Progressive Approaches for Land Management and Democratic Governance

By Malachia Mathoho, November 2007 (Published in Planact Annual Report, 2007)

Background

South Africa is in its thirteenth year of democracy and is still marred by the complex and highly politicized land issue. The country is seriously confronted by the challenges presented by the land question where demand for affordable, well-located urban land is greater than the supply, given current development patterns. Ownership and use of land in South Africa is a highly-politicised process, with past land policies a major cause of insecurity, landlessness, homelessness and poverty. Currently, access to land is receiving serious attention as a socio-economic, political and civil rights issue, featuring in various pieces of South Africa's legislation. The complexity of the land issue is also evident in the thousands of claims lodged before government's Land Claims Commission.

Regardless of the progress that has been made in developing new ideals for post-apartheid planning, there has been minimal improvement in thinking and practice around land management. There is a wide outcry that South Africa's government is continuing to develop its towns and cities without an adequate framework to also involve residents in managing land in a way that supports the goals of democracy, equity, efficiency and sustainability. While municipalities are at the forefront of service delivery and are seen as agents of delivering the benefits of a developmental local state to the poor, they are also blamed for too slowly responding to the need for land access by the poor, and many fail to achieve effective settlement planning.

Planact together with Wits University's Center for Urban and Built Environment Studies (CUBES) initiated a research project on land management, with a specific focus on the City of Johannesburg, to gain insight into the city's land management practices and plans in terms of their ability to address the needs of the poor. In addition to an overview study that looked at five South African cities including Johannesburg, five case studies of settlements within Johannesburg were undertaken between October 2006 and September 2007, focusing on Diepkloof, Diepsloot, Fourways, Hillbrow and Kliptown. The insights from this article are mainly from the Diepsloot and Kliptown case studies that Planact conducted.

Legislating land management practices

South Africa has much legislation dealing with the land issue to potentially benefit those who need land and accommodation including the poor and landless people. As in section 25(5) of the South African National Constitution - the state must take reasonable legislative and other measures within its available resources to foster conditions which enable citizens to gain access to land on an equitable basis. In section 26 (1) it again states that everyone has the right to have access to adequate housing. In addition to the Constitution the government has also adopted the White Paper on South African Land Policy to inform land reform and to meet the above objectives. As a start, a land policy for the country needs to deal effectively with:
- the injustices of racially based land dispossession of the past;
- the need for a more impartial distribution of land ownership;
- the need for land reform to reduce poverty and contribute to economic growth;
- security of tenure for all, and
- a system of land management which will support sustainable land use patterns and rapid land release for development.

Apart from the constitution all spheres of government have developed policies and frameworks and passed numerous pieces of legislation with a view to redress inequalities and land redistribution resulting from the policies of the apartheid government. Despite progressive goals that appear in policy frameworks and legislation poor people still struggle to have decent accommodation closer to the city where their workplaces are located. So how do we translate these impressive frameworks and legislation into real benefits for the poor? Specific national legislation on land management that would seek to create a more implementable framework, was

drafted a few years ago, but has not yet received sufficient attention and remains in draft form.

Poor people move to urban areas in search of a better life
There is a challenging reality in this country that poor people have limited access to urban land. Since the scrapping of all segregation laws in South Africa there has been a massive migration of black people from rural areas and other provinces to the urban areas of Gauteng. The migration process brought serious challenges for the local government authorities to deal with the accommodation situation in urban areas. High rates of urbanization have put pressure upon high-growth cities such as Johannesburg, with the number of people demanding land dramatically increasing amongst all economic groupings. Despite the stated policy intentions above, this growth has occurred in a context where there is no coherent land management framework that would guide cities to cope with these demands.

Amongst the poor migrants, many of those who managed to make their way to the city are now finding themselves in informal settlements—currently accommodating at least 200,000 of Johannesburg's households. Other housing opportunities for the poor are to rent backyard shacks and rooms or, for some, in housing developed through the housing subsidy programme, often at the periphery of the city. While the social housing programme was introduced to help address the urban accommodation problem, the poorest cannot afford the rental rates. Those who could not access housing through formal channels were left with little other option than to invade empty pieces of land and established the informal settlements. The case studies of Diepsloot and Kliptown in particular, revealed that the majority of informal settlements exist not through choice, but through necessity—people either cannot obtain land or houses, or cannot get them at the right price or in the right place. They seek areas with access to economic activity and services, but any area where they manage to find space, even on the outskirts of the city, may be utilized if it provides them at least some access to the job market.

