

### APPENDIX 3: THE INFORMAL RULES OF THE GAME

#### *Forms of informal settlement<sup>2</sup>*

This section begins with a categorisation of informal settlement types. This categorisation is based on an international perspective of the different forms of informal settlement. Categorisation is helpful in a scoping exercise of this nature because the term “informal settlement” refers to a wide range of settlement types, systems and practices, with degrees of formality and legality. However, it should be noted at this stage that this report identifies the lack of adequate differentiation and classification of informal settlements processes in the South African context as an issue in the next section.

*Squatter settlements* can be the result of an organized ‘invasion’, or a gradual occupation. Access to squatter settlements is seldom free as an entry fee is often payable to an intermediary, or to the person or group who exerts control over the settlement, and sometimes also rent. Although the housing white paper uses the term ‘squatter’, it generally has negative connotations in South Africa, and preference is given to the use of informal settlement. ‘Informal settlement’ has become a fairly ubiquitous, but undifferentiated, term, which does not account sufficiently for the diverse nature of informal settlement processes or their physical manifestations. Furthermore, as Huchzermeyer elaborates, “‘Informal settlement’ means officially unplanned and unauthorized settlements. ... South African literature often does not draw a clear line between “informal settlement” and “informal housing”, the latter including shacks on serviced sites, in back yards of formal township houses, and on invaded land. This has led to much confusion in the interpretation of research’ (1999).

*Informal rental housing* covers a wide range of situations and levels of insecurity. Tenants and subtenants form a heterogeneous group in unauthorized land developments, squatter settlements or in dilapidated buildings in city centres. Backyard shacks (informal rental or subtenancy arrangements on sites mainly within former African townships) or overcrowding within existing township housing stock (relations of subletting and sharing), are both important forms of informal access to shelter for the poor in South Africa. A survey in 1993 in six formal black urban townships estimated that 40 per cent of the surveyed population lived in backyard shacks and that a further 15 per cent were tenants within the formal dwellings. Accordingly, a possible 55 per cent of the surveyed population were renters and sharers. Control over race zones had particular impact on the extent of backyard shacks and overcrowding within black areas vis-à-vis illegal subdivision outside of them. Furthermore, the significance of backyard shacks as a form of shelter is geographically varied according to proximity to a former homeland boundary, where access to land was much easier than in ‘white’ South Africa. It is in the towns within these areas that activity in the informal allocation of land by traditional authorities is observable. The allocation was informal because traditional leaders had no legal jurisdiction to allocate land in former homeland towns (R293 areas), but nevertheless exacted charges of various sorts in exchange for land access and other services.

The third type of informal settlement is *informal subdivision*. Various terms are used, depending on the country or author: illegal commercial land subdivision, unauthorised land development, informal land developments, *loteamentos* (Brazil), *colonias* (Mexico), etc. While references are made in South African literature and policy discourse to informal practices of ‘allocation’, the term ‘subdivision’ is seldom applied in informal contexts, being reserved for the formal and technical activity undertaken by professionals. This could be attributable to

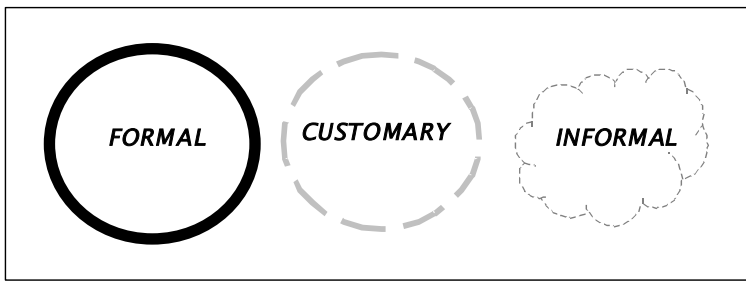
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<sup>2</sup> This sub-section draws on the urban tenure publication called “Holding their Ground: Secure Land Tenure for the Urban Poor in Developing Countries” (2002) edited by Lauren Royston and Alain Durand-Lasserve (Earthscan, London). The international perspectives rely on the introductory chapter to this book authored by Durand-Lasserve and Royston called “International trend and country contexts: from tenure regularisation to tenure security” and the South Africa perspectives rely on the introductory chapter to the South African tenure chapters, authored by Royston, called “Security of Urban Tenure in South Africa: Overview of Policy and Practice”.

