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“EMERGENCY HOUSING PROVISION IN THE CITY OF JOHANNESBURG”

Baone Samukele Twala

A research report submitted to the Faculty of Management, University of the Witwatersrand, in 50% fulfilment of the requirements for the degree of Master of Management (in the field of Governance and Public).

March 2024

Abstract

This research presents a qualitative case study into the City of Johannesburg's implementation of emergency housing within the context of South Africa's decentralised development goals. The study explores the challenges faced by local governments, particularly the City of Johannesburg, in their service delivery responsibilities. It examines the adoption of decentralised development in the political and administrative spheres of local government and the role of institutions like SALGA and COGTA in supporting local governments. The research also investigates the struggles of municipalities in applying developmental themes of inclusivity, accountability, and political and social change.

The backdrop of the study is the persisting housing backlog and the impact of the failures of the Reconstruction and Development Programme (RDP). The research highlights the complexities of providing emergency housing and temporary accommodation in the face of rapid urbanisation, poverty, and the legacy of apartheid spatial planning and housing policies.

The study utilises a case study research methodology to scrutinise the political and administrative implementation of developmental local government, their adoption of developmental theories, the opportunities of intergovernmental relations, and the impact on service delivery. The goal is to contribute to a better understanding of the complexities of decentralisation in South Africa and provide insights that could enhance the quality of service delivery, particularly in the provision of emergency housing and temporary accommodation.

There is a need to strengthen political and social change; and inclusivity in the City through improving engagement with communities and using resources to find more sustainable ways, in line with the capability and the human rights-based approach, to provide the temporary housing services. Implementing planned community engagement in areas where people are most vulnerable to eviction and emergencies that would require their relocation to temporary emergency accommodation or emergency housing

Keywords: decentralisation, developmental local government, emergency housing, temporary emergency accommodation, City of Johannesburg, service delivery.

DECLARATION

I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirements of the degree of Master of Management (in the field of Governance and Public Policy) in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

_____

Baone Samukele Twala

31 March 2024

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Dedication

This degree is dedicated to my parents Nimrod and Pabalelo Twala; and the living children ba ga Ohetotse Goitsone Mabe:

Lentle

Pabalelo

Masedi

Tebo

Jerry Junior

Mumsy

Khulekani

Leta

Leano

Laone

Ogone

Tuduetso

Oagolola

Tshepiso

Mischa

Thandi

Kayan

Lesedi

Palesa

Anele

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Chapter 1 - Introduction

1. Introduction

This report details qualitative case study research into City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. Chapter 1 sets the context of the research through a background, problem and purpose statement and the research question. Chapter entails the theoretical framework and literature review discussing the structural state organisation rooted in decentralised development, and the substantiative theories informing decentralised development through defining poverty as inequality and housing as a means to resolve poverty.

The study considers the capability approach and the human rights-based framework to inform development. Chapter two highlights a need for strengthening political and social belief and buy-in to the principles in the capability and the human rights-based approach. Chapter 3 discusses the case study methodology and the 4 sources of data used to achieve triangulation. Chapter 4 discusses the findings and applies the three main themes extracted from the theoretical framework and literature review. Chapter 5 concludes the report with a finding that the answer to the research question is the need to strengthening political and social belief and buy-in to the principles in the capability and the human rights-based approach.

2. Background

The year 2024 marks 30 years since South Africa began its efforts to provide subsidised housing to those in need. The failures of the Reconstruction and Development Programme ("RDP") are well documented, and its impact persists. The housing backlog was at 2 456 773 households in March 2023 (Parliamentary Monitoring Group, 2023). Rapid population growth continues to widen the gap between the backlog and people in need of housing (Parliamentary Monitoring Group, 2024). Lack of housing does not exist in a vacuum, rather it drives poverty and homelessness within a context of rapid urbanisation (Marutlulle, 2021). The City of Johannesburg represents job opportunities, access to services like education and health care; and affordable informal housing (Roche, 2022; Ayanda & Phosho, 2023).

The legacy of apartheid spatial planning and housing policies is a factor. The Constitutional Court interpreted the right to housing to include the right not to be evicted from their home

without an order of court after considering all relevant circumstances (The Constitution of the Republic of South Africa, 1996). Such a circumstance amounts to an emergency is housed within the Emergency housing programme in the National Housing Code 2009. Consequently, the state has a duty to provide temporary emergency accommodation where a court confirms that homelessness is imminent in the face of eviction. Thus government has failed to fulfil a positive, proactive obligation to provide permanent housing, it now has an obligation to address homelessness as it arises.

However such permanent housing was to be provided by national government and when it could not, local government was made an implementing agent of permanent housing programmes. Conversely, the duty to provide emergency accommodation, whether resulting from disaster or evictions, has been interpreted by the courts to fall squarely on municipalities. This situation manifests in a unique way in metropolitan municipalities like the City of Johannesburg. Johannesburg's inner-city is plagued by so called bad buildings which are derelict, run down and often hijacked. However people live in these buildings because they have no housing alternatives (Hofer & Gumbo, 2020; Wilson, 2014). The poverty rate in the City of Johannesburg is high with more than 50 % of households earning less than R3500 a month (Hofer & Gumbo, 2020, p. 1192). According to Johannesburg Social Housing Company, the lowest cost housing available costs R312, but the City's supply cannot meet the demand, so people turn to informal housing within the bad buildings (Johannesburg Social Housing Company (SOC) Ltd, 2021). These are the same buildings that the City will attempt to reclaim through evictions or encouraging private property owners to reclaim, resulting in a situation where the City is required to provide the evictees with temporary emergency accommodation which the City does not have because it has lost control over its buildings in the inner-city (Wilson, 2014; Hofer & Gumbo, 2020).

It is against this backdrop that the City tries to fulfil its decentralised developmental goal to eliminate poverty and inequality. The trend of the provision of temporary emergency accommodation and emergency housing is steeped in imposed obligation through litigation rather than being driven by political and social change.

3. Problem statement

The research occurs within the context of South Africa's developmental goals of decentralisation, which eschew local governments as best placed to provide services that communities need due to their proximity to communities. This includes provision of emergency housing and temporary accommodation when communities experience floods and fire; or evictions without access to alternative accommodation by municipalities like the City of Johannesburg. Despite such proximity; and laws and policies empowering municipalities to provide emergency housing, despite municipalities being best placed to access information on disasters: the provision and quality of emergency housing and the quality of the service delivery is substandard.

Local governments are floundering under their service delivery responsibilities. While the obligation to provide these services is established, understanding the challenges of local government within decentralised states is has not been well understood. Central governments provide fiscal, administrative and political decentralisation through laws, policies and allocation of funds but decentralisation is an iterative process. Although South Africa has built in various accountability systems into its decentralisation model, such as intergovernmental relations and support through institutions like SALGA and COGTA, as well fiscal reporting on use of funds; research shows that municipalities in South Africa are still struggling with applying developmental themes of:

- Inclusivity - people's agency and participation,
- Accountability – enforcing obligations against duty bearers,
- political and social change - administrative belief and adoption and reflection of inclusivity in practice and programmes, transition from welfarism to empowerment meaningful service delivery based on quality not quantity, inclusive urban spaces from empowerment over welfare, holistic approach to provision of emergency accommodation.

The research locates itself in the City of Johannesburg and uses case study research methodology to explore previously political and administrative implementation of developmental local government, their adoption of developmental theories, the

opportunities of intergovernmental relations and the impact on its delivery of services that is, emergency housing and temporary emergency accommodation.

4. Purpose Statement

The purpose of this research is to explore the how the City of Johannesburg interprets and responds to the decentralised developmental themes of inclusivity, accountability, and political and social change in its provision of emergency housing and temporary emergency accommodation within the context of the South Africa's decentralized development goals.

The research examines the extent of adoption of decentralised development in the political and administrative spheres of local government and the role of institutions like SALGA and COGTA in supporting local governments. It also investigates the struggles of municipalities in applying developmental themes of inclusivity, accountability, and political and social change.

Through a case study research methodology, the study scrutinizes the political and administrative implementation of developmental local government, their adoption of developmental theories, the opportunities of intergovernmental relations, and the impact on service delivery. The ultimate goal is to contribute to a better understanding of the complexities of decentralisation in South Africa and provide insights that could enhance the quality of service delivery, particularly in the provision of emergency housing and temporary accommodation.

5. Research Question

This study seeks to answer the following question:

"How does the City of Johannesburg interpret and respond to the decentralised developmental themes of inclusivity, accountability, and political and social change in their provision of emergency housing and temporary emergency accommodation?"

6. Conclusion

This chapter introduced the research on the City of Johannesburg's implementation of emergency housing within South Africa's decentralised development framework. It highlighted the persistent housing backlog and the challenges posed by rapid urbanisation, poverty, and apartheid's spatial planning legacy. The chapter identifies the problem of substandard emergency housing provision by local governments, despite their proximity to communities and the support from institutions like SALGA and COGTA. The chapter outlined

the study's aim to explore the extent of decentralised development adoption in local government and the role of intergovernmental relations in improving service delivery. The central research question focuses on how the City of Johannesburg interprets and responds to decentralised developmental themes in providing emergency housing and temporary accommodation. The theoretical framework comprises development, decentralisation theory, good governance, and the capability and human rights-based approaches to development.

Chapter 2 - Theoretical Framework and Literature Review

1. Introduction

The literature review outlines the theoretical framework informing the research question and the theoretical concepts within which to analyse and understand the data (Furlong & Lester, 2023; Bryman, 2012; Cresswell & Cresswell, 2018). The chapter begins by grounding the study in decentralisation theory and defines decentralisation, its types, its applications and its relevance for the study. The chapter then considers decentralised local government: theories on the role of local government in service delivery as a means of achieving development; the principles of good governance; implementation of good governance in South Africa; and challenges and criticisms of local government. Decentralised government and good governance are the mechanisms through which the issues are addressed in practice and the mechanism of focus in this study.

The chapter goes on to outline concepts and theories on emergency housing as a form of housing. Emergency housing is the lens through which the study explores the success and failure of decentralised local government in achieving developmental goals. Emergency housing is a microcosm and an element of poverty and inequality critical to achieving development. The issue is considered through the capability approach and the human rights-based approach. The approaches converge on similar overarching themes:

- Inclusivity - people's agency and participation,
- Accountability – enforcing obligations against duty bearers,
- political and social change - administrative belief and adoption and reflection of inclusivity in practice and programmes, transition from welfarism to empowerment meaningful service delivery based on quality not quantity, inclusive urban spaces from empowerment over welfare, holistic approach to provision of emergency accommodation.

Figure 1 provides a visual representation of the theoretical framework for the study. Key players that appear throughout the theoretical framework and implementation of the theory are the state or government, lay people (citizens and non-citizens) and what is referred to in this study as mediators. Mediators go between the state and lay people seeking to find common ground to either hold the state accountable and/or enable participation between

lay people and the state for purposes of improving mutual understanding of issues and coordinated, united effort to resolve such issues.

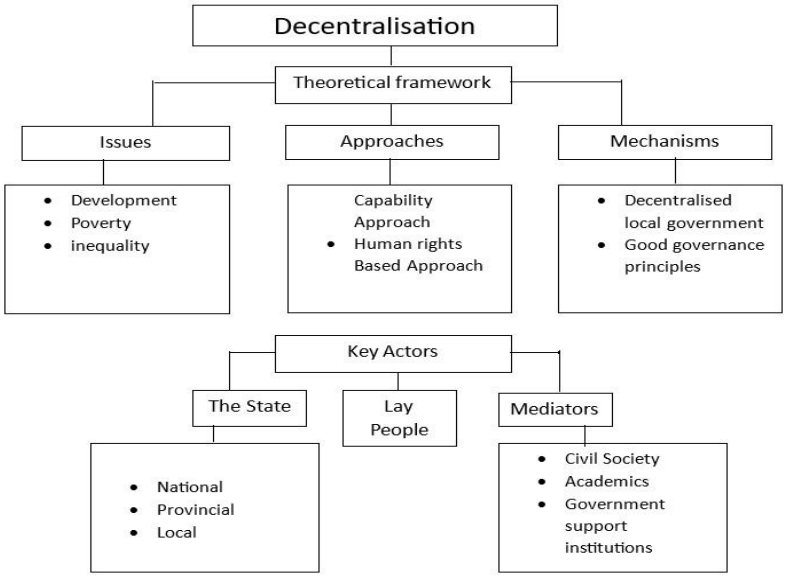


Figure 1: Theoretical framework

Source: Author's Own

2. Decentralised development

"Decentralisation consists in the transfer of a range of powers, responsibilities and resources from central government to subnational governments, defined as legal entities elected by universal suffrage and having some degree of autonomy" (OECD, 2019). This transfer occurs on a fiscal, administrative and political level. Thus, provincial and local governments will have their own executive, administrative and fiscal institutions, policies and processes for implementation (OECD, 2019). The central government largely serves to provide a framework within which these subnational governments work (OECD, 2019). Political decentralisation establishes the law necessary for the devolution of power, authority and revenue. It determines the means through which such subnational government comes by that power, whether through election or appointment (OECD, 2019, p. 31). Administrative decentralisation refers to the division of roles and governance tasks relating to planning, financing, management and implementation (OECD, 2019, p. 31). Such division of which is often determined based on anticipated effectiveness, efficiency and transparency (OECD, 2019, p. 31). Fiscal decentralisation refers to the delegation of taxes and/or spending (OECD, 2019, p. 31). Decentralisation takes many forms depending on the context and the type and

extent of the decentralisation which includes a combination of decentralisation in its three forms to varying extents, see *figure 2 – Decentralisation in unitary countries*.

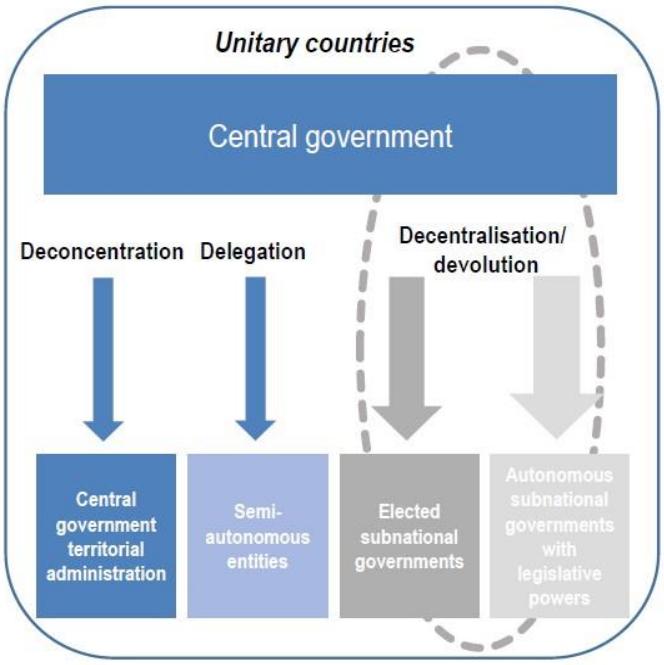


Figure 2: Decentralisation in unitary countries

Source: OECD, 2019

The three forms of decentralisation are co-dependent in their function and implementation, and inherently connected. There may be no delegation of authority (administrative decentralisation) without some basis in law (political decentralisation). Thus, decentralisation means different things to different people and is often subject to nomenclature. Consequently, decentralisation can be difficult define.

Devolution is decentralisation were granting full administrative, fiscal and political powers and autonomy to sub-national governments (OECD, 2019; Reddy P. , 2010). Delegation is a weaker form of decentralisation where there is a transfer of specific authority and decision-making from on one organ of state to another (Bardhan, Decentrlaisation of governance and development, 2002; Reddy P. , 2010; OECD, 2019). Decentralisation can be difficult to distinguish from deconcentration which is a transfer of specific administrative authority and functions to autonomous elected sub-national governments where such sub-national governments are autonomous even up to the national level (OECD, 2019, p. 30; Reddy P. , 2010, p. 68). Decentralisation must also be understood within the context of unitary versus federal states.

2.1. Decentralisation in developing countries

Despite varied understandings and applications of decentralisation, it is primarily a tool and strategy of development based on classical liberal theory (Conyers, 1986). Decentralisation, development and democracy are often associated due to the rise of decentralisation in the 1980s which coincided with independence and democracy in formerly colonised and/or oppressed countries (Chilenga-Butao, 2024). Decentralisation arose because of associated perceptions of failures of centralised governance systems. Such failures included delayed or sluggish response to people's needs which concentrated decision-making in the hands of the few, thereby limiting accountability and transparency (Bardhan, Decentrlaisation of governance and development, 2002; OECD, 2019; Reddy P. , 2010). The promise of decentralisation was its anticipated improvement for service delivery, accountability, transparency and public participation (Bardhan, Decentrlaisation of governance and development, 2002; OECD, 2019; Reddy P. , 2010).

Considerations for improved governance, accountability and service delivery resulted from assertion of human rights, requirements of international monetary institutions, and the expectation of economic growth (OECD, 2019; Reddy P. , 2010). Decentralisation is a vehicle for achieving development at national and local levels, that is, the elimination of poverty and inequality (Amegashie-Viglo, 2014; Reddy P. , 2010; Conyers, 1986). This global context created the perfect combination of factors that made decentralisation attractive There are numerous catalysts for decentralisation. Political transitions provided stimulus for overarching in depth changes to decentralisation such as South Africa's Constitutional Democracy which restructured much of its governance systems during its transition. Independence and democratisation meant that states needed financing which would be received from institutions like the International Monetary Fund (IMF).

Decentralisation's potential main benefits were political, economic and managerial (Kulipossa, 2004). Decentralisation was means and an end, it represents a break from political failures and would also be a means for resolving such failures among people and leadership. According to Kulipossa (2004, p. 768), decentralisation would emphasise political education, training in political leadership, and enhance political stability. Political education was a population level goal which would teach people the importance and intricacies of political debate, the process of selecting representatives, and make policies, plans, and budgets more

accessible by teaching people how they work, how to navigate and enforce them (Kulipossa, 2004, p. 768). Training in political leadership was intended for prospect leaders to develop policy making, political party operations, and budgeting skills with a view to improve the quality of politicians (Kulipossa, 2004). Political stability would then flow from such political training and education, so that participation would be more robust, thereby providing a mechanism for accountability and responsiveness because the people would use power in political participation to elect representatives that achieved desired results (Kulipossa, 2004). While decentralisation was a structural mechanism to distribute authority among government, it was also a means to disperse political power to the people. (Kulipossa, 2004)

Scholars agree that certain conditions must be in place for decentralisation to succeed. It is critical, when seeking to understand decentralisation in developing countries, to understand how the developing country context may affect these assumptions. Bardhan (2002) outlines these assumptions. Kulipossa (2004) provides a summation of the contextual conditions: strong enabling legal frameworks, political will, the allocation of substantial resources to local governments, a high degree of central state capacity, a well-developed civil society, a free press, a well-established multi-party system, a long experience with democracy, and high adult literacy (Kulipossa, 2004). The problem is firstly, a state can have any combination of these conditions or all of them, and secondly, the challenges that it experiences with decentralisation will be the same.

Bardhan (2002) explains the shortcomings with assumptions associated with these conditions. The main thrust of Bardhan's dispute against assumptions is that a condition does not result to only one outcome. The assumptions do not occur in silos but also influence each other. Thus the assumptions provide a means to organise theoretical expectations but impractical for understanding, predicting and responding to operationalisation of decentralisation, especially in developing countries. The first assumption Bardhan takes issue with is that citizens will be able to express their opinion and preference through elections in the presence of Kulipossa's conditions. However, residents may be excluded for many reasons particularly residents that are most in need and not receiving the public services that they need. For example, in the, an undercurrent of xenophobia and classism mean that public services which poor, foreign nationals are entitled to and rely on will be withheld, limited or of poor standard such as maternity and childcare, and emergency housing.

Secondly, that the money from the central government fulfils its intended need (Bardhan, Decentrlaisation of governance and development, 2002, p. 188). This does not always happen in developing countries due to weak accounting systems and monitoring mechanisms. Interference with money fulfilling its intended goal is corruption. Corruption Watch (2021) reported that housing and human settlements accounted for one of three departments most affected by corruption in the City of Johannesburg Municipality. Thirdly, "local democracy and mechanisms of political accountability are often weak" (Bardhan, Decentrlaisation of governance and development, 2002, p. 188). Fourth is that subnational governments seek to limit the central government's power and encourage independence. But in developing countries, the priority is to improve provision of public services to the marginalised, due to poverty or hard to reach localities (Bardhan, Decentrlaisation of governance and development, 2002).

Fifth, decentralisation assumes that subnational governments collect and spend funds, but this is more nuanced in developing countries. Usually, the central government collects revenue, and subnational governments manage their own budgets and spending. Allocations often lead to different spending budgets based on geography for example, metropolitans or more populous provinces in South Africa have greater budget than smaller or more rural provinces (International Monetary Fund, 2024). Sixth, all levels of government are assumed to have similar levels of technical and administrative capacity, which is often not so, as the local government often lacks these capacities. Possible reasons for this include local government's paucity in attracting and training skilled professionals. Local government can be professionally isolating and thus experience high staff turnover. Consequently, local government often does not know how to fulfil its mandate and often lacks the capacity to fulfil its mandate. (Bird, 1995).

Bardhan seeks to address how decentralisation can be adapted to developing countries. This adaptation addresses the implementation, manifestation and study of decentralisation in developing countries. It outlines the context and background of decentralisation in countries like South Africa. Decentralisation in developing countries belie a more general element of decentralisation. It illustrates the nuance of decentralisation process which is a living system that requires reforms and persistent adjustments to make the process more effective in achieving its aims (OECD, 2019).

2.2. Decentralisation outcomes

The literature on decentralisation and development focuses heavily on quantifiable elements of decentralisation, quantifying the political, administrative and economical; with a heavy emphasis on the fiscal (Bardhan & Mookherjee, 2006). This bias is understandable as being able to quantify something means that there is some objectivity and therefore predictability about the thing. The data on understanding the what the quantifications mean is more limited, less condensable in one flow other than that it is fragmented. Studies on understanding decentralised development are contextual and go deep rather than wide.

Scholars emphasise focusing on the outcomes of decentralisation rather than the inherent value of the subject. Which can be difficult to measure or assess because of the complexity and irregularity in how different countries implement decentralisation. Thus understanding decentralisation outcomes are key to understanding the challenges and successes of decentralisation. Motivations for decentralisation are a predictor of its outcomes which are summed up as: democracy, efficiency, accountability, regional and local development, and service delivery (OECD, 2019; Amegashie-Viglo, 2014; Reddy P. , 2010).

This paper focuses on service delivery and accountability for service delivery at the local government level as factors of the political element of decentralisation. Basic services are delegated to local governments due to their close proximity to the communities whose needs must be met (Amegashie-Viglo, 2014). Local governments are best placed to meet these needs as they are able to get access to information, have established networks and more efficiently respond to needs as they arise on the ground.

However, assessing administrative decentralisation is important to achieving outcomes as this sphere determines the management, policies, implementation of the fiscal and other resources. There is a gap in the literature in qualitative studies on decentralisation, and qualitative and quantitative studies on administrative decentralisation. This paper focuses on administrative decentralisation outcomes at the local government level in South Africa.

2.3. Good governance

Whereas decentralisation delineates responsibility, governance is the mechanism through which the resulting obligations are fulfilled. Governance has had a long arduous journey to take its current modern form. Governance encapsulates how various actors and institutions

work together to achieve economic growth and development, thus relying on collaboration across actors (Ukwandu, 2019, p. 11). These actors and institutions work within and across local, provincial and national levels and across sectors with government; and need the cooperation and participation of communities, private and non-governmental organisations (Ramovha, 2022; Ukwandu, 2019). Governance supersedes the tangible, somewhat organised spheres of government, and includes power dynamics and engagement between governance actors. Governance speaks to the system of management of administrative authority. Thus authority as a governance concept derives not just from political or statutory power but also from social power (Keping, 2017). Governance plays a critical role in development, one of the outcomes of decentralisation (Ukwandu, 2019). Good governance is best placed to achieve developmental objectives and is effective.

Good governance differentiates itself in that it is characterised by specific elements necessary for effective, democratic governance. The meaning of "good governance" is subjective and contextual and covers two broad areas: governance institutions and democracy. Good governance is a means to measure public administration. Thus good governance is effective governance which requires certain inputs to achieve outputs like good service delivery. The literature varies in its nomenclature of the characteristics of good governance, but Keping (2017) summarises them well. Keping (2017), supported by De Vries (2013) states that good governance is characterised by legitimacy, transparency, accountability, the rule of law, responsiveness and effectiveness. Consequently, service delivery is the result of good governance. Although Keping states that "good governance is the active and productive cooperation between the State and citizens" and thus public participation in political administration is needed for achieving good governance; cooperation within state institutions is also very critical to good governance (Keping, 2017, p. 6).

