

**MAKING URBAN LAND MARKETS WORK FOR THE POOR
DEBATES AND POSITIONS
Excerpts from Programme Proposal to DFID
for background to call for expressions of interest
in preparing position papers**

This report was compiled by a consulting team from the Affordable Housing Institute comprising David Porteous, Tam Doan and Elizabeth Franke in Boston, and Kecia Rust, a housing consultant based in South Africa. Interviews with a wide range of people inside and outside South Africa were conducted during October/ November 2005.

This excerpt outlines the background debates and issues used in support of the proposal to form the Urban Land Markets Programme.

1. Overview of Urban Land Issues in South Africa

Eleven years on from South Africa's historic transition to a constitutional democracy, land issues remain highly politicized, complex and nuanced, as reflected in the original scoping document for this programme (see Urban Sector Network, 2003). In part, this arises from the country's apartheid legacy, which includes a complex web of racially-biased legislation and policy designed to constrain and deny the access of black, Indian and colored South Africans to urban land rights. Since 1994, the State has sought to bring the regulatory framework in line with the new constitution, which states that:

25(5) 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 (Republic of South Africa, 1998).

And

26. (1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.

The complexity also arises from the existence of high levels of poverty that have persisted well into the new democracy, such that South Africa continues to have one of the highest GINI coefficients in the world.

Poverty in South Africa is very often linked to land access, and this land poverty is closely related to the country's historical dispossession based on race. While 58% of South Africans live below the minimum living level of R1541 per month, 88% of which are black, colored or Indian, the South African Human Rights Commission reports that activists estimate the country to have 6 million landless people (SAHRC, 2004). At the same time, the national Department of Housing estimates a housing backlog of 2.4 million households. The number and proportion of people in urban areas continues to grow in SA, as in similar upper middle-income developing countries, as shown in Table 1.1, below. In asset terms, according to 1994 estimates, 87% of land in South Africa was owned by the country's five million whites, while 13% of land was owned by the remaining 37 million blacks (Rumney, 2005).

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Table 1.1: Urbanization
URBAN POPULATION CHANGE FROM 1995 TO 2025

| | South Africa | | International benchmark | | | | | | Sources |
|-------------------------|---------------|-------|-------------------------|---------------|-------|---------------|----------|---------------|-----------|
| | No (millions) | % | Brazil | | Chile | | Thailand | | |
| No (millions) | | | % | No (millions) | % | No (millions) | % | No (millions) | % |
| Urban population | | | | | | | | | |
| 1995 | 10.1 | 49.3% | 54.4 | 78.4% | 5.0 | 84.4% | 6.6 | 20.0% | UNHAB GUO |
| 2000 | 12.3 | 50.4% | 59.5 | 81.3% | 5.5 | 85.7% | 7.3 | 21.6% | UNHAB GUO |
| 2005 | 14.8 | 51.9% | 63.9 | 83.5% | 6.0 | 86.8% | 8.1 | 23.7% | UNHAB GUO |
| 2025 (proj) | 17.6 | 61.8% | 67.4 | 88.1% | 6.2 | 90.1% | 12.2 | 35.8% | UNHAB GUO |

Obtaining recent, credible data which give an accurate profile of urban poverty is not easy. If one uses the rough international poverty benchmark of \$2 per person per day, on an average family size among poorer urban households of 5.5, this translates to a household monthly income of \$330, or ZAR2145 per month. Because of available data thresholds, Table 1.2 below uses ZAR2000 per month as the household poverty level indicator, and reports on the profile of the almost 7 million adults who fall into the category of the urban poor in SA. They constitute more than a third of adults in urban areas; a further 7 million children under sixteen live in these households.

Table 1.2 Urban Poverty Profile in SA

| | |
|--|------------|
| Total SA adult population-2004 | 27,040,595 |
| Of which: | |
| Adults living in urban households earning <R2000 pm | 6,951,188 |
| As % of total adult population | 25.7% |
| As % of total urban adult population | 36.9% |
| Distribution of urban poor households | |
| Proportion living in urban formal areas (rather than informal areas) | 79.7% |
| Proportion living in cities (rather than towns) | 48% |
| Proportion living in informal structures (regardless of area) | 27.6% |
| Home ownership by urban poor households | |
| Proportion who claim to own | 67.5% |
| Proportion who have written proof of ownership | 32.1% |
| Proportion who see their houses as tradable assets | 15.7% |
| Usage of financial services by urban poor households | |
| % where head of household has bank account | 17.8% |
| % making bond repayments | 1.6% |
| Family structure of urban poor households | |
| % living with family | 52.2% |
| % whose family lives in a rural area | 18.8% |

The table above shows that most (almost 80%) of the urban poor live in formal areas, such as townships, rather than informal settlements, even though over a quarter live in informal structures, including backyard shacks. The urban poor are evenly distributed between metro cities and secondary towns.

Two thirds claim to own their home, but only half of this number says they have written proof of ownership. Half of this number again, or 16% overall, see their homes as tradable assets.