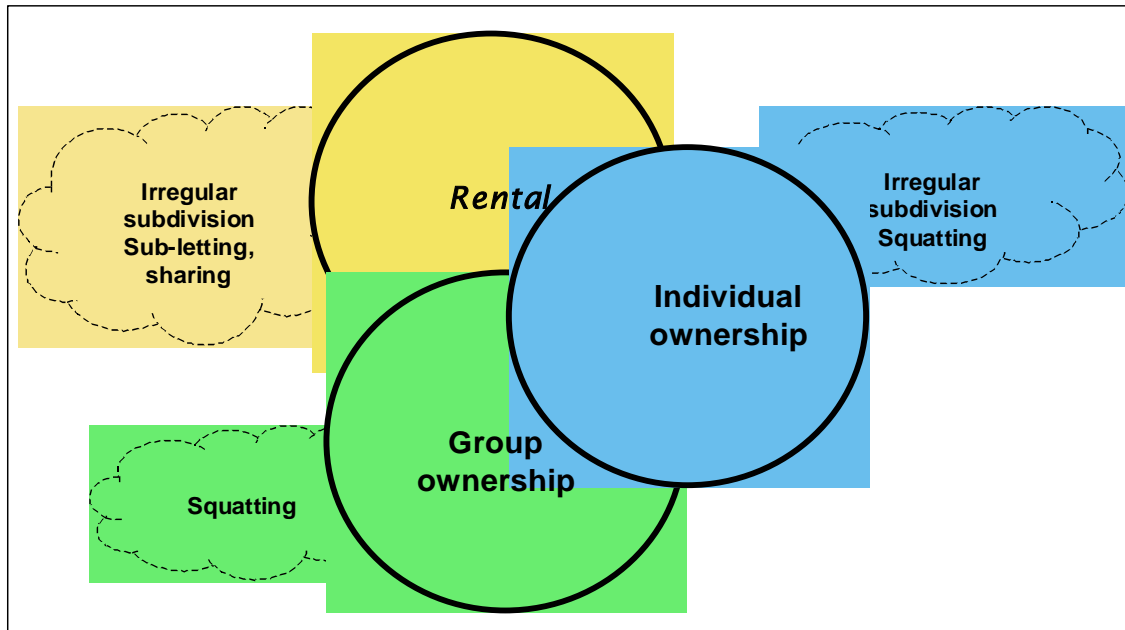
the enormous research gaps on informal settlement, observed by Huzchermeyer (1999), with informal settlement research exhibiting a bias towards invasions that took place in former white group areas. Informal allocation tends to apply especially to the loaded ‘shack lord’ term applicable to processes of land transaction characterized by violent conflict; the process of ‘shack farming’ (a form of irregular subdivision characterized by rental) and the land allocation role played by traditional authorities. These settlement processes, which are forms of irregular subdivision, are viewed in particularly pejorative terms (e.g. “illicit practices undertaken by unscrupulous individuals preying on the defenceless poor”). The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998 outlaws the practice of individuals transacting in land which is not theirs to begin with.

*Building bridges between the different systems*

Having introduced the diversity of informal settlements through a categorisation exercise, the report now bridges the conceptual gap between the formal and informal rules of the game. The following diagram demonstrates the concept of three different, parallel systems of land supply and management. These are formal, informal and customary or communal.



The following diagram takes the two systems relevant to this scoping study (formal and informal) and demonstrates that these systems are overlapping and inter-related. The diagram uses the example of tenure as one aspect of this inter-relationship, by indicating that the forms of informal settlement can be characterised by rental, individual ownership and group ownership tenure options.



We have identified three dimensions of the informal rules of the game to assist in describing them. These are not an exhaustive, or complete, conceptualisation of the complex and diverse factors that shape the informal rules of the game, although they are intended to demonstrate how it works. The three factors are the process of urbanisation (especially its informal aspects), strategies for organisation and mobilisation and survival strategies.<sup>3</sup> Use is made of case study references, especially in relation to the latter two factors, as the informal rules are not easily reduced to generalisable conclusions.

### *Urbanisation*

The historical process of urbanisation in South Africa was presented in the historical route map, which showed how, despite attempts to the contrary, the urban African population displayed a considerable propensity to grow and informal settlements expanded enormously in the late sixties. In the bantustans unregulated settlement growth was rapid, especially in those areas which were located close to towns and cities. Rather than increasing housing provision in urban areas, the state's strategy was to demolish urban housing. By the seventies the growth of informally settled areas was extensive. In the bantustans they far overshadowed any formal housing that the new administrations were able to deliver. Long before formal changes in policy, the cornerstones of the apartheid regime had begun to crumble with the *de facto* breakdown of influx control and unplanned urbanisation.