Legitimacy in good governance refers to voluntary, genuine recognition political power beyond legal legitimacy and statutory authority. There must be an acceptance, positive responsiveness and thus consenting collaboration with such administration. A key aspect is conflict management but also includes conflict management, but good governance will not wait for conflict to make efforts toward buy in (Keping, 2017; Ukwandu, 2019; De Vries, 2013). Legitimacy is strengthened by proactive efforts to inform and engage the people under the administration (Keping, 2017; Ukwandu, 2019; De Vries, 2013). Thus, leading to the second

element of good governance: transparency. Good governance is transparent which means information is political and administrative information is readily available and there is an effort to ensure it reaches people through media, public participation fora and similar mechanisms (Keping, 2017; Ukwandu, 2019; De Vries, 2013). This information includes access to policy, participation in policy-making; budget-making, budget, budget outcomes and expenditure; law and law-making (Keping, 2017; Ukwandu, 2019; De Vries, 2013)..

Public administrators' roles are linked to duties and obligations which require the fulfilment of certain functions. Where there is dereliction of duty or failure to fulfil such obligations or functions, administrators must be held accountable (Keping, 2017; Ukwandu, 2019; De Vries, 2013). Thus, the accountability element of good governance. The rule of law in good governance means that all public administrators submit themselves to a supreme principle and are all equal before the law (Keping, 2017; Ukwandu, 2019; De Vries, 2013). Thus regulating and restricting administrators' behaviour while also serving as a establishing the rights of citizens (Keping, 2017, p. 6; Ukwandu, 2019; De Vries, 2013). Thus it contributes to the element of promoting, protecting and fulfilling human rights associated with good governance.

Responsiveness is intrinsically linked to timely and responsible responses to citizen demands. Delays, denials and non-resolution must have a reason (Keping, 2017; Ukwandu, 2019; De Vries, 2013).. Responsiveness does not await issues to arise but proactively engages the citizenry for advice on issues and problem solving (Keping, 2017; Ukwandu, 2019; De Vries, 2013).. Effectiveness is management efficiency which means efficiency in administration and the cost of administration (Keping, 2017; Ukwandu, 2019; De Vries, 2013). Institutions that have good governance are rationally structured, scientifically designed and flexible (Keping, 2017; Ukwandu, 2019; De Vries, 2013). This means that they are organised well to best fulfil their obligations and functions. Each element of good governance is directly proportional to the level of good governance (Keping, 2017; Ukwandu, 2019; De Vries, 2013).. The high legitimacy, transparency, accountability, rule of law, responsiveness and effectiveness; the higher the level of good governance. The inverse is also true.

The context for good governance as a concept and theory is instructive for the purposes of the theoretical framing for this study. Financial institutions made good governance a

prerequisite for financing as “good governance is a pre-requisite of socio-economic development” (Ukwandu, 2019; De Vries, 2013). The lack of good governance provided an explanation for why financial interventions were not successful in the developmental project in newly independent, growing countries largely in the global south (Hufty, 2011). Consequently, good governance is chiefly theoretical in nature and like decentralisation, the practice and reality on the ground may not mirror the theory. In South Africa, good governance provides a guide and, simultaneously, a unit of assessment for local government.

3. Decentralised development in South Africa

The end of apartheid and the rebuilding of South Africa, as well as the international donor funding context in the early 1990s came together to provide a catalyst for South Africa’s refurbishment into a decentralised state (Masipa, 2018). The Constitution sets out the laws that would govern this decentralised state but also gives insight into the hope for what decentralisation would achieve. South Africa is a unitary state which applies the devolution with autonomous subnational provincial and local governments (Chilenga-Butao, 2024). The national government oversees national policy and fiscal frameworks, this level of government is responsible for planning and for allocation of resources to the provincial and local governments (Chilenga-Butao, 2024). Provincial government is responsible for implementation of national policies in the provision of social services in partnership with the local government, and each province has a legislative government (Chilenga-Butao, 2024). Local government is responsible for the provision of basic services like housing and disaster management response (Settlements, 2009).

Decentralisation was intended to be a vehicle for the realisation of democracy and human rights, where service delivery would be efficient, responsive, and effective; by a transparent, participatory and accountable government with the intention of achieving equity (Reddy P. , 2010; Amegashie-Viglo, 2014). Scholars agree that decentralisation in post-apartheid South Africa has been notably centred around the local government as a new level and thing within South Africa’s government structure (Nel & Binns, 2003; Tshishonga, 2021). The literature speaks in unison of an ailing and failing local government characterised elitism, corruption, service delivery protests and unfunded mandates (Reddy & Govender, 2013; Tshishonga, 2021; Visser, 2021). Tshishonga (2021, p.36) surmises that local government failure is driven by the following factors - systemic factors (linked to model of local government); policy and

legislative factors; political factors; weaknesses in the accountability systems; capacity and skills constraints; weak intergovernmental support and oversight; and issues associated with the inter-governmental relations were highlighted to be the root causes of dysfunctional municipalities. Consequently, this section on local government also considers intergovernmental relations within the discussion of local government. This section uses an inverse approach. It first sets out the policy and statutory framework local government and intergovernmental relations, then it discusses the literature on local government and intergovernmental relations challenges and shortcomings.

3.1. Local government statutory and policy frameworks

In the decentralised democratic South Africa states, the local government takes fiscal, political and administrative autonomy for the spheres within its responsibility (Makgopo, 2017). It is empowered to do so by section 152 of the Constitution, and they include provision of democratic and accountable government for local communities; ensuring the provision of services to communities in a sustainable manner; promoting social and economic development; promoting a safe and healthy environment; and encouraging the involvement of communities and community organisations in the matters of local government.

South African policy makers envisioned a developmental local government, within ideal conditions and did not adequately foresee and provide for the challenges that level of government would experience in attempting to fulfil its objectives. South Africa built scaffolding into the system to enable decentralisation to work. The White Paper is the guide to understanding what the local government was intended to be and to achieve.

The Constitution of the Republic of South Africa

Municipalities fall under chapter 7 of the Constitution. Chapter seven establishes municipalities and their various categories, the status of municipalities, the objects of local government, the developmental duties of municipalities, and the powers and functions of municipalities (The Constitution of the Republic of South Africa, 1996). Section 151 vests municipalities with the executive and legislative authority; and gives municipalities the right to govern local government its own affairs and national or a provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions (The Constitution of the Republic of South Africa, 1996). Section 152 of the Constitution establishes municipalities as developmental local government which means they

are obliged to support social and economic development; and provide their constituencies with basic and fundamental services (The Constitution of the Republic of South Africa, 1996). Municipalities are democratically elected and are an accountable level of government that is accessible through self-stimulated public participation of local communities and organisations (Fuo, 2014).

White Paper

The White Paper envisioned a local government that enabled a developmental government that empowered social and economic growth. Local government was to play a pivotal role in the democratic and equalised South Africa by serving as a medium for redressing the inequalities of the past through the provision of infrastructure, services, local economic and community development. To do this local governments were to use integrated development plans (IDP) to strategise and plan for achieving these outcomes, thus also improving budgeting for such plans. Implementation of IDP plans was to be monitored and motivated by a through performance management. Lastly, incorporating public participation into governance at the local level was intended to ensure that local government fulfilled its vision as foreseen in the White Paper. The IDP, performance management and public participation represented implementation of administrative decentralisation.

Although autonomous, local government operates within in a system of government which exceeds merely creating laws to enable local government autonomy and transfer of funds. Intergovernmental cooperation was to ensure continued delegation, support and cooperation between levels of government. The structure of the White Paper alludes to a one directional cooperation where local government would become the arm of the national government to execute programs to achieve public policy and delegates functions. It was also left to local government to bring its needs to the attention of the national government.

Local Government: Municipal Structures Act No. 112 of 1998 (as amended)

This statute sets out the categories or tiers of municipalities: metropolitan, local and district. Metropolitan municipalities have local legislative and exclusive jurisdiction; and district municipalities share local executive and legislative responsibility and a group of district municipalities with a territory form a local municipality (Monkam, 2014).

Local Government: Municipal Systems Act (MSA) RSA, 2000

The preamble of the Municipal Systems Act 2000 (Act 32 of 2000) underscores the significance of community engagement in local governance, recognizing it as a pivotal element that fosters meaningful interactions between the government and its constituents. This engagement is integral to various aspects such as performance management, service delivery, and planning, as highlighted by (Mlambo & Maserumule, 2023, p. 14). The legislation delineates the principles, processes, and tools aimed at fostering social and economic advancement within local communities, thereby promoting developmental local governance (Local Government: Municipal Systems Act No. 32 of 2000).

Furthermore, it establishes a framework for planning, performance management, resource mobilization, and organizational transformation, ensuring equitable access to affordable services for all (Local Government: Municipal Systems Act No. 32 of 2000). Consequently, Section 21 of the Act emphasizes the necessity of cultivating values that promote community participation, delineating procedures for community engagement, public notification of council meetings, and fostering communication between the council and local residents. These principles collectively embody the ethos of developmental local governance within a democratic and progressive state.

Local Government: Municipal Finance Management Act 56 of 2003

The objective of the MFMA is to update budgeting, accounting, and financial management procedures, thereby establishing a stable financial foundation for local government operations, ultimately enhancing municipalities' ability to provide services to their communities effectively. Additionally, it seeks to establish a robust financial governance structure by delineating the roles and duties of the council, mayor, and officials (National Treasury, 2024).

Mandated by the Constitution, the MFMA ensures transparency in financial matters across all government tiers. Moreover, it is a crucial component of the comprehensive local government reform outlined in the 1998 White Paper on Local Government (National Treasury, 2024).

3.2. Co-operative governance

The Constitution of the Republic of South Africa

Chapter 3 of the Constitution legislates principles of co-operative governance which fundamentally involve a dedication to a governmental framework that not only underscores the boundaries of authority for each level of governance but also endeavours to collaborate in partnership, particularly in situations where these authorities overlap (The Constitution of the Republic of South Africa, 1996; Visser, 2021).

Intergovernmental Relations Framework Act No. 13 of 2005 (IRFA). and Intergovernmental Fiscal Relations Act No. 97 of 1997(IFRA)

These two statutes provide for general intergovernmental frameworks that allow for co-operative cooperation between levels of government, and between national, provincial and local departmental lead counterparts "align strategies and iron out difficulties" (Intergovernmental Relations Framework Act No. 13 of 2005 ; Intergovernmental Fiscal Relations Act No. 97 of 1997; Visser, 2021, p. 35).

Sector-specific laws frequently establish a particular inter-governmental relations framework, which supersedes the general framework outlined in IRFA. For instance, section 4 of the Disaster Management Act No. 57 of 2002 stipulates the formation of an Inter-Governmental Committee on Disaster Management (Disaster Management Act No. 57 of 2002). This committee consists of the Minister of Cooperative Governance and Traditional Affairs (COGTA), the Members of the Executive Council (MECs) responsible for disaster management, and a representative from organized local government (Disaster Management Act No. 57 of 2002 ; Visser, 2021).

Sections 9 to 15 of the IRFA additionally outline the establishment of the 'Ministers Forum of Members of the Executive Committee, known as "MINMEC", which serve as platforms for national ministers to convene with their provincial counterparts, and local representative where the discussions pertain to a local government jurisdiction (see section 10(1)1(d) of IRFA (Intergovernmental Relations Framework Act No. 13 of 2005).

Integrated Development Planning (IDP)

The IDP is a municipality's five-year plan that forms the basis of its budget *and is provided for in chapter 5 of Local Government: Municipal Systems Act* (Local Government: Municipal Systems Act No. 32 of 2000). The municipal Integrated Development Plan (IDP) is a strategic

planning process that engages (1) the municipality's community, (2) its political and administrative leadership, and (3) all state organs with plans and programs within the municipality. *The IDP encourages cooperation by* involv*ing* the community of th*e* municipality, the political *and administrative* leadership of the municipality, *and* all the organs of state that have plans and programmes in the municipality (Local Government: Municipal Systems Act No. 32 of 2000 (Visser, 2021, p. 40)).

The South African Local Government Association (SALGA) is a member-based association that acts as a unifying body that represents the interests of the diverse range of local governments authorities in South Africa (SALGA, 2023, p. 007). SALGA serves as a collective voice for municipalities, advocating for their needs and priorities at the national and provincial levels of government in for a like MINMEC (SALGA, 2023, p. 007).

3.3. Local government and co-operative governance discussion

There are many sources that have reviewed the extent to which local government is achieving its objectives. Wall (2022) conducts a 20-year review of the White Paper and finds that the White Paper was too idealistic and local government has struggled to attain to its reach, especially in relation to service delivery. Wall (2022) collates several sources of data that measure municipalities' performance with respect to service delivery.

These sources include service-delivery protests (e.g., as measured by Municipal IQ); The findings of the 'report cards' prepared by the SAICE on the condition of public sector infrastructure; 'strategic overviews of the water sector' produced each year by the DWS (e.g., DWS, 2017); Green Drop Certifications (DWS, 2022) and the Auditor General's annual reports on municipalities. These studies and reports all found most municipalities' infrastructure to be poor quality, most municipalities had poor service delivery which specifically affected the poor; most municipalities did not have the adequate financial resources or financial management of their resources; and lastly most municipalities had poor accountability structures (Wall, 2022, p. 273).

Mlambo and Maserumule (2023) found that the following difficulties affected local government's ability to meet its developmental goals: "the need for policy recognition, a lack of technical and financial resources, economic collapse, a lack of high-quality services and poverty. Government has also conducted policy reviews and attributed delayed development

and poor service delivery to weaknesses in local government" (Mlambo & Maserumule, 2023, p. 10). A 25-year policy review (2019, p. 8) recognised local government's limited capacity to provide service delivery. Local government incapacity to meet their objectives is a long existing issue (Wall, 2022; Tshishonga, 2021; Reddy & Govender, 2013). Increased municipal responsibility due to rapid population growth and increased delegation of problematic functions, and disjuncture between national and province, and municipalities in communicating and coordinating on issues in municipality's purview (Mlambo & Maserumule, 2023, p. 10).

Some argue that local government has made significant subjective progress post-apartheid in realising social and economic development (Mlambo & Maserumule, 2023). It is arguable that this progress results from the transfer of legislative, political and administrative power, function and responsibilities (Dipholo & Tshishinga, 2011). Local government is not solely responsible for its current status, national and provincial have contributed in their failure to adequately support local government while controlling its access to money due to the governmental structure (Koelble & Siddle, 2014). Integrated development planning (IDP) is intended to provide a space for government to co-ordinate, collaborate and align their strategies but province and national engage in this process to a limited extent and the same may be said about municipalities input into provincial planning (Reddy & Govender, 2013).

Koelble and Siddle (2014, p. 18) conducted research that found that on 16.3% of metropolitan municipalities' revenue was grant funded, that is supported by programmatic funding from national and not raised by the municipality. In other municipalities', grant funding comprised 40% of their budget. Thus metropolitan municipalities complain of low budget and lack of access to programmatic grant funding. This also amounts to an issue of accountability, especially on programmatic funding. No programmatic funding means no accountability to national government on the spending of such funds. Alternative, high municipally funded budget empowers the people to hold municipalities accountable for expenditure but this only works if a municipality has invested incorporating public participation in its policies and administrative processes (Koelble & Siddle, 2014; Tshishonga, 2021; Mlambo & Maserumule, 2023).

Intergovernmental relations are intended to mitigate and facilitate relations and collaboration between spheres of government (Ramoganyane & Jarbandhan, 2018). Ramoganyane and Jarbandhan (2018) conducted a study on intergovernmental relations between provincial and local government in Gauteng. The student found that the "current structural configuration of provincial and local government in Gauteng poses major institutional and systemic challenges to the structure and practice of IGR and cooperative governance in the province" (Ramoganyane & Jarbandhan, 2018, p. 153). There was a "fragmented and ad-hoc approach to intergovernmental relations" due to silo-based thinking fuelled by inward thinking in an attempt to fulfil individual mandates within a hierarchical approach not reflective of what is envisioned legislatively or in policy (Ramoganyane & Jarbandhan, 2018, p. 153). Ramoganyane and Jarbandhan (2018) suggested that the study has implications for policy and legislation, one surprising implication being a need for further decentralisation and devolution of functional areas, such as housing, to high capacity local government to improve effectiveness (Ramoganyane & Jarbandhan, 2018, p. 157).

Local governments are contending with obstacles in service delivery stemming from limitations in management, institutional capacity, financial resources, and technical capabilities. Consequently, the matter of privatization continues to gain popularity (Reddy & Govender, 2013). The temptation to privatise is especially high in managing unfunded mandates delegated to municipalities by national and provincial government (Reddy & Govender, 2013). One can argue that temporary emergency housing amounts to an unfunded mandate where obligations for responsibility are clear and source of funding is inferred but insufficient and not aligned with grant funded housing. Alternatively, that funded mandates can result in unfunded mandates as with the obligation to provide temporary emergency accommodation in the event of an emergency. Privatisation encourages a model where goods and services are provided on the premise of one's ability to pay which does not align with South African context and developmental goals (Makara, 2018).

There is an abundance of schools of thought on solutions to improve local government and intergovernmental relations. The study focuses on the political and administrative sphere. Parnell (2004) summarises the two key themes necessary for local government successfully meeting its developmental objectives. Firstly, local government's institutional capacity, and the strategy necessary to achieve developmental aims (Parnell, 2004, p. 378). Such strategies

are in local government policy which local government has struggled with developing due to lack of capacity and support from national and provincial government. Key indicators are local governments' failures to incorporate public participation in policy making (Burgoyne, 2008, p. 85). Makara attributes this to an unwillingness to empower the people. Makara goes on to say that political buy in to developmental decentralisation by local governments is important to achieve good governance. Makara argues political motivation if it effects efficient service delivery and good governance. Local government should approach their sphere of governance with the aim to serve and win over the people. Thereby attaining a level of political power that an aloof central government would struggle to obtain. This idea must be adapted to the South African experience especially metropolitan municipalities like the City of Johannesburg which is plagued by coalition governments and political instability.

4. Housing theoretical framework

This section discusses three theories underpinning housing and access to housing. The discussion of three theories serves to provide correlation and emphasise synthesis on recurring themes in understanding housing and access to housing. The synthesis of the theories is instructive in underpinning the themes of the study. The theories inform different disciplines such as urban studies and urban planning, development and public policy per the capability approach; and law and social justice according to the human rights-based approach. Recurring themes in all the theories highlight the importance of understanding the context of the individual or community for whom housing is intended which includes poverty, employment and social, economic and cultural contexts. Secondly, responsiveness that respects and supports the individual's ability to make choices and to have access to the things they need to live like work, community and public services. Lastly all the themes highlight that responsiveness is inclusive and responsive to these contexts and achieving such outcomes. The themes also emphasise the value of interdisciplinary understanding and approaching to housing that is reflective of intergovernmental cooperation in facilitating a more responsive local government provision of emergency housing.

The housing program was, and still is, a critical aspect of South Africa's goals for equality, democracy, transformation, development and ending poverty. There is a distinction between how these goals are fulfilled and influenced by the urban and rural contexts. Since the study focuses on the City of Johannesburg, this framework will focus on the urban context and how

urbanisation influences housing and emergency housing in the city. South Africa was well informed to seek to achieve these goals through the provision of housing as first and most obviously, housing, migration and displacement are ingrained in South Africa's apartheid past and its consequences persist today.

4.1. Poverty and Inequality

Apartheid housing and urban planning policy displaced black people from urban areas and resettlement outside the city, in Bantustans and townships with poor provision of basic services such as water, electricity and sanitation (Seekings, 2010; Totaforti, 2020). Such approaches are mirrored in the provision of housing and basic services today (Yap, 2021; Mcgranahan, 2014). This impact on housing resulting from apartheid has not remained stagnant, rather it has fuelled other elements of influence on urbanisation as reflected primarily in the legacy of social engineering through urban planning and policy in South Africa today (Seekings, 2010). The legacy of apartheid and increasing migration to and within urban areas helps us to understand and predict the demographics of the poor and understand patterns for vulnerabilities to housing crises (Tacoli & McGranahan, 2015). The legacy of apartheid also perpetuates poor or no provision of basic services like water, electricity and sanitation to areas on the outskirts of the city, geographically, economically and racially (Yap, 2021). Thus the history of apartheid provides insight into the drivers behind urban growth, which is intricately linked with poverty (Yap, 2021; Tacoli & McGranahan, 2015; Mcgranahan, 2014).

Urbanisation and urban growth are sometimes used interchangeably. Urbanisation refers to "the proportion of the total national population living in areas classed as urban)" which can be impacted by the spread of the borders of spatial areas, the conversion of formerly rural areas into urban areas; or increased development increasing people living in urban areas (Tacoli & McGranahan, 2015, p. 4; Mcgranahan, 2014). Urban growth refers to the absolute number of people living in areas classed as urban (Tacoli & McGranahan, 2015, p. 4). While migration from rural to urban areas is a critical element in urbanisation, it accounts has a limited role in urban growth which is often the result of natural population growth (Tacoli & McGranahan, 2015, p. 4).. Thus intra-urban migration is the main driver for urbanisation, the pressures of which disproportionately affect the poor due to poor planning for natural population growth within urban areas (Tacoli & McGranahan, 2015; Mcgranahan, 2014).

Urbanisation is relevant to understanding the reasons influencing South Africa's challenges in providing housing and the increasing need for emergency housing. Urbanisation also provides the demographic and spatial context within which local governments are expected to provide basic services and emergency housing.

Poverty is one of the goals which South Africa's social housing program is intended to resolve, and it is a leading contributor to the urbanisation trend. Tacoli and others (2015) explain that cities represent opportunity for those with lower socio-economic resources as they offer access to services like transport, basic education, healthcare, and job opportunities. Measuring poverty is usually limited to household income, to the exclusion of housing but housing is great indicator and factor the influences poverty. Thus resolving housing directly contributes to resolving poverty as it decreases the factors of disadvantage to poverty (Mitchell & Macció, 2021; Tacoli & McGranahan, 2015). This effect is known as the "declustering of disadvantage" (Mitchell & Macció, 2021). Satterthwaite (2001, p. 146) outlines eight aspects of urban poverty which provide some insight into the elements that contribute to the cluster of disadvantage:

- Inadequate income – which leads to inadequate consumption of necessities including food, safe water; and indebtedness which reduces income available for necessities (Satterthwaite, 2001, p. 146)
- Inadequate, unstable or risky asset base – that is the non-material and material assets like educational attainment and housing on an individual, household and community level (Satterthwaite, 2001, p. 146)
- Inadequate shelter – that is poor quality, overcrowded and insecure shelter (Satterthwaite, 2001, p. 146)
- Inadequate provision of public infrastructure – such as piped water, sanitation, drainage, roads, and footpaths which increases the health burden and the work burden (Satterthwaite, 2001, p. 146)
- Inadequate provision for basic services – such as day care, schools, vocational training, health care, emergency services, public transport, communications and law enforcement (Satterthwaite, 2001, p. 146)

- Limited or no safety net – which would ensure basic consumption can be maintained when income fails; and to ensure access to shelter and health care when these can no longer be paid for (Satterthwaite, 2001, p. 146)
- Inadequate protection of poorer groups' rights through the operation of the law – including laws and regulations regarding civil and political rights, occupational health and safety, pollution control, environmental health, protection from violence and other crimes, protection from discrimination and exploitation (Satterthwaite, 2001, p. 146)
- Poorer groups voicelessness and powerlessness – particularly within political systems and bureaucratic structures, leading to little or no possibility of receiving entitlements, organising, making demands; and getting a fair response. No means of ensuring accountability from aid agencies, NGOs, public agencies and public utilities. (Satterthwaite, 2001, p. 146)

Satterthwaite's eight elements of poverty come together in various ways to form clusters of disadvantage that perpetuate poverty. A mother of three who works in informal housing may be evicted from her home, due to her inconsistent income she may not be able to afford alternative accommodation and may be moved to a shelter or temporary accommodation provided by the city. The emergency housing may be located outside the city and thus away from her income source, it may also affect the cost of transport and access to schools and health care. Health care may then be compromised by poor sanitation in the temporary location and it may become more dangerous for her to travel in the early morning and late at night. This scenario illustrates the clusters of disadvantage based on Satterthwaite's elements of poverty. It also illustrates reasons for ensuring that emergency housing is supported by requisite basic services and does not only amount to a shelter with four walls and a roof. The quality of emergency housing is discussed later in this section.

Thus, South Africa was correct in its plan to use housing also to achieve equality. Housing, or lack thereof, is inextricably linked to inequality. Although the study focuses on housing, inequality and housing is more complex than inequality of those who have a home and those who do not., Lack of housing is multi-dimensional and often compounding with black women and children being the most vulnerable to and experiencing inequality (Chenwi, 2009; Tacoli & McGranahan, 2015; Yap, 2021). Inequality is opportunistic, adaptable and infiltrating. The

Global Report on Local Democracy and Decentralisation (GOLD VI) is the product of an international, large scale research effort consisting over 100 local and regional government representatives, academics and civil society organisations. Included in the report is a paper that encapsulates the various forms of inequality in urban spaces by Yap, Cociña, and Levy (2021). Yap and others' work informs much of this section on the connection between housing and inequality. This section discusses the link between housing and inequality as prevalent in income and wealth, employment, land and housing, basic services, health, and transport.

