1. Introduction

The problem of informality in human settlements in South Africa has been defined from a technocratic perspective, with a focus on the illegality of the land occupation and the informal nature of the building. This definition, which has promoted the disruptive replacement of individual settlements with formal, standardised units, is based on assumptions that have long been proven incorrect by academic studies. However, the critical academic discourse on this topic, while highlighting incompatibilities in the intervention, has not presented an alternative definition of informality. Consequently, it has not impacted on the political discourse on informal settlements in South Africa, which has maintained continuity with the bureaucratic approach that was mainstreamed in the 1980s. A redefinition of informality in human settlements, and its promotion, is urgently required in order for politicians and their officials in South Africa to recognise and adequately respond to the reality of urban land invasions and informal settlements.

This paper begins by situating the context of the current mandate of the national Department of Housing, to address informal settlements. It highlights the danger of a top-down and technocratic approach to fulfilling this mandate. With the example of the 2000 draft Greater Johannesburg Metropolitan Housing Strategy, the paper presents the alarming continuity in expert thinking in dealing with informal settlements in South Africa since the mid 1970s, even before the introduction of the Orderly Urbanisation policy a decade later. The paper asks, how the South African government can move beyond the entrenched state of the art, towards a more adequate treatment of informality in human settlements.

The paper suggests that informality and illegality in human settlements should be defined by those needing to cope with this phenomenon on a daily basis. The legal focus then is not on the contravention of laws, but on the lack of formal rights, or rather the lack of protection from the infringement of rights by others, including the state. This focus would not lead to a condemnation of the practice of informally occupying land (in the contravention of laws), but to a condemnation of the exploitative and repressive practices that such informality enables. It is the relationship between the lack of formal rights and the lack of empowerment, that allow for exploitation by politicians, by irresponsible or even repressive bureaucracies, and by informally operating groups or individuals (in the control over land, access to services, commercial activities etc.). In the final section, the paper asks whether an alternative intervention approach may lead from the recognition of informality as the lack of rights, rather than the contravention of laws.
2. A new Mandate for the South African Housing Department: eradicating informality in human settlements

The South African President's State of the Nation Address, opening Parliament in February 2001, highlighted the government's aim "to conduct a sustained campaign against rural and urban poverty and underdevelopment" (Mbeki, 2001:9). This campaign will be implemented through "an integrated rural development strategy as well as an urban renewal programme" (ibid.). The President applauds that "the work that will help us to move to a higher phase with regard to rural development has now been concluded." However, he adds: "unfortunately, I cannot say the same for the urban renewal programme" (ibid.).

The Urban Renewal Programme falls under the national Department of Housing, and has the aim of "further speeding up the pace of local housing delivery" (Scheepers, 2001). As a result of the President's critical words, the Housing Department now sees itself mandated to respond to inadequacies that have been identified in its programmes. Linked to the President's statement at the opening of Parliament, though not as yet appearing in formal government releases, is the vision of a "shack-free city". Here the mandate to the national Department of Housing is to eradicate informal settlements by the year 2010 (Mphafudi, Naidoo and Lewis, personal communication).

Informality and illegality in human settlements is officially considered a legacy of the past, from which the new South Africa must progress. It is a legacy that has not been redressed by the housing policy launched in 1994. And while the 1994 Housing White Paper states that "the time for policy debate is now past - the time for delivery has arrived" (Department of Housing, 1994:4), the national Department of Housing is re-opening the debate (albeit internally) on informal settlement intervention, and has expressed its particular interest in the outcome of the N-AERUS workshop (Mphafudi, Naidoo and Lewis, personal communication).

In response to its new mandate to address informal settlements, the national Department of Housing has embarked on a national survey of informal settlements, collecting not only quantitative data, but also differentiating this into a typology of different types of informal settlements. This is a significant advance, considering that the residential component of the 1996 national population census failed to differentiate between "shacks on serviced sites" and "shacks in squatter settlements" (see Orkin, 1998). The failure of the 1996 census to quantify households living on invaded land, indicated that informality of land occupation, and by implication insecurity of tenure, was not recognised as a phenomenon deserving concern in national policies at the time.

