

Pounding at the Tip of the Iceberg: The Dominant Politics of Informal Settlement Eradication in South Africa

MARIE HUCHZERMAYER*

ABSTRACT *This article traces the evolution of the South African target to eradicate informal settlements by 2014 within the political position of the Ministry of Housing. It shows an interaction as well as a disjuncture with the United Nations' Millennium Development Goals (MDGs) and with South African policy and legislation. In so doing, the article differentiates between an indirect engagement in policy with the causes of land invasion, and a direct (iceberg-pounding) approach in politics and practice to doing away with informal settlements. It associates the non-implementation of the national Programme on Upgrading of Informal Settlements with the widely practised direct approach to slum elimination, which includes eviction and relocation to transit areas. The article points to the centralized political approach in South Africa but does not analyse the reasons for the narrow political agenda on informal settlements. It seeks to expose a trend that is in need of political scientific debate and analysis.*

'Most of the city's important social problems ... are visible in the city, but like icebergs, their mass lies elsewhere, in the larger society. Urban policymakers can and do attempt to pound at the icebergs' tips. ...' (Herson and Bolland, 1990, p. 218).

Introduction

As the second decade of democracy progresses in South Africa, those in government leadership increasingly highlight the political vision of what is to be achieved at its culmination in 2014. The African National Congress's (ANC) 'Vision 2014', coined in 2004 along with the People's Contract to Create Work and Fight Poverty (Mbeki, 2004), is a frequent point of reference. A target to 'eradicate' or 'eliminate'¹ informal settlements by 2014 is a component of this vision. Defining informal settlements as unplanned and unauthorized residential areas accommodating people who cannot afford to access housing in the formal

market, this article examines measures that the South African government has taken in order to do away with informal settlements by 2014. It identifies an increasing distance between, on the one hand, the legally entrenched *indirect* approach to addressing the causes of informal settlements or slums (terms that South African politicians, policy makers and officials increasingly use interchangeably) and, on the other hand, political rhetoric and mandates since 2001 which encourage a *direct* and often repressive approach and have led to contested attempts at legislative change. Herson and Bolland's (1990) analogy of an iceberg with policy makers pounding at its tip appropriately depicts the informal settlement phenomenon in South Africa and the current government attempts to remove this phenomenon from the urban landscape. Herson and Bolland (1990) use the analogy to highlight the unintended limitations of isolated city level policy. In the case of informal settlement policy in South Africa, it is the 'primary policy cluster' (Booyesen, 2001)—the cabinet, the presidency and the 'top-structures of the ANC' (Booyesen, 2001, p. 132)—that has come to consciously steer, with some internal contradiction, the iceberg-pounding approach.

This article seeks to expose a contrast between housing policy and housing politics. In a paper on the failed implementation of South African housing policy, Pithouse (2009, p. 1) refers to this as 'progressive policy without progressive politics'. The focus here is more narrowly on the approach to informal settlements in the dominant politics at ministerial level. A separate analysis is needed (as suggested by Pithouse, 2009) of the localized politics of slum eradication. Shack dwellers' movements' autonomous engagement with municipalities challenges eradication practices, though with a considerable backlash from government and the ANC, as witnessed in the attacks that started on 26 September 2009 on the base of a shack dwellers' movement (Abahlali baseMjondolo) in the Kennedy Road informal settlement in Durban (Abahlali baseMjondolo, 2009). Here the tip of a more sinister iceberg revealed itself (Huchzermeyer, 2009b), as the local ANC unleashed violence to crush a grassroots social movement that successfully contested repressive legislation and negotiated for upgrading and improvement of the lives of its members across several informal settlements. The ANC has sought to replace Abahlali in Kennedy Road with a party structure, even using Abahlali's offices and equipment to this end (Friedman, 2009).

At the level of the Housing Ministry, there is a legitimately entrenched legal policy on doing away with slums/informal settlements which focuses exclusively on *indirect* measures. This policy seeks to address the structural causes of informal settlement formation, particularly in relation to access to land access and services and the provision of housing. The rationale of this approach is that, if followed through and accompanied by other important aspects of socio-economic transformation set out in the Constitution, it will reduce and eventually dissolve the need for unplanned, unauthorized and sub-standard housing solutions. A central part of this *indirect* approach is the upgrading of existing slums or informal settlements, ensuring minimal disruption to the lives of those who have had to resort to

living in informal settlements, which is also endorsed by the United Nations (UN) through its Human Settlements Programme (UN-Habitat).

On the other hand, the dominant politics of housing is pushing for *direct* efforts at eradicating informal settlements. It addresses these efforts at the visible tip of the informal settlement iceberg—at the manifestation rather than the cause. Justified by an ambitious political target to eradicate slums/informal settlements by 2014, these efforts are characterized mainly by the use of force. They include eviction and/or forced relocation from and control over existing informal settlements, as well as criminalization, arrests and the forceful prevention of the formation of new informal settlements. This is the case even where it is clear that these settlements emerge out of benign responses to ever-deepening housing need or ‘intolerable conditions’, to use the terminology of the 2000 Grootboom ruling in the Constitutional Court (Yacoob, 2000)², or out of the failure of meaningful socio-economic transformation. These forceful approaches are present in national, provincial and municipal politics and practice, indeed informing proposed and adopted changes to legislation from 2006 to 2008. They are discouraged by the UN and are contested by grassroots movements and housing rights lawyers in South Africa, but such opposition has had little effect in the state and ruling party’s policy-making machinery.

This article starts with a review of the early post-apartheid years, when the political focus was on eradicating the housing backlog by reaching the target of constructing one million houses in a period of five years, and when an exclusively *indirect* approach to doing away with slums was enacted. The article then demonstrates a shift in political rhetoric to a target to eradicate informal settlements by 2014. It shows that the Ministry of Housing misinterpreted the UN’s Millennium Development Goal 7 Target 11 (which addresses slums) and has used it to legitimize a *direct* and often repressive approach to informal settlement eradication. The analysis below then explains that, despite this political approach in South Africa, the ‘Breaking New Ground’ housing policy which the Ministry of Housing adopted in 2004 does not support the direct approach. The ministry failed to implement key undertakings in this policy, in particular a target to fully implement the upgrading of informal settlements by 2007/8.

Instead, the ministry gave support to legislative changes that are located in the direct approach, essentially suppressing the symptoms of failed transformation. The article touches on the centralized and simplistically vision-driven approach to political leadership in South Africa. However, it does not provide a deep analysis of what motivates the ANC and government in its approach to informal settlements; it merely provides an empirical base for such analysis. This article also does not analyse the socio-political response to the current approach to informal settlements, although it acknowledges that the situation is not unchallenged in South Africa’s political landscape. The analysis reviews housing policy and politics up to the end of the ANC’s third term in government in early 2009. It only briefly refers to the subsequent victory for civil society in October 2009 when it won a court battle on the unconstitutionality of a core section of legislation regarding provincial slum eradication.