Income inequality refers to the distribution of wealth within a population. The Palma ratio is the most popular measure for inequality which assumes that the income of the middle 50% remains fairly constant. So it measures the income of the richest ten percent compared to the poorest 40% in the population. According to Euromonitor's ranking of 126 countries, using the Palms method, Johannesburg has the highest level of income inequality in the world, where the top 10% of the population earns 13.4 times more than the bottom 40% (Roche, 2022, p. 48). This finding is consistent with the recognition that income inequality is concentrated in urban areas and is a product of many factors including socio-economic and urban governance factors. Income inequality constrains and limits access to housing for people with low income (Dewilde, 2013; Dong, 2017). The higher income inequality, the higher the likelihood of housing affordability challenges (Dewilde, 2013; Dong, 2017). Studies show that the lower one's income, the lower the quality of housing and the increased likelihood of crowding (Dewilde, 2013; Dong, 2017).

According to Yap and others (2021), the informal economy comprises around 50% – 80% of urban employment in the global south; and in Africa, 89.7% of employed women are employed in the informal sector. This is partly due to barriers that women face when seeking work in the formal sector. The informality of the informal market should not be equated with illegitimacy. Rather the informal sector contributes significantly to the economy. Access to informal labour or the informal market can be critical for people seeking social housing, and should be considered when relocating people to emergency housing.

"1.6 billion people or 20% of the world's population live in inadequate, crowded and unsafe housing" and affordability of formal and informal housing for homeowners and renters affects people's ability to access affordable housing (Yap, 2021, p. 13). Such poor access to housing

is concurrent with the increase in "under-serviced, substandard and insecure housing that is disconnected from livelihood options" (Yap, 2021, p. 14). The location of housing also affects access to services like transport, likelihood of pollution, quality of food accessed among others. Housing inequality has a disproportionate and gendered impact where women struggle to access land and housing. People living in low cost or informal housing are vulnerable to evictions or disasters; and such evictions can be disruptive to households' way of life and livelihood. Where people are relocated to public housing or temporary relocation sites, they may be moved far from the hub of their livelihood and education; and may never be able to return.

"The urban poor and likely poorly housed, are more likely to die from potentially preventative infectious diseases and are more likely to die at a younger age than more affluent inhabitants." (Yap, 2021, p. 15) Factors that increase the urban poor's vulnerability to health issues or untimely death include lack of access to basic services like clean water and sanitation (Yap, 2021). Compromised health or injury then perpetuate the cycle of poverty for affected individuals and their households.

Additionally, inadequate access to basic services like potent water, and sanitation have dire economic consequences for people in low cost or informal housing. Lack of access to basic services in such conditions often cause an increase in informal provision of services like paying up to 52 times the cost of piped water for clean water; where it would be much more cost-effective for the government to service them with piped water (Yap, 2021). Lack of energy or electricity forces people in low cost or informal housing to use fires or paraffin gas (Kimemia, 2021). School libraries and health care facilities are also services that are often missing in areas with low cost or informal housing due to lack of investment in building such facilities or providing them in a limited way in such areas (Yap, 2021).

"…Transport is also critical to the web of population, sociocultural and economic resource flows between small towns, large cities and territories at regional, national and global scales" (Yap, 2021, p. 21). Transport is particularly important for access to employment and the more underserved a community is with transport, the more disproportionate their travel times. This has been shown to influence people in such areas to refuse employment due to lack of transport.

Overall, poor basic services, lack of transport and the impact on labour also mean that people in low income or public housing have increased work as they must fulfil average household and employment or labour related work, and they must work harder to compensate for poor services like having to que at a communal tap in an informal community or wake up earlier and get home later due to limited availability of transport. Thus, providing quality housing, would be effective in attaining equality and mitigating the impact of inequality in the lives of the poor.

4.2. Addressing poverty and inequality: City of Johannesburg

Johannesburg is a metropolitan municipality which is a type of municipality that has local legislative and exclusive jurisdiction, and the largest metropolitan municipality with an estimated population of 5.5 million in 2017 (Abrahams & Everatt, 2019, p. 260). It is mandated to provide services like water, sanitation and electricity; and make regulations on functions within its jurisdiction which include but are not limited to things like traffic regulations, street trading, and transparency and accountability in the fiscal and financial affairs of municipalities and municipal entities (Cartwright & Marrengane, 2016). The City is rapidly growing and densely populated with 3281 persons per square kilometre in 2017 (Abrahams & Everatt, 2019, p. 260). Therefore the City has an urgent infrastructure demand without significant supply to meet the demand. The City of Johannesburg has pressing challenges. Abrahams and Everatt (2019) say that the City's struggles to maintain collaborative relations with provincial and national government, especially on areas of concurrent jurisdiction like housing.

Pieterse (2019, p. 21) argues that "developmental local government demands an agnostic spirit rooted in the right to the city movement and discourse". The movement is premised on the human rights-based approach which is discussed later in this chapter. The City has not taken this approach and the result has been as predicted by Cartwright and Marrengane (2016) – stagnation. Upon superficial inspection, the City seems to subscribe to and embody neoliberalism (Didier, Morange, & Peyroux, 2012; Winkler, 2011; cf. Harrison, Gotz, Todes, & Wray, 2014). Pieterse (2019) defends the City arguing that the City is trying to make trade-offs to increase economic activity to fund social development. Since Pieterse (2019) qualifies his argument by saying that evidence is yet to be seen, this study aligns itself with evidence of neoliberalism and antipoor sentiment in the City that rejects developmental theories to the disadvantage of the poor. Rather, the City's approach to its obligation to provide

temporary emergency accommodation and in its delivery emergency accommodation is evidence enough.

4.3. Addressing Poverty and Inequality: Capability Approach

The capability approach was first introduced by an economist philosopher named Amartya Sen (Kimhur, 2018; Vizard, 2013; Robeyns, 2017). The approach is an alternative to more traditional economic measurement of prosperity and progress, and is intended to provide a deeper, more comprehensive measure of development (Wells, 2024). The traditional approach focused on outcomes as measures of developmental success. Thus a housing programme was successful if it delivered x number of houses. Sen's approach seeks to look more closely at the impact of such provision on the well-being of the recipients of the homes. Sen's capabilities approach and speak to SA's goals to contribute to development through housing, and its development-focus in choosing to organise into a decentralised state.

The capability approach seeks to evaluate well-being rather than focusing only on means or resources (Wells, 2024). The approach recognises that means do not equate well-being as the abilities of individuals to convert those means (Kimhur, 2018). Wells (2024) outlines that the capability approach is based on the following ideas on well-being:

- Variation in individuals' ability to convert means in "valuable functionings" called "being and doings"
- People's own evaluation of their wellbeing is unreliable and insufficient as their perspective can be affected by their circumstances so that they are unable to provide neutral evaluations of their well-being
- Choice is important, the lack of choice is significant. Thus, focusing on means or resources would consider two individuals with houses as equal but if one the individuals chooses the location of the house while the other cannot, that lack of choice is significant.
- Evaluations should be context specific because the details and information specific to the context is significant.

The core concepts of the capability approach feed into each other and represent different categories of the approach. They comprise functioning and capability, valuation, and evaluations. Functionings are states of "being and doing" like being healthy which is distinguishable from having access to health care (Wells, 2024). Capabilities refers to freedoms to access valuable functionings (Wells, 2024). They represent the presence of choice of functionings combinations that work for them and create a life of value, that value being determined by well-being (Wells, 2024). Sen's capability approach is people centred, particularly in the developmental context, recognising that individual have different combinations of what would enable them to be well, and to approach that exercise from a positive consideration rather than need or welfarism.

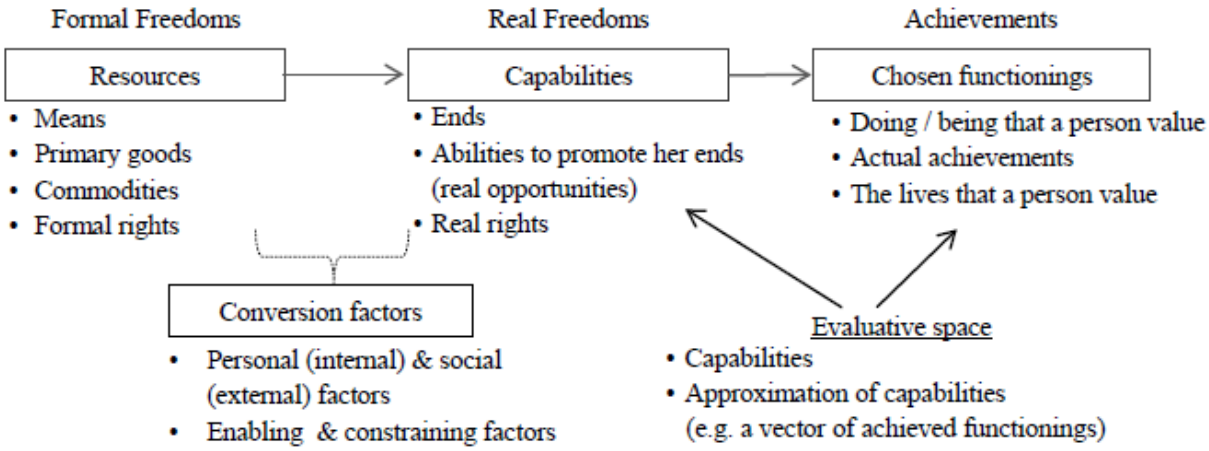


Figure 3: Capability framework

Source: Kimhur, 2018

Functionings and capabilities represent a deeper investment into the person than a superficial satisfaction of quotas. They allow for equity and social justice that is responsive to the needs of the individuals and communities. Valuations are how Sen creates a valuation procedure to determine the relevant functionings necessary for a good life (Wells, 2024). Sen proposes that this should be done on an ad-hoc basis based on the people in question and does not commit to a specific universal list of such functionings (Kimhur, 2018; Vizard, 2013; Robeyns, 2017). Functionings and capabilities inform policy decisions and objectives in a way that seeks to achieve well-being. The issue with a non-specific list is that it makes valuation difficult to measure or compare. This is a criticism that Sen's approach has faced and why Nassbaum, another philosopher seeking to improve on and provide alternatives for Sen's approach offers

a universal list of capabilities which would serve as a starting point for determining capabilities (Nassbaum, 2011). Sen recognises the need to do so and allows an agreement on basic capabilities for purposes of determining "urgent moral and political priorities" in a specific context (Wells, 2024).

Evaluations relates to the assessment of capability, what freedoms do people have to live a good life (Wells, 2024)? This is phrased positively, rather than asking what resources or means one has. Wells (2024) best articulates this when he says, "assessing capability is more informationally demanding than other accounts of advantage since it not only takes a much broader view of what well-being achievement consists in but also tries to assess the freedom people actually have to choose high quality options". This is a measure of significance of intervention than a tally of interventions. For example, building six emergency housing centres in a middle or upper-class suburb does not significantly change the choices that the people in that area have. If there is an emergency, they are likely to claim from their insurance, have suitable, comfortable shelter provided in a place that allows them to have consistent access to their community and usual services that they rely on. Contrarily establishing emergency accommodations near locals where indigent people are vulnerable to emergencies provides alternatives for those people so that they are not forced to be relocated in the event of an emergency. The presence of emergency accommodation increases people's choice even though it may not provide permanent housing that takes away the need for emergency housing. Thus the capability approach has a breadth of dimension in evaluating a person's capabilities and choices, thereby prioritising choice as a significant element of evaluating progress, well-being and development.

Although Sen (1999, p. 70 – 71) disagrees with a list of capabilities, his approach allows for variations in assessing relationships between people and resources (for example, real income) in the following ways:

- Individuals' heterogeneity – "People have disparate physical characteristics such as age, gender, race ability and so on which make their needs diverse." (Sen, 1999, p. 70) A woman may need water and sanitation differently to a man due to her physiology. Thus the way that she is affected by lack or successful access to water and sanitation public services is different. Such access still does not change the quality of life available

to her to be exactly like a man's because she would not be relieved of the hormonal physiology that distinguishes her from men. Access also does not resolve the difference between her and a woman with higher income with higher income who may have the resources to mitigate such lack of access using her private means (Sen, 1999).

- Environmental diversity – "Variations in environmental conditions, such as climatic circumstances (temperature ranges, rainfall, flooding and so on), can influence what a person gets out of a given level of income. Heating and clothing requirements of the poor in colder climates cause problems that may not be shared by equally poor people in warmer climates." (Sen, 1999, p. 70)
- Differences in social climate – "The conversion of personal incomes and resources into the quality of life is influenced also by social conditions" (Sen, 1999, p. 70). Social climate includes community relationships, literacy, education, prevalence or absence of violence or crime (Sen, 1999).
- Variance in relational perspectives – how one behaves in an environment can differ based on their individual circumstances such as being relatively poor in a rich community can affect the person's ability to build relationships or participate in the community. This may be because they are not familiar with the language or does not share similar experiences; their appearance may visibly negatively distinguish them from the community as it shows that they do not belong (Sen, 1999).
- Distribution within the family – the family is the basis of consideration for the distribution of income. The well-being of individuals in the family depends on the use of the income, rather than the distribution of it among individuals. Thus, rules on how the income is used, how it is used and which interests or objectives it furthers affects the individual family members' well-being (Sen, 1999).

Sen's approach has been supplemented and modified by peers and critics particularly for its impracticality and difficulty to implement. The approach has also been criticised for being overly focused and concerned with the individual thus failing to consider communities and balancing conflicting interests in society. For example, a man's well-being may be valued as highest where he has slaves or a stay-at-home wife, Sen's approach has been criticised for not accounting for a balance of interests in such circumstances. The criticism most relevant

for purposes of this study is criticisms against the information gaps in Sen's approach. Sen created an index based on his approach intended for practical use but the index he created was too skeletal. The human development index contains three elements: longevity, literacy and gross income per capita. The index stands in stark contrast to the depth and breadth of the details required on individual level considerations outlined by Sen. However, it is argued that the index provides an alternative to the traditional measurement methods, and it allows for contextual application. Sen conceded that basic capabilities prevalent in developing countries may form part of systematic assessment and such information may be easily available. Information neutrally assessing whether an individual's wellbeing based on objective factors is difficult to access for systematic level assessments.

The capability approach is instructive and relevant to the study in that it mirrors the urbanisation theories in that it requires a more considered and context-specific approach to development and to policies addressing and assessing development. The capability approach is a very flexible theory that can be adapted, in whole or in part to varying degrees to, do various disciplines and contexts. It aligns with a progressive approach which urbanisation calls for and embodies the principles of equity and social justice, thereby achieving the responsiveness envisioned in decentralisation. The capability approach calls for a change of perspective, to turn from the provision of things as means and well-being as the ends or the conclusion of development, thereby influencing human centred solutions.

On applying the capability approach to housing, Kimhur (2018) states that it is important to distinguish well-having to well-living. Kimhur emphasises Sen's capability approach's focus on freedoms as a means for evaluating housing thereby assessing the success or failure of policy and programmes for implementation. This approach is in stark contrast to the normative focus on delivery of resources and counting deliverable rather, while failing to evaluate and be guided by the value of such resource on the person or communities' lives. In instances like delivery of emergency housing in South Africa, where there is very limited delivery of emergency housing; this consideration would ensure that what few provision of emergency housing is of a quality that improves the person's well-being. As will be shown below, the delivery of emergency housing in Johannesburg is often to the extent that leaves recipients with a negative balance of freedoms than it finds them with. Alkire (2007)

Although the capability approach is often criticised for its impracticality, scholars have provided analytical methods for evaluating the impact of housing policy on people's capabilities. The area to which the approach is applied provides boundaries within which to define the relevant capabilities. Thus, Alkire proffers 4 methods to that researchers inherently use to determine the relevant capability dimensions:

- Data – researchers can use existing data on the specific subject,
- Researcher's insight – researchers can use their informed and educated guesses,
- Public consensus – values agreed on universally at the local ad or international level,
- Public participation – engaging people to determine their values; and
- Empirical evidence – empirical evidence reflecting people's thoughts (Kimhur, 2018, p. 8; Alkire & Ballon, 2015, p. 9).

The seeming conclusive and simple nature of the methods belies the complexity of housing and is not intended to be a cure-all. Rather, it provides a starting point and process to implement the capability to specific subject areas, like housing. In this study, the capability approach is particularly useful as an analytical tool to assess the emergency housing programme in the City of Johannesburg. According to Robeyns, capability can assist is in determining whether the emergency housing programme removes external obstacles in people's so that they live the kind of life which they find valuable (Robeyns, 2017; Kimhur, 2018). Kimhur (2018, p. 11) posits that unintended negative impacts may also be capability indicators of housing programme, like impacts on income opportunities and community or social community networks. Relying on Nassbaum's approach for a defined essential list, Nicholls reaches a similar conclusion following a study applying Robeyn's methods to a housing project in the UK (Nicholls, 2010). Haffner and Elsinger (2019) also applied the capability approach to anthropological research into freedom of choice in social housing. Based on freedom as an evaluation tool, the study found that housing policies were eroding the capabilities linked to social or low-cost housing over time, while the policies prioritised traditional paternalistic approaches to welfare (Haffner & Elsinga, 2019).

4.4. Addressing Poverty and Inequality: Human Rights Based Approach

The human rights-based approach joined development theory and effort in the 1990's (Uvin, 2007; Crawford & Andreassen, Human rights and development: Putting power and politics at

the center, 2015). In contrast to the capability approach, it sought to establish meaningful, tangible, enforceable means to access resources necessary for achieving development, alleviating poverty and enabling vulnerable people to live a full life. The human rights-based approach is also fundamental to the establishment of universal agreements on things that are important for capability and well-being. The human rights-based approach establishes a minimum standard reminiscent and somewhat aligned with the essentialist approach associated with Nassbaum's list of universal capabilities.

A key event in the convergence of the human rights-based approach was the effort to establish a right to development in international law. The right to development was recognised by the United Nations which defines the right as a "right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized" (Office of the High Comminer for Human Rights, 1986). The recognition of the right to development gave some legality to the claims of development particularly as outlined in the capability approach. However, the declaration on the right to development has since proved to be an empty victory in practice (Uvin, 2007). It was the beginning of defining the human rights-based approach more specifically which has been more impactful than this right.

Nash describes human rights as "moral claims to justice" (Nash, 2015, p. 5). By these she means that the catalyst for human rights is a need and a call for justice. Human rights-based approach is therefore corrective of injustice such as inequality, and indignity broadly. Human rights are distinguishable from the legal concept of rights, rather legal rights are an element of human rights (Uvin, 2007; Nash, 2015; Crawford & Andreassen, Human rights and development: Putting power and politics at the center, 2015). Human rights represented a movement driven by vulnerable community and individual agency and participation in defining the injustice, rights and appropriate recourse (Uvin, 2007; Crawford & Andreassen, Human rights and development: Putting power and politics at the center, 2015).

The primary objective of the human rights-based approach is widely understood and accepted as the pursuit of human rights within the realm of development. Developmental concepts discussed in this study's theoretical framework such as decentralisation, good governance,

participation, equality or non-discrimination culminated in the factors contributing to the achievement of the objectives of the human rights-based approach (Miller, From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice, 2010). The core elements of the rights-based approach consists of social justice which focuses the approach on the most vulnerable and disadvantaged whether as a result of race, gender, class and other bases of disadvantage (Miller, From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice, 2010; Medina Poblete, 2023).

The human rights-based approach is used by various actors including non-governmental organisations, grass roots community organisations, governments and international institutions (Miller, From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice, 2010). These actors all have their own interpretation and application of the approach, thus there is a limited homogeneity in the meaning of approach (Miller, From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice, 2010). The manifestation of the implementation of the approach is biased to a legal interpretation, which Miller argues is a narrow application (Miller, From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice, 2010). Broberg and Sano (2018) outline five ways in which the human rights-based approach is operationalised. The first is the adoption and use of the concept of rights, through which duty bearers try to fulfil their obligations toward rights holders (Broberg & Sano, 2018). Rights holders move from passive recipients to active participants of in the developmental efforts to fulfil human rights (Broberg & Sano, 2018, p. 667). The second aspect operationalisation of the human rights-based approach is the idea of a corresponding obligation, without which it makes little sense to speak of rights without obligation (Broberg & Sano, 2018). The bearer of the corresponding obligation is almost always the state, even where the duty bearer is a private individual or institution, the state has a duty to enforce the right against the private actor (Broberg & Sano, 2018, p. 667).

The third form of operationalisation relates to the donor state relationship. Under the human rights-based approach, a donor would focus their funding approach on enabling duty bearers to fulfil their obligations. For example, the study showed how good governance was an effort by donors or financers to encourage development in the funded states and the ability of rights

holders to enforce their claims against duty bearers (Broberg & Sano, 2018, p. 668). The fourth operationalisation measure is that inequality is a basis for poverty, therefore resolving inequality and discrimination would resolve poverty, the main priority of development (Broberg & Sano, 2018, p. 668). Activism and advocacy are the fifth characteristic of operationalisation, which translate 'participation' and 'inclusion' into reality as a means to strengthen rights holders' capacity for autonomous action (Broberg & Sano, 2018, p. 668). Finally, not all forms of development can be defined in secure rights, Borberg and Sano (2018, p. 669) use the example of corruption to show that corruption affects the right to information and participation, but resolving corruption is an institutional level, systemic effort requiring coordination across different power centres in the country.

Piron (2005) emphasizes the distinction between human rights-based approach as a mobilising, inspirational force and a facilitator of access to legal norms and enforcement emphasis; the political and social versus the legal. Miller (2010) agrees but highlights that the distinction between political mobilisation and legal enforcement are not in contest. The supportive potential and effect of the legal aspect of the human rights-based approach is evident with its application in socio-economic rights (McAuliffe, 2022; Miller, From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice, 2010; Piron, 2005). Understandably access to housing, water, sanitation, health and education are signifiers of poverty. Thus improving people's enjoyment of these rights and ensuring access to housing is fundamental to realising the objectives of development, that is to eliminate poverty. However, enforcing obligations is important but limited in achieving the goals of the human rights-based approach. Political and social actors and institutions need to adopt and buy in to the human rights-based approach to take ownership of legislative and judicially recognised obligations. The recognition of rights and duties is valuable in improving processes and accountability but the approach is about "empowering marginalised groups, challenging oppression and exclusion and changing power relations, much of this task lies outside of the legal arena, falling squarely in the political realm" (Uvin, 2007, p. 604)

Noh (2022), Miller (2010); and Crawford and Andreassen (2015) argue that there is a paucity of research on the political and social application of the human rights-based approach. Noh (2022, p. 885) conducted a literature review of an overview of the current peer reviewed literature available to inform conceptualisation and implementation of human rights-based

approaches in development practice between 2015 and 2019. The literature review showed that 14 of the 29 studies focused on the right to health and the seond area of focus was on women and gender (Noh, 2022, pp. 888 - 890). None of the studies looked at housing (Noh, 2022, pp. 888 - 890). Only three studies looked and land rights and 2 studies looked at disaster, the closes subjects matters to housing and emergency housing (Noh, 2022, pp. 888 - 890). Consequently, there is a need to increased study into political and social operationalisation of the human rights based approach. There is also a temptation that the lack of studies may infer a lack or limited progress, especially relative to legal operationalisation, of the human rights-based approach in the political and social arena.

Uvin (2007) is very critical of the human rights-based approach, his main issue being summarised as the rhetorical nature of the human-rights based apporach. Uvin (2007) argues that the approach adds some legitimacy to this useless rhetoric in that it is incorporated into constitutions, laws and policies which makes it seem like duty bearers are making an effort. But more needs to be done, legalisation of the human rights-based appraoch is only a step of many. Consequently, alternative engagements that are strategic and contextually targeted should be adopted.

Miller and Redhead (2019) categorise the study and progression of the human rights based framework in to three. Phase one (mid-1990s – early 2000s) was the pilot phase and involved defining and distinguishing the approach broadly (Miller & Redhead, 2019). Phase two (mid-2000s – mid-2010s) was a time of indepth and more detailed study of the approach and it was developing in practice; subsequently developing ideas of best practice and acknowledging the breadth of things that were labeled under the umbrella of the approach (Miller & Redhead, 2019). In phase three (2010s – present), there is an emerging critical re-evaluation of the approach and its impact(Miller & Redhead, 2019). This phase challenges the conceptualiation,application and hegemony of the approaoch and seeks something beyond the human rights-based appraoch (Miller & Redhead, 2019, p. 703).

South Africa is considered a successful implementor of the human rights based approach. It has a strong rights based framework in its Constitution which is applied in laws, policies and programmes. South Africa has also cultivated a strong civil society sector and a spirit of advocacy and participation. South Africa has a strong the rule of law and a litigious approach

to upholding and enforcing rights, and courts interpret rights positively and confirm the obligations and duties of the state and duty bearers. However, there is still a disconnect between the constitional framework where the policies and laws are not seen in the practices of government particularly local government and not enjoyed in the lives of the most vulnerable. Thus, the challenge is to understand the weaker applications of the human rights based approaches in South Africa and how these may be strengthened to more holistically improve the fulfilment of the right to housing and thereby make progressive steps to eliminating poverty.

