The Dynamics of Informal Settlements Upgrading in South Africa:

Legislative and Policy Context, Problems, Tensions, and Contradictions

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Executive Summary

Access to adequate housing remains a big challenge in South Africa, despite efforts since 1994, to deliver affordable housing to about 2.3million poor households through the project-linked housing subsidy scheme. The current housing backlog in South Africa stands at 2.1million households, and approximately 1.2million of these households live in informal settlements, under very precarious conditions, which pose serious threat to their health, safety, and security. Against this backdrop, the government introduced groundbreaking housing policy reforms in 2004, which included a programme devoted to the upgrading of informal settlements. The new initiative, crowned as the "Upgrading of Informal Settlements Programme" (UISP), had the objective to "eradicate" all informal settlements by 2014. After almost a decade of implementation, and practically less than a year to its initial "slum eradication" deadline of 2014, this study sets out to explore the policy dynamics, and implementation of the UISP, through the lens of good governance. It seeks to identify and flesh out the key policy gaps, in order to inform further policy learning. The study draws relevant information from books, journal articles, national policy documents, publications and news reports, as well as internet sources. In general, while the findings pinpoint the existence of comprehensive national legislative and policy frameworks in support of the slum upgrading initiative, the evidence suggest that, the goal of slum eradication is still farfetched, due to several problems and challenges. The study finds an apparent gap between the policy rhetoric, and the reality of implementation, which is characterised by notable inconsistencies, tensions, and problems. These have so far hindered the programme's ability to make realistic improvements in the lives of slum dwellers. In effect, the report identifies the following telling governance challenges to be in need of urgent attention by policy makers:

- Failure by municipalities to adequately adhere to the basic principles of structured *in situ* upgrading as opposed to total redevelopment of slums; the
- The nominal or lack of community involvement and choice in decisions of slums upgrading;
- Lack of clarity in municipal inclusion criteria of settlements for upgrade;
- Lack of access to well-located land for upgrade, amidst limited funding for land acquisitions; and finally,
- The lack of capacity and material resource shortages, that leads sometimes to delays in project implementation.

Contents

Tables and Figures

Acronyms

ANC   African National Congress

BNG   Breaking New Ground

DHS   Department of Human Settlements

DRLR   Department of Rural and Land Reform

LASS   Land Acquisition for Sustainable Settlement

UISP   Upgrading of Informal Settlements Programme

VPUU   Violence Prevention through Urban Upgrading

UN   United Nations

CHAPTER 1

GENERAL BACKGROUND

1.1   Introduction

The last two decades has seen increasing global attention on the need to tackle the emergence and growth of slums or informal settlements across the world's cities. The second United Nations (UN) Conference in Istanbul, in June 1996 (Habitat II), which gave birth to the Istanbul Declaration on Human Settlements, marked a significant turning point, in the global policy discourse on the need to ensure "adequate shelter for all" (United Nations, 1996). This policy agenda, was later given fresh impetus within the framework of the UN Millennium Development Goals (MDGs), which provides under Goal 7 Target 11, to significantly improve the lives of over 100million slum dwellers by the year 2020 (UN Habitat, 2003). In order to localise this global agenda, several countries across the developing world (example Kenya, India, Brazil, Mexico etc.), has initiated national programmes on the upgrading of slums. It is along this same line, that the South African government, in 2004, revised its housing policy to include a comprehensive national programme, dedicated to the upgrading of informal settlements in the country.

The slum upgrading initiative in South Africa, which is titled, the Upgrading of Informal Settlements Programme (UISP) forms the subject matter of this study. The paper focuses on the upgrading of urban slums, which are fast becoming a major human settlement challenge in the country, due to the unprecedented rate of urbanisation in recent years (CIA, 2013). South Africa's urban population has increased from 52 percent in 1990 to 62% in 2011. At the same time, the rural population dropped from 48% to 38% within the same period (SouthAfrica.info,

January 24, 2013).[1] These demographic shifts have broader implications, in terms of adequate housing delivery in the cities, amidst rising cost of living and urban unemployment.

1.2   Defining Slums/Informal Settlements

To proceed, it is important to clarify the term slum or informal settlement, in light of the multiple interpretations of the concept in various policy documents. It is widely acknowledged that, defining what constitutes a slum across time and geographies is not an easy task.

Figure 2: Part of Soweto Township in South Africa, one of the biggest Informal Settlements in the country

Source (Figure 1): Adapted from the internet.

The UN Habitat has noted that, not only are there divergent opinions, but also, varying and complex features of slums from one local context to the other. This makes it difficult to arrive at generally acceptable benchmarks for defining,

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[1] http://www.southafrica.info/news/urbanisation-240113.htm

classifying, or measuring slums (UN Habitat Global Report on Human Settlement Revised, 2010).

By and large, the concept of slum is used to describe a broad variety of "low-income settlements" and or "poor human living conditions," which typify the most visible manifestations of poverty, squalor and vulnerability (Global Report on Human Settlement Revised 2010, 10). In line with this commonly held perception, the Cities Alliance Action Plan notes that:

> Slums are neglected parts of cities where housing and living conditions are appallingly poor. Slums range from high-density, squalid central city tenements to spontaneous squatter settlements without legal recognition or rights, sprawling at the edge of cities. [Even though] slums have various names, [they] share the same miserable living conditions. (Cited in Global Report on Human Settlements Revised 2010, 10)

The above conventional views of slums rather tend to provide generic definitions. Essentially, not only do they ignore the heterogeneous and complex nature of slums, but also, they fail to prescribe specific indicators for identifying and/or measuring them. For this reason, in November 2002, the UN Habitat Expert Group Meeting (EGM) in Nairobi came to consensus, on how a slum should be defined. According to the Habitat EGM, a slum household should denote, "a group of individuals living under the same roof, [and lacking] one or more of the following conditions: (1) access to improved water; (2) access to improved sanitation; (3) access to secure tenure; (4) durability of housing and (5) sufficient living area" (UN Habitat 2006/7b, 1). The above definition is frequently used in many formal policy documents.

Nevertheless, this paper adopts a definition provided under the Informal Settlement Upgrading Programme in South Africa. The Department of Human Settlements establishes its own benchmarks, under the Housing Code for identifying informal settlements, which is based on the following characteristics: "(a) illegality and informality, (b) inappropriate locations, (c) restricted public and private sector

investment, (d) poverty and vulnerability and (e) social stress" (The Housing Development Agency Research Report 2012, 12; see also The Housing Code 2009). Therefore, any settlement that exhibits the above features can be qualified as an informal settlement as per the 2009 National Housing Code. Here, it is important to clarify that, the concepts of "slum" and "informal settlement," are suggestive of the same thing, and therefore used interchangeably. The reason has been that, most of the literature on slum upgrading in South Africa commonly uses the term "informal settlement" instead of "slum," and so it is, with the title of the South African slum-upgrading programme itself.

1.3   Approaches and Significance of Slum Upgrading

The Cities Alliance, a global partnership committed to reducing urban poverty, and promoting the role of cities in sustainable development,[2] defines slum upgrading, as the process whereby informal settlements, are incrementally improved, formalised and finally incorporated in to the city itself, via the provision of secured land tenure, social services, and citizenship to slum dwellers.[3] Generally, two dominant approaches exist to the upgrading of slums: the "total redevelopment," and the "in situ" upgrading approaches (Mistro and Hensher, 2009). Total redevelopment is a situation where, residents of an informal settlement are evacuated, and relocated to suitable greenfields elsewhere. The in situ upgrading approach on the other hand, entails developing the existing informal settlement, at where it is, by gradually extending to the residents, land tenure, infrastructure and, social services, such as water, sanitation and electricity (Mistro and Hensher, 2009; Franklin, 2011).

However, as opposed to the practice of complete relocation of slum dwellers to

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[2] For more about The Cities Alliance, see: http://www.citiesalliance.org/node/3750
[3] Cities Alliance Fact Sheet (Accessed on July 15, 2013). Available at:
http://www.citiesalliance.org/sites/citiesalliance.org/files/CA_Images/SUFactsheet_English_0.pdf

greenfields, which has tendency to disrupt their "fragile community networks" and "livelihood opportunities," current best practice advocates the *in situ* upgrading approach (Franklin, 2011). The upgrading policy in South Africa is anchored on the principles of the latter. Meanwhile, provision has been made for the relocation of slum dwellers, under circumstances where the existing terrain is not suitable for upgrade due to various reasons (The Revised Housing Code, 2009).

Overwhelming evidence suggest that, a well-administered slum upgrading, has significant linkages with the socio-economic well-being of the poor in every society (UN Habitat Working Paper, 2003). It can help in combating poverty and vulnerability, achieving sustainable human development, and promoting environmental sustainability (Global Report on Human Settlement Revised, 2010). Furthermore, research has established that the provision of adequate housing[4] to the poor through slum upgrading, has strong positive correlation with health outcomes, labour productivity and the welfare of women and children (Jalan and Ravallion, 2003; Field, 2005, 2007; Cattaneo et al., 2007; Franklin, 2011).

For example, Field examines the differences in timing (that is, before and after) the implementation of a property titling programme in Peru, and argues that the provision of adequate property rights through titling, significantly increases labour supply. The study adduced evidence to show that titling minimises the risk of property dispossession, and therefore gives households the mental and emotional stability to look for work, or engage in their livelihood ventures (Field, 2005; 2007). Cattaneo et al, in a study in Mexico, also, investigate the adverse effects of living in dirty floors, and conclude that, settlement upgrading through the provision of cement

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[4] According to the Habitat Agenda, "adequate housing" extends beyond just having a roof over one's head. It includes adequate space and privacy, physical and tenure security, accessibility, structural stability and durability, and access to basic social services among others (see http://www.globalhousingfoundation.org/adequate_shelter.html)

floors, helps to reduce sicknesses, and enhance cognitive outcomes among children (Cattaneo et al., 2007). Similarly, in their study in India, Jalan and Ravallion also find considerable impact of the provision of portable water on the reduction in the incidence of Cholera and other water-borne diseases (Jalan and Ravallion, 2003).

The findings above, confirm the unassailable connection between slum upgrading and the socio-economic well-being of slum dwellers. The studies also reflect on two important policy perspectives on slum upgrading, that is, the provision of secured property rights (access to land), and that of social services (Cities Alliance, n.d).[5] These constitute mutually reinforcing stages in the slum upgrading process, and form an important dimension of the South African policy on informal settlement upgrading, which seeks to allocate freehold titles to slum dwellers and provide them with basic social services, that will enhance their livelihood opportunities (Revised Housing Code, 2009).

