WORKSHOP REPORT
COORDINATING CIVIL SOCIETY EFFORTS AROUND INFORMAL SETTLEMENT UPGRAADING

Hosted by the LANDfirst network and the Socio-Economic Rights Institute of South Africa (SERI)

Johannesburg, 28 September 2010

1 Introduction and background

On 28 September 2010 the LANDfirst network and the Socio-Economic Rights Institute of South Africa (SERI) organised a workshop on ‘coordinating civil society efforts around informal settlement upgrading’ at the Elijah Barayi Memorial Training Centre in Johannesburg.

The purpose of the workshop was to share information around what work different civil society organisations (CSOs) are doing around informal settlement upgrading, and to discuss how organisations can strategically coordinate their individual and group efforts around informal settlement upgrading in pursuit of common objectives. The aim of the workshop was to encourage ongoing dialogue between CSOs on land and housing issues, which will feed into and build on future initiatives and events.

2 Workshop participants

The aim of the workshop was to facilitate collaboration of a number of different organisations and individuals. The following types of organisations were invited to this workshop:

- LANDfirst network members
- technical/planning NGOs
- CBOs and social movements
- public interest lawyers involved in informal settlement litigation
- other (academics, NUSP, consultants).

Representatives from the following organisations attended the workshop (contact details are provided at the end of this report):

- Afesis-corplan
- Built Environment Support Group (BESG)
- Community Organisation Resource Centre (CORC)
- Development Action Group (DAG)
- Eversheds Pro Bono
- Federation of the Urban Poor (FEDUP)
- Informal Settlement Network (ISN)
- Isandla Institute
- Landless People’s Movement (LPM)
- Lawyers for Human Rights (LHR)
- Legal Resources Centre (LRC)
- Mvula Trust
- National Upgrading Support Programme (NUSP)
- Planact
- Shack / Slum Dwellers International (SDI)
- Socio-Economic Rights Institute of South Africa (SERI)
- University of the Witwatersrand
- Urban LandMark
- Webber Wentzel Pro Bono

3 Getting the ‘lay of the land’

The workshop was borne out of the sense that more collaboration, coordination and information-sharing were needed around informal settlement interventions in South Africa. The kind of information that was sought from the various organisations was the following: which geographic areas of focus and what settlements do you work in; what kind of engagement i.e. advocacy, research, litigation, training, technical support; which organisations do you work with and in what capacity; what are you trying to achieve around informal settlement upgrading; what strategies do you employ etc. Thus, each organisation was asked to answer a few written questions as well as prepare a short verbal input for the workshop. The attached table provides all the written inputs for most of the organisations who attended the workshop (and some who did not) while the following summarises some of the verbal inputs from the workshop which are not captured in the table.

In summary, it was identified that in terms of where people/organisations are working geographically there is a lot of coverage nationally as well as international and regional experience. In terms of the kind of engagement taking place, there is wide diversity with organisations involved in litigation, mobilisation, specific campaigns i.e. LANDfirst and cleaning campaigns, as well as promotional campaigns around tenure promotion, incremental settlement etc. Also there is support provided by NUSP, legal NGOs and pro bono departments, training and technical support by development NGOs etc.

3.1 Verbal inputs from organisations

Eversheds - Simon Delaney: Bulk of their litigation is defensive litigation around evictions in the inner city of Johannesburg. They have not done any informal settlement work as yet, but have had experience litigating land claims. They are interested in doing work in informal settlements.

Webber Wentzel - Moray Hathorn: They work closely with Landless People’s Movement (LPM) and represent 4 or 5 informal settlements in Johannesburg. They have been involved in a number of cases, which are briefly outlined below:

In Thembalihle, they tried to compel the City to make funds available to dig boreholes but the High Court dismissed the application. Litigation has hit rocky ground.
In the Rooikop matter, there was an application for eviction which was resisted and the High Court ordered that Ekurhuleni municipality should buy the land from the private owner. They took the case on appeal where the SCA set aside the order to purchase. Leave to appeal was dismissed by the Constitutional Court. The case has now being referred to the African Commission.