3. South African state of the art: enforcement of law and order

How will the national Department of Housing respond to the data it collects on the scale and nature of informal settlements? The real danger exists, as recognised by national Housing Department officials (Mphafudi et al., personal communication), that the mandate of eradicating shacks by 2001 is translated into a top-down approach. Already, developments in Alexandra Township, one of the five focus areas of the national Urban Renewal Programme, have had a heavy hand in dealing with informality and illegality. The recent forced relocations from a shack settlement on the flood-prone banks of the cholera-threatened Jukskei River in Alexandra to a distant relocation site in Diepsloot (at a distance of more than 25km from Alexandra), prompted media statements such as "Alex removals suggest apartheid-style remedy" (Sunday Independent, Feb 18, 2001), "Disturbing echo in Alex removals" (Sunday Independent, Feb 18, 2001), or "Trail of broken homes and promises in Alex: shell-shocked residents say they were let down by their local councillor" (Sithole, in the Sunday Independent, Feb 18, 2001). With regards

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1 As mentioned in the presidential speech, R1.3 billion will be spent on "integrated development" of Alexandra over the next seven years" (Mbeki, 2001:9).
to the relocation site, media reports one month later were equally critical: "Alex residents moved to Diepsloot still without basic services" (Nhlapo, in the Mail and Guardian, March 16-22, 2001).

As suggested by the media, informal settlement policy in South Africa has not changed significantly with the change in government in 1994. Current practice was mainstreamed with the Policy of Orderly Urbanisation in the mid 1980s, though practiced selectively in preceding decades, and having roots in the liberalising policy proposals of the 1940s, which were not politically sustainable at the time (Huchzermeyer, 1999b). The Relocation of shack dwellers to distant greenfield developments was part of the Orderly Urbanisation Policy at its introduction. Officially, it advocated "controlled squatting" on "designated land," through the "upgrading" of invaded land or the "orderly development" of uninhabited land (Cooper, Schindler et al., 1987:342). "Homeownershi"p and "realistic standards" were to apply to these developments (ibid.:333), while implementation was to occur through the private sector (ibid.:333,334). In practice, selected informal settlements were afforded transit camp status, until such time as a sites-and-services project was elaborated, and the households could be relocated (Huchzermeyer, 2000).

IDT\(^2\)-funded sites-and-services projects of the early 1990s continued this practice, by assigning developers the role of identifying beneficiary communities for large-scale greenfield sites-and-services projects, although some attempts at in-situ upgrading were pioneered at this time. The bulk of the post-1994 housing delivery has likewise been on greenfield sites, to which shack dwellers have been relocated\(^3\).

The definition of informality in human settlements in South Africa, throughout the 20\(^{th}\) century, has focussed on the contravention of laws, particularly those protecting private property, and those pertaining to land-use regulations. The threat of informal settlements to privileged property rights, as well as their threat to the security, health and well being of the privileged classes, has justified a heavy-handed intervention through relocation, associated with the enforcement of law and order. As argued by Berner (2000:4) at the previous N-AERUS workshop, "[i]f illegal settlements are merely seen as a violation of private or public property rights, then the forceful and if necessary violent restoration of these rights is the obvious solution."

In South Africa, the rights of privileged classes were, until recently, underpinned by racially discriminatory legislation, excluding the black population from full citizenship, and by implication from participation in democratic decision-making. Since the gradual dismantling of apartheid legislation, which began in the mid 1980s, the urban rights of the privileged have been upheld through market-oriented policy and discourse, which associates informal settlements primarily with threats to land values. More subtly, this is supported by the conservationist discourse, which associates land invasions primarily with the destruction and of sensitive habitats and the pollution of waterways. These discourses associate land invasions with criminal intent for unjustified personal gain.

The draft Greater Johannesburg Metropolitan Council Housing Strategy of April 2001 presents this position very clearly. Under "Housing Challenges", it lists "Land invasions: the Johannesburg Metropolitan Areas has been consistently subjected to an ongoing process of illegal land and building invasions that are either politically or commercially driven" (Spadework Consortium, 2000:6). The draft strategy proposes a three-pronged response under "Settlement Development",

\(^2\) The Independent Development Trust (IDT), was set up in 1990 through a government grant of R2 billion, in order to implement the poverty alleviation concepts of the Urban Foundation, a private sector think tank that was formed in response to labour instability in 1976 (Nuttall, 1997).

\(^3\) From 1994 to 1998, the Gauteng Province delivered 61 greenfield projects, with a total of 55 435 stands. Alternative approaches to housing were either still under elaboration, or had achieved a scale in the order of only 1000 units (Gauteng Department of Housing and Land Affairs, 1998:3).
a) Land Release, b) Informal Settlement Upgrading, and c) Preventing and Containing Land Invasions.