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Because usage of financial services is so correlated with income in SA, it is perhaps not surprising that in only one of five households, does the head have a bank account, well below the national, and certainly the urban, average. A negligible number (1.6%) report making bond repayments today—probably in formal township areas.

In terms of family structure, a small majority (52%) of the urban poor live with their immediate family, and only around one fifth report that their immediate families live in a rural area. However, the proportion is much higher for those living in urban informal areas (33%) than for those in urban areas (15%), highlighting the role of urban informal areas as entry points to urban life for migrants from rural areas. When they become established in formal areas, the immediate family is likely to follow, diminishing direct rural ties over time. However, the dynamics of the ongoing relationship of urban poor households with extended family in rural areas and their attitude towards investment in land and housing in rural areas needs to be better understood.

1.1 Post-1994 Policy Responses

In 1994, the ANC's election manifesto – the Reconstruction and Development Programme (RDP) – explicitly addressed this historical dispossession within a wider programme of meeting basic needs. In this context, access to urban land was addressed largely within the framework of housing. Specifically, the RDP document explores the need for a range of tenure options including ownership, affordable rental housing, and the transfer of state-owned stock to their long-term residents.

Within the framework of the RDP, the Department of Housing developed a housing subsidy scheme which would entitle all South African households who earned less than R3500 per month and who did not currently own their own housing to apply for a subsidy which would give them secure, ownership tenure on a 250m² plot of land with a 30m² top structure and basic services (toilet and tap). At the same time, the Department of Land Affairs developed a land reform programme focusing on legislative reform and the restitution and redistribution of land. This was also based on freehold tenure but focused more in rural areas with an understanding that the housing subsidy scheme would achieve the land reform objectives in urban areas.

From a numbers perspective, the success of the housing programme has been nothing short of astonishing: to date, the Department of Housing has delivered some 1,8 million subsidized houses, providing secure tenure for over six million people¹. The restitution of land to those formerly dispossessed, while involving smaller numbers, is also substantial. In May 2005, a report to parliament noted that “more than R4 billion has been spent towards the 59 345 claims settled to date, of which were 52 809 urban and 6 536 rural. The Commission on Restitution of Land Rights needs R13 billion to resolve the outstanding 20 351 claims (Portfolio Committee on Agriculture and Land Affairs, 2005).”

There have been criticisms, however. Housing quality has been a main concern, and the evidence of houses with blown off roofs and cracks that resemble windows has done little for public confidence in government's success. Two key criticisms, emanating also from within government, have related to the location and value of subsidized housing: new township developments have perpetuated rather than overcome apartheid spatial patterns, and have been little more than expensive shelter, failing to provide beneficiary households with the financial asset that higher income households realize in their housing.

At the same time, demand has increased even further, fuelling a sense of impatience with government's progress. An official with the Gauteng Department of Housing recently announced on the radio that her department was currently responding to households who had signed up on the housing waiting list in 1996 and 1997. Her province, also known as the economic powerhouse in the country, has witnessed a virtual explosion in the number of informal settlements and other informal living arrangements (backyard shacks, overcrowding, and inner city building occupation) as the poor have sought access to the city and the work and income opportunities they hope it promises.

¹ See www.housing.gov.za.

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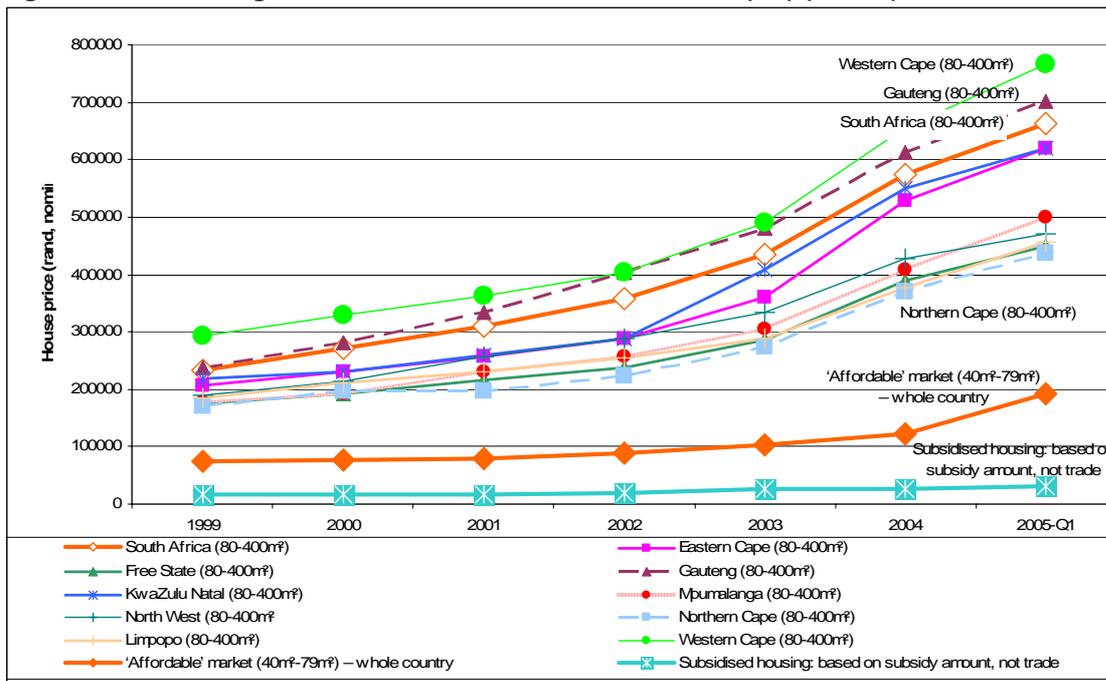
In terms of land restitution, there has been concern that while about 6 million people were victims of racial dispossession in the country only 10% of dispossessed persons lodged restitution claims. The deadline for submitting claims for land restitution has passed. Government has noted with worry that “if one were to re-open there would be a flood of new claims. The nation would need to provide much more resources for those new claims.”²

