



The Housing Crisis in South Africa

1. Introduction

Section 26 of South Africa's Constitution proclaims access to housing as a Human Rightⁱ, and places a duty on the state, within its means, to take reasonable measures to realise not just access to housing, but access to *adequate* housing. But it also goes further, stating that no one can be evicted from their home or have their home destroyed without a court order, and forbidding the legislature to pass any law that permits arbitrary evictions.

According to the University of Johannesburg Social Change Research Unit's *'Community Protest Research Findings'*, and the Multi-Level Government Initiative's *'Service Delivery Protest Barometer'*, the past ten years have seen a serious rise in service delivery protests, from 13 in 2004, rising to a peak of 470 in 2012, before falling to 287 in 2013. These protests have become steadily more disruptive and violent, with 11 people killed in 2013ⁱⁱ. Consistently, the most-cited grievances revolve around land and housing.ⁱⁱⁱ

Though the state claims to have built over 3 million houses^{iv}, the clamour for housing from groups claiming to represent the poor and homeless seems to be rising, with antagonism towards various governmental representatives and politicians seemingly never ending. On top of this, there is a recurring pattern of land invasions and evictions, often ending up with police involvement and violence.

2. A Crisis or Not?

Though the housing problem is often referred to as a crisis some experts, such as Mark Napier, a principal researcher at the Council for Scientific and Industrial Research (CSIR), challenge this label, and propose instead that what is going on is a crisis in people's expectation that the state

should provide housing for everyone who needs it. Speaking at a CPLO roundtable discussion in June, Dr Napier suggested that the progress made thus far cannot be disregarded as insignificant, and commended the government on its delivery over the last twenty years. He proposed that, as far as state housing provision is concerned, there is no crisis, as delivery has been steady against a fast-growing demand, and has slowed only in the last few years. The real crisis is perhaps in the issuing of title deeds, which is lagging, and which means that people's ownership of a house cannot be established legally, leaving them unable to use it as an asset or as security for a loan.

Certainly, socio-economic issues such as poverty, unemployment, and inequality play a role in accelerating demand, but these cannot be resolved by housing alone. Other complications include confusion about what kind of houses should be built (type of units and cost), political interference, and patronage politics which distort delivery, especially regarding the handing over of houses to beneficiaries. In this regard, Kate Tissington, a senior researcher at the Socio-Economic Rights Institute of South Africa believes that "there is very little monitoring and oversight of the process, and corruption around allocation is often reported."^v These problems in the delivery process create a situation in which housing lists are not properly managed and are often contested or ignored.

The roundtable discussion also highlighted the huge challenge of accessing registered, developed land with the appropriate infrastructure. In this regard, Mr Mncedisi Twalo, an activist with the Anti-Eviction Campaign, argued that, although it seemed that government was ready to deliver housing to people, obstacles existed in the form of a lack of access to adequate and suitable land, and property rights which effectively excluded poor people from actively participating and owning property.

Another dimension of the housing problem is the different way in which it affects different social groups. Gavin Weir, from Neighbourhood Old Age Homes (NOAH), highlighted the housing challenges faced by social pensioners, for example. 70% of pensioners depend on the state, making them especially vulnerable; they cannot afford to buy a house, and the government does not have specialised housing programmes for the elderly. But because pensioners are often not heard in the media, their plight becomes invisible, and thus their need for specialised housing falls further down the agenda.

3. Poverty

Though it appears as if poverty is a defining factor, low income households which are not technically poor also struggle – nurses, teachers, police officers and others in secure employment find themselves able to access neither private finance nor state housing. Thus, the question of housing is not simply about subsidised houses for the poor, it is an economic structural issue of access.^{vi} It is also notable that the problem is largely an urban one, with large informal settlements mushrooming, sometimes almost overnight, in open spaces in and around the towns and cities.

South Africa is not unique in this respect. The defining characteristic of almost all major cities around the developing world is their large informal settlements and slums, often located on the cities' edges. From the slums of Rio, Hong Kong, and Manila, to Nairobi and Lagos, urban sprawl and poverty produce large areas where people occupy inadequate shelters, often built out of materials scavenged from the rubbish heap. All this is a consequence of massive urbanisation and critical urban poverty. These dumping grounds form a reservoir of cheap labour and an often ignored social underclass.

Then there are the 'backyard dwellers' who occupy rooms and shacks at the back of other people's properties or houses. They are sometimes as numerous as those in informal settlements, but are often more invisible. Others live in urban slum buildings, dilapidated and without services, and characterised by crime and dereliction. Often this hidden mass of homeless people is overlooked when housing is talked about. This is why, when one squatter settlement is removed, another seems to pop up out of thin air, followed by the outcry: "Where do all these

people come from? Let them go back where they came from!"

South Africa's housing problems also have a peculiarity resulting from the Apartheid legacy, three aspects of which may be noted. First, racially-based land access and ownership; second, migrant labour, the skewed geography of the economy, and the apartheid spatial architecture that still defines most cities and towns; and third, pervasive poverty and high inequality in one of the world's richest countries in terms of resources.