5. Housing Statutory and policy framework

The statutory housing framework in South Africa is complex with various iterations and adaptations since 1994. The Socio-Economic Rights Institute of South Africa (SERI) is a nonprofit organisation that provides socio-economic assistance to individuals, communities and social movements (Tissington, A Review of Housing Policy and Development in South Africa since 1994, 2010). A key focus for SERI is housing and they conduct research, advocacy and litigation on this issue. They provide resources explaining the legislative and policy framework. This housing framework is guided by their guide by Tissington (2011).

5.1. Constitution of the Republic of South Africa, 1996

The right to housing is found in section 26 of the Constitution and reads as follows

26 (1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

The rights in Constitution do not standalone and the right to housing cannot be read without considering the right to dignity in section 10, the right to equality in section 8, the right not to be arbitrarily deprived of property except by a law of general application in section 25(1), the right to sufficient water in section 27(b) and every child right to basic shelter in section 28(c). The state has an obligation to protect, promote and fulfil these rights.

Cooperative Governance

The Constitution requires cooperative governance and intergovernmental relations. It provides principles that should guide and inform in it in chapter 3 of the Constitution. The Constitution that national, provincial and local government must provide effective, transparent, accountable and coherent government for South Africa. It requires that the three levels of government respect the constitutional status, powers and functions of government in each spere; and co-operate with one another in mutual trust and faith, foster friendly relations, assist and support one another, inform one another of, consult one another on matters of common interest (Tissington, 2011; Visser, 2021). It requires the government must coordinate their actions and legislation with one another, adhere to agreed procedure; and avoid legal proceedings against one another (Tissington, 2011; Visser, 2021).

Local government

The Constitution also addresses local government including the developmental duties of municipalities. According to section 153(a) of the Constitution, municipalities must structure and manage its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and participate in national and provincial development programmes. Section 152 state that the objects of local government include providing democratic and accountable government for local communities, ensure provision of services to communities in a sustainable manner, promote social and economic development, promote a safe and healthy environment, and encourage the involvement of communities and community organisation in the matters of local government.

Housing, urban and rural development; and planning and development are listed as functional areas of concurrent national and provincial legislative competence in Part A of Schedule 4 in chapter 14 of the Constitution (1996). Building regulations, electricity and gas reticulation, water and sanitation services, and municipal planning are listed in Part B as functional areas for local government. The Constitution allows for national and provincial governments to allocate matters to local government that would be most effectively administered by local government where such municipality has the capacity to administer the matter (Tissington, 2011, p.13).

Housing Act 107 of 1997

The Housing Act is a key piece of legislation seeking to implement the White Paper on Housing (discussed below). The Housing Act defines housing development in the following way:

"The establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities in which all citizens and permanent residents of the Republic will, on a progressive basis, have access to

> a. permanent residential structures with secure tenure, ensuring internal and external privacy and providing adequate protection against the elements; and
>
> b. potable water, adequate sanitary facilities and domestic energy supply."

The Act outlines the principles that should guide housing development, the role and functions of national, provincial and local governments, and financing housing development and programmes. The Act emphasises that fulfilling housing development, government must prioritise the needs of the poor, and must consult "meaningfully with individuals, and communities" (Strydom & Viljoen, 2014; Tissington, 2010, p. 14). Thus the Act is consistent with the Constitution in prioritising the poor and need. The Act requires that government provide a variety of housing and tenure options as far as is reasonably practicable. Such options must be economically, fiscally, socially, and financially affordable and sustainable, and based on integrated development planning (Tissington, 2011). According to section 2(1)(e) "all spheres of government are required to provide a process of racial, social, economic and physical integration in urban and rural areas; measures to prohibit unfair discrimination on the ground of gender and other forms of unfair discrimination by all actors in the housing development process; higher density in respect of housing development to ensure the economical utilisation of land and services; the meeting of special housing needs including the needs of the disabled; the provision of community and recreational facilities in residential areas; the housing needs of marginalised women and other groups disadvantaged by unfair discrimination"(Tissington, 2011, p.14).

Under the Housing Act, the role the National government is to establish and facilitate a sustainable national housing development process through formulation of housing policy.

National government's role also includes monitoring implementation through the promulgation of the National Housing Code and the establishment and maintenance of a national housing data bank and information system. Provincial government actions must be informed and constrained by the national housing policy framework. Province's role is to enable the provision adequate housing in tis province, and to allocate housing subsidies to municipalities. Local government must take "reasonable and necessary steps" within the national housing framework by pursuing the development of housing, addressing land matters, providing services and infrastructure, and creating an enabling environment for housing development in its municipality (Strydom & Viljoen, 2014).

Section 10 provides for accredited municipalities to administer national housing programmes. Section 9(1)(a)(i) of the Housing Act provides that as part of their integrated development planning process, municipalities must take "all reasonable and necessary steps" within the framework to ensure that inhabitants in an area have access to adequate housing on a progressive basis". Since 2002, an amendment to the Housing Act accredited municipalities were also allowed to be developers and procure for low-income housing (Tissington, 2011). The same amendment introduced the publication of lists of national housing programmes and national institutions; and made the National Housing Code binding on all spheres of government (Tissington, 2011).

The Housing Act also legislates what recipients of state housing may or may not do. According to section 10A of the Housing Act, the owner of a state subsidised housing or serviced sites may or may not do. Owners or recipients may not sell or alienate the swelling or site for a period of eight years from the date of that the property is acquired (Tissington, 2011). If the dwelling or site is vacated, it is deemed the property of the relevant provincial housing authority and no remuneration is paid to the original beneficiary. The beneficiary that vacated the property may be eligible for another state subsidised house if they still meet the criteria for state subsidised housing.

- Local Government: Municipal Structures Act 117 of 1998

Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998

The Prevention of illegal Evictions from and Unlawful Occupation of Land Act 19 of 1998 (PIE) was enacted to give effect to section 26(3) of the Constitution by protecting indigent people

from homelessness by requiring that the State provide alternative accommodation in circumstances where PIE applies (Tissington, 2011). Where the State cannot apply alternative accommodation, PIE allows for continued occupation until the State is able to provide such accommodation (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011). PIE applies to eviction of unlawful occupiers from both private and publicly owned land or property. PIE forms part of a body of legislation that protects individuals or communities during evictions. The Land Reform (Labour Tenants) Act 3 of 1996 protects labour tenants, the Interim Protection of Informal Land Rights Act 31 of 1996 protects occupiers of communal, native trust or other indigenous land; and the Extension of Security of Tenure Act 62 of 1997 (ESTA) protects occupiers of farm land (Tissington, 2011). PIE also places a burden on property owners that seek eviction but are not able to evict until the State provides alternative accommodation (Fick, 2017).

PIE is applicable where people occupy land or property without express or tacit consent of the owner of the person in charge of the land or property (Tissington, 2010). This includes people who never had the consent (lawful possession) or who had the consent and lost it but continued to occupy the land or property (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011).

PIE protects occupiers through requiring strict procedural requirements for a lawful eviction. Only the owner or person in charge may apply for an eviction order, the owner or person in charge must attempt meaningful engagement with the occupiers before commencing eviction proceeding, the owner or person in charge must serve the occupier(s) written and effective notice of intention to evict at least 14 days before the day of the eviction hearing. The eviction notice must state that the proceedings are being instituted in terms of PIE for eviction of an unlawful occupier, include the date and time of the court proceedings, set out the grounds for the proposed eviction, and state that the unlawful occupier has the right to appear before court and have access to legal aid. The eviction notice must be served on the relevant municipality where the land or property is located.

PIE offers protection to occupiers by allowing them to use defences against the eviction which then prompts the intervention of the state (municipality). PIE requires the following for an occupier to use PIE's defences against lawful eviction. PIE requires occupiers to show that

they have lived on the land for at least six months, the aim of this requirement is to show that the occupier is settled in the property or land. All the unlawful occupiers in the property must demonstrate that their personal and/or household circumstances are such that, if evicted, the unlawful occupiers would likely be rendered homeless as a result of the eviction. A court must consider the rights and needs of vulnerable groups which include elderly, children, female-headed households and people living with disability. Consequently, where a court finds that there are vulnerable groups on the property and the personal circumstances would likely lead to homelessness, the court is hesitant to grant an eviction until alternative accommodation is provided.

Social Housing Act 16 of 2008

The Social Housing Act 16 of 2008 is enabling policy for the Social Housing Policy discussed below. The Act seeks to establish and promote a sustainable social housing environment. It outlines and defines the roles (functions) for each actor in social housing. These actors include national, provincial and local governments social housing institutions, social housing delivery agents. The Act also establishes the Social Housing Regulatory Authority and recognises social housing institutions which are accredited and overseen by the Social Housing Regulatory Authority. This body regulates social housing institutions that are recipients of public funds.

5.3. Housing Policy and Programmes

White Paper on Housing: A New Housing Policy and Strategy for South Africa (1994)

housing what a critical element of the ruling party's promises in South Africa. The Constitution provides for various rights, but the ruling party decided to focus on housing because of the impact that it had in South Africa's past. Access to housing would redefine the future of South Africa and South Africans. The housing to be provided would be a permanent residential structure with secure tenure, ensuring privacy and providing adequate protection against the elements. The structure would have access to potable water, adequate sanitary facilities including waste disposal and domestic electricity supply. According to Charlton and Kihato (2006), by the end of the 1990s, the type of housing had become limited to a minimum 30 m^2 unit and a decrease in the service standards and quality of the houses. The political goal to provide one million houses lead to a compromise on the policy, including water, sanitation and roads. This approach lead to the communal approach to the provision of services within state-subsidised housing communities and locating state housing on peripheral land as

housing projects were built in areas where lower service levels were more acceptable (Charlton & Kihato, 2006, p. 267; Tissington, 2011, p. 61).

The goal and aim for South Africa's housing policies and programmes were conceptualised in the White Paper on Housing (Dlamini, 2017). The Interim Constitution enshrined the right to housing which would be retained in the final Constitution in 1996. The White Paper was an interdisciplinary plan that accounted for urban planning including adopting cities responsive to South Africa's housing needs particularly the impact of migration to cities resulting in high rates of urbanisation (de Satgé & Watson, 2018). The White Paper identified the spatial, land and urban planning needed to realise the right to housing and provide housing. The White Paper included the State's goal to provide one million state-subsidised housing within the first five years in Office (Dlamini, 2017; Tissington, 2011, p. 21). The state subsidised housing was to be funded through the National Subsidy Scheme which would fund state-subsidised housing over which beneficiaries would have full ownership. The White Paper was ambitious and the relationship between the state and recipients was not a one-way transaction where the state would provide and recipients need only receive. One of the assumptions of the White Paper was that "beneficiaries would be able to access loan finance which would be used to improve the house" (Charlton & Kihato, 2006, p. 254).

Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements (2004)

The negative outcomes of the housing programme led to a restructuring in 2004 and resulted in Breaking New Ground (BNG). BNG was redirection from the private approach to a more state driven approach by allocating implementation to local governments. There are many arguments about the reasons for the change, common among scholars is the response to the withdrawal of the private sector from the state-subsidised housing (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011). Additionally, the private sector driven approach led to the poor quality and decrease in provision of services which it was though that local governments would be better able to coordinate.

The BNG was intended to improve on and shift the focus to the quality rather than the quantity of the houses and provide choice in the type of tenure and location. BNG also aimed to improve the process of housing delivery such as planning, participation and sustainability of state-subsidised housing. BNG considers the variable conditions within which the provision

of housing takes place, that is population growth, regional differences, average household size, a growing housing backlog, and integration of low-cost housing into urban areas which had been compromised by the private sector driven approach which developed low-cost housing on the urban periphery (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011). BNG adopts a demand driven approach. BNG also increases the income band of those qualifying for housing. BNG also introduced upgrading of informal settlements into housing policy. Informal settlements were to be upgraded with the aim of integrating informal settlements into the urban layout. The study does not focus on upgrading of informal settlements any further than to note its relevance in the broader challenges of the housing context.

BNG encourages promotion of affordable inner-city housing that would ensure inclusion of poor in urban renewal initiative. The policy recognises the advantages of the inner city and the amenities available to it such as transport, work opportunities, and other opportunities to participate in the local economy, and amenities like hospitals and libraries. Thus social housing is envisioned as a solution to meet the demand for housing in the City was a vision in BNG. Rental housing is a key focus in the policy as a way to "enhance the mobility of people and promote a non-racial and integrated society" (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011, p. 70). According to BNG (p.3.4) "social housing interventions may also be used to facilitate the acquisition, rehabilitation and conversion of vacant office blocks and other vacant/dilapidated buildings as part of a broader urban renewal strategy. Social housing developments should be dovetailed with other initiatives such municipal redevelopment projects and the urban development zone tax incentive offered by SARS."

BNG underestimated the demand for social housing in the City, thus affecting efforts to provide social housing. The social housing provided was dismal compared to the need and barely made an impact. People and communities have moved into such dilapidated vacant buildings due to the attraction of the advantages of the City and lack of access to low-cost housing. The low-cost housing is also not reflective of the means of people seeking housing in the City thus missing the most vulnerable. This context allowed an environment for exploitation of the poor through exploitative rentals and eviction from bad buildings. Thus creating conditions for the need for TEA during evictions as people being evicted likely meet the conditions for a defence against eviction according to PIE.

BNG relies on local government implementation of the demand driven state and low-cost housing. Local government would be allocated the resources and responsibility to administer housing within the municipalities and were better able to do so due to their proximity to the people and their needs (now the focus under BNG), and their familiarity with the location. The BNG provided for an accreditation process of municipalities before they could undertake administration of the implementation of housing. This accreditation process created requirements that essentially ensured that municipalities had the appropriate structures within its government to manage housing.

Prior to being successfully granted the authority and resources to administer housing implementation, municipalities were required to create housing departments and Sustainable Human Settlements Planning Committees. Municipalities were also required to conduct an inventory of municipal owned land. They were to incorporate housing considerations into its IDPs providing for the steps in the process of housing and achieving integrated urbanisation, and to provide for public participation throughout the implementation process.

National Housing Code: Emergency Housing Programme (2009)

The National Housing Code was first published in 2000 and its revision was introduced through BNG. The National Housing Code marries government's various existing and active housing programs. The Code is a very broad policy, for purposes of the research, the review outlines the Emergency Housing Programme introduced in the Code in 2000 to "provide temporary relief for people in urban and rural areas who find themselves in emergencies" (National Housing Code p.9).

The Emergency Housing Programme applies to people who may become homeless as a result of any of the following circumstances: declared state of disaster or a situation which is not declared as a disaster but extraordinary occurrences, such as floods, strong winds, severe rainstorms, hail, snow, devastating fires, earthquakes, sinkholes or large disastrous industrial incidents cause destitution, people living in dangerous conditions such as on land prone to dangerous flooding and who require emergency assistance, as well as to those who live in the way of engineering services or proposed engineering services, such as those for water, sewerage, power, roads or railways and to require emergency assistance (Settlements, 2009;

Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011). Emergency housing is also provided to people facing imminent eviction or eviction from land, unsafe building or situations where pro-active steps should be taken to forestall such consequences; those whose houses are demolished or threatened with imminent demolition; those who are displaced or threatened with imminent displacement as a result of a state of civil conflict or unrest; those who live in conditions that pose immediate threats to their life, health and safety and require emergency assistance; and those who are in a situation of exceptional housing need, which constitutes an emergency that can be addressed only by resettlement or other appropriate assistance, in terms of the Programme (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011, pp. 94 - 95).

Unlike other types of low cost, social or state housing, qualification criteria do not apply to for emergency housing. Emergency housing may be provided to people earning more than 3500, non-lawful residents, previous recipients of housing assistance, previous owners of residential property and people without dependents and minor-headed households.

The housing provided under the Emergency Housing programme is intended to be temporary. People living in Emergency Housing are intended to be relocated after six months. consequently, emergency housing aims to provide temporary shelter. This shelter should be basic, simple in form and easy to construct; and durable for the lifespan of the shelter. Basic services such as water, sanitation and electricity should also be provided in their most basic form that is water point or tap for every 25 families, temporary sanitation facilities like ventilated improved pit latrine per five families, and high-mast lighting in special circumstances (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011, p. 95).

The National Housing Code specifies general product performance requirements for the shelter provided in emergency situations. The Code requires that the shelter have a minimum lifespan of five years and must be possible to dismantle the shelter for re-use at least three times. The shelter must be easy to transport, store and construct; and they must be adaptable to local conditions.

Emergency housing programme funding

According to the National Housing Code (Settlements, 2009, p. 16), the program is funded in two ways. Firstly, the Minister allocates funds to the provinces to be prioritised and reserved by provincial departments for their annual funding allocation. The amount of the grant is determined by the MEC based on the nature and extent of the emergency housing allocation. The second form of funding is project funding which depends on the location, township layout and local building pricing. In order to access this type of funding, if a municipality assesses an emergency and finds that the emergency situation is beyond its means of preparation for the situation, the MEC may approve funds for project application preparation purposes (Settlements, 2009, p. 17). Approved funding may then be released by the MEC. "Municipalities must only initiate progress payments in terms of contractual agreements with the providers of housing goods and services against the actual achievement of value for money and the certification thereof" (Settlements, 2009, p. 17). The project funding may not be used for construction of other types of low cost, state or social housing; litigation; or street lighting and electrical services (except the high-mast lighting provided for emergency housing). The project funding may also not be used for any operation, maintenance and management of costs of developments. Municipalities assume responsibility for the operation and maintenance of all engineering infrastructure under the program except when the municipality has applied for the Provincial government to pay consumption cost for services for the emergency housing solution, whether housing or relocation site, for up to three years. The project funding may not be used to for the delivery of water supplies by tanker and/or the drilling, repair of boreholes; water and sanitation provision under the program will need to be properly motivated and coordinated through the municipality (Settlements, 2009, p. 19). The funding may also not be used for the repair of access roads which would normally be the responsibility of the municipality (Settlements, 2009, p. 17).

Types of emergency housing

According to the National Housing Code, there are three categories of emergency housing and each category corroborates with a specific type of housing as outlined in Table 1 which is extracted from The National Housing Code: A simplified guide to national housing (2009, p. 32– 34).

Table:1 Description of categories of emergency housing situations justifying assistance (Settlements, 2009, p. 32 - 34)

A. Emergency Housing Situation with Permanent Settlement Solution: Land Is Available for Permanent Housing Solution			
	Situation	**Applicable emergency housing**	**Examples**
1.	Temporary on-site assistance. No relocation required	The existing settlement land is suitable for permanent housing development purposes later. In situ upgrading can occur. Temporary housing assistance can be provided on the land, as a first phase towards permanent housing development (Settlements, 2009).	Settlement devastated by fire or storms where living conditions have deteriorated to such an extent that they are intolerable and poses a major threat to the health and safety of affected persons and surrounding areas (Settlements, 2009).
2.	Relocation to a permanent location with assistance on a temporary basis.	Affected households or persons need to be relocated and land to be resettled upon is suitable and available for this purpose and eventual permanent housing development (Settlements, 2009).	Situations of flooding, fire, unsafe buildings or any event that rendered the land occupied inhabitable, unsafe or unavailable for further settlement purposes on a temporary or permanent basis, necessitating the relocation of affected persons and where suitable, available land exists where temporary settlement can take place and the land can be developed for permanent housing in future (Settlements, 2009).

3.	Temporary assistance through resettlement to an existing developed area	The situation is the same as in (1.2) above in terms of relocation. The land identified for resettlement purposes includes land that forms part of an existing development and where such land does not form part of land earmarked for occupation or use by others, and where permanent housing development can later take place (Settlements, 2009).	The nature of events causing this situation will be the same as in the cases described above, whilst the developed land identified for resettlement can include existing vacant serviced or un-serviced stands, within townships and which have not been allocated for occupation or transfer to others (Settlements, 2009).
B. Existing Formal Housing			
	Situation	**Applicable emergency housing**	**Examples**
1.	Permanent Formal Housing to be repaired or rebuilt.	Houses damaged or destroyed, to be repaired or rebuilt on the existing site or on a new serviced site for resettlement (Settlements, 2009).	Events such as severe floods, fire, wind earthquakes or other occurrences that destroyed or caused damage to such housing to the extent that living conditions are intolerable but where the housing can be repaired or reconstructed on site. It can also include a situation where because of events such as the failure of a dam wall, the area has become unsafe for further occupation and where housing need to be reconstructed at another site (Settlements, 2009).
C. Temporary Settlement			

	Situation	Applicable emergency housing	Examples
1.	Assistance with relocation to temporary settlement area. To be relocated again, once a permanent housing solution is possible.	Persons are settled on land and/or in building(s) that can no longer be used for settlement purposes, either temporarily or permanently. This may include a situation where affected persons can eventually or possibly return to the land, but not in the immediate future, since the land has been rendered unavailable or inhabitable, for a significant period of time. (Settlements, 2009)	Situations caused by severe frequent flooding, failure of a dam wall, eviction from land or unsafe buildings, civil unrest where people are forced to vacate the land. (Settlements, 2009)
2.	Temporary assistance on site. Resettlement later on, to a permanent temporary settlement area.	Eventual relocation is necessary but cannot be done currently because of other commitments and planning priorities. Temporary housing assistance can be provided on the site until land and other resources for permanent housing development become available. (Settlements, 2009)	First, where the settlement land is dolomitic, classified as unsuitable for permanent development, but where through application of technical or other mitigating measures, it could for a period of time be used for temporary settlement only. Second, land where the settlement area has been destroyed by severe fire or heavy rain and where it can only be used for temporary settlement purposes. (Settlements, 2009)
3.	Temporary assistance with resettlement to a permanent	Similar to category C.1., except that the municipality has established or wishes to establish a permanent	This includes a situation where affected persons need to resettle and where the only alternative available, includes land to be developed as a permanent

	temporary settlement area.	temporary settlement area (Settlements, 2009).	temporary settlement area. The development will have a more permanent status, but occupants will only stay on a temporary basis, until permanent housing at another location becomes available. (Settlements, 2009)

Categories A and C provide for permanent and temporary housing respectively. Category A usually occurs in instances for in situ informal settlement upgrading or eviction from land to land that may be upgraded. Although these instances have their own challenges and relate to eviction, the focus of the study is only on instances of eviction. However, their relevance is limited as they refer to relocation to permanent sites in-situ refurbishment of the site or housing. The study focuses on instances that focus on category B. Where relocation occurs and is intended to be temporary. Although the National Housing Code lists eviction with acts of God emergencies, in practice governments make a distinction between evictions and other types of emergencies. Evicted persons are usually relocated to temporary emergency housing and temporary relocation areas.

Emergency housing takes two forms: temporary emergency accommodation and temporary relocation areas. Temporary emergency accommodation refers to buildings in the inner City set aside for emergency situations. Temporary relocation areas refer to transit camps. These are site where people are relocated to. Relocated people are provided materials for shelter or temporary shelters are built by the municipality. The temporary emergency accommodation buildings are often unmanaged and later abandoned by the City without provision of services or building management. People living in transit camps continue to live in the temporary accommodation thus people continue to live in tents or in shacks intended for temporary use, using communal water and sanitation.

Government responsibilities

The National housing Code outlines the responsibilities for each level of government in the emergency housing programme. The National government has the least direct responsibility. National government is to maintain the policy and programme and assist with interpretation; and monitor programme implementation (Settlements, 2009, p. 51). National government is to negotiate the apportionment of funding for the programme and allocate it to the provinces for project execution (Settlements, 2009, p. 51). National government should provide implementation assistance and, if required, establish a national co-ordinating body to address large scale emergency housing needs (Settlements, 2009, p. 51). Lastly, national government is to provide assistance with the release of state land for emergency housing purposes.

Provincial departments have a more involved and directly supportive role for local government and must do everything in their power to assist municipalities, the National Housing Code envisions a partnership between provinces and municipalities (Settlements, 2009, p. 50). Provincial governments must collaborate with and assist municipalities in the initiation, planning and formulation of applications for the emergency housing programme; assume the development responsibility in cases where the municipality is clearly not able to fulfil its obligations under the programme; and forward applications to the MEC together with comments and recommendation including views on the eligibility for assistance and the capacity of the municipality concerned to undertake and complete the project successfully (Settlements, 2009, p. 50). The National Housing Code identifies MECs as bestowed with decision making authority (Settlements, 2009, p. 50). Provincial departments must take appropriate steps in accordance with section 139 of the Constitution to ensure the performance of the duties and obligations provided for in section 7 of the Housing Act if the municipality is unable to do so. Section 7 of the Housing Act states outlines the functions of provincial governments to facilitate the provision of adequate housing in its province within the framework of the national housing policy. According to the National Housing Code, provincial departments are supposed to reserve, reprioritise an allocate funds from its annual budget; and manage, disburse and control such allocated funds to an approved project in accordance with a memorandum of understanding with a municipality (Settlements, 2009, p. 50).

Municipalities bear the greatest burden of delivery of emergency housing. Municipalities have the responsibility to determine the merits of applications for emergency housing. In the event

of such emergencies arising the municipalities are to initiate, plan and formulate applications for projects relating to emergency housing and submit an application to its relevant provincial department for funding and any other assistance (Settlements, 2009, p. 48). Municipalities must request assistance from provincial departments if the municipality lacks the capacity, resources or expertise (Settlements, 2009, p. 50). Municipalities assume ownership of engineering services installed, and manage, operation and maintain settlement areas developed under the emergency housing programme (Settlements, 2009, p. 48). Municipalities must conduct planning for the development of a permanent housing situation for affected persons wherever appropriate, in anticipation of emergency situations arising.