Under “informal settlement upgrading”, the policy undertakes to survey all existing informal settlements, to register existing structures, and to freeze the settlements by preventing any additional informal structures. Any new invasion of land, and any expansion or densification of existing settlements will be prevented through the sub-programme on “Preventing and Containing Land Invasions.” Through this programme, speedy removal by a “Rapid Response Unit” is envisaged (Spadework Consortium, 2000:26). Strategic land and buildings will be under “surveillance” (ibid.:26), and security firms are to be subcontracted to assist with demolition and removal of invaders. Further, it is suggested that:

“If the Response Unit is required to move the same person more than 3 times they should report them to the Police and the person should be jailed for a specified period of time. By-laws should be put in place in this regard.” (Spadework Consortium, 2000:27).

A “Legal Campaign” is planned to review and tighten the legislation, to set the necessary precedents, and to lobby for support from the legal sector (ibid.).

The policy proposal is remarkably identical to that introduced for “coloured” squatting in 1974. A nation-wide freeze of all coloured informal settlements was applied that year, whereas African informal settlements continued to be demolished en mass, and African women and children were arrested and repatriated to rural homelands. These ruthless interventions were supported by the progressive tightening of the Prevention of Illegal Squatting Act (Huchzermeyer, 1999b:94). With the delivery of formal “coloured” housing, the number of registered shacks in Cape Town was reduced from 27 000 in 1974 to 7 800 in 1981 (Howe, 1982:6). However, the official freeze bore no relation to the actual housing need hidden in overcrowded formal housing. As from 1974, new coloured “squatters” were treated under the same preventative legislation as African “squatters”, and in the absence of any alternative, “squatting” for African and coloured people alike became a life of repeated harassment, demolition, arrests, and reconstruction of shacks.

The Greater Johannesburg Metropolitan Housing Strategy appears to be no more realistic and no less ruthless. Existing settlements are to be upgraded or relocated at a rate that will take 10-13 years, provided the complete moratorium on informal settlement expansion and land invasion, or the so-called “zero tolerance policy” (Spadework Consortium, 2000:28) is enforced. This is extremely unlikely. Firstly, the “Housing Challenges” section of the draft strategy makes no reference to rates of growth in informal settlements. A freeze of informal settlements can only be implemented if the affected population is stable or decreasing. There are no signs to indicate that this is the case. On the contrary - there is increasing evidence that the HIV/AIDS epidemic in South Africa, which increases household vulnerability, will drive even more households and individuals into selling their assets and moving into insecure tenure, be this a life on the inner-city streets, or in peripheral informal settlements (Thomas and Howard, 1998).

Secondly, informal settlement residents have demonstrated their resistance to external control. Decades of South Africa’s recent history are shamed by vulnerable women and children.

4 Spadework Consortium (2000:5) estimate 17 000 informal settlement households in the Greater Johannesburg Metropolitan Area, and the proposed target for upgrading or relocation is “at least 8 750 households per annum” (ibid.:25).

5 One out of every seven adults was believed to be infected with HIV in mid 2000 (Thomas and Crewe, 2000:2), whereas statistics from November 2000 indicate that one of every nine people, and one in every four women in South Africa are HIV positive (Department of Health, 2001). A worst-case scenario is a negative population growth rate for South Africa by 2008 (Abt Associates, 2000, cited in Tomlinson, 2001). However, such figures cannot be used indiscriminately to suggest a reduction in the population of the poor - AIDS statistics have at times been used indiscriminately to support particular ideological positions (Gilbert and Walker, 2000).
courageously defying policies of zero tolerance. Their resilience and determination for a survival in the cities remains the same. Sadly, for those still needing to resort to informal residences, insecurity and vulnerability has also not altered. For those that have received temporary legal status (or “transit camp” status), a formal development process and relocation may lie many years in the future. For those that have received formally titled plots (in most instances these are in relocation sites distant from the original settlement), new challenges include individualisation, social division and segregation, new economic burdens associated with increased travel distances, and ultimately (at least for some) renewed displacement. These processes and implications have been recognised and highlighted in the critical South African research literature\(^6\). I have asked elsewhere (Huchzermeyer, 1999b, 2001a), why these research insights have not challenged the state of the art of dealing with informal settlements. One reason certainly appeared to be that researchers producing insights into the social implications of the current approach, have not developed any clear alternatives for debate (ibid.). The relevant social scientists are not positioned in the policy discourse, which remains dominated by experienced technocrats drawing on flawed social paradigms (see Huchzermeyer, 2001a).

