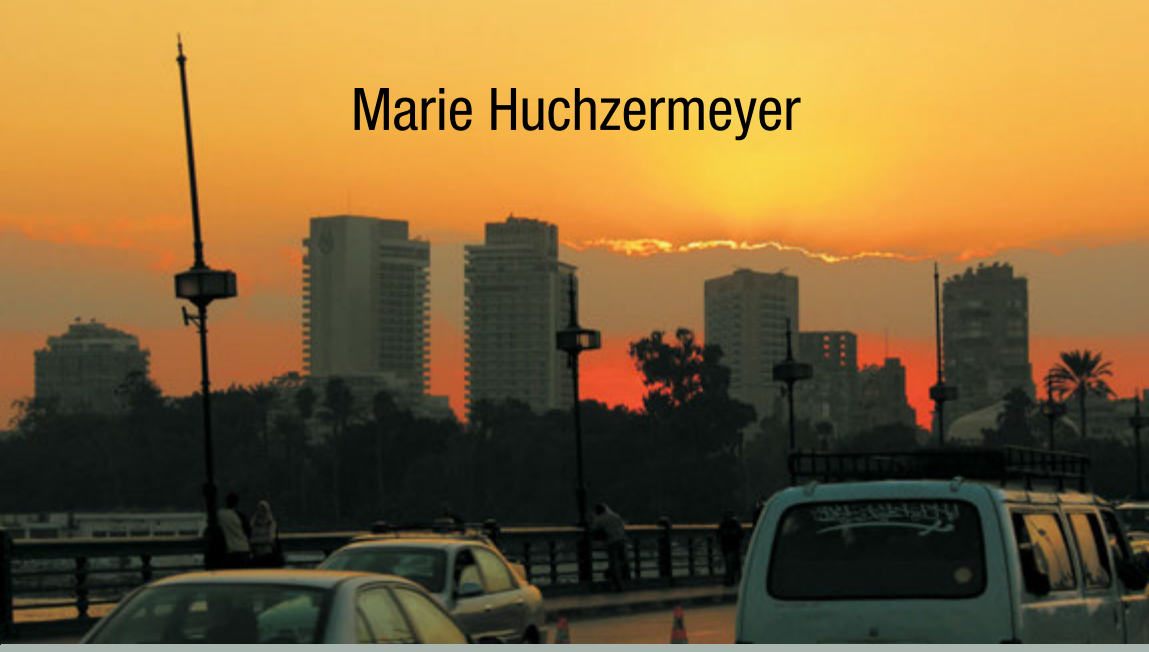
Marie Huchzermeyer



Cities *with* 'Slums'

From informal settlement eradication to a right to the city in Africa

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Contents

List of acronyms

AEC	Anti-Eviction Campaign (South Africa)
AIDS	Acquired Immune Deficiency Syndrome
AMCHUD	African Ministers' Conference on Housing and Urban Development
ANC	African National Congress (South Africa)
ANFASA	Academic and Non-fiction Authors' Association of South Africa
APF	Anti-privatisation Forum (South Africa)
AU	African Union
BNG	Breaking New Ground (South Africa)
CALS	Centre for Applied Legal Studies (South Africa)
CBD	Central Business District
CESCR	International Covenant on Economic, Social and Cultural Rights
CLC	Community Law Centre (South Africa)
COHRE	Centre on Housing Rights and Evictions
CORC	Community Organisation Resource Centre
COSATU	Congress of South African Trade Unions (South Africa)
CUP	Coalition of the Urban Poor (South Africa)
DA	Democratic Alliance (South Africa)
DAG	Development Action Group (South Africa)
DBSA	Development Bank of South Africa
DFID	UK Department For International Development
EIA	Environmental Impact Assessment
FCDA	Federal Capital Development Authority (Nigeria)
FCT	Federal Capital Territory (Nigeria)
FEDUP	Federation of the Urban Poor (South Africa and Nigeria)
FIFA	International Federation of Football Associations
FNB	First National Bank (South Africa)
GCRO	Gauteng City Region Observatory (South Africa)
GEAR	Growth, Employment and Redistribution strategy (South Africa)
GDH	Gauteng Department of Housing (South Africa)
GDS	Growth and Development Strategy (Johannesburg)
HDA	Housing Development Agency
HIV	Human Immunodeficiency Virus