In Harry Gwala, a case was taken to compel the municipality to provide interim services. The Constitutional Court ordered that the municipality make a decision on upgrading by January – they are doing an EIA at the moment.

In eTwatwa there has been repression of LPM community leaders with the complicity of the local councillor, police and NIA. There are serious problems at the local level. The councillor wants to relocate people to put friends there to benefit from future development.

**Mvula Trust** - Jonathan Timm: They have offices in 7 of the provinces. Previously focused on rural water and sanitation, but have recently identified informal settlements as an area where they can contribute. They have been involved in small interventions in Makaose, Ekurhuleni and have unfortunately have been unsuccessful in raising funds for a research project there around improving sanitation. They are also involved in a policy process with DWA, around interim services in informal settlements, and recently had an inception meeting with the Department.

**Informal Settlement Network (ISN)** - Mfanzile Msibi: ISN aims to mobilise community members in informal settlements so as to work together as a unit. ISN works with existing structures with the goal to acquire services from government. ISN forges partnerships to uplift people in informal settlements and has agreements with City of Johannesburg and Ekurhuleni to work together. Facing evictions in a number of settlements (i.e. Kliptown, Gabon) and have received legal assistance from SERI, ProBono.Org. ISN has a number of partner organisations including FEDUP, SDI, Poor Peoples’ Movement, SANCO and iKhayalami. One big focus for them is collecting information on informal settlements and shack enumeration – which is a challenge for both municipalities and settlements.

**FEDUP** - Alfred Gabuza: FEDUP is a network of savings schemes comprising those living in backyard shacks, informal settlements and hostels. They work with ISN and promote savings through the Peoples Housing Process (PHP). They are also involved in enumerations, mappings, development planning etc and are starting a new project in Thina Sonke.

**Built Environment Support Group (BESG)** - Daniel Bailey: BESG is involved in participatory governance and the PHP and ePHP. They were involved in policy formulation of the new ePHP. None of the projects they have been involved in with the Msunduzi municipality have materialised, and they want to pursue alternative methods of settlement improvement.

**National Upgrading Support Programme (NUSP)** - Monty Narsoo: Monty is part of the technical assistance of NUSP, which is collaboration between Cities Alliance and the Department of Human Settlements (DHS). NUSP is not the upgrading of settlements programme but is aimed primarily at providing a number of things: platform for policy refinement, enhancement and change; forum of practitioners engaged in upgrading of informal settlements i.e. community of practice; engagement to enhance knowledge-sharing and development of resource kit etc. Out of 16 alleged informal settlement projects identified, only two are actually upgrading projects. President’s speech and delivery agreements say that 400 000 households in well-located settlements will be upgraded – latest is the delivery agreement between the President and the Minister of Human Settlements. Next will be the performance agreements between the Minister and the MECs. 45 municipalities have been identified by provinces, which supposedly comprise 75 percent of all settlements in the country.
NUSP is in the process of identifying partners to be part of the community of practice. This meeting has come at the right time as they are thinking of ways to expand the community of practice and how to engage with stakeholders.

**Lawyers for Human Rights (LHR)** - Rudolph Jansen: LHR has been involved in eviction cases in informal settlements in Tshwane, assisting hostel-dwellers in Mamelodi as well as inner city residents in Schubart and Kruger Park flats. Recently they have been involved in Lanseria. They share the frustration that Moray expressed about the fact that everything they do is negative i.e. defensive litigation and that there is very little positive coming out of court orders i.e. Grootboom and Modderklip. Lawyers may have successes but this does not translate on the ground. For example, they have been involved in a case called Shorts Retreat where an eviction application was refused but they have now reached a stalemate. LHR is thinking of bringing something to get Tshwane ordered to purchase land so that people can settle in an orderly manner vs. land invasions.

