountered challenges both within the administrative system and through resistance from local political leadership.

This presents a quick summary of the core challenges facing implementation of progressive policy goals in the two contexts. Other challenges that delayed implementation - such as intra and inter-departmental challenges, funding constraints, politics and behaviour of target groups in Nairobi – cannot also be ignored, as they highlight the limitations of policy (and programme) in anticipation and adequate preparation of intervention strategy.

RESEARCH METHODS & ANALYTICAL FRAMEWORK

The study's selected model of data collection and analysis has demonstrated some strengths and also constraints. Since I sought to gain an in-depth view of the implementation frame, my main source of data and information was the implementer, particularly at local level. This model however had to be adjusted, since, in Nairobi, for instance, the main programmes' coordination was done at the national programme level. At city level, I also gathered information from various sources, ranging from policy experts; provincial government officials, and current and former local government officials. These helped to provide an in-depth view of the policy-programme links in the two cities, and the implementation experience on the ground.

Again, however, time limitations proved a challenge. To build a comprehensive 'implementation story' in any context, one needs to draw from the experience of multiple actors within the process. With limited time and resources for the study, I was not able to mine as much data and information from the two sites as would have been ideal. However, the acquired information was cross-referenced with grey and secondary literature sources, and this was instrumental in filling some of these gaps.

The comparative case study approach selected for this study has presented a number of opportunities, particularly within the field of informal settlement intervention. The challenge of intervention is real in both cities, and we see in the two countries a policy effort to drive a programmatic, large scale model for intervention. This alone poses a question for research. How can policy better craft intervention programmes to achieve the scale required, while adopting goals of equity, participation and sustainability? How can intervention achieve more, with limited urban resources? Secondly, the implementation environments depicted in the two cities offer rich areas for comparison, both in terms of policy approaches, implementation frameworks, and actual policy outputs. Within this study, I was able to outline the different frameworks in the countries, and depict some of the main challenges facing implementers. There is, however, still opportunity for in-depth research in each case study, and in a comparative frame.

As discussed in Chapter 8, Najam's (1995) 5-C framework provided a useful model for framing the broader picture of implementation in both countries. The frameworks used for policy studies and analysis proved quite instrumental in broadening the scope of understanding beyond the policy-problem interface. The inclusion of other factors – implementation structures, implementers' behavior, target groups expectations and behavior, and the implementation environment – allowed me in this study to view implementation as a broader, more complex field. A crucial factor that was excluded in this framework but turned out to be important in the case studies was the historical context, and how it had shaped policy and state action. In both countries, we saw that historical context was important, and that it contributed strongly to the state of the informal settlement phenomenon, thus requiring particular policy actions.

RESEARCH GAPS AND AREAS FOR FURTHER STUDY

Despite its complexity, the informal settlement phenomenon (and policy's efforts to 'address' it) remains a rich arena for study and analysis. This is both in the policy and implementation field and in the informal settlements and planning fields. While studies of policy and implementation abound, spanning across various fields and sectors, there is still potential for a broader analysis of the policy and implementation frameworks in the informal settlements field. In particular, there is need for a deeper engagement with the entire implementation framework (as I attempted to do in this research) in both Kenya and South Africa.

The informal settlement sector remains a widely documented arena, with studies varying from empirical accounts of individual settlements, thematic

studies, and theoretical studies on policy intervention, and reports on other intervention initiatives, among others. These have aided in constructing a clearer depiction of this phenomenon. The dynamism and ever-shifting nature of these settlements within the context of changing social, political and economic environments implies the need to generate knowledge on the sector. There is, however, need to expand this field to capture the intersection of these settlements with policy and state-led intervention. As this study (and many others) demonstrated, there are concerted state-led efforts to address the informal settlement phenomenon. The experience of policy formulation and implementation remains less documented, as I discovered in both case studies.

As I discuss in Chapter 4, the case study methodology was selected for this research for its ability to enable a deeper analysis of the issues under study. Despite the critique levelled at this approach, it still remains ideal for understanding phenomena within their unique context (Yin, 2003). Through this approach, this study was able to delve deeper into the 'policy-implementation gap' in the Cities of Nairobi and Johannesburg, demonstrating the complexity of the challenges within the respective implementation environments. As a result, we see that the factors that plague implementation in the two cities emanate from context-specific issues relating to each country and city. This approach was therefore instrumental as it allowed for a more detailed tracking of the key issues than would have been possible with other empirical approaches. As the study was limited in scope, however, it was not possible to mine the individual case studies efficiently. There is therefore opportunity here for detailed case studies of policy implementation in informal settlements in the two cities.

