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Policy Aspects for Informal Settlements in South Africa

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Introduction: demand for informal settlement upgrading?

No doubt this conference will draw much attention to the important moment we're approaching in South Africa, of having spent one decade building a new democracy. Indeed, various spheres of government are reviewing their achievements and evaluating the effects of their policies. While honoured on 6 October 2003 with a World Habitat award for its phenomenal housing delivery over this decade, national Department of Housing is also concerned about shortcomings in the delivery, which have come to the fore. The Department speaks of an emphasis on quality, which will mark the second decade of South African democracy, with a shift to a "demand-driven, supply-negotiated" policy (Vawda, 2003). In this paper I ask what this may mean in terms of a policy response to the informal settlement situation.

Demand for housing in South Africa is expressed, and responded to, in various ways. For the middle class, a vibrant property and finance market responds to demands for secure homes. Among the urban poor, demand is expressed in a formal way through applications to waiting lists for subsidised housing. While there is evidence of people having been on the waiting list for 6 years or longer, this formal demand has been met through the housing delivery programme in a substantial way in terms of numbers. In addition, some demand is met through a largely informal and poorly understood low-income property market (this is increasingly receiving attention from research institutions, see Boaden and Karam, 2000; Snijder, 2001; Kayamandi et al., 2002; and research currently commissioned by Finmark Forum). Some demand is met through an informal rental market, through the allocation of backyard space (for the construction of shacks), and increasingly the construction of formal backyard rooms. Housing demand that is not met through government delivery and market means finds its own response through the invasion of land and the illegal construction of a shacks (also with evidence of informal/illegal markets or commercialisation developing in exploitation of this need).

Responses to informal settlements: research and practice in South Africa

Since late 2000, the question of informal urban land occupation has received national attention in South Africa, as a result of invasions, evictions and tensions between policy and the judiciary. In the landmark Grootboom case in the Cape High Court in December 1999, it was ruled that temporary shelter and services be provided to the affected community (900 people, represented by Mrs Grootboom, informally occupying a sports field in the sites and services settlement Wallacedene in Cape Town after being forcefully evicted from adjacent land). When challenged by local and provincial government in the Constitutional Court, the ruling requested that the government's national housing programme be extended to cater for the immediate needs of those living in intolerable conditions (Huchzermeyer, 2003b). In a television documentary on this case (*Transforming apartheid's informal settlements: the Grootboom case*, produced by Hands-on

Productions) screened on SABC3 in 2001, the then national Minister of Housing admitted that this meant "back to the drawing board" with regards to policy for informal land occupation.

A policy extension emerged that is addressed at emergency or disaster situations. As yet, it has not given provincial and local governments a new direction in dealing with the large numbers of households living in informal settlements, under insecure tenure and other forms of discomfort, yet without immediate threat to their lives. It has also not given provincial and local government direction on how to treat those that are driven to make this insecure form of shelter their home – through the illegal invasion of land.

In this absence of a policy direction, local governments have adopted varied approaches. Some may be considered problematic, e.g. hiring private security firms to do the dirty work of patrolling vacant land, spying and reporting on potential invasions, and carrying out evictions when residents resist relocation. Much rural-urban migration is absorbed into informal settlements. By preventing any new informal land occupation, these municipalities are in effect preventing rural-urban migration. Other municipalities, e.g. eThekwini Municipality (Durban), have decided to do away with waiting lists and recognise existing informal settlements as a legitimate expression of housing demand. EThekwini as well as Cape Town City are intending to deliver communal services to informal settlements, until budgets and plans are secured for final formalisation. Towards this end, eThekwini has entered into a partnership with the Homeless People's Federation, for the data-gathering (enumeration) in the settlements and the management of communal facilities. The Municipality has also developed a partnership with São Paulo Municipality, on the theme of informal settlement upgrading. Cape Town City in turn recently sent a delegation of councillors and officials to Brazil, likewise to learn from the Brazilian experience of upgrading informal settlements.

In the almost three years that have passed since the Grootboom judgement, increasing attention has been drawn to the fact that our land and housing policies at national level do not as yet include mechanisms with which to respond adequately to the reality of informal settlements. Whereas much effort and funding (local as well as international) has been dedicated to the search for approaches to medium density social housing, it may be argued that the search for approaches with which to improve the lives of those living in informal settlements has not been taken up at comparative scale. The clearly defined social housing sector, comprising professionals, NGOs, government departments, para-statal organisations and international partnerships is in no way matched by the largely uncoordinated efforts by a few NGOs, academics and municipalities to find ways in which to respond to the informal settlement reality.