Eradicating backlogs and tentatively embracing informal settlement upgrading: housing policy and politics in the late 1990s

During the first seven years of ANC-led government, policy and political rhetoric made no mention of slum or informal settlement eradication. Up to 2000, the then Housing Minister, Sankie Mthembu-Mahanyele, applied the term 'eradication' only in relation to the housing 'backlog' (Mthembu-Mahanyele, 2000). This was consistent with the 1994 Housing White Paper (Department of Housing, 1994), which does not refer to the eradication of slums or informal settlements, and hardly engages with informal settlements other than regarding them as illustrations of the housing backlog. The White Paper only indirectly implies support for *in situ* upgrading of informal settlements (the improvement of living conditions in an informal settlement with minimal disruption to residents' lives and livelihoods). In the early post-apartheid years there were isolated cases of municipalities attempting *in situ* upgrading of informal settlements, either through encouragement from the former civic movement, which initially saw its objectives transferred into the new local government structures such as Lebowakgoma in Limpopo Province (Sepuru, 2009), or through support from networks of local expertise, such as in Durban (Charlton, 2006). However, with an unresponsive capital subsidy framework designed for individualized and standardized housing delivery, it was not possible to address diverse conditions and collective realities in informal settlements (Huchzermeyer, 2004b). The rigid subsidy severely limited the situations in which upgrading could be considered feasible, and frustrated the isolated attempts at improving living conditions without relocation.

In the second half of the 1990s a strong commitment to deliver one million houses in the first five years of ANC rule shaped housing politics. This commitment filtered down to municipal level with extraordinary rigour and extended at least a further two years until 2001, when the ambitious target of a million subsidized houses was met. In this period the standardized housing delivery through a monolithic subsidy system perpetuated urban segregation (Huchzermeyer, 2003a). Only in 2004, as a result of the state-commissioned Ten Year Review, did the State begin to acknowledge this problem and gently discredit this form of delivery (Department of Housing, 2004a). While the standardized housing delivery machinery rolled on, 'integrated' and 'inclusionary' housing projects came to populate the new rhetoric of the Ministry, which prided itself on isolated flagship projects of this nature—Brickfields and Cosmo City in Johannesburg, and the embattled N2 Gateway Project in Cape Town. The impact of these projects on urban integration and inclusion has remained negligible.

Slum/informal settlement eradication did not capture the political imagination in the first decade of democracy and informal settlement upgrading, even if demanded by communities, came to be considered as inferior to the delivery of new houses (Sepuru, 2009). By 2000 the South African government was far from embracing informal settlement upgrading and instead focused on the relocation of households from informal settlements to transit camps (also called

'temporary relocation areas') or directly to new formal housing estates. Relocation to transit camps formed a continuation of apartheid practice (see Huchzermeyer, 2003b). However, the Ministry of Housing began to recognize the absence of informal settlement upgrading in South African housing policy and indicated its interest in learning more about this approach from countries such as Brazil: 'Countries with similar economies as that of South Africa such as Brazil have huge housing backlogs and sprawling informal settlements. They have adopted various successful strategies of informal settlement upgrading from which we have plenty to learn' (Mthembi-Mahanyele, 2000).

It is interesting then that the Housing Act 107 of 1997 (Republic of South Africa, 1997)³, enacted in this period, does make reference to 'slum elimination'. Section 2(1)(iii) of the Housing Act reads as follows: 'national, provincial and local government must promote 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'. The Act, in line with the transformative nature of the Constitution, legitimizes an *indirect* approach towards doing away with slums, one directed at the causes rather than the visible symptom. It promotes improved urban, economic and social development to the extent that slums will no longer be required. There is no principle in the Act on which one could base the direct interventions that were instituted by the apartheid government in its attempts to eliminate or eradicate slums. Under the Prevention of Illegal Squatting Act of 1951, these apartheid interventions consisted of eviction, the mandating of municipalities and land owners to institute eviction proceedings, forced relocation to controlled transit camps, active control over informal settlement expansion and criminalization of land invasions. Below it is demonstrated that, while reversed in the Housing Act of 1997, all of these interventions have since found their way back into practice as well as into proposed and approved legislation—in contradiction to the Housing Act.

The Millennium Development Goal on slum improvement in the context of informal settlement growth

The term 'eradication of informal settlements' entered official South African ministerial statements for the first time in 2001. In her 2001/02 Housing Budget Vote, Minister Mthembi-Mahanyele (2001) mentioned the need to eradicate informal settlements. She referred to this as a 'daunting challenge', suggesting a shift from the focus on the mass delivery of houses. What the minister first articulated as a challenge, her officials were to interpret as a directive. National Department of Housing officials interviewed in 2001 (see Huchzermeyer, 2004a, p. 335) mentioned a new political vision of a 'shack-free city', with the Department being mandated 'to "eradicate informal settlements" in the next 15 years'. The confusion or deliberate shift from challenge to directive permeated housing practice. Under the fourth housing minister, Lindiwe Sisulu (2004–2009), it informed regressive legislative changes.

One source of this misinterpretation can be traced to the Millennium Development Goals (MDGs) and Targets developed by the UN, to which the South African state committed itself in 2000. The slogan 'Cities Without Slums' is officially attached to Goal 7 Target 11, '[b]y 2020 to have achieved a significant improvement in the lives of at least 100 million slum dwellers' (UN, 2000, p. 5). Inherent to this MDG target is a divergence between, on the one hand, the target of significantly improving living conditions of 100 million slum dwellers, and on the other hand, the slogan of slum-free cities. One hundred million slum dwellers amount to just more than 10% of the estimated global slum population (UN-Habitat, 2005a). UN-Habitat (2005b) estimated that 924 million people were living in slums globally in the year 2000, a figure that will more than double in the first three decades of the new millennium and then double again every 15 years (UN-Habitat, 2005b). Clearly the target does not reflect any target to achieve cities without slums. Giving substance to the target, UN-Habitat considers that significant improvement in the lives of 100 million slum dwellers is achieved once this number has received relief in relation to any one of the UN-Habitat slum criteria: access to water, access to sanitation,⁴ improved structural quality of housing, reduced overcrowding and improved security of tenure (UN-Habitat, 2005a). These do not necessarily involve the removal of the visible characteristics of slums.

In South Africa, slum/informal settlement figures are monitored at the municipal level. In 2004, 18-23% of households in South Africa's six largest cities lived in informal settlements (Huchzermeyer, Baumann and Roux, 2004). In a recent commissioned review of municipal responses to informal settlements, McIntosh Xaba and Associates (2008a) were unable to update these figures due to the inconclusiveness of available data. Like most studies before them, they interchangeably use figures for households in 'informal settlements' and for 'informal structures'. The term 'informal structure' refers to shacks, which may be constructed on formally planned and authorized serviced sites, in planned and authorized temporary relocation areas (transit camps) or in unplanned informal settlements. This terminological confusion further weakens attempts at making any statement on the growth of informal settlements in South African cities.

Similarly, the 1996 and 2001 census categories (repeated in the 2007 Community Survey questionnaire (Statistics South Africa, 2006)) accommodate informal settlements in their dwelling types only as 'informal dwelling/shack NOT in backyard e.g. in informal/squatter settlement'—this equally includes shacks in authorized temporary relocation areas and on formal serviced sites. Under tenure types, the questionnaire accommodates informal settlements under the category 'occupied rent free', a category that equally applies to other forms of dwelling, notably temporary relocation areas or serviced sites for which ownership has not yet been transferred. It further depends on the interpretation or perception of 'ownership'. Thus the census and community surveys give no conclusive data on the number of informal settlement dwellers and on any increase or decrease in this number. The Ministry of Housing, in its proposed 2006 and 2008 amendments to the Prevention of Illegal Evictions from and Unlawful Occupation of Land Act 19 of 1998 (both were turned down by Parliament), put forward the *unsubstantiated*

argument that it was the 'nature and increase in land invasions' that required government 'to make it an offence for a person to arrange the unlawful occupation of land' (Republic of South Africa, 2006 and 2008, Sections 2.5).