**Legal Resources Centre (LRC)** - Steve Kahanowitz: LRC is involved in a number of housing-related matters e.g. Joe Slovo, Bardale, Wallacedene, inner city Johannesburg. We have come quite far in that people can’t just be shifted around anymore and the law has developed in such a way that there is more protection for people. This has happened in a relatively short space of time. There is the need to circulate informational amongst lawyers and those we work with. We need to look at engagement more creatively, as well as post litigation settlement issues – legal NGOs grossly under resourced to deal with this.

**Development Action Group (DAG)** – Aaron Hobongwana: DAG is an urban development organisation based in Cape Town, working in a number of settlements including Hangberg in the past. They mostly support PHP projects i.e. upgrading settlements through the PHP route, and support provincial government in unblocking PHP projects. They also do policy commentary and research, and are involved in the Kuyasa Fund which provides microloans for top structures to enhance the government subsidy. They focus on well-located serviced land and advocate for more strategic land management practices, more accessible land, capping land speculation, efficient and effective use of land by government etc. DAG is presently preparing for its National Conference which is being held in Cape Town from 11-13 October 2010.

### 4 Challenges, opportunities and objectives

As part of the workshop participants were divided into three groups to discuss collective challenges, opportunities and objectives around informal settlement upgrading. The first group consisted of representatives from the development and technical NGOs as well as NUSP; the second group consisted of the lawyers from the legal NGOs and pro bono departments; while the third group consisted of representatives from community-based organisations (CBOs) and social movements.

#### 4.1 NGO breakaway group

#### 4.1.1 Challenges and opportunities

**Challenges**

1. Policy implementation – lack of capacity of ‘machinery’ for building houses
2. Different policy interpretations and perceptions around settlement development and upgrading
3. Weak capacity and ability of role-players to do effective bottom up planning and implementation at scale
4. Huge demand for upgrading and housing
5. Competition within and between informal settlements for limited resources for upgrading
6. Get bureaucracy to be more flexible in implementing upgrading (e.g. get officials to work after hours)
7. How to deal with prevention of land invasion and finding alternative land.

Opportunities
1. Political space opened up with government target of 400 000 households by 2014 to be upgraded
2. Commitment to release state land
3. NUSP established to support upgrading initiatives
4. There are some officials/consultants with some experience (even during apartheid era) in in situ upgrading and incremental development that can be drawn on.
5. There is some experience with NGOs doing their own community planning and design work that can be drawn on
6. Communities are willing to engage
7. Government will be considering updating their informal settlement lists/databases within the next year so communities can make sure they are on updated informal settlement lists. NGOs can come forward with alternative technology proposals and alternative lists of informal settlements.

4.1.2 Objectives
1. Improve policy implementation through working with NUSP and others
2. Access to lists and planning processes - lists could be IDP project list, NUSP list etc
3. Promote modifications to policy where appropriate e.g. to accommodate Managed Land Settlement and delinking basic/emergency service provision from tenure
4. Communities participate in citywide informal settlement upgrading initiatives (including in situ and new land, where appropriate)
5. Develop and promote methods, planning processes and networks to support and mainstream citywide planning (includes informal settlements ‘getting onto’ lists of settlements to be upgraded)
6. Integrate community-based information gathering (enumeration etc) into municipal planning systems (develop a better understanding of the ‘demand side’)
7. Change ‘mindsets’ that are ‘resistant’ to incremental settlement
8. Reform professions (e.g. engineering, project management etc.) so they are better able to support interventions along the whole incremental continuum
9. Pilot projects on interim/basic services access.