Municipalities must ensure, as far as possible, the availability of bulk and connector engineering services, and provide basic municipal services such as water, sanitation, refuse removal and other municipal services (Settlements, 2009, p. 48). Municipalities must provide materials, assistance, and support where necessary to enable the installation or repair of engineering services or the repair or construction of shelters by or for affected persons (Settlements, 2009, p. 48). Local government must provide materials, assistance, and support where necessary to enable the installation or repair of engineering services or the repair or construction of shelters by or for the affected persons; and provide inputs and assistance to a local municipality, and vice versa in appropriate circumstances (Settlements, 2009, p 49). A municipality must liaise with other bodies and take steps to establish liaison channels and procedures both within its organisation and with other public and private bodies to deal with emergency situations effectively when they arise (Settlements, 2009, p 49). A municipality must ensure that situations which may qualify for consideration under emergency housing programme are given expeditious treatment (Settlements, 2009, p 49). This includes the use of accelerated land use and planning procedures; assist with the transport of affected persons and their belongings to resettlement sites, where appropriate; and adhere to the general procedures on local project co-ordination in executing projects approved under the Programme as contained in Annexure D to the National Housing Code (Settlements, 2009, p 49).

5.4. Housing: Challenges and obstacles with the emergency housing programme

The literature shows that there are many obstacles in the successful implementation of the emergency housing programme (Tissington, A resource guide to Housing in South Africa 1994

- 2010, 2011). The primary issue is the ad hoc and, one might argue, haphazard way the programme is managed and implemented. Although the National Housing Code outlines policy on how to implement the emergency housing programme. Tissington (2011) quotes research on the emergency housing programme by municipalities that shows that only six out of nine provinces claimed funds from the national government (the Department of Human Settlements). The claims were for emergencies in rural areas but there were few claims for assistance in urban areas (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011). Tissington (2011, p. 96) argues that accessing funds from the emergency housing programme seems challenging, with unclear guidelines regarding what qualifies as an emergency and the distinctions between emergency, temporary, and permanent accommodation for affected individuals. Tissington (2011, p. 96) quotes a City of Johannesburg official who said that acquiring funding from the Gauteng province for emergency or temporary accommodation poses challenges for the City. The official suggests that the provincial government should adopt a more comprehensive perspective on defining emergencies and the type of remedies it will fund (Tissington, 2011, p. 96). This broader approach could alleviate the hardships and vulnerabilities experienced by affected individuals (Tissington, 2011, p. 96). The City reports persistent refusals of requests for emergency housing funding (Tissington, 2011, p. 96).

Important Cases

In the history of the provision of emergency housing, there have been many conflicts in the meaning of emergency housing, the people who qualify for emergency housing, the quality of emergency housing and with whom the obligation for emergency housing belongs. These contentions have been the basis for litigation and judgments clarifying these confusions. This section reviews key cases formative to the way the emergency housing programme is currently administered.

- *Government of the Republic of South Africa and Others v Grootboom and Others* [2000] ZACC 14 (Grootboom)

The Grootboom case occurred in the Western Cape and is about an eviction where the parties (comprising a community of 900 people) were evicted from land and took shelter on a sports field, where they built makeshift shelters. Consequently, the parties sought assistance from

the Oostenberg municipality which refused. The parties argued that the municipality had an obligation to provide temporary shelter according to section 26 of the Constitution. In this case, the High Court highlighted the rights the rights of the child to shelter as enshrined in section 28 of the Constitution. Thus, the High Court, grounding the state's responsibilities in the child's right to shelter as outlined in Section 28 of the Constitution, mandated that the state must furnish temporary shelter for all children within the impacted community, as well as at least one parent for each child. The State disagreed with the High Court's judgment and took the decision to the Constitutional Court on appeal.

The parties settled the case out of court before the Constitutional Court could make a decision. But the case was important because the Constitutional Court used the opportunity to clarify the meaning of the right to housing and the Court said that the state did not have an obligation to provide a set of goods "on demand". Instead, the state has a positive obligation to create, administer and implement a reasonable policy, within its available resources to ensure progressive realisation of adequate housing, which means that the right obligation may be realised over time. The Constitutional Court also required reasonableness in those policies and in their implementation which includes having medium and long-term plans to fulfil the right to housing.

Tissington (2011, p. 45) refers to Wilson's argument that the judgment in Grootboom was the basis for the National Housing Code of 2004 in its definition of the bases for providing housing in emergencies (Wilson, 2014). However, the ruling in *Grootboom* established that a reasonable government program should cater to those facing urgent needs and residing in "intolerable conditions." It emphasized that the provision of basic services does not necessarily have to meet the qualitative standards implied by the complete fulfilment of the right in question.

While policies and laws require public participation and meaningful engagement in the provision of emergency accommodation, *Olivia Road* holds that the state has a duty to meaningfully engage with evictees to determine whether they are likely to be rendered homeless because of the eviction.

The City of Johannesburg sought an eviction against occupants of "bad buildings" as the buildings were not fit for human beings to live in them. The City was trying to comply with

obligations in terms of the National building Regulations and Building Standards Act 103 of 1997, the Health Act 63 of 1977 and the City's fire by-laws. The parties argued that PIE should apply to their circumstances and in not engaging them before the eviction, the City contravened its obligations according to PIE and section 26 of the Constitution. The High Court agreed with the occupiers of the bad buildings that the City had an obligation and refused the eviction until the City developed a "pragmatic, constructive and coherent programme" to address the circumstances (City of Johannesburg v Rand Properties (Pty) Ltd & Others , 2007).

On appeal to the Supreme Court of Appeal by the City, the Court found in favour of the City of Johannesburg and help that the occupiers with temporary emergency accommodation for those who would be in crisis as a result of the eviction (City of Johannesburg v Rand Properties (Pty) Ltd & Others, 2007).

The Occupiers appealed to the Constitutional Court of South Africa. The Constitutional Court based their decision on the approach that the state should have taken before evictions in such circumstances, which includes meaningful engagement with evictees (Occupiers of 51 Olivia Road and Others v City of Johannesburg and Others , 2008). The case and the judgment gave rise to other cases seeking the courts' interpretation of the state's obligations in evictions (Occupiers of 51 Olivia Road and Others v City of Johannesburg and Others , 2008).

- *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others* [2009] ZACC 16 (*Joe Slovo*)

In Joe Slovo the state sought to evict 4000 households from an informal settlement in Cape Town as the site was set aside for development of the N2 Gateway housing project, which essentially amounted to temporary relocation for the purpose of upgrading the informal settlement where the residents lived (Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others, 2009). The residents of Joe Slovo were relocated to a temporary relocation camp and the residents argued that he temporary relocation area was inadequate alternative accommodation (Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others, 2009). The residents also argued that there had been no meaningful engagement them on the plan to upgrade the informal settlement. The question for the Court was whether the City had satisfied the requirements for an eviction according to PIE which included a determination of whether or not the residents of Joe Slovo were

unlawful occupiers. The Court also had to determine the reasonableness of the City's actions in attempting to evict the residents of Joe Slovo.

Although the narrow majority of the judges agreed with to grant the application for eviction, they had different reasons for doing so. Discussing the different reasonings of the concurring judgments is beyond the scope of this study. However, there are things that the judgments had in common – they agreed that the City had to provide alternative accommodation and meaningfully engage with the evicted. They appreciated the intention of the eviction and relocation in an attempt to provide permanent housing and showed a reluctance to interfere in areas that fall into the executive area of jurisdiction such as administration and implementation of policy. Thus the Court had to balance competing interests of the respondents and the applicants. In this case, the court was reluctant to interfere in the City's plan and attempt to upgrade the Joe Slovo informal settlement upgrade thus not enquiring deeply enough into the reasonableness of the City's decisions, whether upgrading and or relocating. The Court did this contrary to its previous findings that engaging people for whom housing, in whatever form, is intended.

Rather the Court gave a very detailed order which emphasised the minimum requirements for the temporary accommodation which echoed the National Housing Code. The Court required that the relocations units must:

- be at least 24m2 in size;
- be accessible using tarred roads;
- be individually numbered for identification purposes;
- have walls constructed with Nutec;
- have galvanised iron roofs;
- be supplied with electricity through a prepaid electricity meter;
- be situated within reasonable proximity of a communal ablution facility;
- make reasonable provision for toilet facilities, which may be communal, with waterborne sewerage; and
- make reasonable provision for fresh water, which may be communal.

The judgment in this case highlights the impact of the location of emergency housing on lives and livelihood of recipients, that is the socio-economic impact of relocation. Due to its

proximity to the City, Joe Slovo informal settlement had been strategically located to enable practical access to work and food; school for the children and adult education, churches and other forms of community group. Contrarily, the temporary relocation area was 15km away from the City, with no access to trains, thus the relocation had a very strong negative impact on household income and expenditure, social networks and security (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011; Development Action Group, 2007). Following the judgment granting the eviction, it became evident that there was no plan for upgrading the Joe Slovo settlement and that relocating 4000 people may cost more than the informal settlement upgrading (Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011; Development Action Group, 2007). As a result, following its judgment granting the evictions in June 2009, the Constitutional Court gave an order in August 2009 stopping the evictions until further notice.

The *Joe Slovo* case highlights a critical element that plagues the emergency housing programme: the limitation of the courts and court judgments in ensuring the proper planning, administration and implementation of emergency housing. The Court is constrained in the extent to which it can intervene and is not adequately equipped to understand the issues and how they relate to the nature of the roles and responsibilities in practice. Courts make pronouncements and give insight on the meaning of rights but only administrators are best placed to bring those rights to life in the realities of their various municipalities and people's lives. However, the litigious nature of emergency housing plagues the programme, not because litigation is bad but because litigation has become the main means through which people best access the service. What should happen is that policy makers and implementors, should, among themselves and using institutions for such purposes resolve the 71emergency housing delivery issues. This is particularly important, where the courts have explained already the meaning of the right and the standards applicable. Courts are simply not equipped to get involved in the finer details of project specific emergency housing disputes.

- *Abahlali baseMjondolo Movement of South Africa and Another v Premier of the Province of KwaZulu-Natal and Others* [2009] ZACC 31

Abahlali baseMjondolo are a community-based shack dwellers movement that began in Durban, KwaZulu Natal. They represent communities in housing related matters. In this case,

they challenged the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act 6 of 2007. The objective of the Act was to eradicate slums in KwaZulu-Natal by effectively facilitating and promoting evictions without meaningful engagement. Abahlali baseMjondolo contested the passing of the Bill, culminating in their bringing a Constitutional Challenge against the constitutionality of the proposed Act. Abahlali argued that section 16 infringed of the proposed Act infringed on section 26(2) of the Constitution in three aspects: it hindered meaningful engagement between municipalities and unlawful occupiers; it contravened the principle that evictions should only occur as a last resort; and it weakened the fragile tenure of unlawful occupiers by initiating eviction proceedings without adhering to the procedural safeguards outlined in the PIE Act (Abahlali Basemjondolo Movement SA and Another v Premier of the Province of Kwazulu-Natal and Others, 2009; Tissington, A resource guide to Housing in South Africa 1994 - 2010, 2011). Section 16 was problematic in that it allowed eviction proceedings to be instituted prior to meaningful engagement and essentially overriding PIE. The Court found that engagement is only meaningful and genuine when it is attempted before eviction proceedings are instituted (Abahlali Basemjondolo Movement SA and Another v Premier of the Province of Kwazulu-Natal and Others, 2009).

- *Blue Moonlight Properties 39 (Pty) Ltd v Occupiers of Saratoga Avenue and Another (Blue Moonlight)/ City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011*

The *Blue moonlight* case is seminal in understanding the current state of emergency housing. Prior to *Blue Moonlight*, evictions had been public evictions sought by the state. In Blue Moonlight, the courts were faced with a challenge involving a private eviction (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). A private company, Blue Moonlight Properties 39 (Pty) Ltd purchased a bad building in the inner city of Johannesburg with the intention to develop it and aware that unlawful occupiers lived in the building (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). Many of the occupier's occupation began as lawful with permission from the owner and paying rent to the owners and caretakers over at least 15 years (2005).

In 2005, Blue Moonlight instituted eviction proceedings against the now unlawful occupiers which the occupiers resisted, arguing imminent homelessness should they be evicted and joined the City of Johannesburg to the proceedings based on its constitutional housing obligations (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). The City's policy was that it did not have an obligation and thus did not provide temporary emergency accommodation in private evictions. Thus there was a gap in that the occupiers met the requirements to use the defence in PIE but the State excused itself from providing the necessary solution. In the High Court and in the Supreme Court of Appeal, the courts found that the City had an obligation to provide temporary emergency accommodation in private evictions, including paying rental on behalf of the unlawful occupiers until their eviction date as found by the High Court (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011).

The City resisted the finding that its policy was unconstitutional and appealed to the Constitutional Court, basing a large part of its resistance on its inability to provide temporary emergency accommodation in such instances. The Court had to decide two issues: whether the occupiers must be evicted to allow the owner to fully exercise its rights regarding its property and, if so, whether their eviction must be linked to an order that the City provide them with accommodation (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011).

The City had a plan to provide temporary emergency housing for people evicted by the City who would otherwise be rendered homeless. The plan allowed for such evictees to be provided with very cheap housing provided for a maximum of one year. The judgment sets out the City's plan to provide temporary emergency housing in that the City uses designated buildings identified in the policy, intended for temporary accommodation while the City works on provision of long-term housing. The City's policy included meaningful engagement with communities and temporary accommodation following relocation from "bad building" which are described as "unfit for human occupation due to fire hazard serious fire hazard…and/or risk caused by unhygienic conditions" (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). The City had a stock of buildings ready in case of emergencies but this policy strictly refused to provide for people

vulnerable to homelessness or rendered homeless by private evictions (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011).

The City argued that it did not have the resources to provide temporary emergency accommodation for people facing private eviction (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). It argued that funding for the emergency housing programme was based on an ad hoc approach and it could not plan or predict for emergency housing which by nature is unpredictable (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). The City argued that its budget was insufficient to cover the need arising from private evictions and that it was impossible to budget in advance. Since the City only provided its budget projections, which it argued were not reliable indicators of its resources, it failed to provide its budget to prove its lack of resources (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). Thus the Court held that the City had an obligation to provide temporary emergency accommodaton within its own resources at the local government level to provide for emergency accommodation (City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 2011). The City sought to join the national and provincial departments to the proceedings based on their obligation to fund municipalities' emergency housing programmes. The Supreme Court of Appeal refused the City's application to join provincial and national government as the City was most directly responsible for provision of housing.

Blue Moonlight was precedent setting in that it found that the City had an obligation to provide temporary emergency accommodaton in private evictions, that the City had an obligation to use its own resources in planning for emergency housing , and that only the City was directly responsible for the provision of emergency housing through its own resources and not limited to funding applications to province. The judgment was pivotal in expounding and upholding the right to housing for affected people. However, the judgment's isolated the City in being solely responsible for emergency housing where relations between City, province and national were already strained. Since the Blue Moonlight judgment the quantity and quallity of emergency housing has remained not improved much, but the burden on the City has increased such that the City now carries the burden providing permanent housing and resolving its backlog; and responding to the overwhelming need for emergency housing.

- *Dladla and the Further Residents of Ekuthuleni Shelter v City of Johannesburg and MES (Dladla)*

The Constitutional Court provides the following media summary (Dladla and Another v City of Johannesburg and Others, 2017). The City of Johannesburg provided temporary accommodation at the Ekuthuleni Shelter (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). The Shelter is run by Metropolitan Evangelical Services (MES), with whom the City had concluded a contract to provide the temporary accommodation (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). Upon arrival at the Shelter, the applicants were told that, in exchange for living there, they had to comply with certain rules (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). The first rule required residents to live in separate dormitories based on sex (the family separation rule). This prevented heterosexual couples from staying together and separated children over the age of 16 from their caregivers of the opposite sex (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). The second rule prohibited residents from being inside the Shelter from 8h00 to 17h30 every day and required the gates of the Shelter to be locked again at 20h00 (the lockout rule) (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). Any occupant who had not returned by 20h00 was locked out and had to find accommodation elsewhere for the rest of the night (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024).

The applicants took issue with the rules and challenged them in the High Court, seeking an order declaring the family separation and lockout rules to be an unjustified infringement of their constitutional rights to dignity, freedom and security of the person, privacy and access to adequate housing (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). The High agreed and granted the order and the City and the Metropolitan Evangelical Services were ordered not to enforce the rules against the applicants in the case (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024). The City

appealed the order to the Supreme Court of Appeal which agreed with the City that the rules were not unusual and overturned the High Court's decision (Dladla and Another v City of Johannesburg and Others, 2017; The Constitutional Court of the Republic of South Africa, 2024).

The applicants appealed to the Constitutional Court which had to determine if it would reinstate the High Court's order. The agreed with the initial finding by the High Court that the rules infringed on the applicants' rights to rights to dignity, freedom and security of the person, privacy.

5.5. Housing and emergency housing discussion

There are a litany of cases considering each element of eviction responsibilities, defences, and provision of temporary emergency accommodation based in PIE, Breaking New Ground and the Housing Code. Each fundamental and formative to the provision of emergency housing today. Judgments on emergency housing are the main record available for development of the emergency housing programme and its challenges. Precedent has established the right of unlawful occupiers to access emergency housing. It was critical in developing the emergency housing programme reflect the standard and quality it has today and interpret the meaning of the right to emergency housing specifically.

But the onslaught of litigation has also had negative, systemic impact on emergency housing. The distinction between temporary emergency accommodation and emergency housing is a result of litigation and precedent, the majority of which has been based on facts revolving around the need for temporary emergency accommodation in the event of eviction. The National Housing Code and the Disaster Management Act recognise evictions as part of emergencies, but in practice there is a distinction between emergencies because of evictions and every other type of emergency. The City's failure to provide temporary emergency accommodation has also led to long delays in finalisation of eviction proceedings thus delaying the realisation of private owners' property rights. The right of affected persons has become almost meaningless and very limited in its capacity to be enjoyed, at least to the extent that the City continues to fail to provide adequate temporary emergency planning, does not adequately plan for foreseeable need and the quality is not up to standard.

Consequently, Cirolia (2013, pg. 405) recognises that validating the divergence of housing resources from those on the waiting list to use for emergency housing is a political and legal exercise rather than an administrative or technical endeavour. Recently, the Minister of Human Settlements announced that the responsibility for the provision of emergency housing would return to national government under an "Emergency Housing Command Centre", thus suggesting centralisation of emergency housing as a solution. However, redirecting responsibility may not necessarily resolve the systemic issues with the provision of emergency housing. The creation of such a centre raises questions about decentralisation in South Africa and local government's efficacy in fulfilling its mandate. Although decentralisation is an iterative process, recentralisation of other aspects of service delivery, like health, calls for more understanding on service delivery by decentralised local

6. Conclusion

State organisation of decentralisation will require collaboration in some form, regardless of recentralisation of emergency housing or where the responsibility of housing will lie. Decentralisation and good governance are aspirational but less so responsive and reformative. The developmental and urban context in South Africa affects the mould that decentralisation and good governance take.

Turning from such theoretical underpinnings to understand governance in practice is assistive in local governance and service delivery reform that is responsive to the issues. Despite its obligations, local government is overwhelmed, and this is in turn affecting its ability to satisfy its responsibility. Such impacts directly affect the people entitled and relying on government to fulfil its mandate. The poor and vulnerable, already carrying the weight of poverty and its associated challenges, bear the burden of poor service delivery. This is in direct contrast to the hope of decentralisation, the aim of good governance; and the developmental state which seeks to fulfil and protect human rights.

The literature leans heavily to assessments of fiscal decentralisation because it is quantifiable. Good governance studies heavily discuss transparency and accountability considering corruption and failure to meet obligations. There is also a strong emphasis in the literature on public participation in its varying forms whether for decentralisation or good governance. The gaps in the literature point to a need to understand the evolutionary and adaptive nature

of administrative decentralisation and good governance and how this such adaptation may be achieved iteratively.

Much of the conceptual literature establishing the ideas of decentralisation and good governance ends around the mid-2000's and is outdated. More recently, between the mid-2000's to mid-2010's, the literature has been more diagnostic of the failures of these theories in application and seeking to understand the context and the nature of the failure and its impact. Most recently, from the late 2010's academia has been working on increased understanding and measurement of the less tangible aspects of decentralisation and good governance in practice, outside of pressure to satisfy the interests of international monetary institutions and other financiers. It would be amiss to ignore the exchange of primacy of interests in governance from prioritising international monetary institutions to prioritising economic and business interests. However, that is not the focus of the paper although administration does not operate in silos and the study may touch on this where relevant.

Although South Africa and local governments adopt and reflect ideals of equality and poverty elimination, this is not reflected in practice. Despite the iterative process between litigation and reflection of judgments in policies, local governments continue to fail in providing emergency housing, and temporary emergency housing in evictions. Where they do manage to provide it, its provision belies a welfare approach which prioritises the wealthy and the elites. The obligations and accountability of duty bearers has been interpreted persistently but there is a lack of political and administrative buy-in into the idea that states as duty bearers must use their resources to empower freedoms and that human rights are primarily political and administrative concepts. The current litigious approach though beneficial, has exhausted its utility and work needs to be done in the political and administrative adoption of such ideals. The study explores the research question with this framework in mind.

Chapter 3 - Methodology

1. Introduction

This section discusses and explains the study's chosen research approach, design, data collection, processing and analysis. This section also discusses and seeks to mitigate the limitations, validity and ethics of the study.

3. Research approach

The study locates itself in a post-positivist paradigm as it uses a qualitative research approach (Edmonds & Kennedy, 2017). Generally, the aim of qualitative research is to reveal and understand phenomena within a particular context, without attempting to infer any type of causation (Edmonds & Kennedy, 2017). This approach focuses on the study of phenomena "their nature their quality, different manifestations, the context in which they appear or the perspectives" (Busetto, Wick, & Gumbinger, 2020, p. 2). Post-positivism views reality as uncertain and relative depending on the subject's environment and influences.

Human beings construct meaning to their reality and engage with their world based on historical and social perspectives (Cresswell & Cresswell, 2018, p. 46). Thus, according to post-positivism, knowledge and understanding about reality can only be probable regardless of strict adherence to scientific methods (Chilisa & Kawulich, 2012, p. 7). Consequently, post-positivist research approaches provide for the understanding of the reasons for certain phenomena. Qualitative research relies on narrative rather than numbers and the researcher as a research tool (Hancock & Algozzine, 2006).

The study explored how the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. The study used the case study method which is defined as an "empirical inquiry that investigates a phenomenon· within its real-world context, when the boundaries between phenomena and context are not clearly evident, in which multiple data sources are used" (Edmonds & Kennedy, 2017, p. 143). Case study research has many benefits and is best suited to this study. The main benefit is that this method allows for intensive investigation into a particular process, (Hancock & Algozzine, 2006; Yin, 2018). Although there is some variation in the understanding and application of case study research, there is agreement that case study can arguably "be applied arguably any other approach within the qualitative method,

as long as the "case" being explored is bound by time, place, person, or environment" (Edmonds & Kennedy, 2017, p. 144). Secondly, "case study research is richly descriptive, because it is grounded in deep and varied sources of information". Thus, it allows for the research to rely on interviews and document analysis as data sources for data collection. In this instance, case study research will allow for relevant people to be interviewed. Case study research allowed for planning and legal documents, and media to be analysed. The present study considers the research question within a specific time and space: CITY OF JOHANNESBURG during 2012 – 2020. Thus case study is applicable as it allows for phenomena to be studied within the specific bounds of space and time (Hancock & Algozzine, 2006, p. 16).

The literature review showed that there is a lacuna on understanding this phenomenon in the literature. Case study research allows for exploration and determination of relevant themes within events "rather than prove a hypothesis" (Hancock & Algozzine, 2006, p. 17). Thus the study delved deep to explore the phenomenon to seek to explain it, especially in the absence of much literature on the phenomenon.

As with any other research method, case study research has some inherent weaknesses, but these are not terminal and can be mitigated. The first weakness is the poor distinction between case studies and case study research. Which also links to the issue of bias in case study research. Case study research is distinguished by methodical procedures which are outlined below such as sampling, data collection and analysis (Yin, 2018, p. 52). Bias will be mitigated through designing unbiased questions and searching for evidence. The nature of case study research increases the likelihood of bias creeping in and also requires additional vigilance from the researcher.

Similar studies have been conducted fully or partly. Particularly, the South African Cities Network conducted case study research reviewing the CITY OF JOHANNESBURG's provision of shelter, focusing on TEA and evictions, in 2014 (Dinath & Harisson, 2014). Although similar, the present study was distinguishable in that it focused on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. Burgoyne (2008) also conducted a case study of the Fisantekraal Housing Development Project in the Western Cape to understand factors affecting housing delivery. Mguni (2010) conducts a case study community participation in

housing delivery in the Joe Slovo Settlement in the Western Cape. Boshoff, 2008, carried out case study research of policymaking in the Free State province. All these studies used a combination of desktop analysis and interviews.