The same undifferentiated assumption that informal settlements are mushrooming was present in the deliberations of the 52nd ANC National Conference in Polokwane, in December 2007. One of the resolutions under 'social transformation' reads 'we develop appropriate legislation to prevent the mushrooming of informal settlements' (ANC, 2007, p. 15)—provincial housing departments refer to this as 'the Polokwane Mandate' (Gauteng Department of Housing, 2008). In November 2008, the South African Institute of Race Relations (SAIRR, 2008, p. 1) released figures showing that a shift had occurred from growth in informal settlements to growth in backyard dwellings. Between 1996 and 2007, 'backyard informal structures as a proportion of total informal dwellings grew by 18% while those built in informal settlements declined by 7%'. The SAIRR gives no conclusive explanations for the shift from shack construction in informal settlements to backyards, but suggests that 'the department's policy of eradicating "all slums, or informal settlements, by 2014" might also have played a role'⁵. While the SAIRR (2008) still cites an overall growth in 'freestanding informal settlements' of 16% over that period, the city of Tshwane announced that it had reduced the number of informal settlements in its jurisdiction from 60 in 2001 down to 41 in 2007/08, with a total reduction of 1,443 structures (City of Tshwane, 2008; Huchzermeyer, 2008).

The interaction between shack figures and the political drive to eradicate is important and in need of deeper analysis than that presented here. The city of Tshwane's approach, which the Gauteng Department of Housing hails as 'best practice' (Gauteng Department of Housing, 2008), is to outsource land invasion management and eradication to private security companies. In the absence of measures addressed at the root causes of land invasions, one can assume that the city of Tshwane is deflecting desperately poor households either into backyards and other low-quality rental accommodation in Pretoria, or to other cities.

The city of Johannesburg, a possible recipient of Tshwane's excluded informal settlement population, continues to cite informal settlement increases, suggesting 7% growth in 2004–06 (Silemela, 2008). The city of Tshwane's eradication efforts have not remained uncontested. In a Supreme Court of Appeal judgement (the Tswelopele case) on an unlawful eviction carried out as part of the city of Tshwane's eradication drive, Justice Edwin Cameron (2007, p. 12) stated that 'what has happened displays a repetition of the worst of the pre-constitutional past'. Justice Cameron's ruling required the various government departments involved in instructing and carrying out the eviction to reconstruct the evictees' shacks at the place of demolition. The city of Tshwane, in a presentation on its 'Informal Settlement and Land Invasion Management Plan' (City of Tshwane, 2008), has referred to this as 'political interference'.

Returning to MDG Goal 7 Target 11, the UN derived its slogan 'Cities Without Slums' from an earlier programme of the Cities Alliance which was incorporated

into the UN's MDGs (UN, 2000, p. 5). UN-Habitat's *Global Report on Human Settlements 2003: The Challenge of Slums*, which supports the slum improvement target, makes reference to 'the long journey towards cities without slums' (UN-Habitat, 2003, pp. vii; 53). Governments are to achieve the actual target of improving the lives of 10% of slum dwellers through the *indirect* approach of 'participatory slum upgrading programmes that include urban poverty reduction objectives', which the report promotes as 'best practice' (UN-Habitat, 2003, p. vii). UN-Habitat lists 'unsuccessful' approaches to dealing with informal settlements. Among them is eviction, which it states was common practice internationally in the 1970s and 1980s: 'Squatter evictions have created more misery than they have prevented' (UN-Habitat, 2003, p. 104). Regarding the longer-term goal of achieving cities without slums, UN-Habitat acknowledges that measures are required to prevent the emergence of more slums. However, within the same *indirect* approach set out in the South African Housing Act 107 of 1997, UN-Habitat urges that slum upgrading programmes be combined with

clear and consistent policies for urban planning and management, as well as for low-income housing development, . . . [which] should include supply of sufficient and affordable land for the gradual development of economically appropriate low-income housing by the poor themselves, thus preventing the emergence of more slums (UN-Habitat, 2003, p. xxvii).

UN-Habitat (2003) takes a strong stand against a *direct* approach to slum eradication that would involve promoting the criminalization of land invasions, relocations, evictions and controlled transit camps as measures for preventing the emergence or re-emergence of slums. UN-Habitat is even cautious of the term 'eradication' itself. In its index, UN-Habitat (2003) associates 'eradication' with 'clearance' and 'eviction'—the direct approach which was taken by the apartheid government in South Africa. UN-Habitat states unambiguously that

eradication and relocation destroys, unnecessarily, a large stock of housing affordable to the urban poor and the new housing provided has frequently turned out to be unaffordable with the result that the relocated households move back into slum accommodation. . . . Relocation or involuntary resettlement of slum dwellers should, as far as possible, be avoided (UN-Habitat, 2003, p. xxviii).

The compelling 'Cities Without Slums' slogan, rather than the actual MDG target of significantly improving the lives of 10% of slum dwellers by 2020, has informed the South African state's political response to its commitment to MDG Goal 7 Target 11. Further, the South African state perceives the slogan as a directive rather than a mere challenge. Exposed to this reality through his interaction with South African housing rights lawyers and activists, the UN Special Rapporteur on Adequate Housing, Miloon Kothari, in his report on a mission to South Africa (UNHRC, 2008, p. 17) carefully points out that 'there may have been a misunderstanding as to how to respect international commitments, such as the Millennium Development Goals, that may have led to efforts being directed to the eradication of slums rather than the improvements of the lives of slum dwellers'.

‘Breaking New Ground’—an indirect approach to doing away with informal settlements

In June 2004, newly appointed Housing Minister Lindiwe Sisulu for the first time articulated a determination to reach the target of eradicating informal settlements by 2014. It was provincial bravery that linked this date to the vision of a city without slums, informal settlements or shacks. In her 2004/05 budget speech Sisulu applauded the Premier of Gauteng for ‘[h]is bold assertion that informal settlements in his province will have been eradicated in ten years’ (Sisulu, 2004). She further announces that ‘[w]hat we shall then be delivering to Cabinet by the end of July is the how, and how many. That is our commitment’ (Sisulu, 2004).