1.2 Updated Dynamics since Urban Land Markets Scoping Paper (2003)

While government has focused in its housing and land response on the poorest segments of South Africa, the growth of the economy, and in particular the residential property market, has created additional gaps that extend beyond the traditional parameters of what has traditionally constituted the state’s responsibility. This has brought the issue of urban land markets to the fore, not only for government but also for the public at large. As property price appreciation – seen as a boon by economic analysts – has increased, housing and urban land ownership rights have become less and less affordable to greater proportions of the population.

The stark reality of this is illustrated in Figure 1.1 below. At the top end of the market, property prices have doubled (and in some cases trebled) in the past five years. At the bottom end, in the ‘affordable’(non-subsidised) housing market (houses between 40m² and 79m²) – price appreciation has been much more gradual, only increasing with any level of significance in the first quarter of 2005.

Figure 1.1 ABSA Avg House Prices: South Africa 1999-2005(Q1) (Rands)



The bottom line in the graph illustrates the value of the subsidy over the period. While there is little research on the tradeable value of subsidized housing (given a sale restriction imposed by government of five years), it is widely understood that subsidized houses have at best traded at the same amount invested, and more often traded at far below the State’s investment. Thus, as the upper end of the

² Report of the Portfolio Committee on Agriculture and Land Affairs on Visit to Gauteng Province, dated 21 June 2005: The Portfolio Committee on Agriculture and Land Affairs, having undertaken a visit to Gauteng Province in Germiston on 27 May 2005.

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market creeps away from the 'affordable' market, so too does the 'affordable' market creep away from the subsidized housing market. The two gaps in 2005 prices are therefore as follows:

| | | | | |
|--------------------|---------|--------------------|---------|------------------|
| Subsidized housing | | Affordable housing | | High end housing |
| R35 000 | ←.....→ | R193 000 | ←.....→ | R662 447 |

Affordability parameters are a critical component of this picture and are set out in the following table:

| House price / bond value | Estimated deposit | Interest rate ³ | Monthly repayment over 20 years | Estimated income requirements (25% ratio of repayment to income) | % of the population who could afford ⁴ |
|--------------------------|-----------------------|----------------------------|---------------------------------|--|---|
| R35 000 | R2479 ⁵ | n/a | None | R0 – R3500 | 87% |
| R193 000 | R40 000 ⁶ | 15% | R2014.69 | R8 058.76 | 3% |
| R662 447 | R193 000 ⁷ | 11% | R4845.58 | R19 382.32 | 0.7% |

As illustrated in the earlier graph and the table above, there are at least two distinct gaps in the housing ladder: between the subsidized house that someone earning less than R3500 might access and then sell, and the R193 000 average house price of the affordable market, and then again between that house and the R662 447 average house price of the upper end of the market. This has two consequences:

- Downward raiding: when the supply of housing is not matched to the affordability of the market, aspirant home owners find the next best house they can buy. Thus, a household earning R4 000 might under-report on income in order to access the subsidized house, because there is nothing else in the market to suit that affordability.
- Residential immobility and dead capital: when a household is unable to afford housing that is better than what they currently live in, they are more likely to remain where they are. When they do this, the market loses out on a potential buyer and a potential seller, and this reduces the overall thickness of the market. The Township Property Markets Research coordinated by the FinMark Trust in 2004 found that the 'affordable' market and below is extremely thin, largely as a result of this factor. This has meant that households are unable to realize the asset value of their housing, which undermines housing as a potential investment class for low income households at a time when it is realizing astonishing returns for high income households. The urban land market is clearly not working for the poor.

This is a serious concern for government and one that is slowly being realized especially as government itself struggles to access well-located urban land for its own subsidized housing developments. It was within this context that the Minister of Housing recently said: *We have graduated ourselves out of being Minister of low-cost housing to taking on the responsibility of the entire residential property sector* (Sisulu, May 2005). In the current South African political economy, market performance at the bottom end is inextricably linked to its performance at the top end.