9.3 WHAT THEN? LESSONS FOR PLANNING AND POLICY IMPLEMENTATION

As I mentioned in my introductory chapter, the informal settlement phenomenon continues to pose challenges for urban managers and policy makers. This is both because of the complex nature of the 'problem' which requires targeted intervention; but also, due to the fact that in the context of scarce urban resources, policy must address the concern effectively, and sustainably. In both Kenya and South Africa, we see deliberate initiatives by policy-makers at various levels to address the informal settlement challenges at scale. However, the case studies of Johannesburg and Nairobi have demonstrated that policy implementation does encounter a diversity of complex challenges which slow down and delay the achievement of policy goals.

This study uncovers a number of lessons for policy formulation and also for implementation. In Kenya, policy is still undergoing formulation, and this provides a ripe opportunity to develop intervention strategies that can better respond to unique settlement contexts. More than the policy, this study demonstrates the need to better structure implementation process to ensure that implementers can effectively achieve policy and programme goals. Furthermore, it highlights the importance of participatory programme formulation and design, and the challenges that would arise if programmes are not designed with the cooperation of affected stakeholders. However, it depicts that that not all stakeholders' interests can be incorporated within the intervention process, thus the need for negotiation and compromise.

Could the challenges observed in Kenya be better addressed through the formulation of a nationwide intervention strategy with the accompanying legislation? Would such a process unify the currently disjointed intervention frameworks and the multiple actors? Can such a strategy accommodate the diverse expectations of actors and stakeholders in the country's main cities? All these questions are yet to be answered, as the process of formulating the country's informal settlement intervention strategy is still underway.

The City of Johannesburg reveals a different phase of policy transition, with different issues and challenges that offer insights for the South African context, and also for other contexts. Here, the main difficulty experienced in introducing an incremental upgrading model was because of the dominance of the formalization and eradication programme, in addition to deeper complexities in inter and intra-agency functioning. This case underscores the need to carefully consider and support the entire transition process. This includes accurately defining the function and role of new programs, particularly in relation to existing programs at local and national level; identifying how these 'new' programs fit into (or replace) existing programs; determining how the 'transition' from the 'old' to the 'new' systems would be coordinated; and most importantly, coordinating the transition across the various structures.

This is a simplistic overview, particularly bearing in mind the complex and contested field that is informal settlements and informal settlement policy. While new policies and programs can be introduced and designed, the process of orchestrating the transition and implementation process is tenuous, and must be carefully negotiated at each step in the process. For instance, the dynamics that have delayed the transition to in-situ upgrading in South Africa's municipalities cannot be 'quickly' identified and

easily addressed, otherwise this would already have happened. Similarly, the local-level challenges of instituting the regularization program were identified, but these are complex tensions and issues that also, cannot be easily addressed. The process of policy change in this City is therefore still ongoing. With current policy shifts – most importantly the strengthening of Local government's housing role through the accreditation process – it is anticipated that adoption of policy shifts can be better coordinated at City level. What does this represent for the city of Johannesburg, for instance? What does this imply for initiatives such as the Regularization programme?

The two cities therefore present different informal settlement scenarios and intervention approaches and different phases of policy transition. This research highlights implementation challenges that arose within the two cities, inquiring on how policies in the two countries could have anticipated and avoided them. Firstly, it underscores the fact that in itself, policy transition is not enough. Policies must be developed through legislative instruments into implementable programmes that are adequately responsive to local contexts and settlement characteristics. Lastly, once these frameworks are in place, the implementation process ought to be managed in a participatory, inclusive manner that incorporates beneficiaries' expectations while meeting policy goals and objectives.

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List of Interviews

CCN Official. (2011, November 18). Senior planning official, City Council of Nairobi. Nairobi.

Charlton, S. (2012, June 28). Researcher & Housing expert with experience on the RDP program in South Africa. Johannesburg.

CoJ Official 1. (2012, August 2). Senior Planning Official in the City of Johannesburg in charge of implementing the regularization program, Johannesburg.

CoJ Official 2. (2012, August 14). Senior official in City of Johannesburg's housing Department, Johannesburg.

Former CoJ Official. (2012, June 28). Former Planning Official in the City of Johannesburg who was actively involved in the formulation of the Regularization programme, Johannesburg.

Gauteng Official. (2012, September 27). Senior official in Gauteng's Housing Department, Johannesburg.

KIDDP Representative. (2011, 12 13). KIDDP Official (Italian Government) who was part of the steering committee in the Korogocho Slum Upgrading Process, Nairobi.

KISIP Official. (2011, November 21). Consultant at the Ministry of Housing in charge of guiding the inception of the Kenya Informal Settlements Improvement Program, Nairobi.

MoH Official. (2011, December 21). Senior official in the Ministry of Housing in charge of implementing the Kenya Slum Upgrading Program and the Kenya Informal Settlement Improvement Program, Nairobi.