Despite this pronouncement, the minister’s ‘Comprehensive Plan for the Development of Human Settlements – Breaking New Ground’ (Department of Housing, 2004a), a five-year plan (though also referred to as ‘policy’) approved by Cabinet in September 2004, makes no reference to a target to eradicate informal settlements by 2014. Whereas UN-Habitat discourages the use of the term ‘eradication’ altogether, it is used in ‘Breaking New Ground’ only as the *indirect* approach to doing away with informal settlements, entirely in line with the approach in the Housing Act of 1997 and as supported by UN-Habitat. ‘Breaking New Ground’ sets out six clear steps in the shift ‘From Housing to Sustainable Human Settlements’ (Department of Housing, 2004a, p. 11). The first is termed ‘Progressive Informal Settlement Eradication’. This introduces

a new informal settlement upgrading instrument to support focused eradication of informal settlements ... a phased in-situ upgrading approach to informal settlements, in line with international best practice. Thus, the plan supports the eradication of informal settlements through in-situ upgrading in desired locations, coupled to the relocation of households where development is not possible or desirable. [...] Upgrading projects will be implemented by municipalities and will commence with nine pilot projects, one in each province building up to full programme implementation status by 2007/8 (Department of Housing, 2004a, p. 12).

The ‘lead project’ for informal settlement upgrading is the ‘N2 upgrading project from the Airport to Cape Town’ (Department of Housing, 2004a, p. 12). Placing upgrading in a wider approach of addressing the causes of informal settlements, footnote 8 of *Breaking New Ground* adds: ‘[i]t is recognized that high rates of urbanization within larger cities and secondary towns will also necessitate the introduction of a fast-track land release and service intervention mechanism to forestall the establishment of informal settlements’ (Department of Housing, 2004a, p. 12).

The list of ‘Existing and New Housing Instruments’ (Department of Housing, 2004a, p. 17) presents ‘Informal Settlement Upgrading’ as the first of the three instruments. The wording of this instrument reinforces an exclusively *indirect* approach to doing away with informal settlements: ‘[a] more responsive state-assisted housing policy, coupled to delivery at scale is expected to decrease the formation of informal settlements over time’. Beyond this, it sets out an approach

to community engagement which aligns this approach with the ‘participatory slum upgrading’ promoted by UN-Habitat: ‘[t]here is also a need to shift the official policy response to informal settlements from one of conflict or neglect, to one of integration and cooperation, leading to the stabilization and integration of these areas into the broader urban fabric’ (Department of Housing, 2004a, p. 17).

However, the South African government only weakly supports this *indirect* approach that combines upgrading slums/informal settlements wherever possible and in a participatory manner with responsive state-assisted housing delivery, in addition to the fast-track release and servicing of land. It has failed to pilot informal settlement upgrading. It has also failed to reform planning processes and structures to promote and enable upgrading at scale, release and service land in a responsive way and enable or deliver the housing required to reduce the need for informal settlements. In Brazil, where the term ‘eradication’ and associated targets have not taken political root, a National Forum for Urban Reform relentlessly demanded legal and procedural reform. This culminated in a change to the Brazilian Constitution in 1988 and in the enactment of a Cities Statute in 2001, paving the way from incremental to more far-reaching reform (Huchzermeyer, 2004b, p. 130).

‘Breaking New Ground’ refers to ‘greater detail in the Informal Settlement Upgrading Programme Business Plan’ (Department of Housing, 2004a, p. 17). This appeared also in 2004 as Chapter 13 (more recently ‘Part Three’) of the Housing Code (Department of Housing, 2004c). However, as demonstrated below, the implementation of this programme received no political support. The ministry and national department of housing have not promoted and developed wider reforms that would ensure appropriate land release and servicing (other than through controlled temporary relocation areas), and forestall the formation of informal settlements under ‘Breaking New Ground’. Therefore, the *indirect* approach to doing away with informal settlements exists only partially in policy and legislation. Even where it exists, government has ignored it in favour of a target to forcefully eradicate informal settlements by 2014.

The ignored policy target of informal settlement upgrading

In June 2006 the Gauteng provincial government accepted a planning report from a leading engineering consultant stating that ‘compliance with the new Comprehensive Plan for Integrated Sustainable Human Settlements’ (Breaking New Ground) could not be established as ‘VIP was to date unable to obtain’ the document (VIP, 2008, p. 7). This was in a feasibility report for developing the informal settlement Harry Gwala, which is home to over 1,000 households. Instead of considering *in situ* upgrading, the consultants proposed the demolition and replacement of the very orderly and eminently upgradable settlement. The proposal is to develop no more than 389 residential stands under the Province’s Essential Services Programme. This plan, which has met with resistance from the Harry Gwala Civic Committee, involves forcefully relocating the majority of the households (see Huchzermeyer, 2009a). To date the national department of

housing has not added 'Breaking New Ground' and Chapters 12 (Housing Assistance in Emergency Housing Situations) (Department of Housing, 2004b) and 13 (Upgrading of Informal Settlements) of the Housing Code to its website. The dissemination of these programmes remains weak.

There is no evidence that provincial governments carried out nine informal settlement upgrading pilot projects under Chapter 13 of the Housing Code and in accordance with its innovative principles, let alone attempting full implementation of the programme by 2007/08 as targeted in 'Breaking New Ground'. The 'lead project' for informal settlement upgrading as per 'Breaking New Ground', the 'N2 upgrading project' in Cape Town (Department of Housing, 2004a, p. 12), as well as the broader interpretation of the intentions of the 'Breaking New Ground' policy, underwent political mutations since their inception in 2004. These are reflected in the media—in May 2005, the *Mail & Guardian* newspaper referred to the 'flagship N2 Gateway Project' as 'the government's pilot initiative to eradicate shacks' (Merten, 2005b, p. 8) and reported that the N2 Gateway Project 'is the first of 18 projects country-wide, two per province, under the new Sustainable Human Settlement Plan. This aims to *clear shack settlements* and establish integrated, safe and people-friendly communities' (Merten, 2005a, p. 8, emphasis added).

Clearing shacks is not an approach promoted under 'Breaking New Ground' or Chapter 13 of the Housing Code. It is also seldom experienced as an improvement in the lives of those living in informal settlements. By mid-2008 resistance to continued shack clearance and forced relocation from the Joe Slovo informal settlement in Cape Town to make space for the third phase of the N2 Gateway Project had taken its legal course. On 21 August 2008 the Constitutional Court heard the Joe Slovo residents' application to have the controversial High Court eviction order (for forced removal from Joe Slovo to a controlled Transitional Relocation Area in Delft) overturned. The core of the legal proceedings focused on whether and at what point state consent of occupation at the Joe Slovo site was terminated. While not central to the deliberation, the judges were surprised to hear evidence from the *amici curiae* that residents of the N2 Project (identified in 'Breaking New Ground' as the lead informal settlement upgrading pilot project), had a legitimate expectation to have Chapter 13 of the Housing Code (i.e. upgrading) implemented in the Joe Slovo settlement. The *amici curiae* demonstrated that this programme applies not only to upgradable informal settlements, but to all informal settlements, including those only partially or not at all deemed suitable for upgrading (Community Law Centre [UWC] and Centre on Housing Rights and Evictions [COHRE], 2008). Their argument was that current implementation of the 'N2 Gateway Project in relation to the Joe Slovo residents is fundamentally at odds with the principles on which BNG [the *Breaking New Ground* policy] is based' (Community Law Centre [UWC] and Centre on Housing Rights and Evictions [COHRE], 2008, paragraph 16).