³ Anecdotal evidence suggests an interest rate for the 'affordable market' of about 15%. Interest rates for the upper income market generally hover currently around 11%.

⁴ Statistics drawn from the Labour Force Survey 2004, and reported by Eighty20 (www.eighty20.co.za) are based on individual and not household income. Household income calculations will change the numbers somewhat but will not significantly change the proportions. A further 6% earns between R3501 and R8000 and therefore is not able to afford the housing illustrated in the table. The remaining 3% comprises respondents who either didn't know their income or refused to answer the question.

⁵ This deposit is required from subsidy beneficiaries earning more than R1500.

⁶ This is a generous estimate that the purchaser will have a full R40 000 from the sale of his subsidised house to put down as a deposit towards this house.

⁷ This is a generous estimate that the purchaser will have the full R193 000 available from the sale of his previous house to put down as a deposit towards this house.

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Broadly, the shift in discourse from a housing supply/entitlement emphasis to one that seeks to enhance the housing assets of low income earners is aligned with DFID's intention to make urban land markets work for the poor. Government has very clearly accepted a markets framework in its poverty alleviation and reconstruction objectives.

1.3 Key Urban Land Market Issues in SA

At least six key issues are crucial to current debates regarding urban land markets in South Africa. Any programme that seeks to engage in this sector would have to understand and develop a credible, coherent position around these issues.

- The cost of land
- The persistence of informality
- The land poor
- Urban / rural linkages
- Legislative and regulatory issues
- The intention for sustainable human settlements

1.3.1 The cost of land

As noted in the section above, the cost of urban land is a critical issue which government has come to understand it must now face if it is to succeed in its objectives for socio-economic integration and meet its constitutional objectives of equality. Recent debates regarding the quantum of the housing subsidy have focused on the substantial impact that land costs have had on the overall capacity to deliver a quality product.

On the 19th of May 2005, the Minister announced that the subsidy would be used entirely for top structures, and that municipalities would donate well-located land for the purposes of subsidized housing, as an add-on. Backing up this position, the Minister called on the 31st of October 2005, for a “moratorium on the sale of public and state land until such time that across the three spheres of government, we are clear on the processes and priorities for alienating land”, arguing that all spheres of government and parastatals should “prioritize land in favour of housing before selling it away.” (Sisulu, October 2005). At other moments she has also called for the development of a public land register to enhance the coordination of land assembly at project level and enable the transfer of public land and land held by parastatals to municipalities at no cost. This is the first time in South Africa's eleven year old democracy that a housing minister has publicly broached the subject of land. The Minister has clearly realized that the appreciation of urban land values has meant that her subsidy is progressively able to deliver less – and this when such appreciation is not equally distributed throughout the market but rather concentrated at the top end.

The level of State intervention in this regard is currently being explored, and the future promises some intense policy debates in this regard. While the Breaking New Ground policy document⁸ has not been released to the public, it is understood that it addresses the issue of the cost of land, calling for investigations into the potential for land banking and fiscal incentives to support the development of well-located land. The issue of urban land markets was also highlighted as critical at the February 2005 “All Minister's Conference on Housing and Urban Development” (AMCHUD), hosted by South Africa in Durban. At that meeting, the need to deepen an understanding of urban land markets was asserted.

⁸ In September 2004, Cabinet approved a new plan for sustainable human settlements, popularly known as “Breaking New Ground”. While this document has not yet been publicly distributed, summaries have been made available by the Department of Housing.

1.3.2 The persistence of informality

A further issue relates to the impact of land costs on the choices that people make – also an issue of concern for the State. South African cities have already seen that when the property market does not work for all who are involved, informal approaches become more common as people seek to meet their housing and location needs in other ways. A growing literature (Royston, 2002; LEAP, 2005) is beginning to address the concept of informality and to show how, in the context of overwhelming need and comparatively limited state capacity to deliver, households and individuals are solving their own problems within the framework of their own resources.

While informal settlements provide an example of informality at the bottom end of the income pyramid, gated communities are in some ways also a phenomenon of informality at the top end, developing extra legal norms in an effort to enhance local security. Both are economically defined ghettos of internal inclusion, external exclusion (including in both cases, explicit or implicit codes regarding access), and self-managing in the absence of state intervention.

The phenomenon of informality, while being documented, is still not yet well understood. Attempts to override informality are in danger of undermining the very reason why it is working, albeit in quite limited ways, for the people involved.

Given the evidence of informality, politicians have identified the need to improve backyard shacks, upgrade informal settlements, reduce inner city overcrowding and informal sales transactions, and so on. Current proposals appear however, to prohibit such behaviour without addressing the underlying causes.

1.3.3 The land poor

In many instances of informal settlement upgrading, government has had (and continues) to face the problem of “non-qualifiers”. “Non-qualifiers” are residents of the informal settlement who, for one reason or another, do not qualify for the housing subsidy. In many instances, their failure to qualify is as a result of their income – they earn a household income of more than R3500 per month and yet live in informal conditions because they are still unable to find housing they can afford. While these households are not “income poor”, they are “land poor”. Within a policy framework that is based on an income driven means test, how does government respond to their needs?