Conflict over land resources
Pressure on the city's land resources, which in many cases has been created by demand for high-income housing, have left the poor in a difficult position. Residents in the case study areas claim that they don't see the benefits of government strategies to address accessibility to the city's accommodation by the poor people. They also claimed that they hardly participate in the city's policy formulation and implementation stages. Although authorities refuted this claim, many people in the poor settlements maintained that authorities avail themselves to the people when they come to implement development projects, and do not seek real input into these plans-- most which are not seen to benefit the poor and local communities directly.

In the Diepsloot and Kliptown case studies it was revealed that land management, as it relates to settlement opportunities for the poor, is framed mainly by the dominance of government-led housing development as the major planned development path. In settlements such as Kliptown and Diepsloot, the imperative has been to provide RDP housing to large populations residing in informal settlements. Yet in both cases, it has become clear that the land in proximity to those settlements that has already been acquired for the housing development projects cannot accommodate all existing residents on the one-house/one-plot RDP typology, and the process is extremely slow. The Urban Development Boundary (UDB), beyond which the city says development cannot occur, borders Diepsloot, preventing expansion of the settlement. Because of the demand for low income housing, it can become difficult to provide adequately for recreation facilities, business opportunities and urban agriculture that will create jobs and other livelihood improvements for the local people. In Kliptown, where significant investment has gone into the heritage site and development of commercial and social housing opportunities, this has been seen by local informal settlement residents as targeting high-income people to the exclusion of their needs.

The government is faced with some daunting challenges in terms of the imperative of getting rid of the shacks. The Gauteng Housing Department set an ambitious target within a definite timeframe to have eradicated all shacks by the year 2014. But the influx of migrants to Johannesburg is outweighing government-planned processes that are premised upon a static population that can be registered, qualify for subsidy, and ultimately be provided with accommodation. The increasing population in these areas has pushed the city to resort to influx control tactics such as the 'zero-growth' policy in relation to informal settlements in areas such as Kliptown and

Diepsloot. The locals are also enlisted, to varying degrees, in enforcement of this strategy. The 'zero-growth' tactic seems to be a challenge by itself because it restricts poor people's mobility as a survival strategy and to accommodate lifestyle changes. The tactic gives a wrong perception to local residents that by preventing new arrivals they will secure a space on the housing list and again it promotes the politics of 'insiders' versus 'outsiders'.

Progressive approaches to change
While the land is increasingly becoming a scarce resource and the majority of poor people in the informal settlements in areas such as Kliptown and Diepsloot cannot afford private accommodation , the following recommendations are put forward as more progressive approaches to land management and democratic governance to ensure that the needs of the poor are effectively addressed:

- **Participatory processes where the poor can directly influence decisions that affect them must be instituted or improved**. This includes being transparent with regard to the city's plans, sharing information on various alternatives for the location of residential settlement and forms of development, allocation procedures etc. before any plans are finalized. It also should include serious attention to resources to improve mechanisms for participation, noting that in both locations, when the community development forums were active, there seemed to be a more inclusive process providing (at a minimum) access to information, if not real decision-making power. In both cases, too, value was added by a third party, who took responsibility for developing and running the forum.

- **Facilitate the rapid release of well-located land for the poor.** This is merely stating the obvious, perhaps. Currently, opportunities provided to the poor for access to land are *far* outstripped by the demand. The most obvious symptom of that is the large population residing in informal settlements and backyard shacks in the city, despite the city's efforts to curb this trend—delivery of housing is simply not moving fast enough. There are serious health and safety concerns in most of these settlements but they cannot be alleviated without providing safe, viable, and affordable *alternative* living spaces for the poor. Also, if land made available to the poor is not well-located with respect to economic opportunities, poor people are forced to prioritise economic opportunities and will continually seek even extremely poor accommodation that gives them an opportunity to earn a living without incurring high transportation costs. So, land for settlement by the poor in proximity to economic nodes (even on high-cost land) must be identified as an urgent priority for the city, as the longer-term economic and social costs could be much higher. The role of the Johannesburg Property Company must be seriously considered, here, as it has been suggested in more than one case that JPC does not proactively identify land for the poor. The suggestion by a city official to make land acquisition a special initiative directly under the Mayor's Office has potential to ensure prioritization of land access on behalf of the poor.