In her legal response to the Joe Slovo applicants, Minister of Housing Sisulu admits to a shift from an original undertaking to upgrade the N2 informal settlements, stating that '[t]he Project has evolved over time' (Minister of Housing,

2008, Section 155). Here it is relevant to trace the origin of the N2 Gateway Project to May 2004 (predating the release of 'Breaking New Ground') when South Africa won the bid to host the 2010 Soccer World Cup—'Gateway' referring specifically to the need to beautify the entrance to the city (from the airport) for its international guests. In her 2008 court response, the minister refers to the N2 Gateway broadly as the 'pilot project of the BNG policy' (Minister of Housing, 2008, Section 167.5). She states a number of reasons for not attempting the upgrading or relocation as set out for informal settlements under 'Breaking New Ground'. Referring to an affidavit, ironically by former deputy Director-General of Housing Ahmed Vawda, who 'was tasked [in 2004] specifically with rewriting national policy' (Minister of Housing, 2008, para. 142) (i.e. under whom 'Breaking New Ground' was formulated), she sets out these reasons:

- 'South Africa as a nation has little experience with *in situ* redevelopment and none of it on a scale such as would be required at Joe Slovo';
- 'high degrees of skills' and 'human resources' are required;
- delivery is slow;
- partial relocation would require consensus to be reached in the community 'on who would go and who would stay';
- implementation is 'hard';
- '[e]ngineers, builders and surveyors are generally averse';
- '[t]here are no institutional mechanisms available to the Housing Department to undertake an *in situ* upgrade' (Minister of Housing, 2008, para. 226.1-8).

Four years after the adoption of Chapter 13 of the Code, and at a time when full implementation was originally envisaged as a target in the Cabinet-approved 'Breaking New Ground' plan/policy, the above challenges ought to have been addressed through the identified pilot projects. The very purpose of pilot projects is 'to create experience from which others can learn' (Mattingly, 2008, p. 129), rather than to shy away from such experience. Also, as Charlton (2006) points out, a number of *in situ* upgrading programmes, including the large-scale Besters Camp upgrade in Durban in the early 1990s, resulted in professional skills and experience that should be identified and built upon. The Department of Housing ought to have actively built experience, skills and support from the professions and develop institutional mechanisms. The resources and time absorbed by the contested construction of the first two phases of the flagship N2 Gateway Project could instead have been made available for upgrading under Chapter 13 of the Code.

However, the Minister of Housing further justified the approach to the N2 Gateway Project through the need to eradicate informal settlements: '[t]he eradication of informal settlements (of the nature that exist at Joe Slovo) is consistent with the State's obligations' (Minister of Housing, 2008, para 178.2). The frequently mentioned Transitional Relocation Areas (TRAs, which are in effect controlled transit camps) in relation to the N2 Gateway Project are a *direct* eradication component. Their being experienced as repressive is also evidenced by the Joe

Slovo residents' objection to being moved to these areas. Consensus on partial relocation coupled with upgrading under Chapter 13 of the Housing Code would have been easier to negotiate than the deeply contested relocation to the Delft TRAs via the High Court and the Constitutional Court.⁶

The setting of targets is an integral component of performance monitoring in the current model of urban management in South Africa. However, the target that has informed the approach to informal settlements in South Africa was derived politically rather than from formal policy. What the ministry ignored is that an explicit target was set in the 'Breaking New Ground' document, namely the achievement of full implementation of the Upgrading of Informal Settlements Programme by 2007/08. The ministry never promoted this target politically. Instead, coupled with an increasingly *direct* approach to doing away with informal settlements, the target to achieve shack-free cities by 2014 filled the void left by the ANC's RDP (Reconstruction and Development Programme) target of delivering a million houses in the first five years of democracy, which was reached around 2001.

Due to this lack of promotion, and as a recent review conducted across a range of municipalities for the Department of Housing (McIntosh Xaba and Associates, 2008b) confirmed (and as a similar and simultaneous study commissioned by Urban Landmark for the Presidency (Misselhorn, 2008, p. 22) repeated), none of South Africa's large cities have implemented the upgrade of informal settlements under Chapter 13 of the Housing Code. Only the city of Cape Town, in response to initiatives, lobbying and groundwork by the NGO Development Action Group (Macgregor, 2008), in 2008 applied for funding for *in situ* upgrading under this programme and in accordance with the principles defined in the programme. In mid-2008 the Provincial Administration of the Western Cape approved Phase 1 of the Hangberg informal settlement upgrade in Hout Bay, Cape Town⁷.

Although there is no mention of the 2014 slum eradication target in the 2004 'Breaking New Ground' policy, a year later government had adopted it as a national target and directly associated it (though with little concern for accuracy) with the Millennium Development Goals: '[t]hus, in line with our commitment to achieving the Millennium Development Goals we join the rest of the developing world and reiterate our commitment to progressively eradicate slums in the ten-year period ending in 2014' (Sisulu, 2005).

Direct slum elimination informing legislative changes in South Africa

The government's intentions of tightening legislation so as to prevent the emergence of informal settlements go back as far as 2001, thus coinciding with the emergence of the Department of Housing's articulation of challenges or directives to eradicate informal settlements. In the aftermath of the Bredell evictions in Johannesburg in the winter of 2001, 'the Minister of Housing announced a decision to tighten land invasion legislation' (Huchzermeyer, 2003c, p. 101, citing Mvuko, 15 June 2001). This intention persists to date, with the ministry's first legislative attempts made in 2006 after the adoption of 'Breaking New

Ground', which exclusively sets out *indirect* measures to doing away with informal settlements. In line with the 2001 announcement, a 2006 amendment to the Prevention of Illegal Evictions from and Unlawful Occupation of Land (PIE) Act 19 of 1998, among various proposed changes, sought to tighten the criminalization of land invasion. In the context of a Constitution that protects private property, Section 4.3(1)(a) of the existing Act legitimately criminalizes receipt or soliciting 'payment of any money or other consideration as fee or charge for arranging or organizing or permitting a person to occupy land without the consent of the owner or person in charge of that land'.

However, in the proposed amendment, Section 4.3(1)(b) extends this to the benign occupation of unused land by desperately poor people with an urgent need for housing. It states that '[n]o person may arrange or permit any person to occupy land without the consent of the owner or person in charge of the land' (Republic of South Africa, 2006, Section 4.3(1)(b)). This criminalization is a *direct* and forceful measure to prevent the benign formation of informal settlements, whether arranged by households themselves or by grassroots social movements representing people living in intolerable conditions, in a context where municipalities are not managing to release enough suitable land for authorized occupation by the urban poor. The urban planning and land management system is not sufficiently reformed to allow for affordable legal access to appropriate urban land or accommodation. Reference was made earlier to the lack of substance to the department of housing's justification for this tightening of the Act, namely 'the nature and increase of land invasion' (Republic of South Africa, 2006, Section 2.2.5).

Several formal submissions commenting on the 2006 Amendment Bill (see Huchzermeyer, 2007a) raised concern about this proposed change. The national Department of Housing dismissed these and tabled the Bill unchanged. Parliament turned it down, though seemingly for unrelated reasons.⁸ A subsequent Amendment Bill (Republic of South Africa, 2008) largely covering the same proposals as in 2006 has the exact same wording for the amendment on tightening the criminalization of arranging the unlawful occupation of land. Later in 2008, Parliament also dismissed this bill⁹.