Nevertheless, a number of initiatives are drawing attention to the need for a responsive approach to informal settlements. The South African government is a signatory to the UN Millennium Development Goals, one of which includes a commitment "b*y 2020 [to] achieve significant improvement in the lives of at least 100 million slum dwellers"* (http://www.undp.org/mdg/). In support of this goal, the 2003 Global Report on Human Settlements is titled "*The Challenge of Slums*". This Millennium Development Goal is to be achieved "by scaling up participatory slum upgrading and poverty reduction programmes" (UN-Habitat, 2003). Note that in South Africa informal settlements largely overlap with the UN definition of slum dwellers, which is based on the criteria of overcrowding, poor quality of the built environment, inadequate access to water and sanitation, and insecurity of tenure (Badiane, 2003).

In South Africa, a number of research initiatives have emerged. Co-funded by Cities Alliance (see http://www.citiesalliance.org), the South African Cities Network (http://www.sacities.net) has recently undertaken research on "informal settlements and zones of exclusion". At Cape Town

University, the Water Research Commission is funding research more directly tied to the efforts of the Cape Town Metro to address its informal settlements. At Wits University, an NRF-funded research programme has been established, directed at various aspects of informal settlement policy and intervention (see http://www.wits.ac.za/informalsettlements). In 2003 this project focuses on international reviews, and has also identified Brazil as having some of the most relevant experiences for South Africa to draw on (the project team visited Sao Paulo early in November). In 2004, the project will turn its attention to the South African situation. National Department of Housing too has an interest in the Brazilian informal settlement upgrading experience, a team of officials having visited Brazilian government agencies and research institutions in October, with the celebration of World Habitat Day. Indeed, these various initiatives (including those I may not be aware of) need to be coordinated into a dialogue on informal settlement policy for South Africa.

International voices and experiences have for some time been incorporated into the South African enquiry on informal settlements. The book "*Here to Stay: Informal Settlements in KwaZulu-Natal*" (Hindson and McCarthy, 1994) includes a chapter reviewing international practice. A further book on the Durban situation, "*Living on the Edge: Squatters in the Durban Area, South Africa*" (Singh et al., 1997) was produced by the Vrije Universiteit Amsterdam. *Urban Forum* 13(2), 2002 contains a collection of articles on *Contemporary Processes in Informal Settlements* (Huchzemeyer, 2002), researched and written in part by foreign scholars. Further, the book "*Holding their Ground*" (Durand-Lasserve and Royston, 2002), contains Brazilian, Indian and South African experience on tenure in relation to informal settlements. A German scholar, Beate Lohnert, recently produced a book titled (in translation) "From Shack Settlement to Home Ownership Settlement" (Lohnert, 2002), again an engagement with South African informal settlements. A further book is forthcoming, "Unlawful Occupation: Informal Settlements and Urban Policy in South Africa and Brazil" (Huchzermeyer, 2004).

In all of these works, international engagement has stimulated the search for appropriate intervention in South Africa. Yet large areas of research remain outstanding. As yet we have no understanding of the informal settlement situation in South Africa – its dynamics, its variations, the different types of informal settlements, new invasion trends, the motives behind new invasion, and the range of responses from local and provincial governments. Such research needs to be undertaken with urgency. At the same time however, we need to engage with policy alternatives for informal settlements.

Responding to informal settlements at a political level: objections to upgrading

Informal settlements and land invasions are in many ways a problematic phenomenon at the political level. The Bredell case in July 2001 displayed an unsympathetic political response, in part informed by a globalised reaction to the events in Kempton Park. I have analysed this case in detail in Huchzermeyer (2003b). From this and other cases, and from conversation with various government officials, it is evident that there are a number of very common political objections to legalisation and in-situ upgrading of informal settlements.

1) In a policy context that has focused on **equality of delivery**, in the form of the 30m2 house on a 250-300m2 individually serviced plot, through the capital subsidy, some objection is voiced if informal settlement upgrading were to deliver a different or non-standardised product.

2) The view is often held that in-situ upgrading **rewards land invaders**; for those patiently on the waiting list for greenfields delivery it represents **queue-jumping**; and some argue that upgrading indeed would **encourage new land invasions**.

3) It is also held that upgrading (in proximity to middle to high income areas) is **unfair to surrounding property owners** (due to depreciation of land values, in comparison to other forms of development that enhance land values), and to owners of the invaded land. Linked to this perception is the demand that re-housing of informal settlement residents needs to be coupled with the prevention of new land invasions, i.e. the patrolling of vacant land and the repression of any unauthorised attempts at erecting shacks.

4) Further, it is believed by many that **informal settlements are a haven to criminals**, and therefore should be relocated to areas that can be better controlled, or from which middle income areas are less accessible.

While these objections largely represent the views of those with established stakes in the formal urban land market, there is evidence on the other end of the social, economic and political spectrum, of **beneficiary dissatisfaction with relocations** to distant greenfields developments. Loss of livelihoods, new costs incurred by the formal environment, particularly transport costs, and the disruption of social ties and schooling are aspects that frequently come to the fore (see Charlton, 2003).