4. Research tools and application

4.1. Data collection

The research conducts case study research which relies on various sources of data collection tools throughout the data collection process. This specific study focused on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. Document review will be used to collect data on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. Document review is valuable in corroborating data collected through an alternative means and thus strengthens the reliability of a study (Bowen, 2009, p. 29). This is especially useful in a case study.

The study uses use semi-structured interviews which provide some guidance for the broad themes that the interview wishes the participant to speak to during the scope of the interview (Gill, Stewart, & Treasure, 2008). This method is better suited to allow the participant to provide more information or nuance to the answers they provide and is well suited to the purpose of this research (Gill, Stewart, & Treasure, 2008).

4.2. Sampling

The target population is a "large group to which a researcher wants to generalise his or her results" (Johnson, 2017, p. 548). Sampling sets parameters for selecting a representative portion of a population, that is whether the sample is suitable (Adams, Khan, & Raeside, 2014). When selecting a suitable sample, one must consider whether the sample size is statistically justifiable, within the constraints of the time, cost and size of the survey that will be conducted (Adams, Khan, & Raeside, 2014). Although randomised sampling is important in quantitative research, it is less applicable in qualitative research (Ishak & Abu Bakar, 2014).

The phenomenological nature of case study research works best with a non-probability sampling technique (Edmonds & Kennedy, 2017; Ishak & Abu Bakar, 2014). Since the goal is

to understand a social process, purposive sampling is the most appropriate sampling method to use for this research. Purposive sampling approach selects specific participants and/or documents (in this case) which will be able to assist in answering the research question (Ishak & Abu Bakar, 2014). This sampling approach is also useful where there are limited, identifiable data source (Edmonds & Kennedy, 2017). The study will specifically use snowball sampling which relies on participant referrals (Edmonds & Kennedy, 2017). In this case, the case study is small and limited to very specific data that purposive sampling is the most applicable. The study will seek out participants who have worked on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing from 2012 – 2021.

The study relied on the following inclusive criteria: current or former local government officials, current or former administrators in the department of housing at the CITY OF JOHANNESBURG, participants should have substantial experience or expertise in provision of emergency housing, intergovernmental relations, and the local government level; participants from civil society should include individuals who are actively engaged in local government and housing from a community advocacy or activist perspective; researchers, academics and experts should have studied or analysed on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. The study will aim for a diversity in participants and they should all be willing to participate voluntarily.

The study includes the following exclusion criteria: possible participants that lack relevant experience through direct experience or knowledge of on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing; individuals who are no longer actively engaged or who have not been involved in recent years; individuals with significant bias or conflicts of interest that may compromise the integrity of the study; individuals who are not accessible for interviews or surveys or who decline to participate; individuals with limited expertise or experience in on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing as they may not contribute substantially to the study; and avoid including multiple participants with very similar backgrounds or experiences to prevent redundancy.

The study relies on saturation to provide an indication of when to stop interviewing more participants. Data reaches saturation repetition occurs within the responses that the participants provide in answer to the interview questions (Ishak & Abu Bakar, 2014).

4.3. External Validity

"External validity refers to our ability to generalise the results of our study to other settings" (Adams, Khan, & Raeside, 2014, p. 247) These settings should be those similar to the sample used in the study thus a study has strong external validity when it can be generalised to the population from which the study was drawn. One of the criticisms of qualitative research and, more so, case study research, is its poor generalisability. Generalisability is concerned with ensuring the utility of a study and one of the ways in which such utility is measured is in its ability to be replicated (Yin, 2018). For replication to occur, a sample representative of the population must be used. Since qualitative research, and case study research in particular, relies more on nonprobability sampling, this contributing factor toward generalisability is undermined.

However, this is not detrimental to the utility of the research. Generalisability is more important in quantitative than qualitative research (Edmonds & Kennedy, 2017; Ishak & Abu Bakar, 2014; Yin, 2018). Particularly where the research is exploratory and explanatory, the replicability aspect of generalisability may be somewhat affected, but the utility of the research is not (Eisenhardt & Graebner, 2007; Ishak & Abu Bakar, 2014). The utility of case studies despite "poor generalisability" can be seen from the case study examples referred to under the "research approach section above".

The research seeks to understand a very specific phenomenon which is limited in many aspects (Yin, 2018). But understanding on the City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing will hopefully grant some insight or spark interest in further research on similar situations. These situations are boundless and may include other municipalities with respect to other local policy, policy and constitutional principles in general, and other policies within the City.

4.4. Data processing and analysis

Data processing is primarily about reduction. This process reduces data into visual and/or numerical units which may then be stored on programs like excel (Adams, Khan, & Raeside, 2014).

The data collected from semi-structured qualitative interviews was processed by transcribing the audio or video recording of the interview into text format. The text data can then be analysed using qualitative data analysis software such as NVivo or Atlas. The programs then organise the data into categories and the subsequent identification of patterns and relationships among these categories (Edmonds & Kennedy, 2017, pp. 142 - 143). Due to the small quantity of the data, it was processed using Microsoft Excel.

The semi-structured interviews, which included participants from various sectors such as local government officials, civil society representatives, and experts, were meticulously organized into meta-themes of accountability, inclusivity and political and social change to capture the diverse perspectives on the City of Johannesburg's implementation of emergency housing. Court documents, particularly those related to eviction cases where the City was joined to provide temporary emergency accommodation, were analysed to understand the legal context and obligations. Media data, including news articles and official statements, were reviewed to gauge public perception and the City's communication strategies according to the meta themes of accountability, inclusivity and political and social change. The planning documents, specifically the Integrated Development Plans (IDPs) from 2013 to 2021, were organized using content analysis to identify recurring themes such as development, emergency housing, and temporary emergency accommodation. These recurring themes were categorised within the accountability meta-theme. This comprehensive data collection and analysis process ensured a robust understanding of the subject matter within the themes of focus in the report. All data is securely stored in a password-protected folder to maintain confidentiality and data integrity.

4.5. Limitations, feasibility, and positionality

All research has limitations (Maree, 2016, p. 105). The study is limited to the City of Johannesburg's implementation of emergency housing and temporary emergency accommodation, thus limiting applicability to other emergency housing programmes in the City of Johannesburg or similar programmes in other municipalities. Additionally, access to

relevant stakeholders in government may prove difficult but the researcher will mitigate this by seeking connections from civil society and academic stakeholders.

The researcher is personally and professionally invested in human rights issues. As a practitioner in the space, the researcher holds possible biased against the City of Johannesburg due to working in situations of poor service delivery. The researcher anticipates that the results will not cast the City of Johannesburg in a positive light. However the researcher will allow the data to speak for itself and the outcome of the data may be contrary to her expectations. Most importantly, regardless of the researcher bias the purpose of the research is to understand the process and thus provide insight and contribute to improving policy making at the local government level. The costs of the study should be low as the researcher is based in Johannesburg. However some costs may be incurred for use of the data processing and analysis software.

5. Ethics

The research followed the University of the Witwatersrand's ethics procedures and received an ethics certificate. Public policy documents are in the public interest and the public may access them. Participants will participate voluntarily and may withdraw at any time. Consent forms will be used to obtain consent, where applicable, and anonymity will be respected.

6. Validity, reliability, and dependability

Validity, reliability and dependability refer to the quality of the data collection (Adams, Khan, & Raeside, 2014). The data collection tool must provide consistent results when applied to the same type of data (Adams, Khan, & Raeside, 2014; Bryman, 2012). The reliability of data at different points of the research should be assessed for bias and/or corruption (Adams, Khan, & Raeside, 2014). Validity relates to whether the measurement of a concept really measures the concept (Bryman, 2012). Protecting the internal validity in a case study can prove difficult due to the flexible nature of the research method. The internal validity of the study can be protected through triangulation of data. This requires collecting data from multiple sources which would ensure that the data is more reliable (Yin, 2018, pp. 170 -171). In this study, triangulation will be conducted with interviewees by interviewing policy makers, academics and researchers; and civil society organisations. Triangulation is maintained

through the desktop review of policy and judgments, and any other relevant documents that may assist in answering the research question.

Dependability, which ensures the stability and consistency of the research process over time, is also crucial (Lincoln & Guba, 1985; Shenton, 2004). By maintaining detailed records of the research process, including data collection and analysis methods, researchers can demonstrate the dependability of their study (Lincoln & Guba, 1985; Shenton, 2004). The research ensured reliability by testing data collection tools through expert reviews and practice interviews, and by assessing data for bias. Validity was maintained through triangulation of data and expert reviews to ensure accurate measurement of concepts. Dependability was achieved by keeping detailed records of the research process and documenting any changes, ensuring the study's robustness and credibility thus solidifying the reliability, validity, and dependability of the research.

7. Conclusion

This chapter outlined the methodology of this qualitative study and the study's limitations, validity and ethics of the study.

Chapter 4 - Findings

1. Introduction

This chapter discusses the findings from the four types of data collection. The main data source was the semi-structured interviews and the content analysis of IDPs, media review and court paper analysis were used to corroborate and triangulate the data. The findings were collected using thematic data collection, except the IDPs which used content analysis. The findings are organised under the three themes are summarised as follows:

- Inclusivity - people's agency and participation,
- Accountability – enforcing obligations against duty bearers,
- political and social change - administrative belief and adoption and reflection of inclusivity in practice and programmes, transition from welfarism to empowerment meaningful service delivery based on quality not quantity, inclusive urban spaces from empowerment over welfare, holistic approach to provision of emergency accommodation.

The findings give insight into local government, provision of emergency housing, intergovernmental relations and centralisation The findings will then be analysed using the broader themes of the study in chapter 5. *Figure 4* outlines the use of interviews, planning documents, media statements, and court affidavits to gather comprehensive data, reflecting the interconnected approach depicted in the image. This triangulation is crucial for understanding the challenges and opportunities in providing emergency housing and the role of intergovernmental relations and decentralization in this process.

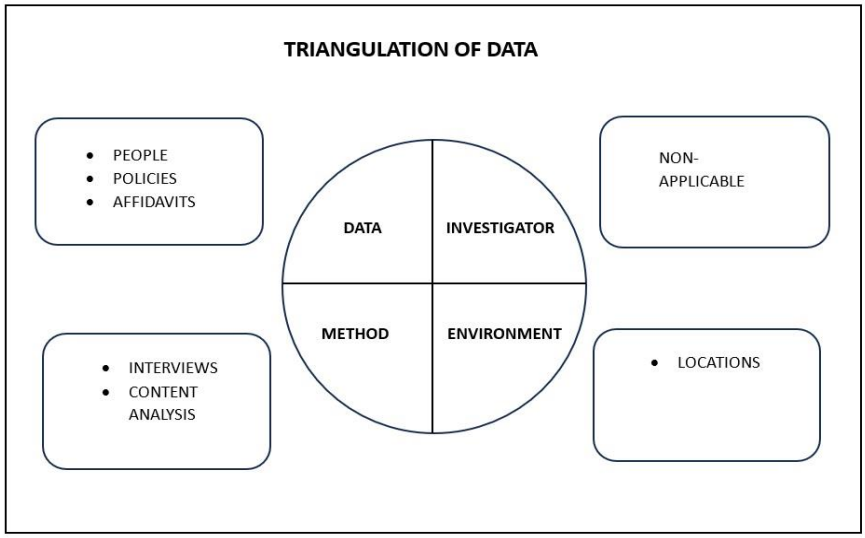


Figure 4: Triangulation of data

Source: Author's own

2. Interviews

2.1. Participation and response rate in interviews

The response rate in to requests for semi-structured interviews was discouraging. The subject matter of the study was niche, and the study sought to combine different areas in the discussion. Participants may feel comfortable discussing intergovernmental relations and local government but may not be knowledgeable about temporary emergency accommodation or emergency housing. Participants were also limited to those that were familiar and knowledgeable about the City of Johannesburg. This resulted in a very limited pool of possible participants. The goal of the study was to interview at least three participants that were experts, civil society, community organisations and government officials. Many participants suggested that emergency housing is a contested and sensitive particularly since the fire at an inner-city bad building that is currently the subject of a commission of enquiry.

Table 2 summarises the proposed and actual interview responses.

Table 2: Proposed and actual interview responses

Participant type	Proposed sample	Actual responses
Government		
City of Johannesburg	13	2
Government support organisations	2	1
Province	1	0
Civil Society Organisations		
Social sciences	2	0
Human rights law practitioners	4	3
Private owners	1	1
Community organisations	2	1
Experts		
Local government and housing	10	2
Local, government, Intergovernmental relations, and housing	1	1
Urbanisation, and housing	2	1
TOTAL	**38**	**12**

A total 40 participants were approached. 15 experts were approached and two agreed and participated in an interview. 13 potential participants in the City of Johannesburg were approached, four agreed to participate and two eventually interviewed. One person from the Province was approached and they redirected the request to the City of Johannesburg as best placed to participate and claimed that the Province had no competence over emergency housing. Six participants from civil society were approached, five agreed but only three eventually participated. Two community participants were approached one was interviewed. The researcher found that interviewing community member requires time and relationship building, as well as a commitment to the community to ensure that they do not feel exploited or that researchers come and go to observe but they do not benefit, and their circumstances do not change. Consequently, the study will draw community representations from affidavits and other secondary data. One, unanticipated but recommended participant representing private property owners also interviewed. Two participants from government support organisations were approached and one eventually interviewed. The interviews reached saturation.

2.2. Interview data

The study employed thematic analysis on the interview transcripts and this section summarises those findings. The findings are organised using overarching themes of accountability, inclusivity, and political and social change, with sub-themes categorising interviewees responses that reflect and refer to the overarching theme.

Accountability

This theme focuses on the importance of accountability in achieving South Africa's developmental local government goals and the provision of emergency housing where weak accountability compromises the fulfilment of these goals as identified within the human-rights based approach, the capability approach and the City's goals to address poverty and inequality as outlined in the theoretical framework.

Sub-theme 1 - The City's role in provision of emergency housing

The respondents were all in agreement about the role of the City in the provision of emergency housing and temporary. Respondents agreed that provision of emergency housing was in the functional purview of the City. Respondents all agreed that the basis for this was law and policy. This highlights the City's accountability in addressing housing emergencies.

ELGH01 said that "if there's an emergency in a particular area, they [the City] need to react and then obviously approach province when the need arises."

CSOPO01 agreed and said "the city's responsibility and to provide temporary emergency accommodation and they have not been very good at it at all"

ELGH02 said "the municipality was being you know needing to provide emergency housing in terms of court orders"

GCOJ01 agreed, somewhat reluctantly that it was the City's role to provide emergency housing when they said "I think look, the onset they might be subjective with varying degrees of interpretation of what that role is, but we are guided by legislation and municipalities or local government sphere creatures of statute"

Sub-theme 2 - Blue Moonlight Judgment confirms the City's role in providing temporary emergency accommodation

Many of the respondents mentioned the Blue Moonlight judgment. Some recognised it as the key interpreter of the meaning of the City's role in providing emergency housing and temporary emergency accommodation. Referring to how well the City is fulfilling its role in providing TEA and emergency housing, GCO01 said "there was lots of confirmation around blue moonlight [on the City's roles] and how it was interpreted and means."

Respondents also recognise the Blue Moonlight judgment as a marker for the beginning of the collapse of the City's provision of emergency housing. Respondents highlighted that the decision is Blue moonlight that the City had an obligation to provide emergency housing in the event of evictions was the City's undoing but also seminal in its recognition of the rights of indigent people to access temporary emergency housing when evicted by private owners.

ELGH02 said that the Blue moonlight judgment "sort of shocked [the City's] responsibilities, but was forced to [fulfil the responsibility], in some cases with litigation again around this"

Only two respondents spoke of the right accruing to people entitled to emergency housing, CSOHRLP02 and CO01.

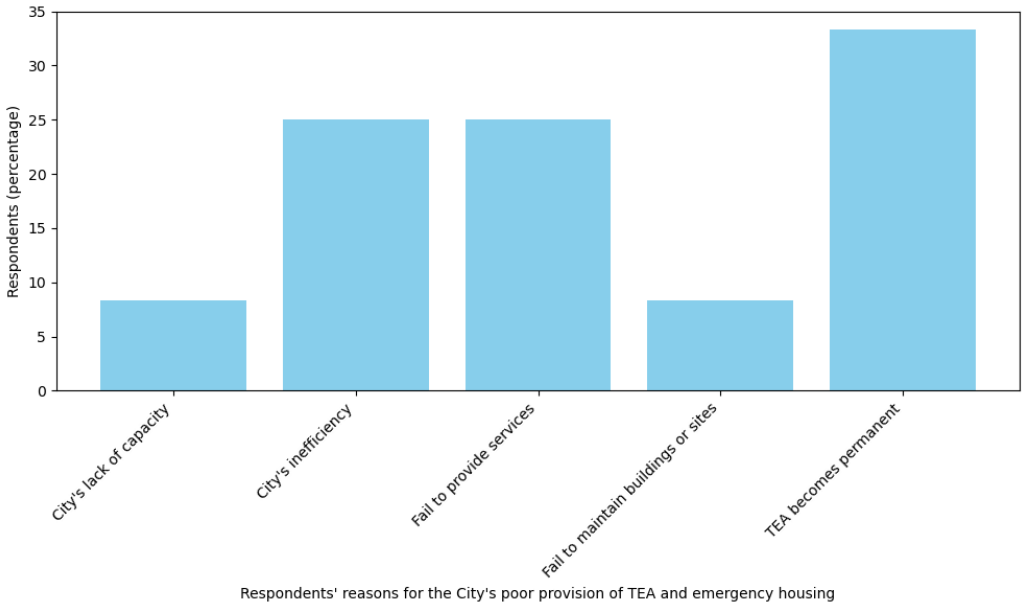
GCOJ01 explained that "the understanding I think post it [Blue moonlight] was how does it translate from a concession to implementation and I think that's where the disconnect happened"

CSOHRLP01 also used Blue moonlight as a marker to measure delivery and planning for temporary emergency accommodation "How many TA's do you think have been appealed and provided by the city?...10". The respondent went on to explain that this amounted to just under one temporary emergency accommodation per year since the Blue moonlight judgment in December 2011.

Sub-theme - How well is the City fulfilling its role

All the respondents agreed that the City was failing and not doing well at providing emergency housing and temporary emergency accommodation, with various evidence that show that the City is not fulfilling its role well. The respondents also shared different reasons for this poor fulfilment of the City's obligation. This reflects a failure in accountability, as the City is not meeting its mandated duties effectively.

Graph 1: Respondents' reasons for the City's poor provision of TEA and emergency housing



Graph 1 shows respondents' reasons for the City's poor provision of TEA and emergency housing, majority of respondents attribute this to TEA becomes permanent contrary to its temporary intent. The respondents all acknowledged that TEA sand emergency housing and related services should not be free, but residents' continued stay in TEA sites make this difficult to navigate. The divergence in views among respondents was how to address this issue.

CSOPO01 said "The idea with temporary accommodation is that people move into it that don't have to pay anything, so it's free for a certain period of time and in that time, you supposed to go and look for somewhere else where you're going to pay." The respondent went on to say "I think we should do away with temporary accommodation altogether because it's never temporary. Rather place people permanently when they are evicted. Then the place is their home and they take care of it because it belongs to them"

GCOJ01 agreed by saying "There's also concerns raised about, you know, providing a temporary solution that turns into a permanent". The respondent continued "the cost of services almost one to one with the cost of the rental. And there's a service cost … but it means you must register. [there is a] particular way to do it and public can get access to discounted rights of services. But when you find some of these facilities have been people

have been there for a good few months and there's no compensation being received even for the services or anything of the sort and it's virtually impossible to connect that and the buildings in inner city had this problem that belong to the city, it eventually reaches this critical point where even the service entities and others are no longer be able to continuously carry that load and innovate.

ELHH02 agreed and said “People can pay a little bit, but there’s issue around not paying for services.”

40% of the respondents raised the City’s approach to requiring tenants of temporary accommodation that have become permanent to pay off outstanding service-related debt on the respective building or site before they can be provided with services like water, electricity and sanitation.

Political and social change

These findings are organised under the political and social change theme. The theoretical framework showed the importance of political and social change in achieving South Africa’s developmental local government goals and the provision of TEA and emergency housing as identified within the human-rights based approach, the capability approach and the City’s goals to address poverty and inequality. These findings reflect the participants views on political and social change within the COJ’s provision of TEA and emergency housing. Move to discussion.

Sub-theme 1 - Temporary emergency housing vs emergency housing

All the respondents’ assumed that the discussion was about TEA in response to evictions. GGSO01 suggested that unlawful occupiers, the duty to provide temporary accommodation and the litigation on the issue was the reason that emergency accommodation for eviction is a point of contention. Only two of the respondents raised the issue of emergency housing of their own volition.

ELGH02 believes the reason is because “that's the situation with a lot of buildings in inner city Joburg, more than other places…It's really something that's developed and people sort of just abandoned buildings and in the inner-city people just informally occupied buildings in the inner city.” The respondent continues “[the City has] got this unique situation where probably

more than the other metros has a situation with people living informally in in like high rise buildings".

CO01 explained that in practice, the City distinguishes between emergency housing and temporary emergency housing "You know a disaster [is] something that happens [unplanned] and eviction, [is] something that you plan to do. That's why you must follow all this court process. It's [eviction] not a disaster". GCOJ01 agreed "In those instances, you know there is a differentiation between the time sensitive emergency [disaster] and what's a not a time sensitive emergency [eviction and provision of temporary emergency accommodation].

When prompted ELGH02 said the practice of distinguishing temporary emergency accommodation and emergency housing persisted despite the lack of distinction in policy. ELGH02 said "I mean the reference to evictions is in the program [emergency housing program], but it's sort of like a small part of it, it definitely was developed more as a disaster response and mechanism".

ELGH01 understood temporary emergency accommodation with reference to informal settlement upgrading, they said "It was informal settlements, and then it became a lot more about evictions falling within the realm of emergency housing". EUH01 was not aware enough of that distinction.

GCOJ01 and CSOHRLP01 also emphasised that there is no distinction for who qualifies for emergency housing, whereas temporary emergency accommodation has qualification criteria.

GCO01 also said that there is also a difference in the quality level and form that emergency housing can take compared to temporary emergency accommodation. But ELGH02, CO01 and CSOHRPLP01 said that the emergency housing there was no distinction in quality of emergency housing and temporary alternative accommodation.

Sub-theme 2 - Funding emergency housing and temporary emergency accommodation

Only two respondents were aware of the impact of the impact of the distinction between temporary emergency accommodation and emergency housing on funding.

CO01 and CSOHRLP01 both said that the money or the lack thereof does not explain the City's poor delivery and provision of temporary emergency accommodation. Generally, non-government respondents agreed that the City had a duty to find the funding to fulfil its obligations.

In GCOJ01's view, the City was rightly expected to fund the temporary emergency accommodation rather than including it in the emergency housing grant from province. The respondent also explained that the City of Johannesburg "start leveraging the funding that's available, the grant frameworks and the grant funding available not just in human settlements… human settlements development Grant, which is the top structure you do have grant funding, which is in the division of Revenue [Bill] for emergency housing ". However the respondent concluded by saying "there just isn't the funding to carry it [provision of temporary emergency accommodation] on completely"

EIGR01 explained the different grant frameworks that municipalities use and combine to fund housing and emergency housing. The respondent began by explaining that when it comes to funding "emergency housing in Johannesburg, that is a responsibility of both the provincial department and the Johannesburg Metro to deal with that…[so] the responsibility sits with Joburg, but the funding is kind of unclear about where it's coming from… but when they defined emergency housing in that grant [emergency housing grant] and in that policy they called emergency housing the temporary housing that you provide to beneficiaries after a disaster and they [provincial government] specifically did not allow the grant to be used for inner city rental."

CSOPO01 added that corruption also negatively affects available funding for the temporary emergency accommodation programme "The number one, they don't have the money. The city has blown all their money. We not even what we in like 6-7, nine months into our budgets annual budget, the city ran out of money last year November you know that it's stolen, they steal it, they buy crap ".

Three respondents said that there is a disjuncture between the policies and laws that inform funding mechanisms and implementation policy and law. So accessing the funds for emergency housing can be difficult and the delivery of the funds does not always align with

the need for the funds. Consequently, they said, the City has to find ways around the impact of this bureaucracy on funding temporary accommodation for evictions.

Sub-theme 3 - Planning

Respondents agreed that poor planning was the reason for the City's poor provision of emergency housing. Generally, they agreed that the City did not have a plan in place

GCOJ01 explained that better planning was needed to improve access to funding "Then of course, that's systems, processes, systems and processes, and how you set it up means you may you may be able to deliver much more effectively after because you will have access to the funding better, but it means then the budgeting planning, the sequencing and others has to be done very well so that you can, because I mean in many cases we have found the fundings available within the planning and the sequencing was solved". The respondent added that it was difficult to plan for temporary emergency accommodation because the City "didn't know how many buildings were, and let's just for purposes here, unlawfully occupied how many eviction matters were in advance".