The ‘land – not income—poor’ respond to their particular poverty in one of three ways. As a first choice, it is likely that they rent property. While formal rental property is in short supply in South Africa, backyard rental accommodation is an option that provides upwards of a million households with relatively secure (albeit often cramped) tenure. In most instances however, backyard accommodation is not formal. Alternatively, they may live in an informal settlement, saving their surplus income towards an eventual down-payment on a formal house which, as illustrated above, is far above their current affordability level. Or, they may double-up in a friend’s or family member’s home. Among these three choices, only formal rental accommodation is sustainable, and desirable to the State. In terms of its stated intention to comply with the Millennium Development Goals, the Minister has promised that she plans to eradicate informal settlements by 2014 – an intention already being acted upon in many cities and provinces while facing the issues of land costs noted above. Overcrowding has also been identified as a problem in terms of the increased and unplanned load placed on urban services provision.

It is a serious problem, not yet resolved that those living in informal circumstances cannot all be accommodated by the State’s housing subsidy programme. For a long time, it was thought that non-affordability for housing was as a result of the inaccessibility of housing finance to low income earners and the practice of red-lining. With the Financial Sector Charter obligations to target lending for housing purposes at households earning between R1500 and R7500, it has emerged that affordable housing

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supply (driven in part by property price appreciation, in part by the high cost of land, and in part by other factors) is rather the issue.⁹

The issue of land poverty also links into De Soto's concept of "dead capital" with which both the Minister of Housing and Minister of Finance have highlighted on separate occasions as a problem. The Minister of Housing has noted, for instance, that in the hands of beneficiaries, subsidized properties are worth far less than the state's investment, as trade happens informally and often at prices lower than the subsidy amount. The TRPM study (Shisaka 2004) suggested that former black townships, which are home to among the poorest 20% of the population, involve an estimated R68,3 billion worth of dead capital – that is, properties that cannot for one reason or another be sold. Legislative and regulatory issues were identified by that study as part of the reason behind the death of property capital, and it was suggested that resolving such constraints could be a significant intervention in broad based black economic empowerment.

More recent analysis, as set out in a section above, has illustrated gaps in the housing ladder, between the subsidized housing available to households earning less than R3500, the 'affordable' housing that is in fact affordable only to households with an average income of about R8 000 per month, and the high-end housing that is affordable to the fraction of the population earning an average income of about R19 000 per month. This structure of the market has meant that higher income households are facing land poverty traditionally only associated with the income poor. This reality challenges government's intended focus on the poorest of the poor – and yet, as illustrated above, failure to deal with it will also undermine government in achieving its goal for the poorest. It is a reality that must be grappled with.

1.3.4 Urban / rural linkages

Urban land markets cannot be considered in isolation of the rural land context. Various studies, not to mention the housing policy itself, have acknowledged the link between urban and rural land. This link relates to issues of land tenure choice in urban areas given existing tenure in rural areas, informal access to land in urban areas (often governed by rurally-based social relationships), and the phenomenon of rural land use configurations in urban areas or urban land use configurations in rural areas.

Land tenure choice in urban areas is often governed by the specific household's rural land access. If the household has ownership tenure in a rural area – even if such is only de facto tenure within a tribal arrangement, their inclination to invest in housing urban areas is likely to be diminished. Retaining the rural base is especially important for economically vulnerable households – it becomes their safety net in case of their own, or their relatives' economic failure in the City. Consequently, such a household's urban residence is likely to be about access to income opportunities, from which any surplus would be sent back to the rural area to invest in land and housing there. Given the scarce supply of affordable, rental accommodation in urban areas, such households become candidates for informal settlements and backyard shacking. The government's current plan is to provide South African residents of informal settlements a housing subsidy to formalize their accommodation and give them access to urban land tenure. If such households do not want this benefit, it is likely they will accept it, and then sell it informally, moving back into informal settlements. Not acknowledging their rural ties undermines the success of the state's intended policy response. A key issue for further study, therefore, is the impact of migration and specifically migrant labour tenancy, on urban land markets.

The impact of rural social relations on access to urban land markets is also an issue that needs to be investigated and understood in light of government's intention to 'eradicate' informal settlements. When rural households urbanize, they often do so following the path of relatives. Their social relations in the rural area can define the type of access they enjoy in the urban area. Understanding these subtle, non-market forces is important if urban land markets are to be made to work for the poor.

⁹ Research recently commissioned by the Banking Association makes this point quite starkly.

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Finally, the third issue for consideration relates to unexpected land uses. Rural land use configurations in urban areas are most evident in informal settlements, where a small sheep kraal might be set up, or where land might be cultivated as a type of informal urban agriculture. It is also evident in former black townships where households might wish to slaughter an animal as part of a cultural ritual. Mechanisms for managing such land uses within the urban space must consider the impact on sustainable livelihoods, NIMBY considerations, the sustainability of urban land uses and the impact on municipal servicing capacity, and the broader issue of how urban residents wish to use their land.