It is also worth remembering that housing development is also about societal and human development. As Pope Francis has noted, "houses and neighbourhoods are more often built to isolate and protect than to connect and integrate."^{vii} In South Africa, much of the old apartheid residential divisions still persist, while the creation of exclusive gated communities, meant to 'isolate and protect' rather than 'connect and integrate', contributes further to social division.

4. Government's Response

There has been a plethora of schemes, programmes, and institutions created to deal with the challenge of housing. For instance:

- *The Social Housing Regulatory Authority (SHRA)* created under the Social Housing Act, 16 of 2008, is the current custodian of social housing in South Africa
- *The National Housing Subsidy Programme*
- *Social Housing Policy for South Africa: Towards an enabling environment for social housing development* (May 2005)
- *The National Housing Finance Corporation* (formed in 1996)
- *Servcon Housing Solutions*
- *The Human Settlement Redevelopment Programme* (initiated in 1999)
- *Sustainable Human Settlements: Breaking new ground*
- *The Community Residential Unit Programme (CRU)*
- *The Integrated Residential Development Programme (IRDP)*
- *Human Settlements Vision 2030*
- *People's Housing Process (PHP)*
- *The Finance-Linked Individual Subsidy Programme*
- *The Enhanced People's Housing Process*

- *The Informal Settlement Upgrading Programme*
- *Consolidation Subsidy*
- *Institutional Housing Subsidies*
- *The Housing Development Agency (HDA)*
- *The Rural Housing Loan Fund (RHLF)*
- *The National Urban Reconstruction and Housing Agency (NURHA)*
- *The National Home-Builders Registration Council (NHBRC)*
- *The Each-One-Settle-One Campaign*

Thus, coming up with yet another scheme will probably not radically change anything if the underlying issues are not dealt with, and if the already existing schemes and programmes are not implemented properly.

5. Civil Society

The rise of social movements like *Abahlali Basemjondolo*, *Se'skhona*, the Anti-eviction Campaign, the Landless People's Movement, and dozens of smaller, locally-based groups and movements all fighting for land, housing and other social services, has increased confrontations with the state, and has brought these issues firmly to the forefront of social protest. Other civil society formations and legal organisations have also come into the fray. The recent decision by *Abahlali* in Durban to pledge political support to the official opposition has raised the question of party political associations. In Cape Town, the *Ses'khona* movement was led by people associated with the ANC. The danger with this is that social movements run the risk of being seen as tools for party political mobilisation rather than as non-partisan grassroots movements. Thus, their demands and actions may be dismissed as political posturing and point scoring rather than as representing an authentic voice of the poor.

6. Law

There has been much legislation and litigation dealing with the main issues concerning the right to housing and the question of evictions. Three in particular are of significance: The Extension of Security of Tenure Act, 62 of 1997 (ESTA); The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998 (PIE), and the Constitutional Court ruling in *Government of the Republic of South Africa and Others v Grootboom and Others* (4 October 2000).^{viii}

Property owners have been getting court orders regularly to evict illegal occupiers of their property. However, the courts have also set clear parameters about how evictions should be carried out, and when. In essence, the courts have ruled consistently that no one can be deprived of their home, irrespective of where it is built, without a court order; and that, before a person is deprived of that shelter, a reasonable attempt should be made to find an alternative in order to avoid leaving people homeless.

However, the legislation and the court rulings have not been without controversy, with some property owners suggesting that PIE and ESTA have effectively amended the constitutional right to property. So far, the Constitutional Court has taken the view that, in a situation of conflict between the rights of owners and occupiers of a property, matters have to be evaluated in court before rights (in this case the right to housing in section 26) are taken away from anyone through eviction or the destruction of even illegal structures.

7. Land

The discourse around housing is inextricably linked to the question of land; in fact, most of the current conflicts are about access to and ownership of land, or the lack thereof. It is this coincidence of the land question with the right to housing that shifts the debate from simple service delivery to the politics of land.

At present three provinces are at the heart of confrontations about housing and access to urban land. The Western Cape and Gauteng have both seen huge population growth from 1996 to 2011 (and are the provinces with the highest number of public protests^{ix}), while the North West Province, especially around the platinum mines, has been characterised by high migration patterns into already overcrowded spaces, though the overall provincial population size has remained relatively stable. Other provinces have seen either radical drops in population, such as the Eastern Cape, or very low growth.^x

Justice Zak Yacoob, writing the judgement in the *Grootboom* case, issued an important warning:

[2] *The issues here remind us of the intolerable conditions under which many of our people are still living. The respondents are but a fraction of them. It is also a reminder that unless the*

plight of these communities is alleviated, people may be tempted to take the law into their own hands in order to escape these conditions. The case brings home the harsh reality that the Constitution's promise of dignity and equality for all remains for many a distant dream. People should not be impelled by intolerable living conditions to resort to land invasions. Self-help of this kind cannot be tolerated, for the unavailability of land suitable for housing development is a key factor in the fight against the country's housing shortage.