In 2006 the KwaZulu-Natal Legislature (2006) produced the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Bill. This bill aligns itself with the *direct* approach to doing away with slums. The preamble states the objective 'to introduce measures which seek to enable *control* and elimination of slums, and the prevention of their re-emergence' (KwaZulu-Natal Legislature, 2006, emphasis added). By introducing direct measures for slum eradication, the Bill goes further than the earlier proposed amendments to the PIE Act. The Bill criminalizes not only the arrangement of unlawful occupation but, through Section 4(1), the occupation itself. Further, it mandates landowners, 'within twelve months of the commencement of this Act, [to] take reasonable steps... to prevent unlawful occupation'. Under Section 15(1), these steps include fencing off vacant land and 'posting of security personnel'. Owners of land already occupied unlawfully are required by Section 16(2) to 'institute

proceedings for the eviction of the unlawful occupiers concerned' and if the owner fails to do so, the relevant municipality is required by Section 16(1) to seek an eviction order under Section 6 of the PIE Act. Among the formal objections to the Bill was concern about the return to the direct measures of the 1951 Prevention of Illegal Squatting Act, which was repealed by the PIE Act in 1998. The 1951 Act mandated landowners on whose property poor people had settled with instituting eviction procedures (Huchzermeyer, 2007b).

Despite many formal submissions objecting to this and other aspects of the 'Slums Bill', it was enacted on 18 July 2007 with no changes to the clauses mentioned here (see KwaZulu-Natal Legislature, 2007). In February 2008 the Durban-based grassroots social movement Abahlali baseMjondolo submitted an appeal to the Durban High Court demonstrating the unconstitutionality of the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act and its contradiction of the principles of 'Breaking New Ground' and Chapter 13 of the Housing Code (Abahlali baseMjondolo, 2008). The High Court endorsed the Act in a congratulatory ruling (Tshabalala, 2009). Abahlali's appeal to this ruling in the Constitutional Court focused primarily on Section 16 (which compels landowners and municipalities to institute eviction procedures). The case was heard on 14 May 2009, and in the judgment on 14 October 2009 the Court declared this section of the Act invalid (Monseneke, 2009).

Before this ruling from the Constitutional Court, KwaZulu-Natal's provincial leadership received endorsement from the ANC for pioneering slum elimination legislation, inspiring one of its resolutions at the 52nd National Conference held in Polokwane in December 2007 (which saw a fundamental shift in leadership but overall continuity in policy and approach). The ANC's undertakings in Polokwane do not directly include 'eradicating informal settlements by 2014', and among its resolutions the ANC appropriately mentions informal settlements under 'Social Transformation'. However, the Polokwane commitment is not explicitly to implement constitutional obligations and the entrenched policy and legislation linked to these obligations, including the socio-economic transformation needed in order for informal settlements to gradually disappear. Instead, Resolution 71 (as already quoted above) reads 'we develop appropriate legislation to prevent the mushrooming of informal settlements' (ANC, 2007, p. 15)—this has since been dubbed the 'Polokwane Mandate'.

Consequently, and notwithstanding the court challenge to the KwaZulu-Natal 'Slums Act', in early 2008 the Housing MINMEC (constituted by the Minister of Housing and all the nine provincial Members of Executive Council) announced that 'all provinces should formulate provincial legislation on the eradication of informal settlements' (Eastern Cape Department of Housing, 2008). The terms of references stipulated 'that by November 2008, all Provinces must have the legislation in place, using KwaZulu-Natal as a base or reference as they already have the legislation on the eradication of informal settlements' (Eastern Cape Department of Housing, 2008). In the official correspondence, this requirement is linked to the 'presidential priority on eradication of informal settlements' (Eastern Cape Department of Housing, 2008).

The instruction to provinces to promulgate legislation to do away with slums can be argued to be in accordance with the Housing Act 107 of 1997 (Republic of South Africa, 1997), which, under the larger obligation of provincial governments in terms of Section 7(1) to 'promote and facilitate the provision of adequate housing in its province within the framework of the national housing policy', provides under Section 2(b) that 'every provincial government must through its MEC promote the adoption of provincial legislation to ensure effective housing delivery'. However, such provincial legislation may not contradict the principles of the Housing Act of 1997 and its amendments. With regard to doing away with slums, Section 2(1)(iii) of the Housing Act (as quoted above) promotes only an *indirect* approach, requiring all tiers of government to establish, develop and maintain 'socially and economically viable communities' and 'safe and healthy living conditions' in order to 'ensure the elimination and prevention of slums and slum conditions'.

The KwaZulu-Natal 'Slums Act' was based on a political agenda rather than on policy legislated to fulfil constitutional obligations. The dismissal of criticism from what Booysen (2001, p. 139) refers to as 'the tertiary policy cluster' ('civil society, people's forums and NGOs'), is indicative of an increased 'conservatizing' of the 'ANC in power' and its trend of 'centralization and control in policy making' (Prevost, 2006, p. 127) in the 'primary policy cluster'. In turn, 'confusing messages from the South African state in respect of slums eradication and slums clearance' have contributed to 'a measure of polarization between the state and the urban poor and a loss of understanding between the two' (Misselhorn, 2008, p. 28).

Conclusion

In a technocratic and perhaps late-modernist determinism, the political leadership of the post-apartheid state chose first to focus simplistically on the delivery of one million houses in its first term, and then on the target of eradicating slums or informal settlements by the end of its fourth term. With both of these targets the focus was on the visible. In the former, fields of pitched roofed houses adorned the propaganda material of the department of housing. As the perpetuation of segregation eventually discredited this form of delivery, and less segregated and more diversified concepts for housing were introduced through the 'Breaking New Ground' policy in 2004, an alternative image took prominence in political visioning: the endless fields of shacks, to be eradicated by 2014. State and party based neither the focus on promoting standardized housing delivery, nor the focus on eradicating shacks or informal settlements, on a thorough analysis of the causes of the housing backlog or of settlement informality, the mass of the iceberg floating below the surface of visible housing poverty.

This article does not analyse the reasons for this narrow and regressive political agenda. Instead it refers mainly to political statements and policies of exclusively the ministry of housing. While this is a limitation of the article, it is also indicative of an inherent lack of articulation between ministries. Indeed, many of the root

causes of slums or settlement informality lie in economic policy. At a time when the entrenched narrow and simplistic approach to human settlement politics of delivering a million one-size-fits-all houses was challenged by evidence that these very houses had replicated the apartheid urban landscape, the UN's slogan of 'Cities Without Slums' provided new political distraction from engagement with the cause of housing poverty. As the 2004 'Breaking new Ground' policy steered into complex territory of integration, co-operation and upgrading, the political agenda for housing veered off in the opposite direction, ignoring entrenched policy and legislation and going as far as proposing and enacting contradictory legislation.

Affected grassroots social movements have brought challenges to court, whether to combat evictions for the flagship N2 Gateway pilot project or to fight the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act. Political leadership dismisses these challenges as political interference in its efforts to realize a shack-free vision. The trend that is presented in this article does not explain the dismissal by the state of the concerns expressed by grassroots movements and their socio-political and legal allies. Perversely, these sectors are required to defend entrenched policy and legislation that would address informal settlements in the *indirect* approach that engages with its realities and its causes.