The Greater Johannesburg draft Housing Strategy that was developed by Spadework Consortium is currently being reviewed from the perspective of “sustainability”, a recent priority introduced with the decision to hold the Rio+10 Summit in Johannesburg in July of 2002. However, the concerns that have been expressed at the “stakeholder workshops”, regarding the treatment of informal settlements, are as yet not reflected in the consultants’ Sustainable Low-Cost Housing Policy report (Syn-Consult Africa, 2001), which makes no direct reference to informal settlements and their treatment in the draft strategy. The patrolling of vacant land against invasion, and rigid control over the expansion and densification of existing informal settlements, may serve to protect natural vegetation or sensitive habitats. It may therefore be seen to contribute to environmental sustainability. However, it must be recognised that this measure in the Greater Johannesburg Housing Strategy is intended primarily to protect speculative or real estate interests in vacant land.

As made clear in Chapters 2 and 7 of Agenda 21, sustainability encompasses the objective of eradicating poverty. Urban poverty in turn is linked to inadequate access to urban land (UNCED, 1992). As long as access to land for the urban poor is not improved (this includes improving the location of the land that is made available to the poor, and the rate at which it is released), the poor have no alternative but to resort to land invasions. Land invasions in Johannesburg are by no means organised only for political and commercial gain, as suggested by the strategy. Three settlements with which I am familiar myself, Weilers Farm, Kanana and Agrenette Hills (Southern Johannesburg), originate from land invasions and expansions resulting from collective desperation and not motivated by personal gain (see Huchzermeyer, 1999a). With Kanana as with Agrenette Hills, the informal planners of the invasion sought to comply with town planning regulations, in anticipation of the implementation of standardised capital subsidy schemes. A sophisticated understanding of the regulatory framework as reflected in surrounding formal townships, underpinned the invasion process.

4. Moving beyond the state of the art

Why have the flawed and inadequate policies and practices with regards to informality in human settlements in South Africa endured? One explanation is from Rein and Schön (1993:145), who argue that “[s]tubborn policy controversies tend to be enduring, relatively immune to resolution by reference to evidence, and seldom finally resolved.” They explain this dilemma with reference to “frames” or paradigms, through which people select, organise, interpret and make “sense of a complex reality to provide guideposts for knowing, analyzing, persuading, and acting” (Rein and Schön, 1993:146). These frames integrate “facts, values, theories and interests”, reflecting “multiple social realities” (ibid.:145). It is the values and interests reflected in particular frames or

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\(^6\) See Huchzermeyer (2001a) for a comprehensive and critical review.
paradigms, that appear to resist democratic processes of decision-making over conflicting interests such as illegal occupation of land by the urban poor.

In an analysis of the politics of Washington think tanks, Fischer (1993:22) refers to the “theory of technocracy”, which explains “a governance process dominated by technically trained knowledge elites,” who “replace or control democratic deliberation and decision-making processes ... with a more technocratically informed discourse”. While Fischer (1993:24) argues that this theory is often applied to scapegoat a “technocratic class” as the obstacle to “democratic socialism”, he does acknowledge (almost a decade ago) a new style of policy-making, “a kind of politics of expertise, ... emerging as part of the contemporary governance strategies”.

Technocratic definitions of contentious phenomena such as illegality or informality in human settlements, as well as the selective use of particular social and environmental concepts, clearly play a crucial role within strategies of dominance over the policy discourse, be this by multi- or bilateral agencies, or by the expert local elite. In South Africa, it is has been argued that the housing policy process from the early 1990s to date has been dominated, not by civil society, critical academic researchers, or even by the thinking in international agencies, but by a stubborn and dominant local technocratic elite (see Bond, 1997, 2000, Laloo, 1999, Huchzermeyer 2001b).

If the Department of Housing can still be held to its 1994 commitment to “a partnership between the various tiers of government, the private sector and the communities” within which “all parties ... argue for their rights” (Department of Housing, 1994:4), then it should allow for a definition of informality in human settlements by those actually needing to cope with this phenomenon on a daily basis – residents and their community-based representatives, who struggle to secure a place to live, and to secure the gradual improvement of its conditions. The experience of tenure insecurity is an explicit theme in my colleague Olusola Olufemi’s (2001) paper on Johannesburg at this workshop, and is also the theme of the paper by Liz Riley (2001). The exploitations enabled through informality are the theme of Katherine Coit’s (2001) paper. Indirectly, then, the experiences of coping with informality on a daily basis are represented at this workshop and will hopefully receive extensive discussion.