4.2 Litigation/ legal NGO breakaway group

4.2.1 Challenges and opportunities

Challenges
1. Government won’t expropriate private land
2. Courts have resisted ordering expropriation/purchase of land e.g. Rooikop
3. Issue of municipality finding alternative land, and court orders not dealing with tenure
4. Location not taking seriously, so people told to move 15km away
5. Courts are making orders to find land, but these orders go nowhere – become a messy stalemate
6. ‘Big picture’ litigation has been successful but it’s a rocky road when you get to specifics
7. Sanitation remains a huge problem
8. Technical issues on land are a hindrance i.e. dolomite in Ekurhuleni, fire break at Hangberg
9. Need amendment of old planning legislation
10. Planners are simply reinforcing spatial apartheid and holding politicians to ransom and there is a need to visionary, bold planners to come forward

Opportunities
1. Recently, Tshwane has not raised the defence that it does not alternative land
2. NUSP process is promising i.e. outside court processes
3. There was success in an out of court settlement at Bardale, where people were relocated i.e. can be replicated elsewhere
4. Need planners to come onboard, be more proactive especially around identifying land in suburbs
5. Land Management Bill - need to grasp this opportunity to input
6. Small pilot projects in very well-located areas would be a good idea i.e. close to bulk services
7. There is growing acceptance of densification which is positive – needs to be encouraged more

4.2.2 Objectives
1. Progressive, transformational planning – need for a vision of equitable cities
2. Progressive realisation of the right to adequate housing, including tenure security and services
3. Work towards small victories around implementation that can be replicated
4. Facilitate access to well located land (using expropriation if appropriate). Local government more progressive in making land available.

4.3 CBO/social movement breakaway group

4.3.1 Challenges and opportunities

Challenges
1. Lack of land availability for development
2. Overpopulation and crowding of informal settlements
3. Lack of knowledge and capacity in communities about informal settlement upgrading
4. Selling and privatisation of land by government so land not available for communities
5. Poor/inappropriate conditions of land in some instances for settlement development (e.g. in wetland areas or on dolomitic land)
6. Difficulty in accessing basic services like sanitation, health facilities, schools, water, electricity, roads etc
7. Continuation of forced relocations and evictions
8. Difficulty in getting land tenure security
9. Lack of adequate disaster management (e.g. shack fires and flooding)
10. Lack of working relationship between the councillors and the communities (government and CBOs)
11. Lack of consultation on planning and development
12. Poor intergovernmental relations around informal settlements

Opportunities
1. Site and services being considered in some areas to ease immediate backlog
2. Trend towards more unification of informal settlements (unity of communities)
3. Some precedent in providing electricity, water and toilets as part of an upgrading process
4. Growing experience in blocking out plots in informal settlements.
5. Growing support for the idea of clear programmes around leadership schools for capacity building
6. Existing programme for in situ informal settlement upgrading

4.3.2 Objectives

1. ‘Eradication’ of informal settlements by informal settlement dwellers, where eradication means the provision of basic services and tenure security
2. Capacitation of informal settlement leadership in terms of government policy and programmes
3. Informal settlement dwellers take ‘ownership’ of planning, designing and monitoring development in their community
4. Intensification of land acquisition

5 Common objectives

Four common objectives were identified from the breakaway group sessions. These were around the following:

1. Upgrading informal settlements/incremental settlements
2. Tenure security and basic services
3. Public participation/meaningful engagement between the state and communities
4. Promoting human rights
   a. overarching/broad rights i.e. equality, dignity, participation (draw on concept of ‘right to the city’ but contextualise it within the South African Constitution)
   b. specific rights i.e. land, housing, water, sanitation, healthy environment etc.

6 Possible areas for collaboration

The final session of the workshop centred around identifying possible areas for collaboration going forward. A number of areas were identified and discussion ensued around each.

1. Collaboration around litigation and legal cases
   - Dominant ideology has been ‘access to housing’ – need to shift this to land, healthy environment, water etc
   - What are the litigation issues? Alternative land, corruption, allocation process?
   - How are communities involved/participating? – “the starting point needs to be community and people”
   - Defensive litigation opens up space for other interventions
   - Referrals – rather collaborate?
   - What happens when outcomes of cases unsatisfactory?
   - Lawyers must realise that “the poor are not homogenous” and will have differences of opinion and this is a good thing often
   - How to use litigation to open up spaces for participation in the fabric of cities
   - Lawyers also need to be activists – follow the people and community process