1.4   Trends in Global Slum Population

In spite of the glaring essence of access to adequate housing, it is poignant to note, that significant proportions of the world's population still live without access to shelter, and many more are squatting in slums under conditions that pose serious threats to their health, safety and security (UN Habitat, 2010/11). Suffice to say that, over the last decade, remarkable progress has been made in terms of improving the living conditions of the world's slum population. Recent statistics indicate that 227 million people globally, have been extricated from slums since United Nations Millennium Declaration in 2000[6] (UN Habitat, 2010/11).[7] However, the absolute

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[5] See note 3 above

[6] Under the United Nations (UN) Millennium Declaration adopted by the UN General Assembly in September 2000, Goal 7 stresses on the need to ensure environmental sustainability while Target 11 aims to achieve significant improvement in the lives of over 100million slum dwellers by the year 2020.

number of slum dwellers has also risen from 776.7 million to 827.6 million between 2000 and 2010, with sub-Saharan Africa currently accounting for a significant portion of this number, with approximately 61.7% (an equivalent of 199.5 million people) of the urban inhabitants residing in slums (UN Habitat, 2010/11).

The UN Habitat further reveals that about 14 million people migrate to urban centres each year in sub-Saharan Africa. Of this number, roughly 70 percent end up in slum housing; while only 30 percent live in formal housing (UN Habitat, 2010/11). More disturbing is also the projection that by the year 2030, developing countries will likely account for about 80 percent of the world's urban population (The United Nations Population Division, 2008); a situation which is creating notable trends in the "urbanisation of poverty"(Ravallion et al, 2007).

1.5   The Case Study and Research Question

In South Africa, empirical studies have shown that rapid urbanisation over the past two decades has produced considerable challenges, namely, an ever-increasing urban housing deficit, social exclusion and the emergence and growth of informal settlements across the cities (discussed in detail in Chapter 2). These challenges are exacerbated by appalling wage levels, high rate of unemployment, increasing income inequalities, and extreme poverty, which are   partly underpinned by past discrimination under apartheid, and its associated practice of   "separate development"[8] (Pillay and Naude, 2006, 79; Tshikotshi, 2009). It is also on record

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[7] This implies that the MDG target of improving the lives of 100million slum dwellers by 2020 has been achieved two-fold ahead of the set time. However, this progress is largely skewed as Asia represents roughly 74% (172 million) of this achievement with China and India (together 125 million) making the most realistic strides (UN-Habitat 2010/11b). See: http://www.unhabitat.org/documents/SOWC10/R1.pdf

[8] For more on "Separate Development" see also Gwendolen M. Carter. 1966. Separate Development: The Challenge of the Transkei. A Paper Prepared for the Alfred and Winifred Hoernle Memorial Lecture, South Africa, 1966. Available at: http://www.disa.ukzn.ac.za/webpages/DC/boo19660000.001.058/boo19660000.001.058.pdf

that, the fall of apartheid in 1994 left a huge backlog of housing deficit, which subsequent governments have since battled to address (Hopkins, 2006).

For this reason, the African National Congress (ANC) government after coming to power, in 1994, launched a national housing policy document, the 1994 White Paper on Housing, with a view to address the appalling housing situation. The policy went through a dramatic review in 2004, leading to the promulgation of a new housing policy, the Breaking New Ground (BNG). According to the Department of Human Settlements (DHS), the BNG policy was the outcome of a comprehensive appraisal of previous national housing programmes, after recognising several unintended consequences. These notably included the "peripheral residential development, poor quality products and settlements, lack of community participation; corruption and maladministration; slow down in [housing] delivery; underspent budgets; limited or decreasing public sector participation; the increasing housing backlog; and the continued growth of informal settlements" in the cities (DHS, 2008, cited in Tissington, 2011).

The BNG was therefore a departure from the previous Housing Subsidy Scheme, which mainly provided affordable houses to poor income households, earning less than ZAR3500 per month. It included for the first time, a programme devoted to the upgrading of Informal Settlements, which had an ambitious target to "eradicate" all informal settlements in the country by 2014 (Tshikotshi, 2009). However, there is less a year from now, to hit the BNG's initial slum "eradication" deadline of 2014. Yet, the evidence suggest that, the slum "eradication" dream appears farfetched, as increasing numbers of people continue to slip in to shack dwellings in the cities. Currently, there are approximately 2700 informal settlements across South Africa, compared to just around 300 informal settlements in 1994 (Mistro and Hensher, 2009; Bennett and Fieuw, 2012).

Hence, after almost a decade of implementation of the BNG policy, this paper, embarks on an exploratory journey, and takes a closer look at the South African experience with regards to slums upgrading. The overall objective is to explore as to what extent, the processes, and modalities of slum upgrading in the country, adhere to the principles of good governance. Certainly, while acknowledging the multiple definitions of the concept of good governance, this paper sticks to the one provided by the United Nations Development Programme (UNDP). The UNDP generally suggests that good governance in the design and implementation of government policies and programmes, should among other things, be "participatory, transparent, and accountable." Moreover, it should be "effective and equitable" (World Bank Home Page)[9]. This perspective has significant usefulness in this context, because, as it has been discussed later in Chapter 3, the core elements of good governance underlie the approach and general principles of the UISP, outlined under Section 2 (1) of the South African National Housing Act of 1997, as well as Chapter three of the 1996 Constitution.

Finally, the paper poses two specific research questions: first, what is the existing legislative, and policy framework of informal settlement upgrading in South Africa; and secondly, what are its main problems and challenges, if any?

1.6   The Empirical Strategy

To address the above questions, the paper relies primarily on secondary data sources. Relevant information has been gathered from books, journal articles, research publications, media, and other online sources. This study is mainly explorative; and to identify and flesh out the problems and challenges of the UISP, it

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http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTMNAREGTOPGOVERNANCE/0,,contentMDK:20513159~pagePK:34004173~piPK:34003707~theSitePK:497024,00.html

examines its implementation by municipal governments in South Africa against some of the normative benchmarks of good governance, namely; participation, transparency, responsiveness, and effectiveness, as earlier identified in the above.

In proceeding to explore the topic of this study, the paper is divided into four Chapters. Chapter 2 examines the study context, focusing on the geography, the socio-economic environment, as well as the status quo of housing and informal settlements in South Africa. In Chapter 3, the paper presents the legislative and policy frameworks of slums upgrading, and an overview of the UISP. The final part, which is Chapter 4, looks at the implementation process, and tries to carefully identify and illuminate the salient problems, challenges, and contradictions underlying the process. The last section provides a brief conclusion, highlighting the key policy gaps identified in Chapter 4.

CHAPTER 2

THE COUNTRY CONTEXT AND HOUSING BACKLOG

2.1   South Africa: The Geography

South Africa is located at the southern end of the African continent with a total land mass of approximately 1.2 million square kilometres. It is divided into nine provinces (see Figure 1 below) and over 260 municipalities of various types.[10] The country shares borders with Namibia, Botswana, and Zimbabwe to the north, and Mozambique and Swaziland to the east. Lesotho is also a neighbour but constitutes an enclave surrounded by South African territory (See Figure 1 below). In comparative terms, South Africa is the twenty-fifth (25th) largest country in terms of land size, and the twenty-fourth most populous nation   in the world, with an estimated population of 48.6 million (Central Intelligence Agency (CIA), July 2013). Approximately 62% of the population live in urban areas with an urbanisation rate of 1.2 percent as at 2010.

Figure 2: The Provincial Map of South Africa

Source (Figure 2): Adapted from http://www.sa-venues.com/maps/south-africa-provinces.htm

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[10] http://www.waynedam.com/southafrica/munis.asp
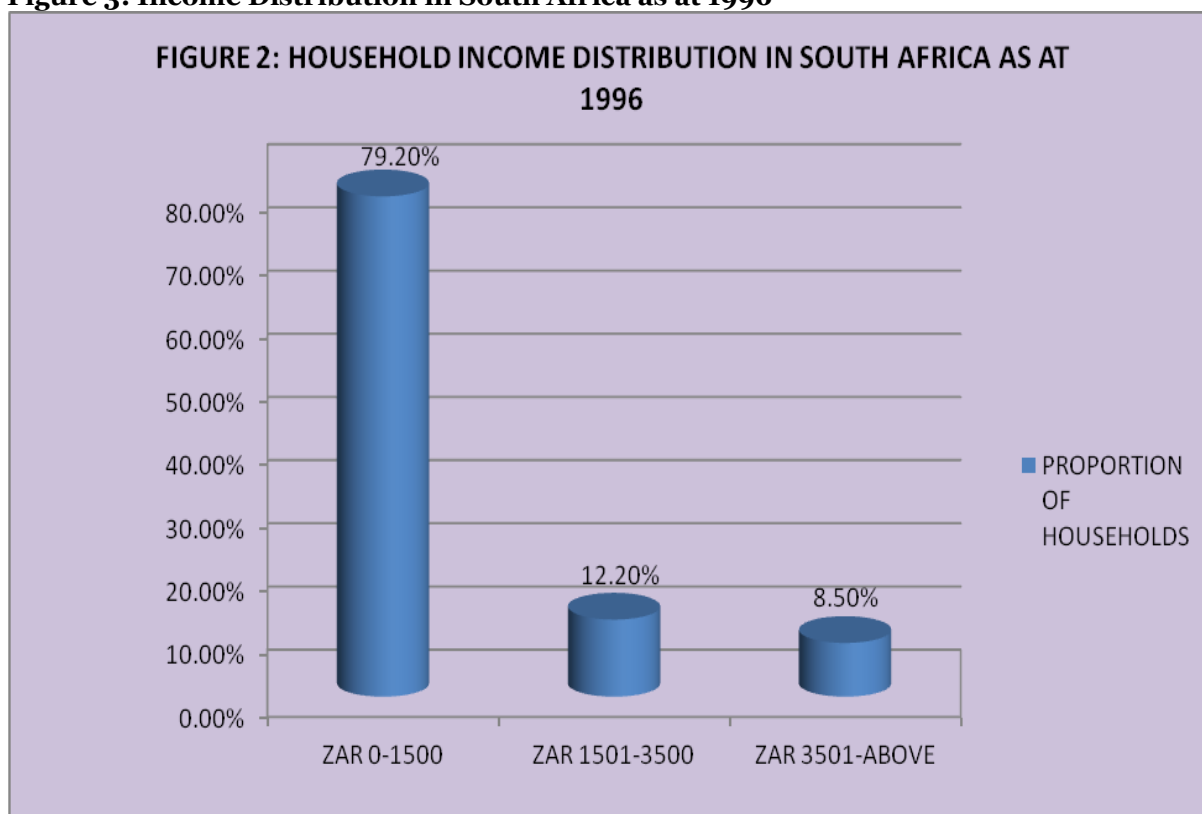
2.2   The Socio-Economic Environment

The country is classified as an upper middle-income country, with a total Gross Domestic Product (GDP) of US$592 billion and per capita GDP of US$1,160. With this figure, South Africa was ranked 109 out of 229 countries, in terms of per capita GDP as at 2012 (CIA, 2013). The country has recorded significant growth over the last two decades; but this has not translated into substantial improvement in the lives of the country's poorest populations (Hopkins, 2006). According to Hopkins, the pervasive income inequalities in South Africa tend to create an unfortunate situation where many households are unable to provide for their own housing needs. The most deprived households are classified as those "earning no income and those earning up to ZAR3500 per month" (Hopkins, 2006, 1).