Levels of exploitation enabled through informality in human settlements

For the purposes of the discussion in this paper, I will review some examples of different levels of exploitation of the unregulated situation in informal settlements. At the neighbourhood level, not all individuals are equally committed to the unwritten conduct that governs the use of collective or shared space. The denser a settlement, the less privacy households have, and the more vulnerable they are to disrespect by neighbours. In the densest section of KTC in Cape Town (in excess of 250 dwelling units per hectare7), women complained that grey water and sewerage buckets were emptied in the little space there was between shacks. Children had no-where to play, and the density of the shacks prevented mothers from keeping a watch over their children. Frequent child abuse was associated with the high shack density (Huchzermeyer, 1997).

Beyond the wilful exploitation, by child abusers, of the fact that children roam unprotected, children are vulnerable to other forms of exploitation of the unregulated nature of these settlements. A recent media article reported that “[s]tolen electricity clamis at least 11 young lives [in the year 2000] in Cato Crest squatter camp” (ka-Manzi, 2001:9). Children are elecrocuted by uninsulated live electricity wires serving individual households. According to this media report (ibid.), concerned and outraged neighbours received threats from the perpetrators. In my own research in informal settlements in Nyanga, Cape Town (Huchzermeyer, 1996), households pirating electricity were rendering a commercial service to the squatter community, by selling refrigerated goods and offering entertainment (at a cost). In some instances, owners of such

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7 This figure is derived from the shack densities that were analysed in the Nyanga/KTC area in 1995 (see Awotona, Japha et al., 1995).
enterprises lived in nearby formal housing, therefore exploiting informality in more than one sense.

The limited status of the interspersed squatters in Nyanga, with regard to representation in township-wide civic committees and RDP Forums, meant that those having to cope with informality had little power to suggest rules and regulations that might limit their exploitation. This same limitation in representation also meant that squatters in Nyanga were relatively powerless against neglect by local government officials - the irregular collection of refuse and night soil, as well as abuse associated with the collection of over-spilling night soil buckets. Residents and local squatter committees also expressed that their concerns over fire hazards were neglected by those in positions of power (Huchzermeyer, 1996).

This relatively powerless position then opens up opportunities for political exploitation from the level of local government councillors, who have the official role of local representation. As representatives of entire wards (including formal and informal areas), rather than individual informal settlements, councillors tend to originate from formal settlements. Even where they are residents of informal settlements, they tend to represent the formal technocratic system of resource allocation and service delivery, rather than the demands from informal settlements. Local councillors tend to change sides (see Sithole, 2001), as soon as their positions become jeopardised. This was the experience of 4 case studies across South Africa, of people-driven initiatives towards informal settlement improvement (Huchzermeyer, 1999a). In this sense, coping with informality implies coping with a system of representation that seldom identifies with the concerns of those living in informal settlements.

Defining informality from the perspective of those living in informal settlements

A definition of informality in human settlements from the position of those living in informal settlements would emphasise the lack of rights, rather than the contravention of laws. The Bill of Rights of the South African Constitution enshrines the rights “to privacy” (Republic of South Africa, 1996:8), “to an environment that is not harmful to their health and well-being” (ibid.:11), “to have access to adequate housing” (ibid.:12), and for every child, “the right … to be protected from maltreatment, neglect, abuse or degradation” (ibid.:13). However, the infringement of these rights through the exploitation of informality is by no means prevented for those living on invaded land. In this sense, informal settlement residents are dis-empowered.

Exploitation of settlement informality has been recognised in the critical South African research literature. However, the most influential literature, which is explicitly directed at policy-makers, has associated exploitation primarily with community organisations. These are portrayed as being made up of individuals seeking power and personal gain (see for instance Hendler, 1999:136 and Tomlinson, 1996:51). The recommendation leading out of this perspective is one of individualising the relationship between informal settlement residents and the state (see for instance McCarthy, Hindson and Oelofse, 1995:69 and Hindson and McCarthy, 1994:28). By entitling households individually to a standardised capital subsidy, any definition of intervention programmes is taken out of the hands of community representatives. In effect, this approach, which requires a standardisation of informal settlements, thus the reshaping if not the complete relocation, ignores the fact that by empowering informal settlement residents through the effective protection of their constitutional rights, i.e. against multiple levels of exploitation, more socially compatible solutions may be sought.