Of course, the flipside is also true and also warrants consideration: urban land use configurations are found in rural areas. In Mpumalanga, 50% of the population is resident in former homeland (rural) areas, but in a collected urban form with small adjacent plots rather than spread out in a pastoral form. In part, this is as a result of historical, apartheid policy which sought to develop what were called “R188 Denser Settlements” in rural areas to assist with policing (restricting the area that needed to be policed). Chris Williams of TRAC-MP argues that population densities in the provincial capital city, Nelspruit, are peaking 40 kilometres from the CBD, and estimates that 2% of GPP is lost as a result of this spatial dysfunction.

1.3.5 Legislative and Regulatory Issues

The origin of the urban land situation in apartheid legislation of exclusion continues to be an issue notwithstanding considerable legislative change and the constitutional enshrinement of land rights. Certainly, issues of land holding and land tenure and registration have been addressed in the past ten years, and much progress has been done around a framework for restitution.¹⁰ However, very little if any progress has been made in respect of the land use regulatory framework, which analysts say is the key regulatory issue undermining the functioning of urban land markets for the poor.

In 1995, the Development Facilitation Act (DFA) was promulgated as a key land use regulatory intervention, to assist in the speedy assembly of land for housing development purposes. However, the implementation of this legislation was never very successful and the legislation it was designed to replace (the 1991 Less Formal Townships Establishment (LFTE) Act, and the much older Provincial Land Use Ordinances) was never repealed. Consequently, land developers can now choose between three different pieces of legislation. The problem is more than simply messy, however. Stephen Berrisford argues that together with the DFA, Ordinance and LFTE legislation, Environmental Impact Assessment (EIA) regulations, town planning schemes and property rates legislation (which determines how municipalities access their rates revenues, based on property values), all contribute towards a complex land use system that ultimately creates and protects massive value of land in formerly white areas.

Sue Parnell adds that the failure to integrate land use registration systems with ownership registration and residential registration for service delivery means that cities are unable to plan for the servicing needs of their residents, and residents are unable to realize the service delivery support to which they are entitled. For instance, current policy affords a free basic service minimum to each registered erf. However, if more than one household lives on a single erf, the free basic service entitlement is not increased, and resident households on that erf need to share. As a result, the municipality suffers rising arrears as impoverished households do not pay for their services, and service levels cannot be planned for because they are based on an estimated occupation of one household per erf.

¹⁰ And yet land rights issues remain, as practice seeks to catch up with policy. Stephen Berrisford is currently documenting the experience of a low income, black community in Muldersdrift, Gauteng in a World Bank funded study. This community has faced explicit opposition from their white neighbors in their efforts to buy land for (low cost) housing. Notwithstanding real constitutional rights which should enable them to purchase land, they have been unable to assert these rights in practice due to NIMBY-style behaviour of other residents in the area.

1.3.6 The intention to create sustainable human settlements

The spatial dysfunctionality of the apartheid city has not been fundamentally addressed in the past eleven years, notwithstanding the amalgamation of previously racially-defined local governments and the combining of tax bases. With well-located land becoming even more expensive, it has become even more difficult to overcome this legacy. In addition, popular resistance to reform – the Not In My Backyard, or NIMBY factor – is being expressed in pockets across the country. What impact will current trends of urban fragmentation have on future prospects for economic growth, not to mention individual access to economic opportunity? The location of low income housing developments on the periphery of the city must have key transport implications when the resident populations seek work downtown. These are issues that the Minister of Housing has identified as important within the context of her objectives for sustainable human settlements – but how are the trade-offs practically addressed?

The sustainability of human settlements is also dependent on environmental sustainability. To this end the National Environmental Management Act and the Sustainable Development Plan of Action are important components. Many cities and provinces in South Africa have defined an urban edge as a mechanism to constrain urban sprawl. This has had in some cases a significant impact on property values and the potential for subsidized housing to afford well-located land. Environmental legislation has also been used as part of the NIMBY phenomenon to undermine access to particular tracts of land by the poor. Presumably the opposite should also be true – especially given the considerable impact that the low densities, large grass lawns and swimming pools, and high use of motorized transport prevalent in the high income community (to name just a few impacts) has on a city's environmental footprint and its long term environmental sustainability. Could environmental levers, coupled possibly with local taxation, be used in some way to support the interests of the poor and their increased access to well-located land? While well within government's authority, this is an issue that has not yet been tested.

All of the issues outlined in this section require examination and further engagement to resolve. Eleven years on from the transition to democracy, South Africa shows evidence of progress in these areas but also unintended consequences which must be addressed. The current urban land markets arena is therefore complex and volatile.

The increasing debate and focus on urban land in South Africa is mirrored in the international arena, especially in middle income developing countries in Latin America grappling with the effects of urbanization. In the course of researching these initiatives, we have come across a number of major recent conferences and research programmes, many of these led by the World Bank. Some of the key people involved have expressed strong interest in cultivating ongoing linkages with an urban land market program in South Africa.