2. Engagement with NUSP (and the HDA)
   - NUSP operates with local and provincial government
   - Promotes ‘community of practice’
   - Municipal wide forums - need to maximise participation in these and the effect of participation
3. **Media strategy**
   - What messages do we need to get across? How to we amplify them?
   - ‘come and listen’
   - Publicising, get information out into public domain – strategies, struggles and challenges

4. **Training**
   - Collaboration is important and effective i.e. Planact and SERI doing workshop with LPM providing information on organisational development and rights/legal education respectively

5. **Access to technical advice**
   - Professionals must become activists and champions for the cause
   - Better access to these resources is needed for communities, lawyers etc

6. **Research**
   - Collaborative research and sharing of research more widely

7. **Access to services**
   - Promotion of and piloting basic and interim services in settlements

8. **Land availability and acquisition**
   - Who is identifying and acquiring land?
   - Role of HDA?

9. **National voice**
   - COSATU voice is dominant in the landscape, urban poor and those in informal settlements lack this kind of voice at the national level
   - Need for poor people to tell their own stories - not *just* poor in informal settlements but also in hostels, backyard shacks, inner city etc
   - Need for greater solidarity i.e. sympathy marches; SMS campaigns – if community goes to court others support them
   - Encourage diversity i.e. allow for differences and encourage unity in diversity
   - What are we struggling for?
   - ‘Constructive engagement’ with state – ISN do not have an anti-state stance but say that the state must comply with its own laws, policies and rules
   - How to create a broad, national platform that can make an impact?

10. **Citywide community involvement in planning/leading upgrading**
    - Lack of information/participation
    - Problem of timelines - NGOs and government need to take into account the rhythm and pulse of communities
    - Already there is information-gathering, pilots happening – need to share this more widely

11. **LANDfirst Charter**
    - Possibility of more signatories to the Charter to broaden its scope

12. **‘Network of networks’**
    - Linking websites, sharing membership bases
    - Using the Good Governance Learning Network (GGLN)
    - Bringing professionals in i.e. planners and lawyers (new to the terrain)
    - Linking CBOs, social movements, NGOs, lawyers, progressive professionals, progressive government officials etc into an ‘urban reform movement’
Idea of ‘right to the city’ movement – can become a bit intellectual if not rooted in communities, social function of informal settlements with people at the centre is a helpful lens, need to also bring in the Constitution which lays a lot of this out already

Need for cross-class collaboration

7 Way forward and concluding comments

The workshop concluded with a number of organisations describing upcoming events which could be used to build on what had come out of the LANDfirst/SERI workshop.

- **BESG/Planact** will be hosting a workshop on informal settlements under the Good Governance Learning Network (GGLN) in early 2011, and will use the information gained from this event to help structure the workshop’s agenda.
- **Isandla Institute** is planning to hold a conference on land and planning in November 2010 which will look at why a consolidated urban land agenda has not emerged.
- **LANDfirst** plans to hold two more learning events on a) impact of environmental and planning legislation on LANDfirst and b) using Information and communication technology for LANDfirst.
- **SERI** will be organising a roundtable with legal NGOs and pro bono departments within the next few months to discuss how the legal professions can support informal settlement upgrading and other related matters.

It was decided that SERI and LANDfirst would work on a media article to come of the workshop and pick up some of the key themes of the workshop, and agreed that they would circulate it for sign on from those organisations comfortable with doing so. A workshop report would also be produced.

A number of concluding comments were put forward at the end of the workshop:

- It is important to create a national platform for discussion on informal settlement and land access issues.
- Many people are calling for pilot projects on upgrading, managed land settlement etc. to show how things can be done differently, which emerges particularly out of LANDfirst network experience.
- We need to find ways to close the gap between what communities want and what ‘technocrats’ are providing. This can only be achieved through continued dialogue between parties.
- We need to find ways to enhance collaboration between different role-players.
- It is helpful to focus on overarching constitutional rights e.g. dignity, equality, participation to frame and coordinate our individual organisational interventions.
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