MoLG Official. (2012, January 5). Senior Official in the Ministry of Local Government in charge of implementing the Korogcho Slum Upgrading Program, Nairobi.

NGO Representative 1. (2011, December 14). NGO Leader who took part in the Korogocho Slum Upgrading Program, Nairobi.

NGO Representative 2. (2011, November 29). NGO Member and Community activist with a long experience in upgrading projects, Nairobi.

NUSP Official. (2012, August 30). Senior official in the Upgrading of Informal Settlements Program in South Africa, Johannesburg.

Respondent 14. (2011, November 25). Kibera tenant and beneficiary of the Kenya Slum Upgrading Program, Nairobi.

Respondent 4. (2011, November 25). Kibera landlord and resident, Nairobi.

Respondent 6. (2011, November 27). Kibera landlord and resident, Nairobi.

Respondent 7. (2011, December 11). Kibera resident and landlord who also was a political activist in the area, Nairobi.

UN-HABITAT Representative. (2011, 12 6). UN-HABITAT official in the Korogocho Slum Upgrading Program, Nairobi.

WB Representative. (2012, February 16). Official at the World Bank who was part of the implementation of the Kenya Informal Settlements Improvement Program, Nairobi.

APPENDICES

Research Clearance Certificates

Research Office

HUMAN RESEARCH ETHICS COMMITTEE (NON MEDICAL)
H110912 Maina

CLEARANCE CERTIFICATE	**PROTOCOL NUMBER H110912**
PROJECT TITLE	Implementation Challenges in Policy Transition: In-Situ Upgrading in Johannesburg and Nairobi.
INVESTIGATOR(S)	Ms M M Maina
SCHOOL/DEPARTMENT	Architecture and Planning
DATE CONSIDERED	16 September 2011
DECISION OF THE COMMITTEE	Approved Unconditionally
EXPIRY DATE	30 September 2013

DATE 24 September 2011 **CHAIRPERSON**
(Professor R Thornton)

cc: Prof. P Harrison

DECLARATION OF INVESTIGATOR(S)

To be completed in duplicate and **ONE COPY** returned to the Secretary at Room 10005, 10th Floor, Senate House, University.

I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure to be contemplated from the research procedure as approved I/we undertake to resubmit the protocol to the Committee. **I agree to completion of a yearly progress report.**

Signature **Date** 28 / 10 / 2011

PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES

REPUBLIC OF KENYA

NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Telegrams: "SCIENCETECH", Nairobi
Telephone: 254-020-241349, 2213102
254-020-310571, 2213123.
Fax: 254-020-2213215, 318245, 318249
When replying please quote

P.O. Box 30623-00100
NAIROBI-KENYA
Website: www.ncst.go.ke

Our Ref: NCST/RRI/12/1/ES-011/67

Date: 16th December, 2011

Miriam Maina Muthoni
University of Witwatersrand
Braamfontein 2017
SOUTH AFRICA

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on "***Implementation challenges in policy transition: In-Situ upgrading in Johannesburg & Nairobi***" I am pleased to inform you that you have been authorized to undertake research **in Nairobi Province** for a period ending ***31st December, 2013.***

You are advised to report to **the Provincial Commissioner and the Provincial Director of Education, Nairobi Province** before embarking on the research project.

On completion of the research, you are expected to submit **one hard copy and one soft copy** of the research report/thesis to our office.

Dr. M. K. Rugutt, Ph.D, HSC
DEPUTY COUNCIL SECRETARY

Copy to:

The Provincial Commissioner
Nairobi Province

CONDITIONS

1. You must report to the District Commissioner and the District Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit
2. Government Officers will not be interviewed with-out prior appointment.
3. No questionnaire will be used unless it has been approved.
4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.
5. You are required to submit at least two(2)/four(4) bound copies of your final report for Kenyans and non-Kenyans respectively.
6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice

REPUBLIC OF KENYA

RESEARCH CLEARANCE PERMIT

GPK6055t3mt10/2011

(CONDITIONS— see back page)

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THIS IS TO CERTIFY THAT:
Prof./Dr./Mr./Mrs./Miss/Institution
Miriam Maina Muthoni
Of (Address) University of Witwatersrand
Braamfontein 2017
SOUTH AFRICA
has been permitted to conduct research in

Location
Nairobi
District
Nairobi
Province

On the topic: Implementation challenges in policy transition: in Situ upgrading in Johannesburg & Nairobi

for a period ending *31st December 2012*

PAGE 3

Research Permit No. *NCST/RR1/12/1/ES011/67*
Date of issue *16th December 2011*
Fee received *KSH.1000*



Applicant's Signature

Secretary
National Council for Science and Technology