- **Review policy relating to Johannesburg's urban development boundary**. While it seems there is some investigation taking place on extending the urban development boundary in areas of high growth pressure, such as the city's northern border around Diepsloot, it is not clear at this point if the poor will stand to benefit from possible relaxation of this boundary. The urban development boundary is essentially meant to prevent high costs of extending the city's infrastructure to support sprawling development patterns. In the case of high-income development, that could be a very useful function of the UDB—but it might also be preventing consideration for acquiring land resources that could be made available to the poor. The city needs to evaluate its strategy for land use in relation to the priorities for land within the UDB, possibly introducing additional tools to increase settlement densities on existing available land, but also be willing to use its leverage to access well-located land for the poor beyond the UDB if necessary.

- **Adopt progressive policies regarding recognition of the rights of informal settlement residents and provide *appropriate* and *sufficient* settlement alternatives for the poor.** Government should recognise the rights of current residents of informal settlements currently residing on land that does not subject them to *imminent* threat, and institute in-situ upgrading processes as a principle. There should be

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a major effort to identify 'safe' land in as close proximity as possible to areas where people now reside on 'dangerous' sites—for *necessary* relocations**.** To facilitate rapid access, the land made available could be serviced sites with security of tenure, with in-situ upgrading processes then initiated. The city should suspend its 'zero-growth' policy directive, and recognize poor people's need for mobility as a survival strategy and to accommodate lifestyle changes. Therefore, in addition to ensuring there is enough appropriate land for settlement by the poor, there must be readily accessible means to effect transfers and secure inheritance rights *in all settlement types*. Government must 'streamline' regulatory processes of titling and beneficiary registration.

- **Develop methods to integrate job-creation opportunities in residential areas where the poor live, without displacement**. This can be done in two ways—development of appropriate, labour-intensive commercial or industrial enterprises, and encouragement and support of small, home-based enterprises (which argues against restrictive zoning). However, new commercial or industrial development should not occur in the absence of visible and substantial movement toward addressing the housing needs of the poor at the same time, or serious discontent can undermine stable governance. It should also not occur in a manner that displaces the poor, so displacement protections must be introduced. These can include minimal property rates for low income property owners, land trusts to limit increases in the price of residential land, and provision of incentives for employing local labour in construction and in permanent jobs created through the development. Where current legislation does not currently allow for creative approaches to promoting investment while preventing displacement, these must be strenuously advocated for at national level.

- **Maximise use of land resources by immediately changing the one-house/one-plot approach to low income housing and increasing density**. One intervention that makes a lot of sense is the development of an adequate supply of very low-cost rental rooms--reproducing the 'backyard shack' opportunities that are common in low income townships, but providing incentives for better quality construction (which also boosts income-earning potential of the poor). Medium-density solutions that do not incur the kinds of monthly carrying charges that currently make social housing unaffordable to the poor must be devised. These could be sectional title townhouses with individually-metered service connections, or single-room occupancy rental developments. Operating subsidies may be needed within social housing developments for those households that require ongoing support—this would go a long way toward making social housing projects viable as well.

- **The city must meet its obligations to servicing and regulating living environments in which the poor live to uphold minimum safety and health conditions.** This needs to be done with sensitivity to the needs of the poor to access services and opportunities for income generation with limited barriers to entry. The city should not unnecessarily restrict home-based enterprises or informal trading in public areas. It should ensure that free allocations of basic services are provided where needed. It should ensure free access to recreational opportunities and health and social services. Adequate police presence is essential in all settlement areas. The city should promote affordable and efficient transportation—and consider applying subsidies in ways that target the poor who depend on affordable transport. Finally, opportunities for urban agriculture for the most marginal must be supported and extended.

Conclusion

Although South Africa's local government planning system still largely resembles apartheid planning processes, the municipalities play an essential role in providing basic services to the local communities and should therefore move towards more progressive local planning systems. The research study has shown that Johannesburg municipality's city plans are still far from accommodating poor people effectively. While the city has acknowledged gaps and coordination problems (between local and provincial governments) in land management issues it has called on all stakeholders to work together. There is a need for local government to change its planning strategies in as well as playing its part by prioritizing the needs of the poor in land management decisions, and take up its role in promoting meaningful participation by the poor, thereby strengthening local democracy and social stability.