Acknowledgements

An earlier, more normative version of this paper was prepared for the Institute for Justice and Reconciliation's (IJR's) *2008 Transformation Audit: Risk and Opportunity* (pp. 94–101: Housing and Informal Settlements: A Disjuncture between Policy and Implementation). The author is grateful for comments and suggestions made by Jan Hofmeyr of the IJR and Claire Benit-Gbaffou of University of the Witwatersrand, insights and literature shared by Richard Pithouse, reflections from master's students in the Policy Analysis and Social Processes course in the School of Architecture and Planning at the University of the Witwatersrand, and insightful comments from two anonymous reviewers.

Notes

*School of Architecture and Planning, University of the Witwatersrand, South Africa.

Email: marie.huchzermeyer@wits.ac.za

1. These terms are used interchangeably in the South African policy discourse.
2. 'Grootboom' (Government of the RSA and Others v Grootboom and Others [2001] CC, SA 46) is hailed internationally as a landmark ruling on socio-economic rights. For South Africa, it helped define the constitutional right to adequate housing and the state's obligations in progressively realizing this right.
3. This Act also repealed the Slums Act 76 of 1979.
4. A separate MDG target on halving the population without access to water and sanitation by 2015 (Target 10) complements or supports the slum improvement MDG (7 Target 11).
5. The SAIRR (2008) press release mentions 'the evictions that are characteristic of most informal settlements'.
6. The judgment in the Joe Slovo case (Residents of Joe Slovo Community v Thubelisha Homes and Others CCT 22/08) handed down on 10 June 2009 was in favour of relocation, provided its terms were meaningfully negotiated (COHRE, 2009).

MARIE HUCHZERMAYER

7. Telephone conversation with Helen MacGregor, Development Action Group, Cape Town, 29 July 2008.
8. For property investors and human rights lawyers (at opposite sides of the spectrum), the most contentious of the proposed amendments related to whether the definition of 'unlawful occupiers' applies to defaulting tenants.
9. Telephone conversation with Richard Thatcher, Department of Housing, Pretoria, 21 August 2008.

References

- Abahlali baseMjondolo (2008), Founding Affidavit in Abahlali baseMjondolo Movement SA and Sibusiso Zikode v Premier of the Province of KwaZulu-Natal and Others.
- Abahlali baseMjondolo (2009), 'The Kennedy Eight are now the Kennedy Thirteen'. Available online at: <http://www.abahlali.org/node/5922>
- ANC (2007), ANC 52nd National Conference 2007- Resolutions. Presented at the ANC National Conference, 16–20 December, Polokwane.
- Booyen, S. (2001), 'Transition and Trends in Policymaking in Democratic South Africa', *Journal of Public Administration*, 36(2), pp. 125–144.
- Bulger, P. (2001), 'Battle lines drawn in the dust of Bredell', *Sunday Independent*, 8 July.
- Cameron, Justice E. (2007), Tswelopele Non-Profit Organization v City of Tshwane Metropolitan Municipality [2007] SCA 70.
- Charlton, S. (2006), 'Learning from the Local: Experiences of Informal Settlement Upgrading in KwaZulu-Natal', *South African Review of Sociology*, 37(1), pp. 48–64.
- City of Tshwane (2008), 'Informal Settlement and Land Invasion Management Plan'. Presented at the Gauteng Province Seminar on Informal Settlements Upgrading/Eradication, 22 October, Johannesburg.
- COHRE (2009), *N2 Gateway Project: Housing Rights Violations as 'Development' in South Africa* (Geneva: Centre on Housing Rights and Evictions).
- Community Law Centre (UWC) and Centre on Housing Rights and Evictions (COHRE) (2008), Submissions of the *amici curiae* in Various Occupants of Joe Slovo v Thubelisha Homes and Others [2008] CCT 22-08.
- Department of Housing (1994), 'A New Housing Policy and Strategy for South Africa: White Paper on Housing' (Pretoria: Department of Housing).
- Department of Housing (2004a), 'A Comprehensive Plan for the Development of Sustainable Human Settlements: "Breaking New Ground"' (Pretoria: Department of Housing).
- Department of Housing (2004b), 'National Housing Programmes: Housing Assistance in Emergency Housing Situations. Chapter 12 of the National Housing Code' (Pretoria: Department of Housing).
- Department of Housing (2004c), 'National Housing Programmes: Upgrading of Informal Settlements. Chapter 13 of the National Housing Code' (Pretoria: Department of Housing).
- Eastern Cape Department of Housing (2008), Memo to the Director of Afesis Corplan from the General Manager – Housing Policy and Research, titled 'Input on a proposed legislation on Eradication of Informal Settlement Act in the Province of the Eastern Cape as formulated by Policy Development and Analysis Unit', 17 June.
- Friedman, S. (2009), 'Acid test for ANC's commitment to democracy', *Business Day*, 7 October.
- Gauteng Department of Housing (2008), 'Upgrading or Eradication of Informal Settlements: Are We on the Right Track?' Presented at the Gauteng Province Department of Housing Seminar on Informal Settlements Upgrading/Eradication', 22 October, Johannesburg.
- Herson, L. and Bolland, J. (1990), *The Urban Web: Politics, Policy and Theory* (Chicago: Nelson-Hall).
- Huchzermeyer, M. (2003a), 'Addressing Segregation Through Housing Policy and Finance', in: P. Harrison, M. Huchzermeyer and M. Mayekiso (eds), *Confronting Fragmentation: Housing and Urban Policy in a Democratising Society*, pp. 211–227 (Cape Town: UCT Press).
- Huchzermeyer, M. (2003b), 'A Legacy of Control? The Capital Subsidy and Informal Settlement Intervention in South Africa', *International Journal of Urban and Regional Research*, 27(3), pp. 591–612.
- Huchzermeyer, M. (2003c), 'Housing Rights in South Africa: Invasions, Evictions, the Media, and the courts in the cases of Grootboom, Alexandra and Bredell', *Urban Forum*, 14(1), pp. 80–107.
- Huchzermeyer, M. (2004a), 'From "Contravention of Laws" to "Lack of Rights": Redefining the Problem of Informal Settlements in South Africa', *Habitat International*, 28, pp. 333–347.
- Huchzermeyer, M. (2004b), *Unlawful Occupation: Informal Settlements and Urban Policy in South Africa and Brazil* (Trenton, NJ: Africa World Press).
- Huchzermeyer, M. (2007a), 'Comment on General Notice 1851 of 2006 – Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill 2006'. Submitted to Department of Housing, Pretoria, 16 February. Available online at: <http://web.wits.ac.za/Academic/EBE/ArchPlan/Research/informalsettlements/Commentaryonlegislation.htm>