Figure 2 below points out that, those with average earnings of between ZAR0-3500 per month constituted more than 80% of the South African households as at 1996. Even though this income data is relatively outdated, it nevertheless provides an historical trend of the levels of inequality in South Africa. The trend shows that, over the years, there has been less substantial improvement in the level of income inequality, as the country was still placed second in 2005, only after Lesotho, and out of 136 countries in the world, with regard to inequality in the distribution of family income (CIA 2013). Today, more than 30% of South Africans are estimated to be living below the poverty line (CIA, 2013). While the average growth rate in Gross Domestic Product (GDP) over the period 1993 to 2011 was 3.26%, the country's Gini Coefficient[11]   increased from 0.66 in 1993 to 0.70 in 2008 (Sudhanshu, October 16,2012).

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[11] The Gini Coefficient is the internationally accepted measure of inequality. Generally, the higher the Gini index, the higher the level of inequality in a society.

Moreover, significant disparities also exist between urban and the rural divides in relation to access to basic social services. Latest data by the Central Intelligence Agency (CIA) show that while only 9 percent of the population lack access to portable drinking water, the disparity is 1% in the urban as against 21% in rural areas.[i] In addition, about 21% of the population do not have access to improved sanitation facilities; but then again, the difference is 14% in the urban, relative to 33% in the rural areas (CIA, 2013).[ii] The development gap between the rural and urban divide contributes to growing trends in rural-urban migration, particularly among the youth, and further reinforces the socio-economic inequalities as well as challenges posed with regard to access to shelter and adequate housing in the cities (Hopkins, 2006).

Figure 3: Income Distribution in South Africa as at 1996[12]

Source (Figure 3): Adapted from Hopkins (2006).

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[12] The data is somehow outdated as it dates back to 1996. Nevertheless, it is indicative of the historical trends in inequality in South Africa.

In the following section, the paper presents an overview of the housing situation and the extent of informal settlements in South Africa, in order to put in to context the government's policy on the upgrading of slums in the country.

2.3 The Status of Housing and Informal Settlements

According to the World Bank Institute (WBI), approximately ZAR44.8billion has been committed by the South African government since 1994 in to the national Housing Subsidy Scheme, which has provided affordable housing units for roughly 2.3 million poor households across the country (WBI, 2011). Nevertheless, significant effort is still needed to improve the housing deficit and to contain the emergence and growth of slums. Slum Dwellers International (SDI) notes that, the expansion of slums over the past two decades has far exceeded government's efforts to deliver adequate housing and to mitigate vulnerability (SDI, 2012).[13]

Presently, an estimated 2.1 million households in South Africa "still live under very precarious conditions, either in informal settlements or backyards of formal dwelling units,"[14] with lack of access to basic housing services such as portable water, electricity and other amenities (WBI, 2011; Bennett and Fieuw, 2012). In 2007, there were around 2,600 informal settlements; and this number continued to grow at 5-7 percent each year. The current figure is estimated at 2,700, and these settlements

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[13] http://www.sdinet.org/blog/2012/11/2/south-africa-innovations-financing-slum-upgrading/

[14] It is important to highlight that the Statistics South Africa (Stats SA) normally classifies shacks in to two main types: That is, those located in informal settlements and those that are in the backyard of formal dwelling units. The term slum in this context, refers to those informal dwellings or shacks located in settlements identified as informal. It is therefore understandable that, the estimates of households living in shacks (i.e. 2.1 million) is greater the estimated households living in slums (currently estimated at 1.2million (see Tissington, 2011).

contain about 1.2 million households, thus, representing an increase over the 2007 figure (Bennett and Fieuw, 2012).[15]

The detailed data available as at 2007 however reveal remarkable variations across different municipalities and provinces. As Table 1 below indicates, the North West province had the highest percentage of shack dwellers with 23.8 percent living in shacks either in the backyard of formal dwellings or in informal settlements. This was followed by Gauteng province with 22.7 percent, while Limpopo recorded the lowest with 5.5 percent. The data also showed that in total, 14.5 percent of households in South Africa were living in shacks as at 2007.[16] As at 2009, the figure stood at 13.4 %, representing just a slight drop from the 2007 figure (Tissington, 2011).[17]

Again, a recent housing survey by the Department of Human Settlements shows that only three provinces showed a decline in the percentage of households whose main dwellings were informal around 2009. These included Mpumalanga (-5.6%), KwaZulu-Natal (-2.8 %) and Eastern Cape (-2.2%). The proportion of slum households in Limpopo reportedly remained the same with a little over 5 percent of all households (Stats SA, cited in Tissington, 2011). The Department for Human Settlements (DHS) however admits that the actual housing backlog in the country might be higher than reported, due to poor record keeping by municipal and provincial governments and also "incomplete data on housing construction" (DHS, 2009, cited in Tissington, 2011).

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[15] Department of Human Settlements "Address by the Minister of Human Settlements, Tokyo Sexwale MP, on the occasion of the Human Settlements Budget Vote, National Council of Provinces"(April 11, 2011). http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=17894&tid=32315

[16] The interpretations of the percentages is based on the sum of those living in shacks in the backyards of formal dwellings as well as those in shacks located in slum settlements

[17] See also "Fewer people living in shacks - Stats SA" *IOL* (6 May 2010). http://www.iol.co.za/news/south-africa/fewer-people-living-in-shacks-stats-sa-1.483027

TABLE 1: DISTRIBUTION OF HOUSEHOLDS BY MAIN DWELLING PER PROVINCE AS AT 2007

Province(Total No. of Households in 2007)	(% Living in informal dwelling-shacks in backyards). No. of households	(% Living in informal dwelling-shacks not in backyards i.e. in an informal settlement). No. of households	(% Living in Shacks dwellings i.e. both in backyards and in informal settlements).Total No. households	(% Living in worker's hostel) No. of households	(% Living in tradition dwelling/hut/structure made o traditional materials) No. of households
Gauteng (3,175,579)	266,749 (8.4%)	454,108 (14.3%)	**720,857 (22.7%)**	98,442 (3.1%)	12,702 (0.4%)
KwaZulu-Natal (2,234,129)	51,385 (2.3%)	140,750 (6.3%)	**192,135 (8.6%)**	71,492 (3.2%)	612,151 (27.4%)
Western Cape (1,369,180)	84,889 (6.2%)	109,534 (8%)	**194,423 (14.2%)**	13,691 (1%)	10,963 (0.8%)
Eastern Cape (1,586,739)	25,338 (1.6%)	101,551 (6.4%)	**126,889 (8%)**	3,173 (0.2%)	582,333 (36.7%)
Limpopo (1,215,935)	23,103 (1.9%)	43,774 (3.6%)	**66,877 (5.5%)**	24,318 (2%)	109,434 (9%)
Mpumalanga (940,403)	23,510 (2.5%)	86,517 (9.2%)	**110,027 (11.7%)**	31,033 (3.3%)	65,828 (7%)
North West (911,120)	71,067 (7.8%)	145,779 (16%)	**216,846 (23.8%)**	63,778 (7%)	20,955 (2.3%)
Free State (802,872)	39,341 (4.9%)	109,190 (13.6%)	**148,531 (18.7%)**	45,763 (5.7%)	36,932 (4.6%)
Northern Cape (264,653)	4,234 (1.6%)	23,554 (8.9%)	**27,788 (10.5%)**	10,586 (4%)	11,902 (4.5%)
South Africa (12,500,610)	587,529 (4.7%)	1,212,559 (9.7%)	**1,800,088 (14.4%)**	362,517 (2.9%)	1,462,571 (11.7%)

Source (Table 2): Statistics South Africa, adapted from Tissington, K. (2011).

TABLE 2: HOUSEHOLDS (NUMBER AND PERCENTAGE) LIVING IN INFORMAL DWELLINGS IN MAJOR CITIES IN SOUTH AFRICA IN 2007

City/Town(No. of households)	Percentage of population in informal dwellings	Number of households in informal dwellings
Ekurhuleni (849,349)	26	220,830
Johannesburg (1,165,014)	18.4	214,362
Tshwane (686,640)	26.8	184,019
eThekwini (833,859)	17.1	142,589
Cape Town (902,278)	15.5	139,853
Rustenburg (146,542)	37.3	54,660
Buffalo City (208, 389)	24.5	51,055
Nelson Mandela (276,881)	13.7	37,937
Mangaung (202,762)	18.2	36,902

Source (Table 2): Statistics South Africa, adapted from Tissington, K. (2011).

In addition, Table 2 above also presents among others the percentage of households living in informal dwellings across some nine main cities in South Africa. The data disclose that the cities of Rustenburg, Tshwane, and Ekurhuleni have the highest proportions, with approximately 37.3, 26.8, and 26 percent respectively of

their populations living in informal dwellings. The city of Nelson Mandela has the lowest with a population of 13.7 percent. However, in absolute terms, Ekurhuleni, Johannesburg, and Tshwane have the largest numbers amounting 220,830 and 214, 362 as well as 184,019 households respectively living in informal dwellings around 2007.

Indeed, as indicated earlier in Chapter 1, the growing housing deficit, coupled with the persistent increase in the number of people trapped in shacks under very precarious and life threatening situations since 1994, partly informed the radical shift in housing policy in 2004, with the introduction of the UISP. In the subsequent few sections, the paper discusses the legislative and policy context of the UISP within the context of broader national policy on promoting sustainable human settlements. It further proceeds to give an overview of the UISP itself, highlighting the key national policy players as well as the programme's financing modalities.