GCO01 went on to explain that the main reason the City continues to struggle with this is a lack of data to inform planning for temporary emergency accommodation. The respondent said "when we were, you know, implementing the Court judgment in… what we what we realized was we were missing the data… We didn't know how many buildings were, and let's just for purposes here, unlawfully occupied how many eviction matters were in advance, how many, you know, informal settlements for others had folks. It was living in what was team is highly precarious, or just to life situations, and I'm bridging the two right because in terms of emergency housing covers both. And when you're missing all this data, you're not sure how to respond adequately." The respondent ended by explaining that this type of planning and data collection was different from responding to litigation on specific cases because "unfortunately, the legal fraternity or the judicial process that unfolded here, it's on whatever matter comes before the court"

Another reason offered by respondents for the poor planning was that the City essentially had limited infrastructure resources due to a loss of control over inner city buildings. CSOP01 said that the City has "basically lost control of their buildings". GGSO01 agreed saying "that's

one thing that I know, every time that municipalities meet cause usually have what's called the members assembly…I can promise you the things that are up there would be unlawful occupation of land [including inner-city buildings] and vandalism of infrastructure." GCOJ01attributed this infrastructure issue to a limitation on the City to only provide temporary emergency accommodation in a specific way in the inner city rather than allowing the City to build a programme with solutions that are viable and practicable for them.

Sub-theme 4 - Attitudes provision of temporary emergency accommodation

Respondents were divided on the attitude of the City as a reason for its poor provision of temporary emergency housing. 50% of the respondents agreed that the reason for poor provision of temporary emergency accommodation was political. The 50% of respondents also agreed that there was a lack of political will. Respondents also highlighted the impact of the persisting change in leadership on the temporary emergency accommodation programme.

Speaking of the Blue moonlight litigation, ELGH02 said "Like I said, there was contestation around the way in which things were being argued, so it's like you can be fooled into thinking that the city has a unified position on something. You've got contestation like political administrative interface issues there as well, so you've got political party lines as well and issues around that".

IGR01 added that political challenges extended to weaker political power at intergovernmental planning and funding forums like the MINMEC where "negotiation between local government, metros, provinces and national happens" despite the representation of municipal concerns by SALGA which the respondent said "has a standing seat in MINMEC and is supposed to argue for the rights and needs and support of local government".

One respondent was sympathetic with the City saying "I think if he [head of human settlements in the City] had the budgets that he wanted, the city would be a very different place…he reached out to me for help because they don't have any money and they're desperate".

Sub-theme 4 - Role of provincial government

All the respondents agreed that the Province's mandate was primarily financial. But ELGH01 recalled that prior to Blue moonlight, Province supported the City with implementation. The respondent said "Province managed it from an application level and then when it came to implementation of those houses and the delivery of the houses, they had to work with local because local had to then demarcate areas, had to make sure that those people gave the relevant documentation so they more they were placed more on the ground."

Respondents also emphasised how much Province distanced itself from provision of temporary emergency accommodation especially around the Blue moonlight case. ELGH01 said "And I think we came in was to say province was not involved and I don't think that that I think that argument was even made by the city at some point to say, you know we prioritizing TEA which is simply emergency accommodation but we not we not looking in and this makes it a lot harder for us to serve the needs of permanent housing but I'm not I don't think that province is ever given us a full on response"

ELGH02 recalls "I'd say around 2009, 2010, 2011 [Blue moonlight litigation] …but at that time it caused, I mean you have literally the City sending legal letters to provincial government saying we need you to join this case because we need you to take responsibility and provincial government saying no, I mean there's literally, I've interviewed people who talked about provincial government coming to some of the court hearings and then literally running out the court, literally running art the courtroom afterwards because they didn't want to speak to someone from the municipality"

According to ELGH02, speaking of provincial government "There was no desire to do emergency housing, the desire was really around providing freestanding, subsidized houses. This idea of emergency housing is so contested because it's basically seen by government as being a way of people jumping the queue".

Sub-theme 5 - Role of national government

All the respondents generally considered national's goal as policy formulating and financial, far removed from the implementation of programmes on the ground.

Sub-theme 6 - Solutions

Respondents discussed possible solutions for improving the implementation of emergency housing within the realm of intergovernmental relations and centralisation. When asked about the role of intergovernmental relations in the provision of emergency housing or temporary emergency accommodation, 50% of the respondent recognised its relevance in the funding and planning processes.

When asked about centralisation of emergency housing as a solution, all the respondents disagreed that centralising emergency housing would resolve the current systemic issues in government. Respondents disagreed on the basis of law, that it would undo all the efforts done to clarify the programme thus far. Respondents all agreed that national government was too far removed from the community and that local government was best placed to provide the service. Respondents suggested that it would be better for national to assist local government in improving its provision of emergency housing. Respondents also agreed that it would be better for province and national to work together to assist local government beyond financial and planning support, to ensure provision of emergency housing. Respondents emphasised that centralisation would not dissolve the need for functional inter- and intragovernmental relations between municipalities and national and provincial government; and within the city's human settlements department and the departments that provide basic services.

Inclusivity

These findings are organised under the inclusivity theme. The theoretical framework showed the importance of beneficiary participation and agency in achieving South Africa's developmental local government goals and the provision of TEA and emergency housing as identified within the human-rights based approach, the capability approach and the City's goals to address poverty and inequality. These findings reflect the participants views on inclusivity within the COJ's provision of TEA and emergency housing.

Sub-theme 1 - Temporary emergency housing vs emergency housing

40% of respondents agreed and explicitly said that the City had an anti-poor and anti-foreigner sentiment. 30% of respondents expressed sentiments that the City was also xenophobic and this xenophobia added to decreasing the City's political will to provide alternative accommodation. GCOJ01's statement stands in contrast of this xenophobic

sentiment. GCOJ01 said “And if I transition this slightly out of just like no high-rise apartments or invaded buildings with eviction…it's even more critical, you know, what percentage of foreign migrants [in the building]? It’s same with the buildings in the inner-city, but what percent, and I'm not discussing the issue around migrants or anything of the sort of legal status. These are people who live in the city and constitutionally the city is a different obligation to provide it. Yeah, there's a local sphere of government issues around Home Affairs, and migrants are usually provincial and national competencies

Sub-theme 2 - The City’s role in provision of emergency housing

GCOJ01 agreed by saying “There's also concerns raised about, you know, providing a temporary solution that turns into a permanent”. The respondent continued “the cost of services almost one to one with the cost of the rental. And there's a service cost … but it means you must register. [there is a] particular way to do it and public can get access to discounted rights of services. But when you find some of these facilities have been people have been there for a good few months and there's no compensation being received even for the services or anything of the sort and it's virtually impossible to connect that and the buildings in inner city had this problem that belong to the city, it eventually reaches this critical point where even the service entities and others are no longer be able to continuously carry that load and innovate.

ELHH02 agreed and said “People can pay a little bit, but there’s issue around not paying for services.”

40% of the respondents raised the City’s approach to requiring tenants of temporary accommodation that have become permanent to pay off outstanding service-related debt on the respective building or site before they can be provided with services like water, electricity and sanitation.

Sub-theme 3 - Planning

GCOJ01 explained that better planning was needed to improve access to funding “Then of course, that's systems, processes, systems and processes, and how you set it up means you may you may be able to deliver much more effectively after because you will have access to the funding better, but it means then the budgeting planning, the sequencing and others has

to be done very well so that you can, because I mean in many cases we have found the fundings available within the planning and the sequencing was solved". The respondent added that it was difficult to plan for temporary emergency accommodation because the City "didn't know how many buildings were, and let's just for purposes here, unlawfully occupied how many eviction matters were in advance".

GCO01 went on to explain that the main reason the City continues to struggle with this is a lack of data to inform planning for temporary emergency accommodation. The respondent said "when we were, you know, implementing the Court judgment in… what we what we realized was we were missing the data… We didn't know how many buildings were, and let's just for purposes here, unlawfully occupied how many eviction matters were in advance, how many, you know, informal settlements for others had folks. It was living in what was team is highly precarious, or just to life situations, and I'm bridging the two right because in terms of emergency housing covers both. And when you're missing all this data, you're not sure how to respond adequately." The respondent ended by explaining that this type of planning and data collection was different from responding to litigation on specific cases because "unfortunately, the legal fraternity or the judicial process that unfolded here, it's on whatever matter comes before the court"

3. Planning documents

Finding the planning documents was initially difficult as the city did not have them available. After some searching, Treasury keeps a record of municipal planning and budgeting records as they relate to the Division of Revenue Bill and Act and Treasury's responsibilities. As indicated in *Table 3*, the study proposed accessing planning documents from 2012 – 2022 but the actual documents accessed were IDPs and budgets from 2013 – 2021. This data was intended to provide triangulation within the case study.

Table 3: Proposed and actual planning documents

Document	Proposed sample	Actual responses
Integrated Development Plan	2012 - 2022	2013 - 2021

3.1. Planning documents content analysis findings

Content analysis revealed three key sub-themes in the IDPs: temporary emergency accommodation, emergency housing and development which all fit into the accountability, political and social change meta themes. The findings are presented in *Table 4* below and thematic analysis is applied in chapter 5. The table shows the three main themes from the content analysis of IDPs between 2013 – 2021. Presence of the theme is marked by "yes" and absence by "no". *Table 4* shows that while development was consistently present, there was some inconsistency with emergency housing and temporary emergency accommodation. Emergency accommodation enters the IDP in 2015 and temporary emergency accommodation in 2017. The description column describes the "what", "why" and "how" of a theme. For example, the IDP uses the words emergency housing and its noted variations in different ways. Emergency accommodation may be mentioned as a descriptor, or identified as part of an obligation and sets out how it would be accomplished.

The presence of the development in the absence of emergency housing and temporary emergency accommodation is telling since all the IDPs were collected post National Housing Code 2009 and the litigation leading up and including Blue moonlight in 2012. When it is included, how the IDP does so is also interesting. When temporary emergency accommodation is introduced, one of the persistent ways the IDP does so is in recognising "responding to litigation" where the City is joined for provision of the temporary accommodation as a core competency of the housing. It belies a reactive approach to provision of temporary emergency accommodation. Additionally, temporary emergency accommodation of shares the same line item as emergency housing. Thus raising question marks on the City's insistence to distinguish between the two forms of housing in practice.

Table 4: Content Analysis of IDP findings

Theme	**Description**	**Years (presented as 20--)**							
		13/ 14	**14/ 15**	**15/ 16**	**16/ 17**	**17/ 18**	**18/ 19**	**19/ 20**	**20/ 21**
Development	This theme was the most overwhelming and persistent	YES	YES	YES	YES	YES	YES	YES	

	and consistent theme in the IDPs								
What	The IDPs referred to development in seeking to define what it is, persistent words used were various forms of “inequality”, notably “spatial inequality”, “income inequality” or “poverty,								
Why	The reason for defining “inequality” was to attain development and inequality was a driver for poverty, thus inequality was also used to describe why development was important particularly attaining “spatial justice”, restoring balance to the “spatial model”								
How	Development would be achieved through “pro-poor” development, attractive “economic development”, “low-cost housing”, “diversified housing”, “communities”, and improving “transport”								
Emergency Housing	This theme was the second most persistent, not as overwhelming but present	NO	NO	YES	NO	YES	YES	YES	YES
What	Defined as “emergency shelter”, “transitional housing” “emergency housing”, and “emergency accommodation”								

Why	Emergency shelter is provided on the basis of the mandate in the Disaster management Act								
How	Creation of "Emergency shelter", identification and allocation for "transitional housing" "emergency housing", and "emergency accommodation" buildings; and budgeted for								
Temporary emergency housing	This was somewhat consistent and mentioned minimally	NO	NO	NO	NO	YES	YES	YES	YES
What	Defined as "temporary emergency accommodation ", "transitional emergency accommodation" or "alternative accommodation"								
Why	The main reason for provision of "temporary emergency accommodation", "transitional accommodation" or "alternative accommodation" is the court mandate to provide it during "evictions" where the City is "joined".								
	It is also part of the Inner-city Housing Implementation Plan (ICHIP)								
How	This type of housing is provided for by setting aside buildings in the City and budgeted for								

4. Media statements

The data collected here was collected through a news search engine using google and a media statement search on the City of Johannesburg's website. The search criteria on the news search engine were "City of Johannesburg of Johannesburg alternative accommodation", "City of Johannesburg of Johannesburg temporary emergency accommodation", "City of Johannesburg evictions"; and "City of Johannesburg bad buildings". The news search engine yielded ten results per page and the data reached saturation between results pages 5 – 7, that is 70 search results. These results were categorised under two broad themes: political and social change; and inclusivity.

The key themes found in media articles about the City were "xenophobia", "anti-poor sentiments", "bad buildings", "disasters", and "language". A review of the City's media statements in 2023 revealed the following themes "circumstances", "image", and "xenophobia".

Xenophobia in both media articles and City statements manifested in the City distancing itself from foreign nationals and any obligation to provide them with temporary emergency accommodation or emergency housing in the event of disasters. Where interactions with foreign nationals arise, the City deflects to the Department of Home affairs and argues that foreign nationals are "outside their purview. The focus is usually on the "legality" of the foreign nationals. The approach is notable as provision of emergency shelter is indiscriminate and criteria for temporary emergency accommodation is defined in PIE.

Media reporting showed a bias to negative language when reporting on evictions and disasters like "slums", "slumlords", "ticking time bombs". Language in media is important in that it influences lay and political administrators' perceptions of emergency housing, disasters and temporary emergency accommodation. Media reporting did not discriminate against the City, which was also reported negatively as "failing", "failure", "corrupt". The media showed a positive reporting bias to private owners often reporting them as most negatively affected. News organisations like GroundUp try to provide a more balanced view including the perspective of the occupiers.

Bad buildings were associated with anti-poor sentiments like criminality, “living for free”, taking advantage. Media also emphasised the conditions of the buildings like “derelict”, neglected, “broken down”, and “dark”.

The City released media statements in very specific conditions – in the event of disaster like flood or fire. They City presents itself in a positive light as responsive, or delivering housing or services like handover of houses at Lufhereng housing project, providing victims of the Usindiso fire with shelter. The City also uses its media statements to defend itself against attacks against it in the media. Lastly, the City uses its media statements to communicate its stance on foreign nationals in the case of emergencies. It was notable that the City does not make statements on evictions or its provision of temporary emergency accommodation.

5. Eviction affidavits

Court papers on “eviction” court cases where the “City of Johannesburg” is joined for purposes of providing “temporary emergency accommodation” were intended to be used to extract data on patterns on the City’s approach in such litigation and data on the circumstances of the people relying on the PIE defence that they were indigent, unlawful occupiers that had no alternative accommodation and faced imminent homelessness should the eviction sough be granted. All such evictions and the applicability of PIE must be confirmed by a court. Attempts to collect such court cases since 2012 until present, and which were not considered under the housing discussion in chapter 2, proved fruitless. The study applied the search terms to SAFLII and Juta databases; and SERI’s website, including unreported cases. The results of the search showed that the defence was found to not be applicable in the claimed instance. Such cases would therefore not provide any insight into the circumstances of indigent people that qualify for alternative accommodation. Where the City was cited and/or joined, the City did not make submissions. This is understandable as the City would only become relevant once it fails to provide temporary emergency accommodation to the extent that it would be taken to court. The findings of this data collection were surprising as the expectation was that there would be a rich source of data.

6. Conclusion

This chapter presented the findings from the data collection process. The research collected data on the City of Johannesburg and its provision of emergency housing, the opportunities

of intergovernmental relations and centralisation in resolving the City's challenges with provision of emergency housing and temporary emergency accommodation. The Chapter also presented findings from the City's plannings documents to assess what the City's approach to emergency housing is in planning. The chapter presented the reflection of the City in the media and its own presentation in its media statements. Last, the study attempted to collect data from court cases, but the attempt did not prove fruitful.

Chapter 5 - Discussion

1. Introduction

Chapter 2 of this report established the theoretical framework of the study in decentralised development and its manifestation in the state organisation of developing countries. Chapter 2 introduced the developmental local government as best placed to be responsive to the needs of communities. The chapter then considered the substantive means to achieve the goals of development within this decentralised structure. The study compared the capability approach and the human rights-based approach as this substantive means. The theories reached the same point: people centred approach to development by eliminating poverty through addressing inequality, where various factors drive inequality. However, for purposes of the study, the focus is on housing as a driver of inequality and poverty; specifically provision of emergency housing in the context of the City of Johannesburg. Therefore, access to housing addresses inequality. The study focuses on the perspective of the City. The literature is saturated with the study of rights from the perspective of the rights holder and their enforcement through the judiciary. Three themes arose from the theoretical framework:

- Inclusivity - people's agency and participation,
- Accountability – enforcing obligations against duty bearers,
- political and social change - administrative belief and adoption and reflection of inclusivity in practice and programmes, transition from welfarism to empowerment meaningful service delivery based on quality not quantity, inclusive urban spaces from empowerment over welfare, holistic approach to provision of emergency accommodation.

This chapter discusses the findings according to these themes in seeking to answer the following research question:

"How does the City of Johannesburg interpret and respond to the decentralised developmental themes of inclusivity, accountability, and political and social change in their provision of emergency housing and temporary emergency accommodation?"

2. What is the meaning of emergency accommodation?

The interviews and the IDPs showed a distinction between temporary emergency accommodation and emergency accommodation. The two differ in the PIE and the Disaster Management Act statutes that mandate them. But they are both recognised as emergencies under National Housing Code, which recognises the differences in the triggering circumstances and provides for the variance. There is no inherent evil in applying practice, unless the practice effectively violates the policy or laws that are more binding instruments than practice. The distinction has underlying implications. Emergency housing is a "real" emergency and deserves the City's intervention. Whereas temporary emergency accommodation is not a "real emergency".

Based on the data, it seems that making the distinction enables the City to reclaim some ownership over the sphere of emergency housing. The resounding question has been "what do you mean by emergency accommodation"? The literature also distinguishes the context of evictions and the inner-city in South Africa, so the manifestation of the issues are particular to the City of Johannesburg. The City is attractive to job seekers and accommodation in the inner-city is very affordable or accessible for the poor. The inner-city bad buildings have been described as informal settlements but in buildings. The default response in interviews has been about temporary emergency accommodation because it is a subject of contention.

The City's struggle to provide both emergency accommodation and temporary accommodation; and the standard of emergency accommodation delivered is also low. The difference is one of the attitude and perspective, and funding which relate to the political and social change meta theme. Since the study is exploratory, it is more helpful to continue to consider both types of housing in the study rather than limit it to temporary emergency accommodation.

3. Inclusivity

The research emphasised people's agency and participation which the South African policy and legal structures incorporate. The case law on temporary emergency housing clarified the interpretation of "meaningful engagement". Meaningful engagement in provision of temporary emergency accommodation is often court-mandated and must be satisfied prior to granting an eviction in accordance with PIE. Beyond the court mandated meaningful

engagement, there is little mention of engaging people on temporary emergency accommodation. The City does not plan for temporary emergency accommodation in advance, other than to prepare buildings for the possibility of transition.

The City's approach to assisting the most vulnerable with City mandated assistance through the extended social package (ESP) represents the City's approach to supporting the most vulnerable in the City. The ESP enables people that earn less R0 – R6086,87 access to City services like water and electricity thereby seeking to mitigate the poor access to basic services in temporary emergency accommodation and emergency housing. The City seeks to incorporate vulnerable people into its economic development driven approach to development. There appears to be a lack of appreciation for the value of the informal economy and a way to make the inner-city function for the current form it has taken. Rather the City seeks to reclaim the inner-city for economic development and development through private developers.

The City insists on resolving the housing issue in the way that works best for them. IDPs show that the City plans to restore balance and access to the City by improving transport and providing basic services, community space and improving access to healthcare and education services. The idea seems promising however, people may not choose to live in such communities regardless of this. But, as participants inferred, people who do not have money do not have a say in the City.

In this study, strong accountability has a negative connotation in that the emphasis is on accountability without providing support to the City in fulfilling its provision of temporary emergency accommodation and emergency housing. The improving understanding and buy-in from Treasury and the Province would improve the allocation of budget for the City to adequately fulfil its responsibilities. The Department of Cooperative Governance and Traditional Affairs and for a like SALGA could serve as mediators between these stakeholders to determine how they can work together rather than in individualised way improve the provision of these services. The City can improve its buy-in by engaging civil society organisations and communities to advise how they can better provide temporary emergency services and emergency housing

The City can improve its current approach to inclusivity by implementing planned engagement in areas where people are most vulnerable to eviction and emergencies that would require their relocation to temporary emergency accommodation or emergency housing. This type of engagement may possibly prevent resorting to the courts to ensure provision of temporary emergency accommodation. This planned engagement is particularly critical for temporary emergency accommodation which City officials identified as non-emergencies. This approach would mitigate the provision of temporary emergency accommodation in the short term while the City seeks to fulfil its long term plans. The poor who are likely to be evicted without alternative accommodation are not going anywhere. It would be more useful for the City to plan with this in mind rather than resist this obligation and adopt a reactive strategy.

4. Accountability

On the face of it, the data shows that accountability on emergency housing and temporary emergency accommodation is strong. The right to temporary emergency housing has been interpreted by the courts, both temporary emergency accommodation and emergency accommodation in the event of relocation or transitional housing in disasters. The interviews, the IDPs and the media statements show the persistent emphasis on the "obligation" to provide according to the courts. However, the data shows limited evidence of administrative or political accountability measures for provision of emergency housing, nor does the data show a desire on behalf of the City to develop or establish such accountability measures. The data infers that there are accountability measures for private property owners' interests in inner-city buildings.

The interview findings and the IDP findings highlight an important aspect of administrative accountability measures – funding. The Division of Revenue Bill provides a means to hold local government accountable for delivery of services or other forms of housing, including emergency housing provided in instances of disasters like fires and flooding. The Urban Settlements Development Grant, Human Settlements Development Grant, and emergency grant funding force local government to be held accountable for their use of those funds. In contrast, the provision of temporary emergency accommodation granted in PIE is left wholly to the City. Although the obligation is enforceable, it begs the question what its value is if it has limited benefit in its current legalistic manifestation. This limited manifestation is to keep

homelessness at bay, which though it may be argued that the quality is acceptable for temporary accommodation, it is unacceptable for what the accommodation eventually becomes: permanent housing because the people often stay there permanently. This theme had the least novel insight for purposes of the study.

In this study, strong accountability has a negative connotation in that the emphasis is on accountability without providing support to the City in fulfilling its provision of temporary emergency accommodation and emergency housing. The improving understanding and buy-in from Treasury and the Province would improve the allocation of budget for the City to adequately fulfil its responsibilities. The Department of Cooperative Governance and Traditional Affairs and for a like SALGA could serve as mediators between these stakeholders to determine how they can work together rather than in individualised way improve the provision of these services.

5. Political and social change

This third theme refers the administrative belief, adoption and reflection in practice and programmes. Inclusion and accountability have thus far shown itself to be imposed. The theoretical framework highlighted that poor political and administrative buy-in by state duty bearers to use state resources to empower freedoms and that human rights are primarily political and administrative concepts. The courts are more accepting of progressive interpretation of the right and meaning of the right to emergency housing in all its forms. This theme encapsulates the opportunity for taking inclusion and accountability in forward. Miller (2010) argued that development human rights are, contrary to how it may seem in application, primarily political and social things. They move on social and political elements to bring about equality. From a capability perspective, political and social agents engage in in depth efforts to work to provide people with the freedoms that are associated with things. The capability approach showed how resources are not effective rather what people can do with resources.

The City struggles to create or provide temporary emergency accommodation buildings. The data on how many buildings the City had varied. Part of the reason the City struggles to successfully create buildings and to hold on to them is based on a refusal to view the inner-

city for what how it serves people rather than that it does not fulfil the City's expectation of a formal economy. Thus the inner-city and the City are always in conflict, with the City losing.

The issue of ownership and/or agency to care by occupiers of temporary emergency accommodation buildings arose in the interviews and media articles. The City argues that the people do not take care of their buildings, but the response might be better if the attitude was different. Private owners' inner-city buildings also get hijacked or suffer the consequences of neighbouring buildings being hijacked but the City's stance is a deference and default assumption of ability until proven otherwise. Whereas the attitude toward poor people is guilty until proven otherwise. If the people felt that the buildings in the inner-city belonged to them and that they were partners together with the City, things may change. The city would have to change its anti-poor xenophobic sentiment in order to fully incorporate and adopt inclusivity for the benefit of the City and its people. The data showed the impact of politics on administration of emergency housing and temporary emergency housing. The instability of political leadership directly affects the emergency housing and emergency housing programmes. The administration is also not free from politics and ego affecting its administration.

The City is subject to statutes and policies which inform its work. As the implementing agent, the City does not have final say in the statutes and policies that govern them. There seems to be an invisible divide between the policy makers, administrators and implementors; and fiscal planning, policy and laws. Treasury also needs to adopt an understanding and adoption of a mindset that is aligned with the substantive goals of financial management and bureaucratic processes of allocation and transfer. The structure of the financial year and the timing for the municipalities funding applications where they are provided, is very sluggish. Participants shared that during the response to the Usindiso fire, the City bypassed the Province to apply directly to the national government for funds. Otherwise, the applications for the emergency grant are unsuccessful because of refusal by the Province. The issues around successfully accessing funds for emergency housing relate to shortcomings in the City's planning. Thus the money is allegedly withheld because the emergency did not arise within the financial planning processes.