Unplanned, or informal, urbanisation gave rise to illegal shacks built in the backyards of formal houses within existing African townships in the 1970s, until the widespread growth of "free-standing" squatter settlements in the 1980s. The predominance of backyard shacks in the Gauteng area (formerly the Pretoria – Witwatersrand – Vaal complex) was in contrast with the Durban metropolitan region, where informal housing occurred mostly in free standing squatter settlements. The prevalence of freestanding settlements in one region and not another was related in part to the proximity of a homeland boundary to a metropolitan area. For example, the KwaZulu homeland was located ten to fifteen kilometres from the city centre. The homeland settlement closest to what is now the Gauteng province is the Winterveld settlement which in the former Bophuthatswana nearly 100 kilometres away from Johannesburg and some 30 kilometres north of Pretoria. Poor black people could access land more easily in tribal areas under apartheid than in "white" South Africa. Accordingly, the urbanising black population was "displaced" to homeland areas where the boundaries of homelands were within commuting distance of urban areas. However, people beyond commuting range of major metropolitan areas who are "recognisably rural" might also be primarily dependent on an urban wage, requiring that the notion of peripherality be extended because a large proportion of the urbanised population lives at great distances from the cities.

The "displaced" settlements are now situated in the six new provinces which inherited former homelands within their areas of jurisdiction and it is estimated that in the region of four million people inhabited such areas in 1997. In one study of such a displaced settlement – the Winterveld - it has been found that nearly one third of the former population has left since the end of apartheid, mainly the formally employed. Those that remain include poor households that have nowhere else to go and others who may depend on the relative underdevelopment of the community. Other studies have found that, contrary to expectations, displaced settlements are not inhabited by large, trapped populations. Assumptions about mobility away from apartheid's peripheral homeland and township creations appear to be questionable. Much movement had already taken place, before apartheid's demise. Reality appears to be much more complex and people's responses more varied. The search for an understanding of why people continue to stay, despite the removal of state initiated

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<sup>3</sup> The following section, which elaborates on the three factors, draws on a paper prepared and delivered by Lauren Royston in 1999 at a conference of the International Research Group on Law and Urban Space (IRGLUS) titled "South to South: Urban environmental policies and politics in Brazil and South Africa". The paper is called "The socio-political dynamics of the urbanisation process and its prospects in South Africa".

strictures, points (amongst other things) to the benefits, albeit in extremely constrained conditions, of informality.

### *Mobilisation, organisation and struggles for urban access*

Community mobilisation was an important part of the struggle for urban access, and in the process of urbanisation, in the era prior to democracy in South Africa. From about 1979, one of the most striking features of township politics was the emergence of civic organisations, frequently referred to as "community" organisations or simply "civics". The organisational efforts of the civic movement included mass actions such as the boycotts of rents and service charges, the campaigns against unelected and unmandated black local authorities and local-level negotiations between civics and the state, around the question of development. Research findings in four settlements in Greater Johannesburg and Eastern Gauteng demonstrated how civics organised communities around shared interests against attempted removal, threat of demolition or attack, as well as for survival, more land, affordable and secure housing, decent services, access to the urban economy and democratic representation. This research identifies that urban struggles have taken a variety of forms including the struggle of informal settlers against relocation; the struggles of people against eviction for not paying their rent; the struggles of backyard shack-dwellers to maintain a foothold in the urban system; the struggles for more land in overcrowded townships; and the struggle for proper democratic consultation in the drafting of new legislation.

The very nature of a "resident's" organisation is that it unites different interests within a community. Its organisational style allows for representation only of those that desire representation. In Phola Park, this was not a conflictual arrangement for as long as the organisational strategies were resistance, protection and defence orientated. Research in the Winterveld indicates that people invest in opportunities to be socially visible in order to assess what is happening when a window of opportunity is presented. For example, churches and religious associations provide a sense of security and social cohesion. In Phola Park, organisational forms other than the civic were always in operation; allegiance to traditional/tribal power bases; survival strategies of an illegal nature; networks built around the conveyance of various goods. However when these mechanisms were perceived to be under threat the conflicting interests were brought to the fore.