CHAPTER 3

HOUSING LEGISLATIVE AND POLICY FRAMEWORKS

3.1   Introduction

First, it is important to state that South Africa is a party to the UN Millennium Development Goals (MDGs) which provides under Goal 7 Target 11 to ensure that the lives of over 100 million slum dwellers are significantly improved by the year 2020. The country also holds fast to several important declarations under the UN Habitat Programme. These include the Vancouver Declaration on Human Settlements (1976), the Istanbul Declaration on Human, and Other Settlements (1996), as well as the Habitat Agenda (1996), which all aim to alleviate the plight of people without access to adequate housing (National Housing Code Part 3, 2009, 9). Thus, it is imperative to state that, the UISP is in consonance with the above conventions.

At the national level, the provision of adequate housing (and by extension slums upgrading) has firm backing in several pieces of legislations (see Box 1) including the 1996 constitution of South Africa. According to Tissington, the South African constitution is one of the most "progressive" in the world in terms of guaranteeing the socio-economic rights of individuals in relation to adequate housing (Tissington, 2011). The excerpt below (See Box 1) provides a list of some of the important legislative and policy frameworks.

The subsequent discussion however dwells on only some few of them, which directly relate to informal settlement upgrading; namely, the 1996 Constitution and the Housing Act of 1997. It will also elaborate on the 1994 White Paper on Housing and the "Breaking New Ground" policy document, which provides the broader policy context for the UISP programme and housing policy in South Africa.

BOX 1: KEY HOUSING LEGISLATIVE AND POLICY FRAMEWORKS IN SOUTH AFRICA

Legislative frameworks

- Housing Act 107 of 1997 (amended by Acts 28 and 60 of 1999; Act 4 of 2001) (Housing Act)
- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE Act)
- Rental Housing Act 50 of 1999 (amended by Act 43 of 2007) (Rental Housing Act)
- National Norms and Standards for the Construction of Stand Alone Residential Dwellings Financed through National Housing Programmes (April 2007) (National Norms and Standards)
- Social Housing Act 16 of 2008 (Social Housing Act)
- National Housing Code (2000, revised in 2009) (National Housing Code)

Policy frameworks
- White Paper: A New Housing Policy and Strategy for South Africa (1994)
- Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements (September 2004) (in short: Breaking New Ground or BNG).

Source: Adapted from Tissington (2011)

3.2 National Legislative Framework of the UISP

3.2.1 The 1996 Constitution

The 1996 Constitution of South Africa contains clear and *justiciable*[iii] provisions under Article 26, which guarantee the right of the individual to adequate housing. Article 26 (1) states that, "everyone has the right to adequate housing" and Section (2) of the same Article enjoins the State to "take reasonable legislative and other measures, within its available resources to achieve the progressive realisation of this right." It further adds in Section (3) that "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." In effect, the Article 26 of the Constitution provides the primary legislative framework from which all national programmes and policies on adequate housing including slum upgrading derive their support and legitimacy in South Africa.

In addition, Chapter three of the Constitution also contains provisions relating to Cooperative Governance, which forms a crucial part of the modalities and processes of informal settlement upgrading. Section 41 (1) (b) stipulates that, all

organs of state should endeavour to "secure the well-being of the people of the Republic" and to "provide effective, transparent, accountable and coherent government for the Republic as a whole" (Section 41 (1) (c)). Furthermore, Section 41(2) (a) and (b) also charge the various spheres of government to foster mutual partnerships and harmonious working relationships among themselves in the discharge of their functions.

The above provisions are imperative within the context of the UISP, given that the programme is a multi-stakeholder enterprise, and local governments are expected to engage with different actors in the course of the implementation process. In light of this, Part 3 of the simplified National Housing Code, which deals with the upgrading of informal settlements, makes explicit reference to the Intergovernmental Relations Framework Act of 2005 (Act No. 13, 2005). The Act direct municipalities to establish "cooperative governance structures", "systems" and "alignment mechanisms" to facilitate partnerships with slum communities and other public and private institutions, in order to forestall conflicts and disputes, as well as address capacity challenges in the implementation of the UISP (National Housing Code Part 3, 2009).

3.2.2 The Housing Act of 1997(Act No.107 of 1997)

The Housing Act of 1997 together with the revised Housing Code of 2009 was enacted to give effect to Article 26 (1) of the Constitution. The Act provides for a sustainable process of housing development by laying down the general principles that should govern such processes in all the spheres of government. It also spells out among others, the functions, and relationship between the various tiers of government and the individuals and communities with regards to housing development (Tissington, 2011).

The Act further contains relevant provisions under Section 2, which obliges municipalities to ensure a non-discriminatory, pro-poor, racially integrated, and participatory process of upgrading of informal settlements based on the principles of good governance. Section 2 (1) states that national, provincial and local spheres of government must:-

(a) [G]ive priority to the needs of the poor with respect to housing development; (b) [C]onsult meaningfully with individual and communities affected by housing development.

Section 2(1) further enjoins all the spheres of government to ensure that housing development:-

(i) [P]rovides as wide a choice of housing and tenure options as is reasonably possible; (ii) [I]s economically, fiscally, socially and financially affordable and sustainable; (iii) [I]s based on integrated development [and] (iv) [I]s administered in a transparent, accountable and equitable manner, and upholds the practice of good governance.

More importantly, Section 2(1) (e) (iii) provides for "the establishment, development, and maintenance of socially and economically viable communities, and of safe and healthy living conditions to ensure the elimination and prevention of slums and slum conditions." Furthermore, Section 2 (1) (e) (vi), provides for "measures to prohibit unfair discrimination on grounds of gender, and other forms of unfair discrimination by all actors in the housing development process." The above general principles under the Housing Act are instructive for the processes and modalities of the in situ upgrading of informal settlements, which has been envisaged to facilitate creation of integrated urban cities and to reduce, if not eliminate social exclusion in South Africa.

3.3   The National Policy Framework of the UISP

The Upgrading of Informal Settlement Programme drives it immediate policy context from the Breaking New Ground policy document of 2004. However, in order to proceed on a discussion of the BNG, it is important to highlight briefly on the 1994

White Paper on Housing, which lays out the basic principles upon which the BNG as well as other housing policies are built upon.

3.3.1 The 1994 White Paper on Housing

The White Paper on housing, adopted by the African National Congress (ANC) government after the 1994 democratic elections, was the first post–apartheid housing policy. It sought to:

> ...create viable, integrated settlements where households could access opportunities, infrastructure and services, within which all South African people will have access on a progressive basis, to: (a) a permanent residential structure with secure tenure, ensuring privacy and providing adequate protection against the elements; (b) portable water, sanitary facilities including waste disposal and domestic electricity supply. (Cited in Tissington, 2010, 33)

The White Paper again stipulates that:

> Despite the constraints in the environment and the limitations on the fiscus, every effort will be made in order to realise this vision for all South Africans whilst recognising the need for general economic growth and employment as well as the efforts and contributions of individuals themselves and the providers of housing credit, as prerequisites for the realisation thereof.

One of the main goals of the 1994 White Paper was to secure an upward adjustment in the national housing budget to five percent, in order to realise a sustained increase in housing delivery to reach a target of 338,000 units per year. This was to enable the government achieve its stated target of one million houses in five years (White Paper on Housing 1994, 19). While significant progress was made, with the delivery of about 2.5million low-cost housing units within a decade after the policy was introduced (Tshikotshi, 2009), the persistent growth of informal settlements, among other reasons identified in Chapter 1, informed the policy review in 2004, with the launch of the Breaking New Ground.

3.3.2 The Breaking New Ground (BNG)

The Upgrading of Informal Settlements Programme (UISP) was an offshoot of the Breaking New Ground (BNG) policy document adopted by the South African

government in 2004. The aim of the BNG was to augment the delivery rate of well-located housing of suitable quality through various innovative, demand-driven housing programmes and projects (Tissington, 2011). The policy sought to achieve the following specific objectives:

- Accelerate the delivery of housing as a key strategy for poverty alleviation;
- Utilise the provision of housing as a major job creation strategy;
- Leverage growth in the economy;
- Combat crime, promote social cohesion and improving quality of life for the poor;
- Support the functioning of the entire single residential property market to reduce duality within the sector by breaking the barrier between the first economy residential property boom and the second economy slump;
- Utilise housing as a tool for the development of sustainable human settlements, in support of urban restructuring. (DOH 2004, p. 7 cited in Mistro and Hensher 2009, 334-5)

The above cardinal objectives reflect a revolutionary approach to the challenge of slums, in the sense that, for the first time, the slums problem was conceptualised not merely as a housing problem but as the product of an underlying socio-economic predicament that need to be addressed holistically. Hence, the policy saw housing a catalyst to achieve broader socio-economic goals, including economic growth, job creation, poverty alleviation, and social cohesion.

While the BNG was built upon the basic principles of the 1994 White Paper on Housing, it nevertheless diverges in a number of ways from previous national housing programmes, including the importance it places on informal settlement upgrading as part of efforts to deliver adequate housing to the poor in South Africa. The UISP tries to supplement pre-existing mechanisms and housing instruments to facilitate a housing delivery system that is more responsive, flexible, and effective (Tissington, 2011).

3.4   General Overview of the UISP

The Upgrading of Informal Settlements Programme (UISP) offers grants to accredited municipalities to undertake sustainable housing development projects

aimed at improving the conditions of slum communities. The main idea of the programme is to facilitate a phased *in situ* upgrading of informal settlements as against the relocation of slum dwellers to greenfields, except in situations where in situ cannot be applied for various legitimate reasons, such as due to unsuitability of the land. By this upgrading process, the programme seeks to achieve three interrelated objectives: tenure security, health, and safety and finally, to empower the inhabitants of slum communities through participatory processes (Housing Code Part 3, 2009).

Chapter 13 of the National Housing Code emphasizes that "[t]he challenge of informal settlements upgrading must be approached from a pragmatic perspective in the face of changing realities and many uncertainties." The problem of informal settlements should not be seen simply as a "housing problem." Instead, it should be recognised as a quintessence of an underlying social change, the solution of which calls for a "multi-sectoral partnership, long-term commitment, and political endurance." The UISP notes that the *direct and radical* approach to slum "eradication," which is normally characterised by forced relocation of slum communities, tend to provide short-lived and temporary solutions to the menace of slums.