This section attempts to map the general currents of discourse on the urban land markets issue within which ULMP will have to engage. It also lists certain relevant research and investment programmes, although we have to date discovered none with a distinct MMW4P approach.

1.4 The International Debate and Implications for South Africa

At the risk of over-simplification, there are two broadly opposed views on the urban land issue which play out internationally in publications and debate. The South Africa debate mirrors, and indeed, informs these positions. We will call these 'the enabling markets' views; and the 'right to land' view.

1.4.1 The Enabling Markets View

This perspective, best summarized by the World Bank publication *Housing: Enabling Markets to Work* (Mayo and Angel, 1993), encourages governments to increase market efficiency and thereby address equity by streamlining regulation and reducing transaction costs. In the urban land markets case, the problem is usually framed as the convergence of the following issues (Dowall, 1998):

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- Inappropriate land use planning and development regulations. This includes land supply constraints, large plot sizes, subdivision standards, and procedural delays.
- Over-reliance on public land development; these agencies are highly inefficient compared to smaller, private development firms.
- Inadequate titling, registration and tenure security
- Limited infrastructure capacity
- Overly centralized urban land policy or management

The prescriptions arising from this view, therefore, tend to focus on facilitating private sector activity in land markets, including:

- Formalizing titling and registration to achieve tenure security and realize property as a financial asset
- Restructuring public land development, including creating smaller, more efficient agencies, and privatizing or selling off inventory of land and equipment when it is clear private developers are capable of producing serviced residential plots
- Deregulating urban land use planning to bring land supply into balance with land demand
- Decentralizing land management authority
- Facilitating installation of infrastructure networks
- Assessing land market performance
- Improving land market information systems.

1.4.2 The Right-to-Land View

Advocates for the urban poor contend that markets usually ride roughshod over poor people and the state inadequately protects them from forces that dispossess them and decrease their access to sustainable livelihoods. Problems for the urban poor arise from the dynamic between market forces, state interventions that increase informal land value, and uneven statutory and political protection. The urban poor become vulnerable to market-driven evictions (Durand-Lasserve, 2005). Broadly defined, market-driven evictions are caused by increases in urban land value due to regularization, urban (re)development and commodification of informal land markets.

More specifically, the following policies, activities, trends and historic residuals are problematic:

- Insecure tenure:
 - Poor recognition of informal processes. Several types of tenure systems, including transitional, customary, local off-register and ROD, currently coexist (LEAP, 2005). Unfortunately, the state only recognizes tenure systems with registered deeds as formal.
 - Inadequate legal and administrative protection
- Demand for urban land and inadequate land provision for the poor
- Planning and urban development
- State transfers of public land reserves to private investors
- Physical pattern and location of informal settlements within the city
- Land speculation (including foreign investment)

Prescriptions usually include:

- Secure tenure
 - Land-rights advocates recognize the need for systematic recordkeeping and some form of title; however, title need not be individual or freehold.
 - Fairness in legal and administrative protection
- An active (and privileged) role for state in acquiring, expropriating and redistributing land to urban poor, if necessary at below market prices (SARPN, 2005).
- Infrastructure provision, with protection when land value rises as a result.

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While the prescriptions of the enabling markets approach has shown mixed results, the prescriptions of the right-to-land approach require more field testing and fleshing out. Table 1.3 sets out a summary of the two main views on chosen topics.

Table 1.3: SUMMARY OF TWO MAIN PREVAILING VIEWS OF URBAN LAND MARKETS

| | 'Right-to-land' view | 'Enabling markets' view |
|---|---|--|
| Brief history | Rooted in long history of struggles on behalf of small holder farmers/peasants with roots in movements such as the Land Tax movement in US; in its populist form, rejects market approach in general; more moderate form, accepts markets but questions effects on poor | Best summarized in <i>Enabling Markets to Work</i> published by World Bank, but a variant expressed by Hernando de Soto i.e. poor people are poor because they lack secure title to assets, primarily their houses, which they can leverage and sell |
| Leading voices, institutions | Internationally: Alain Durand-Lasserve (National Center of Scientific Research, France) Locally: LEAP, Lauren Royston, Marie Huchzermeyer | World Bank: Solly Angel Locally: Government, through the Ministers of both Finance and Housing, are expressing this view more frequently and seem to be developing a relationship with Hernando de Soto. The South African Institute of Race Relations has also been emphasizing issues of asset wealth, as has Business Map. |
| View of land | Land is: 1. Safe, secure place for poor (i.e. safety net) 2. Productive asset (in rural areas at least) Informal transactions are legitimate in their contexts, given the exclusion of the poor by formal systems. | Land is: 1. Financial asset (i.e. should be able to seamlessly exchange for capital) 2. Productive asset Informal transactions are an example of the market not working, and the goal is therefore to formalize informal markets and systems. |
| | 'Right-to-land' view | 'Enabling markets' view |
| Mechanism for addressing poverty | Having a secure place for the poor to engage in livelihood behavior improves their welfare and reduces vulnerability; also, encourages more productive use of rural land by poor to reduce in-migration to cities. | Better functioning markets should enable the redistribution of land into more efficient uses which supports rapid economic growth, creating employment opportunities for poor. Safety net should be provided by other means e.g. income support |
| Key prescriptions | 1. Provide secure title 2. Protect poor against depredations of speculators and forced sale/market evictions 3. State has an active role to play in direct provision of urban land | 1. Provide secure title 2. Reduce transactions costs on sales 3. Encourage liquidity in markets e.g. state sell off of housing stock 4. State has enabling role to play |
| Critique of other view | Ignores the growing problems of (i) landlessness of the poor, who sell their land to survive; and (ii) growing concentration of land holding in the rich | Restricts overall economic growth; and is patronizing to the poor in that it restricts their choices. |
| Role of state | 1. Protect interests of poor 2. Active role as land owner and developer on behalf of poor, e.g. land banking 3. State should be able to expropriate land at below market prices | 1. Enable development of markets e.g. reduce cost of title transfer 2. If state has to expropriate, it should be at market value |
| Strengths | Provides sharp focus on urban poor | Recognizes the pervasive reality of markets—formal and informal |
| Weaknesses | Active role required of state assumes its capacity and efficiency to serve poor | Too much stress on formal markets May ignore power dynamics around land |