Admittedly, a shack settlement with a density in excess of 250 dwelling unites per hectare, as with the one portion of KTC in Cape Town mentioned above, does require remodelling into a more adequate spatial arrangement. Despite the spatial inadequacies, residents of this portion of KTC in 1997 expressed their pride in the settlement, their wish not to be relocated, and their interest in solutions (possibly multi-story) that would enable all households to remain in the settlement (Huchzermeyer, 1997). Instead, the settlement has now been replaced through a

For a more detailed discussion of this literature, see Huchzermeyer (2001a).
standardised sites-and-services “roll-over” approach (on average 37 dwelling units per hectare\(^9\)). Most households have been relocated to greenfield developments within the Integrated Serviced Land Project.

The role of the legal sector
Returning to the Greater Johannesburg Metropolitan Housing Strategy of April 2000 (Spadework Consortium, 2000), perhaps the most worrying aspect is the conservative project to lobby the legal sector for support of the “zero tolerance” approach to new land invasions and to any densification and expansion of existing squatter settlements. In South Africa’s transition in the 1980s, the gradual crumbling of the enforcement of apartheid legislation regarding land invasions was associated with courts being increasingly sympathetic to the plight of the land invaders (see Budlender, 1990). This led to transit camp status for informal settlements such as Bloekombos in Cape Town in 1985 (Awotona et al., 1995:4-4) and Weilers Farm in Southern Johannesburg in mid 1987 (Huchzermeyer, 1999a:11).

It would be hoped that courts have remained sensitive to the experience of the landless urban poor, and would not be persuaded to support the zero tolerance approach suggested in Greater Johannesburg’s Housing Strategy. Indeed, the legal sector has a central role to play in a rights-based redefinition of the treatment of illegality and informality in human settlements in South Africa. This involves the condemnation of the exploitative and repressive practices that are enabled by the informality, and the development of appropriate and enforce-able laws and regulations to protect constitutional rights. This would involve the development of appropriate forms of security of tenure, appropriate regulations governing settlement extension and densification, appropriate regulations to resolve neighbourhood disputes, to protect children from wilful abuse as well as negligent environmental harm, appropriate regulations to guarantee rapid response to emergencies such as fires, and appropriate means of guaranteeing fair representation, access to development, and participation in its definition and implementation.

Such an approach to dealing with informality and illegality in human settlements would go beyond the concept, first promoted internationally in the 1960s (Turner, 1986, Magnin, 1967), that squatter settlements are not a problem but a solution. It recognises that informality in itself is no real solution, unless the appropriate protection of rights is ensured. This definition also recognises that an informal settlement is not simply a collection of individual households that have found a solution to their individual housing need. Informal settlements are invariably a collective effort to secure access to land and shelter. Collectively, the residents continue to seek the protection of their rights. It is through the individualisation imposed through the current intervention approach in South Africa, that such collective endeavours are weakened if not destroyed. Indeed, the assumption in the standardised intervention approach is that housing needs are adequately met through the standardised intervention, and that collective endeavours are no longer required.

5. Conclusion: a rights-based approach to coping with informality and illegality in human settlements in South Africa

Can this definition lead to more adequate ways of coping with informality in human settlements at the level of local, provincial and central government? At the scale of the individual settlement, responsive local government councillors and their bureaucracies would seek to support the collective endeavours of informal settlement residents to regulate access to land, shelter and services, and thereby to ensure the protection of rights. In South Africa, the powerful entitlement of poor citizens to an individualised housing product (through the national housing policy) is an obstacle to responsive politicians and bureaucracies (see Huchzermeyer, 2000). Therefore, it is only through a separation of informal settlement intervention from the deterministic mechanisms of housing delivery, and of the standardised once-off capital subsidy mechanism of finance, that a