Therefore underlying the UISP is the recognition that an *indirect* approach that tackles the *structural causes* of slums formation, through a more holistic multi-sectoral alliance, holds the key to sustainable informal settlement "eradication." In this light, the programme is implemented in four main phases, focussing on: *community participation*, *supply of basic services*, and *housing security*. The fourth phase is the *housing consolidation* phase, which is not funded under the UISP. The consolidation phase entails the actual construction of the houses. Hence, assistance

needs to be sought from other relevant national housing subsidy programmes, such as the Peoples Housing Process (PHP)iv (Housing Code Part 3, 2009).

3.4.1 Community Participation in the Programme

The participation of slum communities forms a central part of the UISP given that one of the main aims of the programme is to empower slum dwellers through participatory slum upgrading. The communities are normally represented by Ward Committees; and in some instances, Community Development Workers (CDWs), and other relevant stakeholders come in, to support the Ward structures. While funding is made provide to facilitate the community participation processes, municipalities can also apply for external funding to further support in this regard.

3.4.2 When to Relocate Slum Dwellers

As indicated earlier, the programme prioritises *in situ* upgrading, but the Housing Code also provides for slum dwellers to be relocated only as a "last resort." An example is a situation where the existing terrain is largely unsuitable for upgrading (DHS, 2009). Normally, decisions regarding relocation are based on technical advice after a survey of the settlement has been done by the relevant experts. Where relocation appears inevitable, the policy provides that the implementation should be based on the "principle of minimal disruption" (Tissington, 2011). In other words, the municipalities are supposed to ensure that the fragile community networks and livelihood opportunities of the slum dwellers are not compromised. Hence, the UISP reiterates the need for members of the beneficiary communities to be involved at all stages of the policy process, so that their specific needs and concerns will be addressed accordingly (Revised Housing Code, 2009).

3.4.3 Eligibility Criteria for Beneficiaries

As per the 2009 National Housing Code, a settlement has to be qualified as an informal settlement before it can be selected for upgrade. The criteria for identifying communities as informal, and the qualifying criteria for households/individuals wishing to benefit from those informal settlements are contained in the excerpt below.

CRITERIA FOR DEFINING AN INFORMAL SETTLEMENT	CRITERIA FOR HOUSEHOLDS/INDIVIDUAL BENEFICIARIES
▪ "Illegality and informality; ▪ Inappropriate locations; ▪ Restricted public and private sector investment; ▪ Poverty and vulnerability; and ▪ Social stress"	▪ Persons that satisfy the Housing Subsidy Scheme (NHSS) qualification criteria; ▪ Households/persons with a monthly income exceeding the maximum income limit as approved by the Minister from time to time; ▪ Households headed by minors, who are not competent to contract in collaboration with the Department of Social Development; ▪ Persons without dependants; ▪ Persons who are not first-time home owners; ▪ Persons who have previously received housing assistance and who previously owned and/or currently own a residential property. Assistance may be considered on condition that access to the benefits of the programme will be considered on a case by case basis to determine the facts and the approval of access in accordance with the provisions of the detailed Implementation Guidelines of the programme; and ▪ Illegal immigrants on the conditions prescribed by the Department of Home Affairs.

Source: Adapted from the Housing Code Part 3, 2009

3.4.4 The Key National Institutions in the Housing Sector

The key players in the field of housing are the national government (i.e. the Department of Human Settlements (DHS) and the provincial and municipal governments. According to the Housing Act, the national government is generally responsible for developing laws and policies dealing with housing at the national level as well as monitoring and evaluation of such policies. These laws and policies are intended to regulate and coordinate housing development throughout South Africa. The provincial governments on the other hand, have the power to make specific laws

in order to regulate certain functional areas, including housing development, if such laws do not conflict with the national.

While policy and funding emanate from the national through provincial to the municipal governments, the latter has a larger role in terms of implementation (Graham, 2006). The municipalities have the authority to administer matters relating to housing such as "building regulations, municipal planning and service provision," sometimes with support from the provinces (Hopkins, 2006). It must be re-emphasized that, housing policy implementation at the local government level, is based on partnerships of cooperative governance contained under Chapter three of the 1996 Constitution, and the provisions of the Intergovernmental Relations Framework Act 2005 (Act No. 13, 2005), which gives effect to the provisions under Chapter three of the constitution. The Act enjoins municipalities to create cooperative governance structures to deal with conflicts and to harmonise their activities with other institutions and agencies, to address capacity constraints as well as enhance service delivery (Guide to Housing Code Part 3, 2009).

The DHS works with, and supports other important housing institutions working towards enhancing the norms and standards of housing and promoting housing accessibility to all South Africans.[18] Some of these institutions include:[19]

- The National Home-Builders Registration Council
- National Housing Finance Cooperation
- National Urban Reconstruction and Housing Agency
- Rural Housing Loan Fund
- Housing Development Agency
- Social Housing Regulatory Authority

There are also several nongovernmental actors, who are contributing in very meaningful ways to the slums upgrading and housing development efforts of the

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[18] http://www.info.gov.za/aboutsa/housing.htm

[19] There are also a host of nongovernment actors playing very instrumental roles in the housing development sector. Examples include; Habitat for Humanity (HFH), Cities Alliance, Slum Dwellers International (SDI) etc.

Department of Human Settlements. For example, the National Upgrading Support Programme (NUSP) was developed with technical support from the Cities Alliance, together with the World Bank Institute. This programme has been assisting the DHS and the various municipalities in its implementation of the Upgrading of Informal Settlement Programme (UISP).[20] There is also the *iShack* (improved shack) initiative, which is an innovative upgrading programme developed by a team of researchers from the Sustainability Institute of Stellenbosch University in South Africa. The pilot project of the iShack initiative was supported by a grant from the Bill and Melinda Gates foundation[21]

3.4.5 Financing the Upgrading of Informal Settlements Programme

Recent estimates by ONU Habitat put the cost of slum upgrading at US$4, 175 per stand (ONU Habitat, 2012). The DHS finances this cost from its budgetary allocations. For the 2013/14 fiscal year, the Minister of Human Settlements announced a ZAR 28.1billion budget for housing, indicating that this was an increase of around ZAR 3billion over the previous fiscal year.[22] This amount is further allocated among five priority areas within the DHS, namely, Administration; Housing Policy Research and Monitoring; Housing Planning and Delivery Support; Housing Development Funding; and Strategic Relations and Governance.[23]

In turn, the Housing Development Funding, from which informal settlement upgrading is financed, is allocated to provinces based on a predetermined formula. Municipal governments then apply to the provincial governments for these funds, which are given in the form of grants to undertake housing development programmes

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[20] For more on NUSP (http://www.upgradingsupport.org/)

[21] see: http://www.southafrica.info/about/social/ishack-310113.htm)

[22] South Africa: Housing Budget Increases to ZAR 28.1billion, *Press Release by South African Government*. *allafrica.com*, May 22, 2013. Available at: http://allafrica.com/stories/201305231153.html

[23] See Appendix 1 at the end of this paper for actual allocations for the 2011-12 financial year.

and projects. Under the Housing Development Funding, two important grants are in place to support human settlement development, and hence, informal settlements upgrading. These are the Human Settlements Development Grant (HSDG) and the Urban Settlement Development Grant (USDG). Of the R21.9billion Housing Development Funding for the 2011/2012 financial year, an amount of R14.9billion (68 percent) was allocated to the HSDG, while USDG was allocated R6.2billion (Human Settlements Annual Report, 2011/2012, 24).[v] For details of the allocation of these two grants for the 2011/12 financial year, see Appendix 2 and 3 respectively at the end of this paper.

According to ONU Habitat, the grants for the UISP covers only the cost for "surveying, participation, conflict resolution and housing support; planning costs, land, detailed planning, surveying, engineering service costs, [and] project management fees." On the other hand, the "housing construction" expenses have to be catered for separately from the Housing Subsidy Programme, since it is not covered under the upgrading cost (ONU Habitat, 2012).

CHAPTER 4

PROGRESS AND GAPS IN IMPLEMENTATION

4.1   The Progress of Implementation

As stated earlier in Chapters 1 and 3, the BNG had an initial goal to "eradicate" all informal settlements by 2014. However, the government seems to have shifted from this initial slum "eradication" goal. In January 2010, Cabinet came out with twelve developmental outcomes, in line with its medium term strategic framework. Performance agreements were signed based these 12 outcomes with all 34 ministries in the country (South African Government Information, October 25, 2010).[24]   The outcome 8, which deals with "sustainable human settlements and improved outcome of household life" (South African Government Information, October 25, 2010), tasked the Department of Human Settlements (DHS) to upgrade informal settlements that will provide tenure security, social services and amenities to about 400,000 households by 2014 (Human Settlements Annual Report, 2011/12).

Currently, there are approximately 2,700 informal settlements countrywide, which contain about 1.2 million households. Out of these, 1,100 informal settlements have been identified for upgrading. In addition, information available also shows that 206 of these informal settlements had been completely formalised as at June 2011, and a further 335 were targeted for formalisation. [25][26]

However, besides this scanty information, there are obvious challenges in terms of assessing the overall progress of implementation, as well as the impact of the UISP on the lives of slum dwellers. One key obstacle is the lack of aggregate data at the national level, since the implementation is primarily carried out at the municipal

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[24] South African Government Information. (see http://www.info.gov.za/issues/outcomes/index.html)
[25] South African Government Information.(see http://www.info.gov.za/aboutsa/housing.htm)
[26] Department of Human Settlements. "Address by the Minister of Human Settlements, Tokyo Sexwale MP, on the occasion of the Human Settlements Budget Vote, National Council of Provinces."(April 11, 2011). See: http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=17894&tid=32315

levels. For example, it is difficult to find out how many households benefited from the reported 206 informal settlements already formalised, and how many will be served by the additional 335 informal settlements presently targeted for formalisation. The lack of accurate and up-to-date data, on the progress of housing delivery, is often blamed on poor record keeping, and lack of proper coordination among municipal governments. In fact, the lapses in proper record keeping, has made the Department of Human Settlements to suggest that, the actual housing backlog in South Africa is likely higher than it is often reported, though the department falls short of estimating what the actual backlog could be (cited in Tissington, 2011).