1.4.3 Intersections: Making Urban Land Markets Work for the Poor

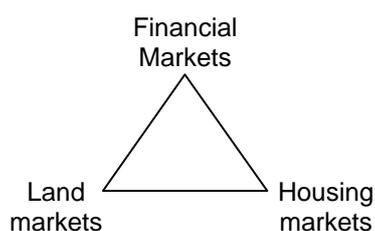
The Table above highlights that there is at least one major point of agreement between the two approaches: the need for secure title. However, this consensus at a high level can evaporate at a greater level of detail about desirable tenure forms (freehold versus alternatives or hybrids) and on how to address informal titles—to eliminate as rapidly as possible or to phase out gradually following co-existence. One way to reconcile these perspectives is to bridge informal and formal processes in some kind of interim system (Royston, 2004).

Another point of agreement between the approaches is the need for improvements in urban planning and development practices. This requires better information for decision making through the integration and computerization of information systems, and making more relevant information available to policy makers, private sector and civil society alike.

Beyond these issues, the role of the state is hotly contested, though both sides agree there are instances when the state must intervene as an active participant to address market failures or externalities. As Dowall observed in Bangkok (Dowall, 1992), private developers continued to provide affordable housing despite rapid land conversion and increasing prices and they have been able to build at high densities without zoning to constrain them. However, the pattern of development (known as a ribbon pattern) has been undesirable and related problems have emerged such as the uneven provision of infrastructure to accommodate this development pattern.

As shown, in Figure 1.2 below, urban land markets cannot be considered in isolation; they are deeply connected with housing markets, since the majority of urban land has a residential use, and financial markets, which provide the instruments for the purchase of housing and land. Urban economist Bertrand Renaud has famously pointed out that “cities are built the way they are financed”. The nexus between these three key markets needs to be better understood and explored. Common private players are involved—developers and banks for example; and the state has a major role in the regulation and conduct of each of the three markets. Of the three, the land market is most often ignored, or subsumed into the housing market. However, in developed countries, and in developing countries enjoying urban house price bubbles, the price of land constitutes an increasingly higher proportion of the total purchase price of housing.

Figure 1.2: The nexus



A making markets work approach (MMW4P) would seek to integrate a view of the workings of these overlapping markets.

By its very name, the MMW4P approach might sound like it favours the enabling markets approach; but a MMW4P approach must of necessity be deeply critical of market processes which do not work for the poor. This should open the pragmatic basis for discussion and dialogue with the land rights views over a key question that would not normally be asked by the enabling markets approach: **‘How much friction is necessary and/or desirable in urban land markets to serve the interests of the urban poor?’** In

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other words, the MMW4P approach can be more pragmatic about the negative effects of markets, while accepting their pervasiveness and force.

The coherent development of an MMW4P approach, applied to urban land markets, through this programme should come as both a relief and a welcome development to state agencies in South Africa. Government often sits somewhat awkwardly between, on the one hand, the pro-market demands of business and developers, who claim to be pragmatic and the only constituency capable of scale delivery, and on the other, the protests of civil society. However, careful positioning and solid research will be necessary if the ULMP is to avoid being labelled as simply another player in one or other ideological camp.

1.5 International Case Studies

International programme and policy innovations that focus on the development of urban land markets are relatively new. Those that go beyond land titling to broader land market development are rarer still. In the course of researching this issue, we came across a number of programmes which are potentially relevant to the debate in South Africa. These include:

- Land Victoria In Australia
- Land market assessments in Brazilian cities
- Namibian systems which bridge formal and informal land
- Land tax and inclusionary zoning in Chile
- Slum upgrading through mobilizing domestic capital via the UN's new Slum Upgrading Facility.

All appear relevant to the issues in SA and are recommended for further research.

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