- Huchzermeyer, M. (2007b), 'Comment on KwaZulu-Natal Elimination and Prevention of Re-Emergence of Slums Bill, 2006'. Submitted to the KwaZulu-Natal Legislature, Pietermaritzburg, 12 May. Available online at: <http://www.abahlali.org/node/1320>
- Huchzermeyer, M. (2008), 'South Africa's Approach to Eradicating Informal Settlements – an Urgent Call for Change', *Trialog*, 98, pp. 48–53.
- Huchzermeyer, M. (2009a), 'The struggle for In Situ Upgrading of Informal Settlements: A Reflection on Cases in Gauteng', *Development Southern Africa*, 26(1), pp. 59–73.
- Huchzermeyer, M. (2009b), 'We Need to Defend Living Politics, Because of What Living Politics Defend'. Paper presented at the 'Defend Freedom – Democracy under Attack' briefing and discussion hosted by Church Land Project, Pietermaritzburg, 6 November.
- Huchzermeyer, M., Baumann, T. and Roux, T. (2004), 'Main Report: Study into the Supporting Informal Settlements'. Prepared for the Department of Housing, Pretoria. Available online at: <http://web.wits.ac.za/Academic/EBE/ArchPlan/Research/informalsettlements/StudyintoSupporting.htm>
- KwaZulu-Natal Legislature (2006), 'KwaZulu-Natal Elimination and Prevention of Re-Emergence of Slums Bill, 2006' (Pietermaritzburg: KwaZulu-Natal Legislature).
- KwaZulu-Natal Legislature (2007), 'KwaZulu-Natal Elimination and Prevention of Re-Emergence of Slums Act 6 of 2007' (Pietermaritzburg: KwaZulu-Natal Legislature).
- Macgregor, H. (2008), 'Active Implementation of Chapter 13 of the Housing Code by the City of Cape Town: the Hangberg Upgrade'. Presented at the Roundtable Discussion on Informal Settlement Upgrading, School of Architecture and Planning, Wits University, Johannesburg, 11 June.
- Mattingly, M. (2008), 'Prospect Lost: When a Pilot Project Does Not Look to Learn', *Public Administration and Development*, 28, pp. 129–137.
- Mbeki, T. (2004), 'We have to ensure we do more, better. Letter from the President', *ANC Today*, 4(17), 30 April–6 May.
- McIntosh Xaba and Associates (2008a), 'Research Reviewing the BNG in Relation to Upgrading Informal Settlements: Empirical Overview of the Current Situation of Informal Settlement Upgrading in South Africa'. Draft Final Report prepared for the National Department of Housing, Pretoria.
- McIntosh Xaba and Associates (2008b), 'Research Reviewing the BNG in Relation to Upgrading Informal Settlements: Synthesis and Recommendations'. Report prepared for the National Department of Housing, Pretoria.
- Merten, M. (2005a), 'Housing for Sardines? Proposed N2 Gateway Project Housing is Not All It's Made Out to Be', *Mail & Guardian*, 6–12 May.
- Merten, M. (2005b), 'Mother City Township Projects Lose out', *Mail & Guardian*, 4–10 February.
- Minister of Housing (2008), *Various Occupants of Joe Slovo informal settlement v Thubelisha Homes and Others* [2008] CC, 22-08.
- Misselhorn, M. (2008), 'Position Paper on Informal Settlement Upgrading, Draft. Part of a Strategy for the Second Economy for the Office of the South African Presidency, compiled for Urban Landmark, Pretoria'.
- Monseneke, Deputy Chief Justice Dikgang (2009), *Abahlali baseMjondolo Movement SA and Another v Premier of the Province of Kwa-Zulu Natal and Others* [2009] CCT, 12/09.
- Mthembi-Mahanyele, S. (2000), Budget Vote Speech, May, <http://www.info.gov.za/speeches/2000/000703340p1003.htm>
- Mthembi-Mahanyele, S. (2001), Budget Speech, June, <http://www.info.gov.za/speeches/2001/010619245p1002.htm>
- Mvuko, V. (2001), 'State to outlaw land invasions', *Business Day*, 15 June.
- Pithouse, R. (2009), 'A Progressive Policy Without Progressive Politics: Lessons from the Failure to Implement Breaking New Ground', *Town and Regional Planning*, 54, pp. 1–14.
- Prevost, G. (2006), 'The Evolution of the African National Congress in Power: From Revolutionaries to Social Democrats?', *Politikon: The South African Journal of Political Science*, 33(2), pp. 163–181.
- Republic of South Africa (1997), 'Housing Act 107 of 1997'. Available online at: <http://www.housing.gov.za/content/Acts/Housing%20Act%20107%20of%201997.pdf>
- Republic of South Africa (1998), 'Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998' (Pretoria: Department of Housing).
- Republic of South Africa (2006), 'Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill, 2006, Notice 1851 of 2006' (Pretoria: Department of Housing).
- Republic of South Africa (2008), 'Prevention of Illegal Eviction From and Unlawful Occupation Of Land Amendment Bill, B-2008' (Pretoria: Department of Housing).
- SAIRR (2008), 'From Bare Fields to the Back of Private Properties: the Shifting Pattern of Informal Dwelling Erections' (Johannesburg: South African Institute of Race Relations).

MARIE HUCHZERMEYER

- Sepuru, D. (2009), 'Informal Settlement Upgrading in the Current Policy Context: Lessons from the Civic Movement in Lebowakgomo in Limpopo Province, 1990–2000'. Unpublished research report. University of the Witwatersrand.
- Silemela, Yondela (2008), 'Presentation on City of Joburg's approach to informal settlements'. Presented at the Roundtable Discussion on Informal Settlements, University of the Witwatersrand, Johannesburg, 11 June.
- Sisulu, L. (2004), Speech at the Occasion of the Tabling of the Budget Vote for the Department of Housing for the 2004/05 Financial Year, June, <http://www.info.gov.za/speeches/2004/04061015151002.htm>
- Sisulu, L. (2005), Speech at the Occasion of the Tabling of the Budget Vote for the Department of Housing for the 2005/06 Financial Year, May, <http://www.info.gov.za/speeches/2005/05051715451004.htm>
- Statistics South Africa (2006), 'Community Survey 2007: Household Questionnaire' (Pretoria: Statistics South Africa).
- Tshabalala, Judge President Vuka (2009), *Abahlali baseMjondolo Movement SA and Sibusiso Zikode v Premier of KwaZulu-Natal and others* [2009] 1873/08.
- UN-Habitat (2003), *The Challenge of Slums. Global Report on Human Settlements 2003* (London: Earthscan).
- UN-Habitat (2005a), 'Addressing the challenge of slums, land, shelter delivery and the provision of and access to basic services for all: Overview'. Background paper prepared by the UN-Habitat Regional Office for Africa and Arab States and delivered to the AMCHUD Expert Group at the African Ministerial Conference on Housing and Urban Development (AMCHUD), Durban, 31 January–4 February.
- UN-Habitat (2005b), 'Slum challenge and shelter delivery: meeting the Millennium Development Goals'. Background paper prepared by the UN-Habitat Regional Office for Africa and Arab States and delivered to the AMCHUD Expert Group at the African Ministerial Conference on Housing and Urban Development (AMCHUD), Durban, 31 January–4 February.
- UNHRC (2008), 'Mission to South Africa: Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in its Context' (Geneva: United Nations Human Rights Council).
- United Nations (2000), 'United Nations Millennium Declaration. Resolution Adopted by the General Assembly' (New York: United Nations).
- VIP (2008), 'Feasibility Report for the Development of Rietfontein 115 IR in Terms of the Essential Services Programme. For Gauteng Provincial Department of Housing' (Benoni: VIP Consulting Engineers).
- Yacoob, Justice Zakeria (2000), *Government of the Republic of South Africa and Others v Irene Grootboom and Others* [2000] CCT 11/00.