Responding to the objections to an upgrading policy

Commitment to equality?
With the shift in housing policy from quantity to quality, it should be possible for government to subsidise upgrading in a way that does not produce individual units that lend themselves to be counted, but instead focuses on the difference this makes to people's lives. Budgeting and funding for this would not be through household qualification for individual capital subsidies. It would not be based on a per/household allocation, but based on estimates of the actual costs that arise from the particular situation (density, geomorphology, distance to bulk services, etc.) and the priorities of the community. Over and above a predetermined basic minimum level of communal access to water and sanitation, the organised community should be permitted to determine its priorities, be this in the form of planting or paving of surfaces, social facilities such as community centres, crèches, clinics and HIV/AIDS facilities, shelter assistance to its most needy members, the establishment of a PHP housing support centre, etc. Such a programme clearly must work across ministries and budgets must be cross-departmental/cross-ministerial and flexible, in order to respond in a way that really improves the lives of informal settlement households.

Rewarding invaders, jumping the queue, encouraging invasion?
How does a proposal for an upgrading policy get around the political argument that in situ upgrading rewards those that have jumped the queue, and will encourage new invasion? A possible solution lies in a departure from delivering a predetermined product through informal settlement intervention. Upgrading informal settlements must be seen as different to greenfields development: Higher densities; non-standardised development; more spent on in situ servicing (possibly communal); less spent initially on top-structure; and tenure secured in a non-commodified form. Any intervention of this nature can then no longer be regarded as queue jumping for conventional greenfields housing development. The intervention should be regarded as a human rights response to people living in desperate conditions, and therefore should not be

seen as a hand-out that may encourage new invasion. However, political acceptance from the poor electorate is likely only if such intervention happens at scale, therefore improving a significant number of lives. If in a short period of time this intervention programme makes a significant impact on the lives of most informal settlement residents, giving them tenure security, supporting their livelihoods, enabling their consolidation (physically – here is a role for PHP – and economically), i.e. encouraging self-sufficiency instead of dependency, then for many it will be more appropriate than relocation/redevelopment to a standardised RDP-type settlement. While the land is not commodified, dwellings in such upgraded settlements should still be transferable, and individual investments in top-structures recoverable. The residents should still have the opportunity to join a housing waiting list and move to a greenfields development (i.e. similar to beneficiaries of subsidised social housing developments).

Undermining existing stakes in the land market?
Politically, note must be taken of the extreme distortions in our urban land markets caused by apartheid urban planning and regulation ("group areas," land use and zoning regulations). South Africa's second decade of democratic housing policy, or second generation of delivery, should incorporate mechanisms for effective urban restructuring. Partial decommodification of land, i.e the reduction of land speculation, must be addressed. Our cities can only be more fairly structured if land owners' expectation of increase in land values are curbed across urban areas (see Huchzermeyer, 2003a). In support of such restructuring, the legal system must shift from primarily protecting individual rights, to increasingly ensuring the collective social function of property (see Fernandes, 2003).

Rewarding/maintaining havens of crime?
Coupled with this, the perception must be redressed, that informal settlement or low-income neighbourhoods are sources of crime. If the intervention process can secure and improve people's livelihoods, reliance on criminal means of making a living becomes less of a necessity. Interesting forms of care and reciprocity have been witnessed between the suburb of Lenasia and the transit area of Thembalihle (Molokome, 2003). These must be acknowledged and encouraged. Equally, a lesson from Brazil is that in order to prevent the control over informal settlements by drug lords (as portrayed in the movie *City of God*), local governments must create mechanisms through which to encourage and engage seriously with democratically elected community representatives and CBOs (see also Smith and Vawda, 2003). They must be capacitated through a people-driven intervention process, to then also take on the longer term responsibilities for maintenance and ongoing improvement (see also the Zambian experience - Martin, 2003). In the Brazilian experience, where community organisations have been weakened by well-intended but top-down government intervention, drug organisations have more easily assumed control (Souza, 1996).

Conclusion

The question still remains unanswered, as to an appropriate policy response to new land invasions. Despite delivery of well over a million standardised houses over the past decade, there is still unmet shelter demand that resorts to land invasion. New housing delivery should continue at scale (though questions of quality of these housing environments should rightly be addressed). In order to respond to the ongoing demand that is expressed through invasions, one first needs to demonstrate that existing informal settlements can be addressed through collective, flexible (non-standardised and non-commodified) means, incorporating people's fragile livelihoods, their human right to adequate shelter, and meaningful participation of settlement organisations. Once such transformed yet flexible settlements become an acceptable and liveable component of the

South African city, the ongoing demand for new invasions can be channelled into similar forms of development, which are based on rapid release of strategic land, and the initial provision of collective services, for subsequent improvement once occupation has taken place. Through such a policy direction, our government's next UN award may well be for significantly improving the lives of South Africa's urban "slum dwellers".

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