This view of community struggles and organisational dynamics demonstrates the importance of community cohesion in securing urban access. For example, conflict threatens over allocation and access when resources for development are introduced into communities experiencing severely constrained material circumstances. The Phola Park community was united in protecting their access to the city to survive and in defending the community against attack. However when resources for the development of the settlement were introduced, this sense of common interest became blurred. In the course of the planning process distinct groupings became apparent with different access needs. This example demonstrates how urbanisation has different meanings for people with a wide ranging diversity of urban intentions and needs, and with a variety of strategies for gaining and maintaining access.

The impact of political transition on organisation is significant as mobilisation shifted from defence (under apartheid) to development (in the negotiations and post-apartheid eras). Changes were experienced in community organisation capacity and leadership expertise as the context shifts further from defence to development to governance (as much CBO, NGO and party political leadership moved into government and the relationship between democratic representation and community consultation is worked out). The formal terrain of struggle has shifted to constituency politics and government. Communities tend to be less organised and mobilised through a single structure which can present a cohesive body of interest, as was the case in many communities organised around resistance to and defence against apartheid. Rather, different sets of interests come together in more provisional and fluid modalities of association through practices, networks and

transactions – various neighbourhoods alter their allegiance to specific groupings and specific groupings alter their policies to hold on to specific neighbourhoods.

Currently the South African Homeless People's Federation represents an important set of organised interests of the poor in the urban settlement arena. The origins of the Federation can be traced back to the period preceding the transition to democracy in South Africa in the early nineties. The Federation mobilises in informal settlements around savings and engages internationally with a network of slum-dwellers through its partners in Asia. By 1993, there were more than 50 active savings schemes in South Africa, which were organised into an informal national federation of housing savings schemes. By 1994, the number of savings schemes had reached two hundred and the federation was officially launched under the name uMfelandaWonye Wabantu BaseMjondolo, the South African Homeless People's Federation. The key objectives of the Federation in the early nineties were overcoming socio-economic and political marginalisation and access to housing. Until 1998 the strategy adopted by the Federation was broadly non- collaborationist. Non-collaboration was significant at the time as it enabled mobilisation around a sense of shared identity and belonging and the emergence of a movement of the urban poor in the form of the Federation. By early 1998, this situation began to change, with a shift in strategy towards partnerships with other agencies, in order to address needs and demands on a much larger scale and to play an even greater role in poverty eradication in the future.<sup>4</sup>

### *Survival strategies: patterns of mobility and income generation*

In addition to the important role played by organised community interests and strategies, informal strategies for survival are also important factors in shaping the informal system. Documented evidence indicates how survival strategies emerge in the context of both affordability constraints and violence. For example in Wattville, a township on the East Rand, the extended family network operated to spread income within the household. However, this survival mechanism, developed over long periods of time, was destroyed when the family was split between two places of residence. The main breadwinner was separated from one part of the household when some extended family members moved to a land invasion site, called Tamboville, and others remained behind in Wattville, the old place of residence. This affected affordability adversely in both Tamboville and Wattville.

Research in the Winterveld demonstrates how it offers a convenient place from which to ply illicit trade in rhino horn, diamonds, precious metals as well as more conventional items such as foodstuffs and electronics. Former mineworkers from Zimbabwe and Mozambique channel goods from current mineworkers to a wide range of buyers from areas of origin. The trade works in the reverse direction, making use of the network of mineworkers past and current and their areas of origin. This networking may be highly syndicated with Winterveld entrepreneurs being a fulcrum for dealings between mineworkers, buyers and workers at the Maputo port. It may also be less structured and loosely organised.

Another example is Phola Park, an informal settlement on the East Rand which was the target of repeated attempts at removal and demolitions, and the subject of repeated physical attacks and violent clashes in the early nineties. The informal nature of Phola Park served as a convenient place to live, and indeed an opportunity for participation in an informal economy. Illegal economic networks were developed between Phola Park and Mozambique based on gun running. The prospect of development brought with it the threat of legalisation, and therefore, the possibility of exposure.

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<sup>4</sup> This paragraph draws from a report by Development Works for People's Dialogue called "Cities Alliance Project on a Pro-poor Slum Upgrading Framework for South Africa: First Report", June 2003.

In addition to networks of extended family and informal income generation, exemplified in Wattville, Winterveld and Phola Park, mobility is itself a survival strategy that further demonstrates the complexity of informal urbanisation and the diverse nature of urban access. For example, research in the Durban Functional Area indicates that rural people are introduced to the city via temporary accommodation in informal settlements, while they position themselves in relation to the urban core in ways that offer affordable access to urban life. High levels of mobility represent a survival strategy for households dogged by violent conflict. Households may spread their members across space in order to maximise mobility ability.