Fourteen years on from this judgment, it is apparent that people are more inclined than ever to 'take the law into their own hands' when it comes to accessing land and housing; and that, if this trend continues, the country will lurch from one violent confrontation to another.

8. Conclusion

Access to housing is not only about providing shelter; it also provides a point of access for the provision of services such as education, health, security, and social services. In addition, it facilitates private economic participation, which is why employment prospects often dictate the movement and settlement of people. Questions of spatial planning, transportation, and the overdependence on road transport also affect where people choose to move to, poor or not. If the housing challenge is not solved, South Africa will not be able to achieve the millennium development goals that the state has signed up to, especially the goal of eradicating extreme poverty.^{xi}

Clearly, a multi-pronged approach is necessary to address the problem of homelessness. Thus, basic ideas such as pre-empting the haphazard influx of people from rural to urban areas; preparing land in advance for human habitation, and directing people onto land already prepared and serviced rather than reacting to illegal occupation of land and property; rural development and economic development of small towns; affordable transport networks so that people do not need to seek

housing closer to workplaces, but can commute with ease; and reducing social inequality, can all contribute to alleviating the problem.^{xii}

Fortunately, there are some signs that government is taking the challenge more seriously, and is moving beyond merely the provision of basic houses. In 2013 the Ministry of Co-operative Governance and Traditional Affairs engaged in a process of producing an integrated urban development framework, involving the departments of Human Settlements, Finance, Rural Development and Land Reform, Transport, Water and Environmental Affairs, and Economic Development, as well as the National Planning Commission.^{xiii}

During the debate on the 2014 state of the nation address, Minister in the Presidency Jeff Radebe announced that the President had tasked him with responsibility to establish an inter-ministerial committee on the revitalisation of distressed mining communities which, together with labour and mining houses, would 'alleviate the intolerable conditions around extremely wealthy mines, but which are surrounded by human settlements characterised by squalor and poverty'. The appointment of Lindiwe Sisulu, one of the most senior and experienced members of cabinet, to the portfolio of Human Settlements may also signal a new prioritisation of housing issues.

It remains to be seen whether these initiatives will mark a new approach, and whether or not they will succeed in addressing the serious challenges we still face in ensuring decent housing for all our people.

Matsepane Morare SJ
Researcher

Zikhona Sikota
Research Intern

Zikhona is studying towards her Master's degree in Political Studies at the University of the Western Cape, as part of which she completed a six-month internship at the CPLD

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- ⁱ The Constitution of the Republic of South Africa, 1996, chapter 2, section 26.
- ⁱⁱ The number reflects those killed by police, and excludes those killed by the protesters or others such as those shot by business people being allegedly attacked.
University of Johannesburg - Social Change Research Unit: *Community Protests 2004 – 2013: Some research findings*.
<http://www.uj.ac.za/EN/Faculties/humanities/departments/Research-Centres/sacsc/Pages/home.aspx>
- ⁱⁱⁱ <http://www.mlgi.org.za/barometers/service-delivery-protest-barometer/service-delivery-protests-barometer-4-list-of-grievances-cited-by-protestors>
- ^{iv} <http://www.dailymaverick.co.za/article/2013-04-29-for-better-for-worse-sa-1994-2013/#.U9Y4frGE7Ns>
- ^v Chetty, L. 2012. *Addressing the housing shortage in South Africa*. From:
<http://www.thoughtleader.co.za/leeroychetty/2012/12/01/addressing-the-housing-shortage-in-south-africa/>
- ^{vi} This is explored in a new CSIR book named *Trading places – Accessing land in African cities*.
<http://www.csir.co.za/news/2014/04/Trading.html>
- ^{vii} Apostolic exhortation *Evangelii Gaudium*, Challenges from Urban Cultures, #78.
- ^{viii} Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000) <http://www.saflii.org/za/cases/ZACC/2000/19.html>
Another of interest is: Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg v City of Johannesburg and Others (24/07) [2008] ZACC 1; 2008 (3) SA 208 (CC) ; 2008 (5) BCLR 475 (CC) (19 February 2008)
<http://www.saflii.org/za/cases/ZACC/2008/1.html>
- ^{ix} <http://www.mlgi.org.za/barometers/service-delivery-protest-barometer/service-delivery-protests-barometer-2-provincial-distribution-of-protests-per-year>
- ^x Stats SA: Census 2011 <http://www.statssa.gov.za/publications/P03014/P030142011.pdf>
- ^{xi} <http://www.undp.org/content/undp/en/home/mdgoverview/>
- ^{xii} South Africa has one of the worst inequalities in the world, with a Gini coefficient of 63.1
<http://www.quandl.com/demography/gini-index-by-country> (Note: Gini index figures for many countries are not available, and the statement is based on the figures available.)
- ^{xiii} *Towards An Intergrated Urban Development Framework: A discussion document*. Ministry of Co-operative Governance and Traditional Affairs. 2013.

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