HPF	Homeless People's Federation (South Africa)
IDP	Integrated Development Plan (South Africa)
ILO	International Labour Office
ILRIG	International Labour Research and Information Group
IOL	Independent Online
IMF	International Monetary Fund
ISCOR	Iron and Steel Corporation (South Africa)
ISN	Informal Settlements Network (South Africa)
JDA	Johannesburg Development Agency (South Africa)
JOSHCO	Johannesburg Social Housing Company (South Africa)
KENSUP	Kenya Slum Upgrading Programme
KISIP	Kenyan Informal Settlement Improvement Programme
KShs	Kenya Shillings
KZN	KwaZulu-Natal
LPM	Landless People's Movement (South Africa)
LRC	Legal Resources Centre (South Africa)
MDC	Movement for Democratic Change (Zimbabwe)
MDG	Millennium Development Goal
MEC	Member of Executive Council (South Africa)
MINMEC	Ministers (national) and Members of Executive Councils (provincial) (South Africa)
NARC	National Rainbow Coalition (Kenya)
NGO	Non-governmental organisation
NHC	National Housing Corporation (Kenya)
NMR	Nairobi Metropolitan Region (Kenya)
NRF	National Research Foundation (South Africa)
NUSP	National Upgrading Support Programme (South Africa)
OAU	Organisation of African Unity
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
PAIA	Promotion of Access to Information Act (South Africa)
PHP	People's Housing Process (South Africa)
PIE Act	Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (South Africa)
PISA	Prevention of Illegal Squatting Act (South Africa)
PPT	Project Preparation Trust (South Africa)
RDP	Reconstruction and Development Programme (South Africa)
SABC	South African Broadcasting Corporation

SACN	South African Cities Network
SACP	South African Communist Party
SADC	Southern African Development Community
SAFM	A national radio station in South Africa
SAHPF	South African Homeless People's Federation
SAIRR	South African Institute of Race Relations
SAMWU	South African Municipal Workers' Union
SDF	Spatial Development Framework (South Africa)
SDI	Shack/Slum Dwellers International
SERAC	Social and Economic Rights Action Centre (Nigeria)
SERI	Socio-Economic Rights Institute of South Africa
SIP	Slum Improvement Programme (India)
SPARC	Society for the Promotion of Area Resource Centres (India)
TRA	Temporary Relocation Area (South Africa)
UISP	Upgrading of Informal Settlements Programme (South Africa)
UK	United Kingdom
UMP	Urban Management Programme
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNCHS (Habitat)	United Nations Centre for Human Settlements (Habitat)
UN-HABITAT	United Nations Human Settlements Programme
UNHRC	United Nations Human Rights Council
UPFI	Urban Poor Fund International
US	United States
US$	United States dollar
UWC	University of the Western Cape
WEP	Women Environmental Programme (Nigeria)
WTO	World Trade Organisation
WW	Webber Wentzel (South Africa)
WWB	Webber Wentzel Bowen (South Africa)
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZEIS	Special Zones of Social Interest (Brazil)

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Introduction

> *[T]here may have been a misunderstanding as to how to respect international commitments, such as the Millennium Development Goals, that may have led to efforts being directed to the eradication of slums rather than the improvements of the lives of slum dwellers.*
> (Miloon Kothari, UNHRC, 2008: 17)

In the year 2000, the United Nations (UN) thrust the urban development sector into the 21st century with a new and unprecedented global focus on a condition that international agencies chose to term 'slums'. The UN Millennium Development Project outlined a declaration with bold targets to halve or substantially reduce a host of poverty indicators across the globe by 2015. For housing or residential poverty, the UN decided to adopt a target defined in the previous year in the 'Cities Without Slums Action Plan' of the newly formed Cities Alliance, a liberal multilateral organisation funded by the World Bank and the UN Human Settlements Programme (UN-HABITAT) and increasingly also funded by member countries, including South Africa.[1] These parties, along with member organisations from within civil society such as Shack/Slum Dwellers International (SDI), in turn would have a growing say in its affairs.