4.2   The Salient Problems, Tensions and Contradictions

In spite of the clear legislative and policy guidelines on the Upgrading of Informal Settlements Programme (UISP) in South Africa, the implementation process occupies a contested space, often marked by contradictions and inconsistencies. There is a gap on the one hand, between the legally prescribed *indirect* approach, that seeks to address the structural causes of slum formation, and the political rhetoric, which tend to endorse *direct* and sometimes repressive approaches to get rid of informal settlements (Huchzermeyer, 2006, 2010). According to Pithouse, this contradictory trend presents a typical paradox of "progressive policy" on the one hand, and retrogressive politics on the other (Pithouse 2009, 1). Thus, it is significant to state from the outset, that, the underlying good governance challenges within the UISP, relate more to the existence of gaps between policy prescriptions and its implementation, than to a poor design of the national housing policy per se.

Generally, among the salient issues include the inadequate adherence to the core principles of in situ upgrading programme, and its associated tensions; nominal

or lack of community involvement in the slums upgrading processes, and the lack of access to suitable land for upgrading amidst limited funding, in situations where communities have to be relocated (as is often the case). There are also capacity challenges and instances of shortages of construction materials, which tend to undermine effective and timely service delivery (Huchzermeyer, 2006, 2009; Tshikotshi, 2009; Fieuw, 2011, Human Settlement Report, 2011/12).

4.2.1 Tensions between Slums "Eradication" and In Situ Upgrading

Under the Breaking New Ground (BNG) policy, *in situ* upgrading was prescribed as the best way to address the structural causes underpinning the emergence and growth of slums. This approach was considered to be "responsive to poverty and vulnerability, and also, will lead to social inclusion" as well as empowerment of slum communities, compared to relocation to new sites (Huchzermeyer 2006, 49). Hence, relocation of slum dwellers was only recommended as a last resort, and under exceptional circumstances. This was supposed to be carried out in accordance with international best practices, and only after a meaningful engagement with the residents. In effect, it has to be "responsive" to the peculiar circumstances, needs, and vulnerabilities of the affected communities.

Conversely, over the years, the reality has shown that there are apparent inconsistencies between the fundamental provisions of the BNG policy with regard to in situ upgrading and the actual implementation of the policy by municipal governments. According to Huchzermeyer (2010), the prevailing politics of housing development has rather focussed on *direct* efforts at "eradicating" slums; very often, by relocating slum dwellers to greenfields at the periphery of cities (see also Tissington, 2011). In 2005 alone, that is, a year after the introduction of the UISP, 1420 people were evicted from their houses in South Africa (UN Habitat Advisory

Group Report, 2007).[27] These included the forced eviction of those living in informal settlements. Unfortunately, in instances where slum dwellers have been relocated, such relocations have been found to worsen their conditions, by disrupting their fragile community networks and livelihood strategies, and in essence, denying them access to basic social services, such as electricity, water, and sanitation (Fieuw, 2011). Andrea Bolnick has also observed that the key problem presented by newly built formal settlements for the poor households is that, they are frequently located at "the outskirts of city centres and marginalised from public services and employment opportunities" (Bolnick 2010, 8). Hence, poor residents in these areas likely end up incurring extra cost, example by way of transportation, in order to access the market centres, and social amenities like schools and health centres.

In fact, concerns have been raised that, there seem to be high-level political obsession in South Africa to create competitive modern cities, in pursuit of the "Cities without Slums" action plan by the Cities Alliance, which has grown to become one of the most fashionable global agenda in urban development of late. In some municipalities, this agenda has practically legitimised repressive approaches to getting rid of informal settlements, characterised by the use of force (Bolnick, 2010; Huchzermeyer, 2010). In view of this, Bolnick argues that one of the main problems of the UISP is the overriding idea by government and the private sector that, informal settlements should be "eradicated" (Bolnick, 2010). According to him, the World Bank and UN Habitat have interpreted "slum eradication" to mean "slum free" cities. However, he contends that slums upgrading rather suggest "slum friendly cities"

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[27] The only good news is that this figure represented a remarkable drop from 2004, which recorded 56,813 evictions. See UN Habitat. 2007. Forced Evictions: Towards Solutions? The Second Report by the Advisory Group on Forced Evictions (AGFE). UN Habitat, 2007. Available at: http://books.google.com.gh/books?id=gbpwMRxCsegC&pg=PA8&lpg=PA8&dq=force+evictions+of+ slum+dwellers+in+south+africa&source=bl&ots=VsAvyP2TO6&sig=HnXmwAgYmWz0hlvTuhtkVK0f Y04&hl=en&sa=X&ei=rn4BUteXE0X04QTT7IGQBg&ved=0CEcQ6AEwBw#v=onepage&q=force%20e victions%20of%20slum%20dwellers%20in%20south%20africa&f=false

(Bolnick, 2010). This is because *in situ* upgrading seeks to incorporate existing informal settlements into the broader urban fabric. Huchzermeyer also reports the use of force to relocate of slum communities from inner cities to the periphery, and the use tighter controls, criminalisation and arrests, in order to forestall the development of new informal settlements (Huchzermeyer, 2010). For example, in the Gauteng province, she reveals how municipal authorities apparently refused to adhere to the principles of the *in situ* upgrading, in an attempt to develop three informal settlements in the area. Instead, the officials adduced every imaginable reason to justify relocating the inhabitants to new sites. In all the instances of relocation, the author argued that, the new sites presented disadvantages to the slum dwellers (Huchzermeyer, 2006). [vi]

Besides, the aggressive tone of "eradication," often used in government campaigns to address the problem of informal settlements, tend to create the impression that slums dwellers are "illegal" and "unwanted" by society (Huchzermeyer, 2010). Huchzermeyer laments that this situation represents a failure by provincial and municipal authorities to change their derogatory mindsets about slum communities. These negative perceptions persist, despite that, a renewed way of thinking about slum communities, was generally recognised as a necessary precondition to embrace the paradigm shift under the BNG policy (Huchzermeyer, 2010). Commenting on the way informal settlements have been viewed in the South African society, Misselhorn also suggest that, it is important to recognise the value of these settlements to the growing number of poor immigrants into the cities (Misselhorn, 2008). The author notes that the informal settlements provide the first point of access to the urban environment for immigrants, who cannot afford the limited and expensive urban accommodation. Hence, from the foregoing, there seem to be parallel and conflicting discourses between the whole notion of integrative

urban human settlement development within the BNG policy on the one hand; and on the other hand, the government's campaign to "eradicate" slums in the cities.

Indeed, over the years, movements for shack dwellers have been constantly engaging with municipal authorities, to ensure that they respect the basic tenets of the *in situ* upgrading. Then again, these efforts have sometimes suffered considerable backlash from top government officials and the ANC; thus, generating confrontational relations between the state and these movements. This was evidenced in September 26, 2009, when the Abahlali baseMjondolo (a movement of shack dwellers) in Kennedy Road informal settlement in Durban, was attacked, leading to the death of at least two people (Abahlali baseMjondolo, 2009). This gruesome attack was allegedly backed by top government and ANC officials, in connivance with the national security service. Reports indicate that the police, in a rather strange fashion, ended up arresting and detaining the victims of this assault, while the perpetrators were allowed to roam freely[28]

Moreover, in recent times, the issue of slum eradication has taken a political twist, amidst growing corporate interest in urban lands occupied by slum dwellers in the inner cities (Connor, n.d.). Teresa Connor draws attention to the relocation of residents of the Bhungeni informal settlement from a piece of land in March 2011, to allow for the construction of a city mall, without involving the residents themselves in the decision-making process regarding the relocation (Connor, n.d.). She observes that in some instances, "civil servants and politicians [...] frame local service delivery in terms of investor development and business opportunities, and fail to link these to issues of grassroots politics," (Connor, n.d.), where the involvement of the local

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[28] For details see: Western Cape Anti-Eviction Campaign. Joint Statement on the attacks on the Kennedy Road Informal Settlement in Durban. Available at:
http://antieviction.org.za/2009/09/28/joint-statement-on-the-attacks-on-the-kennedy-road-informal-settlement-in-durban/

people can be very helpful in mitigating any negative consequences that might arise. In an influential piece entitled, "Cities With 'Slums': From Informal Settlement Eradication to a Right to the City in Africa" (2011), Huchzermeyer also chronicles how the coalescing corporate interests around the global agenda of creating "Cities without Slums" in South Africa, have stimulated attempts by the state to strengthen its powers to evict slum dwellers. For example, the author records how plans to host the FIFA world cup in 2010, triggered "high level government obsession" with the clearing informal settlements from places where they could easily be seen by international football tourists (Huchzermeyer, 2011).[vii] These were part of efforts to gentrify the urban cities (Huchzermeyer, 2011; Fieuw, 2011).

CASE EXAMPLES

Example 1:[29]

In the run-up to the 2010 world cup, 10,000 slum dwellers were at the verge of force eviction from the Joe Slovo shack settlement along the road from the Cape Town airport to pave way for the construction of World Cup hotels, but also, to relocate them outside of the purview of tourist attraction. It took the intervention of Anti-Eviction campaigners to prevent the forced eviction.

Example 2:[30]

In 2009, it took the intervention of the Constitutional Court to strike down Section 16 of the KwaZulu-Natal Elimination and Prevention of Re-Emergence of Slums Act 6 of 2007 (the Slums Act) which sought to authorise force evictions of unlawful occupiers of a land upon a notice given by a responsible Member of the Executive Council (MEC) in a municipality. This was found to be inconsistent with Article 26 of the constitution (see case: *Abahlali baseMjondolo Movement of South Africa and Another v Premier of the Province of KwaZulu-Natal and Others* CCT 12/09 [2009] ZACC 31 (*Slums Act*).

4.2.2 Community Choice and Participation

The involvement of slum communities, and the need to give them a voice, at every stage of the policy process, forms a basic tenet of the Upgrading of Informal Settlements Programme (UISP) (Revised Housing Code, 2009). It is believed that, this is one effective way to empower the slum communities to transform their own

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[29] See Montague Brendan.2010. World Cup: Cheer on South African Slum Dwellers Fighting Eviction. Available at: http://www.counterfire.org/index.php/news/5573-world-cup-south-african-slum-dwellers-face-eviction
[30] See http://www.escr-net.org/usr_doc/ESR_Review_-_Chenwi_-_Slums_Act_Inconstitutional.pdf

livelihood. However, several studies and reports (e.g. Huchzermeyer, 2006, 2009, Misselhorn, 2008; Mistro and Hensher, 2009; Connor, n.d.) seem to suggest that, within the implementation of the UISP, the issue "participation" represents a contested space, where slum dwellers, over the years, have had to struggle, to make their concerns heard in the upgrading of their livelihood. Generally, the implementation is carried out in a crude top-down fashion with nominal regard for participatory processes (Huchzermeyer, 2006). The evidence suggests that slum communities have neither a voice nor options in the policy process, particularly, when it comes to whether or not they should be relocated, and where to be relocated (IOL News, June 15, 2013; Connor, n.d.). Teresa Conner (n.d.) reports the sad case of forced eviction of residents of Bungeni informal settlement (Case Example 3 below), where the City Mayor allegedly claimed that, the slum dwellers voluntarily agreed to relocate. Meanwhile, the slum residents and their Ward Committee members insisted that, they were never part of such a decision-making process.