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\(^9\) This figure is derived from the densities that were being implemented in sites-and-services projects in the mid 1990s in the Nyanga/KTC area (see Awotona, et al., 1995).
more responsive and integrated government approach to coping with informality and illegality in human settlements may be achieved. The legal, social and built environment professionals will be required to work together, in sensitive response to community-based experiences. While the upcoming Rio+10 Earth Summit in Johannesburg is providing pressure for “sustainability” to be introduced into Johannesburg’s housing strategy, it must be recognised that Agenda 21 and associated global declarations commit the signatory governments to “support the shelter strategies of the urban poor”. A common shelter strategy of the urban poor in South Africa begins with the invasion of land, followed by the construction of temporary shelter, means of accessing services and campaigns to secure tenure. If given the necessary space and support, these strategies would proceed to securing access to credit and building materials, the construction of formal housing and formal access to services including electricity. In current South African practice, settlements are frozen at the stage of temporary shelter. Transit camp status imposes control and prevents the construction of permanent shelter until such time as a standardised capital subsidy development is elaborated and implemented. This takes several years (see Weilers Farm case study, Huchzermeyer, 1999a), if not decades. During transit camp status, multiple life-threatening hazards are perpetuated: shack fires; electrocutions through pirating of electricity; exposure to extreme temperatures through the poor insulation qualities of the shack material. In effect, the urban poor’s strategies towards improving their living conditions are hampered.

The South African government has indicated its intention of adjusting the capital subsidy, so as to ensure a contribution by the poor themselves. Savings of R 1000 are suggested as a prerequisite to qualifying for the household-based capital subsidy (see Spadework Consortium, 2000:15, 27), though this is also considered at national level – Mphafudi et al., personal communication). Gilbert (2000) discusses what South Africa might have learnt in this respect from the Chileans, who increased the proportion of the beneficiary’s contribution to basic housing, at the advice of the World Bank, with limited success.

My suggestion is for the South African government to enable the poor to make a contribution to their housing, but not by requiring savings before households may qualify for a capital subsidy delivered (possibly many years later) as a standardised housing unit not necessarily in the desired location. Instead, I suggest that the urban poor be enabled to convert those savings incrementally, through the consolidation of their shacks, into permanent houses. This process should be supported by subsidised access credit. This approach would address more rapidly and effectively than cumbersome capital subsidy projects, the pressing social, health and safety challenges that informal settlement residents are faced with. Would it encourage new land invasions? My answer is that the current practice in South Africa, of allocating capital subsidies to informal settlement households and replacing their settlements with standardised townships, gives a strong message to the urban poor, that the entry point to formal housing is indeed a land invasion. Instead, the message within a government approach that supports the shelter strategies of those invading land, would be that land invasions are not a route to formal, standardised housing delivery. Instead the message would be that land invasions are a route to incremental housing construction through self- or mutual-help, or through community-managed projects, requiring innovation and commitment by individual households to a collective process of gradual improvement. As I mentioned above, the sophisticated planning that went into the invasion process at Kanana and Agrenette Hills in Southern Johannesburg (see Huchzermeyer, 1999a) is witness to the ability of popular groups to work within spatial planning regulations (whether or not these make sense, is a different question). These invasions were in anticipation of a people-centred government in the new South Africa, which would support shelter

10 The interdisciplinary Postgraduate Housing Programme recently launched at Wits University (see http://housingstudies.wits.ac.za) is a step towards promoting interdisciplinary awareness among housing officials and practitioners in South Africa.
strategies that attempted to respect planning regulations. Needless to say, the invaders were deceived.

The final argument against such an approach would be the unsuitability of the invaded land for habitation. However, in most cases the unsuitability is merely to do with the market value or land-use zoning of decadently under-utilised land that spatially segregates our cities. Progressive municipalities in Brazil, supported by the 1988 Constitution, have developed innovative responses to dealing with invasions on such land, not by evicting the invaders, but by adjusting the zoning regulations and by developing appropriate approaches. This is discussed in the N-AERUS paper by Edesio Fernandes (2001), who is also involved in the training of Brazilian judges on the implementation of the progressive clauses of the 1988 Constitution. If such approaches were to be introduced in South African cities, there would be less need to invade physically unsuitable or hazardous land, such as the flood-prone and Cholera-threatened banks of the Jukskei River in Alexandra, or the dolomitic vacant land (prone to sink holes), which is less policed than vacant land of market value.

In this sense, coping with informality and illegality in human settlements would be placed primarily in the domain of human rights, rather than that of technological determinism. By drawing attention to the infringement of individual and collective rights, or exploitation, made possible through informality a starting point is suggested for a more adequate approach to intervention.

7. References:


Sithole, M., 2001. Trail of broken homes and promises in Alex: shell-shocked residents say they were let down by their local councillor. *Sunday Independent*, 18 February, p.3.