The funding process forms the core of intergovernmental relations as the role of the provincial and national governments are largely financial. Participants shared that the intergovernmental relations forums like MINMEC are largely driven by ego. Visser (2021) corroborates this, he explains that the intergovernmental forums have become places to where province and national enforce their authority rather than a collaborative space.

The data shows that the organisation and management of emergency housing (including temporary emergency accommodation) is strongly discouraged by the participants in the interviews. The revenue structure, statutory and policy frameworks would also be affected. Efforts to define the meaning of rights, roles and responsibilities would only harm those who need emergency housing. However, participants strongly encouraged improving intergovernmental relations by improving the funding process to be more responsive, then for provincial government to provide resource and technical support. These efforts should precede centralisation. Centralisation would also not resolve systemic issues within the governmental framework for emergency housing and temporary emergency accommodation.

During the research, there were no civil society organisations or community organisations working on the issue of emergency housing or temporary emergency accommodation from a social sciences perspective. There were no organisations seeking to build relations with the City in a non-litigious matter. The reasons for this are unknown but it was notable. The City can improve its buy-in by engaging civil society organisations and communities to advise how they can better provide temporary emergency services and emergency housing. Participants indicated that such processes had been initiated in the past but not followed through and finalised. The political instability of the City contributes to this issue which is a consequence of a coalition government operating in the City of Johannesburg.

6. Conclusion

The findings from the data collection were discussed as they applied to the meta themes identified in the literature review. The discussion showed that political and social change; and and inclusivity were not enough to achieve development as envisaged in the capability and human rights-based approaches. Attainment of freedom and enjoyment of human rights and enforcing them cannot be said to be achieved without being believed, adopted, and reflected by political actors and in social change. What this means or how this looks is as yet unknown.

Miller and Redhead (2019) argue that development is in the third phase of progress where researchers are revisiting it to study it in application after 30 years and identify gaps and opportunities for change. However there may be opportunity for improving services, like emergency housing, by local government. There may also be opportunities for improving intergovernmental relations and using intergovernmental relations to foster these changes in political and social change. Lastly, at this point in the progress and development of decentralised development, it may not yet be time to resort to recentralisation of the provision of emergency housing by the City of Johannesburg. Needless to say, centralisation would not resolve the systemic challenges in the provision of emergency housing in the City of Johannesburg. Political and social change must precede structural government organisation change.

Chapter 6 - Conclusions and recommendations

This report detailed qualitative case study research into City of Johannesburg's implementation of emergency housing; and the role of intergovernmental relations and centralisation in providing emergency housing. Chapter 1 set the context of the research through a background, problem and purpose statement and the research question. Chapter entailed the theoretical framework and literature review discussing the structural state organisation rooted in decentralised development, and the substantiative theories informing decentralised development through defining poverty as inequality and housing as a means to resolve poverty.

The study considered the capability approach and the human rights-based framework to inform development. Chapter two highlighted a need for strengthening political and social belief and buy-in to the principles in the capability and the human rights-based approach. Chapter 3 discussed the case study methodology, and the 4 sources of data used to achieve triangulation. Chapter 4 discussed the findings and applies the three main themes extracted from the theoretical framework and literature review. Chapter 5 concluded the report with a finding that the answer to the research question is the need to strengthening political and social belief and buy-in to the principles in the capability and the human rights-based approach

References

Abahlali Basemjondolo Movement SA and Another v Premier of the Province of Kwazulu-Natal and Others, (CCT12/09) (Constitutional Court of the Republic of South africa October 14, 2009).

Abrahams, C., & Everatt, D. (2019). City profile: Johannesburg, South Africa. *Environment and urbanisation ASIA*, 255 - 271.

Adams, J., Khan, H. T., & Raeside, R. :. (2014). *Research Methods for Business and Social Science Students.* New Dehli: SAGE Response.

Alkire, S. F., & Ballon, P. (2015). *Multidimensional Poverty Measurement and Analysis.* Oxford: Oxford University Press.

Amegashie-Viglo, S. (2014). Decentralisation as a strategy for development. *Research on Humanities and Social Sciences*, 1 - 10.

Ayanda, P. F., & Phosho, M. H. (2023). The Challenge of Homelessness and its Implications to City Planning: A Case Study of Doornfontein, City of Johannesburg. *8th North American International Conference on Industrial Engineering and Operations* (pp. 1517 - 1526). Houston: IEOM Society International.

Bardhan, P. (2002). Decentrlaisation of governance and development. *Journal of Economic Perspectives*, 185 - 205.

Bardhan, P., & Mookherjee, D. (2006). Decentralisation and accountability in infrastructure delivery in developing countries. *The Economic Journal* , 101 - 127.

Behn, D., Berge, T. L., & and Langford, M. (2018). Poor states or poor governance: Explaining outcomes in investment treaty arbitration. *Northwestern Journal of International Law& Business*, 333 - 390.

Bird, R. (1995). Decentralizing infrastructure: For good or for ill? In E. Estache, *Decentralizing infrastructure: Advantages and Limitaitons* (pp. 22 - 51). Washington DC: World Bank Discussion Papers 290.

Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 27 - 40.

Broberg, M., & Sano, H. (2018). Strengths and weaknesses in a human rights-based approach to international development - an analysis of a rights-based approach to development assistance based on practical experiences. *The International Journal of Human Rights*, 663 - 680.

Bryman, A. (2012). *Social Research Methods (4th ed.).* New York: Oxford University Press.

Burgoyne, M.-L. (2008). *Factors affecting housing delivery in South Africa: A case study of the Fisantekraal housing development project , Western Cape .* Stellenbosch: University of Stellenbosch.

Busetto, L., Wick, W., & Gumbinger, C. (2020). How to use and assess qualitative research methods. *Neurological Research and Practice*, 1 - 10.

Canare, T. (2021). Decentralization and development outcomes: What does the empirical literature really say? *Review of Public Economics*, 111 - 151.

Cartwright, A., & Marrengane, N. (2016). Urban governance and turning African cites around: City of Johannesburg. *Partnership for African Social and Governance Research Working Paper*, 1 - 37.

Chance, K. R. (2015). Transitory citizens: Contentious housing practices in contemporary South Africa. *Social Analysis: The International Journal of Anthropology*, 62 - 84.

Charlton, S., & Kihato, C. (2006). Reaching the poor: An analysis of the influences on the evolution of South Africa's housing programme. In U. T. Pillay, *Democracy and Delivery: Urban Policy in South Africa* (pp. 252 - 282). Pretoria: HSRC Press.

Charlton, S., & Meth, P. (2017). Lived experiences of state housing in Johannesburg and Durban. *Transformation: Critical Perspectives on Southern Africa, 93*, 91-115.

Chenwi, L. a. (2009). 'A woman's home is her castle?' - Poor women and housing inadequacy in South Africa. *South African Journal for Human Rights*, 517 - 545.

Chilenga-Butao, T. (2024, January 28). *Decentralisation and recentralisation in South Africa's local government: Case studies of two municipalities in Limpopo*. Retrieved from PARI: Public Affairs Rsearch Institute: https://pari.org.za/decentralisation-local-govt-limpopo/

Chilisa, B., & Kawulich, B. (2012). Selecting a research approach: paradigm, methodology and methods. In C. Wagner, & B. G. Kawulich, *Doing social research: A global context.* Athens, Georgia: McGraw Hill.

Cirolia, L. R. (2014). South Africa’s emergency housing programme: a prism of urban contest. *Development Southern Africa*, 397 - 411.

City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, ZACC 33 (Constitutional Court of the Republic of South Africa December 1, 2011).

City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another, 104 (Constitutional Court December 1, 2011).

City of Johannesburg v Rand Properties (Pty) Ltd & Others , (1) SA 78 (W) 67 (High Court 2007).

City of Johannesburg v Rand Properties (Pty) Ltd & Others, (6) SA 417 (Supreme Court of Appeal 2007).

Code, N. H. (n.d.). Emergency Housing Programme (EHP) Part 3, Volume 4 of the National Housing Code (2009).

Conyers, D. (1986). Decentralisation and Development: A Framework for Analysis. *Community Development Journal*, 88 - 100.

Crawford, G., & Andreassen, B. (2015). Human rights and development: Putting power and politics at the center. *Human Rights Quarterly*, 662-690.

Crawford, G., & Andreassen, B. A. (2015). Human rights and development: Putting power and politics at the center. *Human Rights Quaterly*, 662 - 690.

Cresswell, J. W., & Cresswell, J. D. (2018). *Research design: Qualitative, Quantitative and mixed Methods.* Thousand Oaks: SAGE Publications Inc.

de Satgé, R., & Watson, V. (2018). *Urban planning in the global south: Conflicting rationalities in contested urban space.* Palgrave Macmillan: Cham.

De Vries, M. (2013). The challenge of good governance. *The Innovation Journal: The Public Sector Innovation Journal*, 1 - 10.

Development Action Group. (2007). *Living on the edge: A study of the Delft Temporary Relocation area".* Cape Town South Africa: Development Action Group.

Dewilde, C. a. (2013). Income inequality and access to housing in Europe. *European Sociological Review*, 1189 - 1200.

Dickinson, G. (2011). Blue moonlight rising: Evictions , alternative accommodation and a comparative perspective on affordable housing solutions in Johannesburg. *South African Journal on Human Rights*, 466 - 495.

Dinath, Y., & Harisson, K. (2014, July). *Urban shelter: Citizen rights – understanding the role of cities.* Johannesburg: South African Cities Network.

Dipholo, K. M., & Tshishinga, N. (2011). Challenges and opportunities of democratic decentralisation in sustaining local government in Botswana and South Africa. *Public Adminstration Journal*, 1431 -1444.

Disaster Management Act No. 57 of 2002 . (n.d.).

Dladla and Another v City of Johannesburg and Others, CCT124/16 (Constitutional Court December 1, 2017).

Dlamini, T. N. (2017). *Investigating policy gaps in the implementation and monitoring of the delivery of low cost housing projects in South Africa the case study of Illovo Township.* Universty of KwaZulu-Natal.

Dong, H. (2017). The impact of income inequality on rental affordability: An empirical study in large American metropolitan areas. *Urban Studies*, 1 - 34. Retrieved from http://mc.manuscriptcentral.com/cus: http://mc.manuscriptcentral.com/cus

Dugard, J. (2013). Beyond blue moonlight: The implications of judicial avoidance in relation to the provision of alternative housing. *Constiutional Court Review*, 265 - 279.

Edmonds, A. W., & Kennedy, T. D. (2017). *Applied guide to research designs: Quantitative, Qualitative and Mixed Methods.* Los Angeles: SAGE publications Inc.

Eisenhardt, K. M., & Graebner, M. E. (2007). THeory building from cases: Opportunities and challenges. *The CAcademy of Management Journal*, 25 - 32.

Fick, S. J. (2017). *The power of the court to grant alternative accommodation orders: An investigation into when an alternative accommodation order as a condition to the eviction of unlawful occupiers in terms of PIE would comply with the court's constitutional mandate.* Cape Town: University of Cape Town.

Fuo, O. N. (2014). *Local Government's role in the pursuit of the transformative constitutional mandate of social justice in South Africa.* Potchefstroom: North-West University.

Furlong, D. E., & Lester, J. N. (2023). Toward a Practice of Qualitative Methodological Literature Reviewing. *Qualitative Inquiry*, 669 - 667.

Gauri, V., & Gloppen, S. (2012). Human rights-based approaches to development: Concepts, evidence and policy. *Polity*, 485 - 503.

Gill, P., Stewart, K., & Treasure, E. a. (2008). Methods of data collection in qualitative research. *British Dental Journal*, 291 - 295.

Haffner, M., & Elsinga, M. (2019). Housing deprivation unravelled: Applicaiton of the capability appraoch. *European Journal of Homelessness*, 13 - 28.

Hancock, D. R., & Algozzine, B. (2006). *Doing case study research : a practical guide for beginning researchers .* Teachers College Press: New York.

Hatuka, T., & Bar, R. (2016). Navigating housing approaches: A search for convergence of ideas. *Housing, Theory and Society*, 1 - 20.

Hofer, E. N., & Gumbo, T. (2020). The Inclusive City of Johannesburg and the Challenge of Affordable Housing. *RealL Corp 2020: Shaping Urban Change: Livable City Regions for the 21st Century* (pp. 1191 - 1198). Aachen : Real Corp.

Huchzermeyer, M. (2003). A legacy of control. *International Journal of Urban and Regional Research*, 591 - 612.

Huchzermeyer, M. (2003). A legacy of Control. *International Journal of Urban and Regional Research*, 591 - 612.

Hufty, M. (2011). Investigating policy processes: the governance analytical framework (GAF). In U. H. Wiesmann, & w. a. co-editors., *Research for sustainable development: Foundations, experiences and perspectives* (pp. 403 - 424). Bern, Switzerland: NCRR North-South .

Institute, S.-E. R. (2019, November 2019). *Submission of comments on the City of Johannesburg's Draft Temporary Emergency Accommodation Provision Policy, November 2019.* Retrieved July 15, 2020, from seri-sa.org: http://www.seri-sa.org/index.php/advocacy/11-advocacy/submissions/19-submissions

Intergovernmental Fiscal Relations Act No. 97 of 1997. (n.d.).

Intergovernmental Relations Framework Act No. 13 of 2005 . (n.d.).

International Monetary Fund. (2024, January 20). *IMF News*. Retrieved from International Monetary Fund: https://www.imf.org/en/News/Articles/2020/01/29/na012820six-charts-on-south-africas-persistent-and-multi-faceted-inequality

Ishak, N. M., & Abu Bakar, A. Y. (2014). Developing sampling frame for case study: challenges and conditions. *World Journal of Education*, 29 - 35.

Johannesburg Social Housing Company (SOC) Ltd. (2021). *Johannesburg Social Housing Company (SOC) Ltd Draft Business Plan.* Johannesburg: JOSHCO.

Johnson, R. B. (2017). *Educational Research : Quantitative, Qualitative, and Mixed Approaches.* United States of America: SAGE Publications Inc.

Kasim, O., & Agbola, T. (2017). Decentralisation and local government reforms in Africa: Challenges, opportunities and the way forward. *Eastern Africa Social Science Research Review*, 89 - 113.

Keping, Y. (2017). Governance and good governance: A new framework for political analysis. *Springer*, 1 -8.

Kimemia, D. a. (2021). Paraffin dangers and health and socio-economic consequences: Urgent need for policy action. *SAMJ*, 17 - 19.

Kimhur, B. (2018). How to apply the capability appraoch to housing policy?: Concepts, theories and challenges. *ENHR 2018 Conference* , (pp. 1 - 18). Uppsala, Sweden.

Koelble, T. A., & Siddle, A. (2014). Institutional complexity and unanticipated consequences: The failure of decentralisation in South Africa. *Democratization*, 1117 - 1133.

Kulipossa, F. P. (2004). Decentralisation and democracy in developing countries: an overview. *Development in Practice*, 768 - 779.

Levenson, Z. (2019). “Such elements do not belong in an ordered society": managing rural-urban resettlement. *Journal of Agrarian Change*, 427 - 446.

Local Government: Municipal Systems Act No. 32 of 2000. (n.d.).

Local Government: Municipal Systems Act No. 32 of 2000. (n.d.).

Makara, S. (2018). Decentralisation and good governance in Africa: A critical review. *African Journal of Political Science and International Relations*, 22 - 32.

Makgopo, T. (2017). The decentralised nature of local government in South Africa. *Journal of Public administration and development*, 82 - 102.

Maree, K. (2016). *Research Design: First Steps in Research (2nd ed.).* South Africa: Van Schik.

Marutlulle, N. (2021). A critical analysis of housing inadequacy in South Africa and its ramifications. *Africa's Public Service Delivery and Performance Review*, 1 - 16.

Mashwama, N., Thwala, D., & Aigbavboa, C. (2018). Challenges of reconstruction and development program (RDP) houses in South Africa. *roceedings of the International Conference on Industrial Engineering and Operations Management*, (pp. 1695- 1702). Washington DC, USA.

Masipa, T. (2018). South Africa's transition to democracy and democraticconsolidation: A reflection on socio-economic challenges. *Journal of Public Affairs*, 1 - 6.

Masuku, M. M. (2019). Effective governance in South Africa: Reality or myth? *African Journal of Democracy and Governance*, 117 - 134.

McAuliffe, P. (2022). The ambivalent status of socio-economic rights in human rights-based approaches to development. *Nordic Journal of Human Rights*, 481 - 502.

Mcgranahan, G. a. (2014). Urbanisation concepts and trends. *IIED*, 1 - 28.

Medina Poblete, F. (2023). A critical assessment of the rigtht-based approach. *Encrucijada Americana*, 44 -51.

Miller, H. (2010). From 'rights-based' to 'rights-framed' approaches: A social constructionist view of human rihgts practice. *The International Journal of Human Rights*, 915 - 931.

Miller, H., & Redhead, R. (2019). Beyond 'rights-based appraoches'? Employing a process and outcomes framework. *The International Journal of Human Rights*, 699 - 718.

Mitchell, A., & Macció, J. (2021). Using multidimensional poverty measures in impact evaluation: Emergency housing and the declustering of disadvantage. *Journal of Human Development and Capabilities*, 379 - 402.

Mlambo, D. N., & Maserumule, M. H. (2023). Constitutional and legislative frameworks for the local sphere of government in South Africa: Analytical and interpretive perspective. *Insight on Africa*, 1 - 19.

Monkam, N. F. (2014). Local Municipality Productive Efficiency and Its Determinants in. *Development Southern Africa*, 275 - 298.

Nash, K. (2015). The social construction of human rights. In K. Nash, *The political sociology of human rights* (pp. 1 - 10). Cambridge: Oxford University Press.

Nassbaum, M. (2011). *Creating capabilities: The human development approach,.* Cambridge, MA: Harvard University Press.

National Treasury. (2024, March 20). *MFMA*. Retrieved from National Treasury: http://mfma.treasury.gov.za/Pages/Default.aspx

Nel, E., & Binns, T. (2003). Decentralising development in South Africa. *Geography*, 108 - 116.

Nicholls, C. M. (2010). Housing, homelessness and capabilities. *Housing, Theory and Society,*, 23 - 41.

Noh, J. (2022). Review of human rights-based approaches to development: Empirical evidence from developing countries. *The International Journal of Human Rights*, 883 - 901.

Occupiers of 51 Olivia Road and Others v City of Johannesburg and Others , ZACC 1 (Constitutional Court of the Republic of South Africa 2008).

OECD. (2019). *Making decentralisaiton work: a Handbook for policy-makers, OECD multi-level governance studies.* Paris: OECD Publishing.

Office of the High Comminer for Human Rights. (1986, December 4). *Declaration on the right to development.* Retrieved from United Nations: United Nations Human Rights Office of the High Commissioner: https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-development

Parliament of the Republic of South Africa. (1994, November 23). White Paper on Reconstruction and Development . *White Paper on Reconstruction and Development* . Cape Town, Gauteng, South Africa: Government Gazette, Volume 353, General Notice Number 16085. Retrieved January 6, 2022, from O'Malley the Heart of Hope: https://www.gov.za/sites/default/files/governmentgazetteid16085.pdf

Parliamentary Monitoring Group. (2023, March 20). *Question NW535 to the Minister of Human Settlements*. Retrieved from Parliamentary Monitoring Group: https://pmg.org.za/committee-question/21399/

Parliamentary Monitoring Group. (2024, March 27). *Urbanisation*. Retrieved from Parliamentary Monitoring Group: https://pmg.org.za/page/Urbanisation

Parnell, S. (2004). Building developmental local government to fight poverty. *internaitonal Development Planning Review*, 377 - 399.

Pieterse, E. (2019). Urban governance and spatial transformation ambitions in Johannesburg. *Journal of Urban Affairs*, 20 - 38.

Pieterse, J. N. (1996). The development of development theory: Towards critical globalism. *Review of International Political Economy*, 541 -564.

Piron, L. (2005). Rights-based approaches and bilateral aid agencies: More than a metaphor? *IDS Bulletin*, 19 - 30.

Programme, U. N. (2022). *Governance assessment framework: For metropolitan, territorial and regional management.* Nairobi: United Nations Human Settlements Programme.

Ramoganyane, R., & Jarbandhan, D. (2018). Cooperative governance and intergovernmental relations between provincial and local government in gauteng. *Administratio Publica*, 145 - 165.

Ramovha, T. (2022). The use of systems thinking for housing delivery in South Africa. *AJPSDG*, 43 - 64.

Reddy, P. (2010). Democratic decentralisaiotn and local democracy in South Africa re-examined: quo vadis? *Politeia*, 66 - 87.

Reddy, P. S., & Govender, J. (2013). Democratic decentralisation, citizen engagement and service delivery in South Africa: A critique of legislative and policy considerations. *Africanus*, 78 - 95.

Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others, ZACC 16 (Constitutional Court of the Republic of South Africa 2009).

Robeyns, I. (2017). *ellbeing, Freedom and Social Justice: the Capability Approach Re-examined.* Cambridge: Open Book Publishers.

Roche, J. (2022, October). State of inequalities. *GOLD VI: Pathways to Urban and Territorial Equality*, pp. 32 - 92.

SALGA. (2023). *SALGA annual report 2022 - 2023.* Pretoria: SALGA.

Satterthwaite, D. (2001). Reducing urban poverty: Constraints on the effectiveness of aid agencies and development banks and some suggestions for change. *Environment and urbanisation*, 137 - 157.

Seekings, J. (2010). Race, calss and inequality in the South African City. *Centre for Social Science Research, CSSR Working Paper No. 283*, 1 - 22.

Sen, A. (1999). *Development as Freedom.* Oxford: Oxford University Press.

Settlements, D. o. (2009). *The National Housing Code: A simplifed guide to national housing.*

Strydom, J., & Viljoen, S. (2014). Unlawful occupation of inner-city buildings: A constitutional analysis of the rights and obligations involved. *PER*, 1207 -1261.

Tacoli, C., & McGranahan, G. S. (2015). Urbanisation, rural-urban migration and urban poverty. *International Institute for Environment and Development*, 1 - 37.

The Constitution of the Republic of South Africa. (1996).

The Constitutional Court of the Republic of South Africa. (2024, March 25). *Media Summary: Nomsa Ellen Dladla v City of Johannesburg Metropolitan Municipality.* Retrieved from SAFLii: https://www.saflii.org/za/cases/ZACC/2017/42media.pdf

Tissington, K. (2010). *A Review of Housing Policy and Development in South Africa since 1994.* Johannesburg: Studies on Poverty and Inequality Institute . Retrieved from http://spii.org.za/wp-content/uploads/2013/12/review-of-the-right-to-housing.pdf

Tissington, K. (2011). *A resource guide to Housing in South Africa 1994 - 2010.* Johannesburg: Socio-Economic Right Institute of South Africa.

Totaforti, S. (2020). Urban planning in post-apartheid South African cities: The case of Johannesburg. *Open Journal of Political Science*, 507 - 520.

Tshishonga, N. (2021). Prospects and challenges of transformative local government into a learning organisation. *African Journal of Public Affairs*, 28 - 45.

Ukwandu, D. (2019). Evaluating the role of good governance in development. *Admiistratio Publica*, 7 - 25.

Uvin, P. (2007). From the right to development to the rights-based approach: How 'human rights' entered development. *Development in practice*, 597 - 606.

Visser, J. (2021). Local government in intergovernmental relations. In P. R. Kariuki, & H. Wissink, *Subnational governance and development in South Africa post 1994: Prospects and challenges* (pp. 23 - 45). Durban: Democracy Development Program.

Vivier, E., De Jongh, D., & Thompson, L. (2020). Public leadership and participation: understanding the experiences of South African local government officials' engagement within informal settlements in the Western Cape. *Public Management REview*, 1 - 20.

Vizard, P. (2013). Towards a new model of public services: The capability approach and rights-based approaches. In S. K. Griffith, *Public Services: A New Reform Agenda* (pp. 53 - 70). London: Bloomsbury Academic.

Wall, K. (2022). The 1998 "'mini-Constitution' for local government: A review of the assumptions of the White Paper on local government. *Acta Structilia*, 260 - 292.

Wells, T. (2024, March 6). *Sen's Capability Approach*. Retrieved from Internet Encycloperdia of Philosophy: A peer reviewed resource: https://iep.utm.edu/sen-cap/#H8

Wilhelm-Solomon, M. (2016). Decoding dispossession: eviction and urban regeneration in Johannesburg's dark buildings. *Singapore Journal of Tropical Geography, 37*, 378–395.

Williams, L. A. (2014). Right to housing in South Africa. *Columbia Human Rights Law Review*, 816 - 845.

Williams, L. A. (2014). Right to Housing in South Africa. *Columbia Human Rights Law Review*, 816 - 845.

Wilson, S. (2014). Curing the poor: state housing policy in Johannesburg after blue moonlight. *Consitutional Court Review, 5*, 279 - 295.

Yap, C. C. (2021). *The urban dimensions of inequality and and equality (GOLD VI Working Paper Series #01).* Barcelona: United Cities Local Government.

Yin, R. K. (2018). *Case study research applications: Design and methods.* Los Angeles: SAGE Publications Inc.