CASE EXAMPLES
Example 3:[31]
In 2011, residents of Bungeni community were forcibly evicted from a piece of land designated to become the site of Butterworth's new mega-mall. The about 290 residents of the Bhungeni informal settlement woke up on the morning of 25 March 2011 to the noise of trucks and bulldozers. Residents were moved to Chetty, an old industrial area in Butterworth, where they lived for almost two weeks in an abandoned factory warehouse. The residential committee representing the slum dwellers alleged that they "never agreed to move" contrary to claims by the city Mayor, that, they the residents voluntarily agreed to relocate. The residents made it clear that they were not against the construction of the mall; but their main concern was that the municipality did not allow them to participate in the decision making process, and therefore claim that the process constituted a violation of their rights.

On June 2013, the *IOL News* also carried the story in which several residents, who have been living at the Bonnytoun informal settlement in Wynberg, over the last one decade, were evicted by city authorities without meaningfully engaging with the

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[31]See Conner, Teresa. Examining the impact of the forced removal of Bungeni community: Impact on grass roots democracy. *Afesis-Corplan*, South Africa. Available at: http://www.afesis.org.za/Sustainable-Settlements-Articles/examining-the-impact-of-the-forced-removal-of-bungeni-community-impact-on-grass-roots-democracy

residents. The residents alleged that, the eviction was carried out even against a court interdict, which directs the city authorities to allow them to stay where they were (IOL News, June 15, 2013).

What is often the problem is that, municipal authorities seem to have difficulties in balancing technocratic governance, and the political and corporate pressures for city gentrification, with that of the need for slum dwellers to have a say in the upgrading of their livelihoods. Hence, the unfortunate plight of the defenceless slum residents in Bungeni narrated above, is indicative of the fact that, in situations where market-led interests predominantly drives the so called technocratic processes of slum upgrading, the constitutional rights and welfare of the poor, are likely to be compromised. This market driven logic, all in the name of creating modern cities, partly informed attempts by the government to clear the Joe Slovo informal settlements along the main way from the South African airport, prior to the 2010 FIFA World Cup.

In another vein, Jordhus-Lier and de Wet have warned that, when catchphrases like "participation" are employed loosely, they tend to create false expectations and subsequent disappointments in the minds of community members, who thought their views, could significantly shape decision-making in the upgrading of their livelihoods (Jordhus-Lier and de Wet, 2013). The heightened expectations of their ability to shape the upgrading decisions, through participatory processes, appeared to underlie the dismay of the residents of Bungeni, which has been highlighted in Example 3 above.

Furthermore, the authors observe that, in most instances of upgrading, the options, and plans are already carefully designed by various experts, thus allowing little room for community participation and influence (Jordhus-Lier and de Wet, 2013). A case in point is the Violence Prevention through Urban Upgrading (VPUU)

programme, in the informal settlements around the township of Khayelitsha in Cape Town. Municipal officers often proclaim the VPUU as an archetype of participatory and democratic slum upgrading. Yet, a close examination reveals that, it is only at the implementation stage that VPUU makes room for the involvement of ordinary people (Jordhus-Lier and de Wet, 2013). Certainly, often times, public officials try to avoid truly participatory processes in project implementation, because, they think that these are not only "time-consuming," but also, can be "unpredictable" and "messy" (Jordhus-Lier and de Wet, 2013).

On the flipside, experience has shown that lack of public involvement can also pose a challenge to speedy and successful project implementation. This situation has been witnessed in the case of the N2 Gateway[viii] housing development pilot project, started by the South Africa government around 2005. According to the Centre for Housing Rights and Evictions (COHRE), at the onset of the N2 Gateway project, the government resolved to minimise the amount of consultation and public involvement for ensuring speedy implementation (COHRE, 2009). However, as at 2012, the project was still not completed, partly because of pockets of resistance by the public, and lingering legal disputes (Jordhus-Lier and de Wet, 2013).

Essentially, involving community members in the upgrading of their livelihood has the potential to engender, and promote trust and cooperation between municipal officers and the slum dwellers. Studies by Hough (2008) and Misselhorn (2008) suggest that mistrust of municipal officers by slum communities is one of the challenges of the UISP in South Africa. Hough has noted for example, that "poor communication with communities [and] lack of transparency" have often generated wrong perceptions, mistrust and sometimes protests among communities against municipal authorities (Hough, 2008). Misselhorn also shares this view, adding that, the root of public discontent is not just about lack of housing and service delivery, but

also, it is about the residents' perception that "the state does not care […], that they are somehow inferior […] due to their informal or shack status" (Misselhorn 2008, 3, as cited in Mistro and Hensher, 2009). Thus, one potential solution could therefore be to constantly engage the communities in the upgrading process, so that they might get to understand and appreciate any efforts being made by the municipalities to transform their lives.

4.2.3 Transparency in the Municipal Inclusion Criteria for Upgrade

As indicated earlier, there are clear guidelines and criteria under the BNG policy, for identifying informal settlements that need to be upgraded as well as the qualifying criteria beneficiary individuals and households. Nevertheless, the other challenge remains the prioritisation of the identified settlements by municipal governments. It is at the municipal level that most of the planning for development occurs, including identifying informal settlements and setting delivery targets as part of their Integrated Development Plans (IDPs)(Tissington and Royston, 2010). Essentially, an informal settlement needs to be on the list of priority projects in the municipal IDP; otherwise, it may never get upgraded, (Tissington and Royston, 2010). Meanwhile, concerns are that, the criteria for inclusion in this priority list is the product of less obvious processes and procedures. The need to clarify the criteria for inclusion in this priority list was re-emphasized recently at a stakeholder meeting organised by LANDfirst, a network of civil society organisations advocating pro-poor approaches to land access and incremental upgrading, alongside the Socio-Economic Research Institute of South Africa. This step is important because, it constitutes the main door to access, since settlements not on the lists are automatically excluded from the "normal residential property market" (Tissington and Royston, 2010).

4.2.4 Lack of Access to Suitable Land for Upgrade

Ordinarily, upgrading under UISP is supposed to be carried out *in situ*. However, due to technical and political reasons, such as, lack of suitability of the existing land for upgrading or due to political quest to gentrify the inner cities, relocation of slum dwellers to greenfields, normally at the periphery of the cities, is reportedly the common approach in South Africa. This has therefore created the need to look elsewhere, for suitable lands for total redevelopment. Owing to this, access to well-located lands has become one of the complicated challenges of the slum-upgrading programme.

Studies have shown that apartheid in South Africa left in its wake a highly skewed distribution of land in favour of the rich; thus, leaving a significant proportion of the poor without access to land (Bolnick and Rensburg, 2005). Moreover, post-apartheid South Africa has done little to address the historic inequities in the distribution of land. For example, unlike Brazil, where uncontested occupation of land by slum dwellers for at least five years, entitles them to ownership (Huchzermeyer, 2010), the situation in South Africa is entirely different. In several instances, slum dwellers have been moved from lands they have occupied for decades against their will under the pretext of total "redevelopment" of slums. An example is the residents of the three informal settlements of Harry Gwala, Thembelihle, and Protea South, noted by Huchzermeyer (2006).

Total relocation of slum dwellers under the UISP requires huge tracks of suitable lands. Moreover, the current housing policy seeks to allocate freehold title to slum dwellers. This has been said to be time consuming and costly; yet, it is argued that, such approach will guarantee security of tenure, and hence, leverage the property values as a tool for poverty alleviation (De Soto, 2000). However, due to scarcity of land, municipalities normally turn to the land market (i.e., state, privately,

and communally owned lands). The complications[32] of acquiring land in South Africa, have therefore informed recent initiatives by the government to facilitate these issues. One is the establishment of the Housing Development Agency (HDA) under the Housing Development Agency Act (Act 23, 2008). The HDA is only a facilitating agency, which supports the DHS to fast track the identification, acquisition, management, and release of state, private, and communally owned land for human settlement development.[33][34] Another initiative is the launch of the Land Acquisition for Sustainable Settlement programme (LASS) within the Department of Rural and Land Reform (DRLR) for a similar purpose. However, unlike the HDA, the LASS give direct financial support to municipalities to acquire the lands by themselves.

Meanwhile, the main problem with the LASS programmes is that, it is allocated only 20% of the DRLR's budget for its activities.[35] This proportion is said to be woefully inadequate, to meet the large demands and cost of urban land. In view of this, this money is given to municipalities on first-come-first-serve basis (Eglin, 2009).[36] As a result, not all municipalities always have access to the LASS funding. Misselhorn has also identified the insufficient budget to cover the huge capital costs required for housing; and the associated land and infrastructure, as the major constraint of the informal settlement-upgrading programme in South Africa.[37]

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[32] For more on some of the key areas of conflicts over land issues in South Africa, see Munzondo et al. 2004. Land Conflicts in Informal Settlements: Wallacedene in Cape Town, South Africa.
[33] http://www.thehda.co.za/
[34] See Annual Report: http://www.thehda.co.za/uploads/images/HDA_AR_lowres.pdf
[35] For more on the Afesis-corplan "land first" initiative, see: http://landfirst.org.za/
[36] http://landfirst.org.za/from-eradication-to-upgrade/
[37] Mark Misselhorn. A New Response to Informal Settlements. Available at:
http://www.afesis.org.za/Sustainable-Settlements-Articles/a-new-response-to-informal-settlements

4.2.5 Lack of Capacity and Material Resource Constraints

Aside the above challenges, lack of capacity by contractors, and shortage of critical staff and materials resources have sometimes affected effective service delivery and delayed project implementation in some municipalities. At the end of the 2011/12 financial year, ZAR91million of the ZAR22.2 billion voted for Housing Development Funding at the Department of Human Settlements (DHS) was not spent. This was attributed to delays in the building of toilets, because of late appointment of service providers and non-availability of building materials. Moreover, the DHS initially had difficulties in filling certain critical vacancies, which was done late in the financial year (Human Settlement Report 2011/12). In addition, the Eastern Cape Province spent 82% of the ZAR2.3billion available for the Human Settlement Development Grant (HSDG), leaving the rest unspent at the end of the 2011/12 financial year. The provincial government cited lack of capacity by contractors, shortage of building materials, and other architectural and administrative bottlenecks as responsible for this. Similarly, the Limpopo province spent 83% of the available funds, pointing among others, to the unavailability of bulk infrastructure and service sites as the reasons for the under spending (Human Settlement Report 2011/12). Delays in the approval and release of funds were also cited in all the above instances. In effect, the issue of non-availability of building materials and bulk services and the lack of capacity of contractors as well as delay in the release of funds, is a recurring challenge in the housing development sector in South Africa, thus, leading to delays and effectiveness in service delivery.

CONCLUSION

To conclude, it is important to restate that, while more than half of the South African population currently live in urban centres, a quarter of them, reside in shacks, without access to basic social services. Indeed, in situ slum upgrading, as envisaged under the UISP, is an instrument that promises to promote empowerment, integrated urban development, and social cohesion. This is more compelling against the backdrop of rapid urbanisation, coupled with the ever-increasing urban unemployment, poverty, and widening socio-economic inequalities. However, observing the dynamics of the implementation of the UISP thus far, the evidence reveals the urgent need to address the gap between the policy rhetoric and the reality of implementation. The underlying governance challenges, notably, the partial adherence to the principles of in situ upgrading, nominal or lack of community involvement in the upgrading process, and the lack of clarity in the criteria for including settlements in municipal Integrated Development Plans (IDPs), deserve to be looked at with urgency and commitment by policy makers. Finally, other important challenges, such as, the lack of access to suitable lands amidst limited funds for land acquisition, and the capacity and material resource constraints of project contractors, delays in the release of funds are issues that need to be properly addressed to enhance service delivery.

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OTHER USEFUL LINKS

- http://twistity.com/improving-south-african-slums-through-sustainable-housing/

- http://www.africafiles.org/article.asp?ID=24844

- http://www.howwemadeitinafrica.com/enter-the-ishack-a-possible-answer-to-improving-africa%E2%80%99s-slums/22386/

- http://www.citiesalliance.org/node/2220

- http://www.ohchr.org/Documents/Publications/FactSheet25en.pdf

- http://www.worldwatch.org/node/526

- http://www.waronwant.org/overseas-work/informal-economy/shack-dwellers-in-durban

- http://www.citiesalliance.org/sites/citiesalliance.org/files/CA_Images/SUFactsheet_English_0.pdf

- http://www.bdlive.co.za/articles/2010/11/15/kate-tissington-and-lauren-royston-urban-reform;jsessionid=4D8AA7C4D9E5CC9C5BD956CF5C04620A.present2.bdfm

- http://www.thehda.co.za/uploads/images/HDA_AR_lowres.pdf

- http://www.statssa.gov.za/publications/P0302/P03022013.pdf

APPENDIXES

Appendix 1: DHS Allocation of funds the various Programmes for 2011-12

Programme	Voted for 2011/12 (R'000)	Roll-overs and adjustments (R'000)	Virements (R'000)	Total voted (R'000)	Actual expenditure (R'000)	Variance (R'000)
1. Administration	232 435	676	-11 000	222 111	166 237	55 874
2. Housing Policy, Research and Monitoring	39 215	227	-	39 442	32 866	6 576
3. Housing Planning and Delivery Support	156 163	31 848	5 000	193 011	186 733	6 278
4. Housing Development Finance	21 995 147	206 352	-	22 201 499	22 105 262	96 237
5. Strategic Relations and Governance	155 535	7 943	6 000	169 478	105 064	64 414
Total	22 578 495	247 046	-	2 282 541	22 596 162	229 379

Source: Human Settlements Report, 2011-12

Appendix 2: DHS Allocation of the Human Settlement Development Grants for 2011-12

Province	DoRA allocation 2011/12 (R'000)	Adjustments and provincial roll-overs (R'000)	Total available to provinces (R'000)	Financial year 1 April 2011 to 31 March 2012			
				Funds transferred (R'000)	Spent by provinces (R'000)	Variance: spent vs. total available (R'000)	Funds spent as percentage of total available %	Under expenditure as percentage of total available %
Eastern Cape	2 177 676	133 829	2 311 505	2 177 676	1 897 076	414 429	82	19
Free State	913 907		913 907	913 907	903 431	10 476	99	1
Gauteng	3 804 611		3 804 611	3 804 611	3 786 015	18 596	100	0
KwaZulu-Natal	2 769 871		2 769871	2 769 871	2 769 872	(1)	100	0
Limpopo	1 398 914	111 580	1 510 494	1 398 914	1 259 394	251 100	83	18
Mpumalanga	916 677		916 677	916 677	916 673	4	100	0
Northern Cape	322 639		322 639	322 639	322 617	22	100	0
North West	998 376	150 334	1 148 710	998 376	1 148 708	2	100	0
Western Cape	1 638 845		1 638 845	1 638 845	1 635 001	3 844	100	0
TOTAL	14 941 516	395 743	15 337 259	14 941 516	14 638 787	302 729	98	2

Source: Human Settlements Report, 2011-12

Appendix 3: DHS Allocation of the Urban Settlement Development Grant[ix]

Municipality	Total amount available (R'000)	Financial year 1 April 2011 to 31 March 2012				
		Funds transferred (R'000)	Amount spent by municipality (R'000)	Variance: spent vs.total amount available (R'000)	Amount spent asper-centage of total amount available	Amount unspent as percent-age of total available
Buffalo City	423 446	423 446	796 99	343 747	19	81
Nelson Mandela	502 626	502 626	314 922	187 704	63	37
Mangaung	411 995	411 995	163 153	248 842	40	60
Ekurhuleni	1 094 276	1 094 276	504 305	589 971	46	54
City of JHB	1 027 970	1 027 970	470 176	557 794	46	54
City of Tshwane	891 081	891 081	349 874	541 207	39	61
eThekwini	1 091 574	1 091 574	558 323	533 251	51	49
City of Cape Town	824 030	824 030	287 972	536 058	35	65
TOTAL	**6 266 998**	**6 266 998**	**2 728 424**	**3 538 574**	**44**	**56**

Source: Human Settlements Report 2011-12

End Notes

[i] *"Improved* drinking water - use of any of the following sources: piped water into dwelling, yard, or plot; public tap or standpipe; tubewell or borehole; protected dug well; protected spring; or rainwater collection. *unimproved* drinking water - use of any of the following sources: unprotected dug well; unprotected spring; cart with small tank or drum; tanker truck; surface water, which includes rivers, dams, lakes, ponds, streams, canals or irrigation channels; or bottled water." (CIA, 2013)

[ii] *"Improved* sanitation - use of any of the following facilities: flush or pour-flush to a piped sewer system, septic tank, or pit latrine; ventilated improved pit (VIP) latrine; pit latrine with slab; or a composting toilet. *unimproved* sanitation - use of any of the following facilities: flush or pour-flush not piped to a sewer system, septic tank or pit latrine; pit latrine without a slab or open pit; bucket; hanging toilet or hanging latrine; shared facilities of any type; no facilities; or bush or field." (CIA, 2013)

[iii] The fact that the South African Constitution provides for judiciable socio-economic rights in relation to adequate housing makes it very unique and progressive. A number of famous housing rights cases, decided under the South African constitution, have later formed key references in global constitutional jurisprudence on socio-economic rights. These include the cases of Grootboom, Olivia Road, Joe Slovo, Abahlali, and Nokotyana. Details of these cases have been dealt with by Kate Tissington (2011, 42-55).

[iv] At the fourth and last stage of the slum upgrading, assistance can be sought from the following housing programmes:
- Consolidation Subsidy
- Individual Subsidy
- Integrated Residential Development Programme
- Institutional Subsidy
- Discount Benefit Scheme
- Rural subsidies
- subsidies for people with disabilities
- People's Housing Process.
- farm resident subsidies
- Finance-Linked Subsidy Programme

[v] The Urban Settlement Development Grant (USDG) was initiated with the aim to support metropolitan municipalities to enhance urban land usage/availability to the benefit of poor households. Buy supplementing the revenue base of metropolitan municipalities, the USDG was intended to "reduce the real average cost of urban land; increase the supply of well-located land; enhance tenure security and quality of life in informal settlements; Improve spatial density; Subsidise the capital costs of acquiring land; and Provide basic services for poor households" (Human Settlements Annual Report 2011-12, 29).

[vi] These settlements included, Harry Gwala, Thembelihle, and Protea South. The three settlement communities had peacefully occupied the land for over a decade. From these communities they were able to access schools, livelihoods and public transport. For example, Thembelihle was embedded in a relatively suburban area of Lenasia with good schools. Protea South also provided direct access to good schools, a railway station, and industrial areas. Harry Gwala was adjacent to the established Wattville township, also with schools, and in walking distance from the domestic and industrial job market in surrounding suburbs and industrial areas. Again, all three settlements provided access to natural amenities –the Leeupan water body in the case of Harry Gwala; in Protea South, there was a river and areas for urban agriculture; there were vegetable gardens as well as Lenasia's parks in the case of Thembelihle. Unfortunately, however, in all the three cases, the Huchzermeyer showed that the relocation sites presented disadvantages in terms of access to schooling, to livelihoods and the job market, to public transport and to recreational amenities. It was due to the threat to livelihood, schooling, and community networks, that many of their residents initially had reservations, and therefore resisted the relocation. Finally, in some these cases, legal representation afforded the residents resulted in an improved relocation arrangement to a mutually agreed site called Lahae. The court however, dismissed the reads ns advance for the relocation of the residents of Harry Gwala (Huchzermeyer, 2006).

[vii] Huchzermeyer has given details of how the residents of Harry Gawla, with the help of a voluntary legal counsel, and supported by an activist NGO, fought government's plans to relocate them, all the way to the Constitutional Court of South Africa, where an almost forgotten piece of legislation was revoked to prevent their eviction.

[viii] The N2 Gateway housing development pilot project is a national government-led priority project, which aims to build fully--subsidised, rental, and affordable bonded homes, in order to create sustainable communities in designated precincts along the N2 highway in Cape Town. For further information on the N2 Gateway Project, (see: http://www.thehda.co.za/content/page/n2-gateway)

[ix] In Appendix 3, relating to the Urban Settlement Development Grant, it has been explained by the DHS that the financial year is due to end on June 30. This explains why 56% of the ZAR6.2billion is still unspent. It is therefore anticipated that the expenditure might improve by the end of the financial year.