The modest and carefully worded Cities Alliance target, which became Millennium Development Goal (MDG) Seven Target 11, is to 'improve the lives' of only one-tenth of the global 'slum' population of the year 2000 over the subsequent 20 years. The UN incorporated the less carefully worded Cities Alliance slogan 'Cities Without Slums' into its official wording of MDG Seven Target 11. It intended the slogan as a long-term vision to accompany the rather modest 20-year target. However, the slogan catapulted a bold vision of 'slum-free' cities across the globe, triggering a range of responses. Academia saw a proliferation of 'slum' literature, from the development discourse on how to achieve the MDG target on 'slums' (e.g. Hasan et al, 2005) to Mike Davis' polemic *Planet of Slums* (2006) which reproduced World Bank and UN data to portray an undifferentiated and apolitical global mass of urban squatters seething in 'megaslums'. Davis' book simultaneously triggered applause, outrage and debate in different academic circles. His contribution lies in exposing the perversity of urbanism across the globe, where employment lags far behind growth in population, and deprivation in living conditions is unprecedented in scale and severity (Murray, 2008: 92). Davis is primarily

criticised for 'jumping on the bandwagon' of the 'slum' discourse in which 'vast numbers of people are effectively labelled as "undesirables"' (Gilbert, 2007: 698, 706), for 'theoretical pessimism' (Gibson, 2011: 167), for lacking in serious analysis (Angotti, 2006), for ignoring the people who live in 'slums', their politics, their movements (Angotti, 2006; Pithouse, 2008b) and their cultural innovation (Pithouse, 2008b), and for 'feeding anti-urban fears about working people who live in cities' (Angotti, 2006: 966). In an uncanny parallel, analysts argue that the UN's language on 'slum' elimination serves 'as a subliminal spur to many governments to act against informal settlements—thus inevitably fueling an antipoor sentiment' (Martin & Mathema, 2010: 19). The UN and its alliances have yet to recognise and arrest this outcome.

UN-HABITAT, the UN programme responsible for supporting governments in their efforts to achieve MDG Seven Target 11, has published detailed reports on the do's and don'ts of improving the lives of 'slum' dwellers. The most cited is the 2003 *Global Report on Human Settlements*, titled *The Challenge of Slums* (UN-HABITAT, 2003c), which highlights participatory 'slum' upgrading as best practice and advises against 'slum' eradication. In an Expert Working Group Meeting in 2008, UN-HABITAT's Deputy Executive Director Inga Bjork-Klevby (2008) admitted that 'the number one readership of UN-HABITAT's publications is academics and students', and not the intended target group of relevant ministries and departments in developing countries. However, UN-HABITAT is less willing to admit another problem, namely that it has incorrectly communicated the target to national governments. As an example, in a Foreword to a 2005 Situation Analysis of Informal Settlements in one of Kenya's cities, the UN-HABITAT Executive Director Anna Tibaijuka (2005: iii) refers to the 'Millennium Declaration Goal 7 Target 11 of "Cities Without Slums"'. The message straight from UN-HABITAT: achieve 'slum-free' cities by 2020! Such statements from the highest level of UN-HABITAT ignore the cautious approaches that some of its more progressive experts seek to promote through UN-HABITAT publications, and fudge the distinction between an operational target and a long-term vision. They are also insensitive to the continued practice of 'slum' demolition, and the grassroots and human rights struggle against this. Miscommunications are perpetuated by seemingly uninformed western consultants or commentators, with uninformed statements such as the following:

> *Happily, the debate about slums is no longer dominated by the project of replacing or eradicating them—in fact, that approach has become politically incorrect.* (Husock, 2009: n.p.)

Far from this being the case, however, in several African countries, including South Africa, the slogan 'Cities Without Slums', rather than the modest target of upgrading the living conditions of 10 per cent of slum dwellers, has cross-pollinated a repressive, late modernist political agenda and fuelled efforts at 'slum' demolition! In South Africa, the main context on which I base my analysis in this book, an invented MDG 'obligation' to achieve 'slum-free' cities by 2014, not even 2020, has legitimised such action. Demolition of living space is never uncontested on the ground. However, throughout 10 years of struggle against coercive initiatives aimed at removing 'slums', Cities Alliance and UN-HABITAT have claimed ignorance of repressive 'slum' removal legitimised by the 'Cities Without Slums' campaign and refrained from providing corrective guidance. One may argue that through this tendency, UN-HABITAT has departed from the UN's founding principles that include the promotion of human rights in all of its programmes (see Annan, 1999).

This book originates in my experience within a local network of organised informal settlement dwellers, housing rights activists and human rights lawyers to whom it has been left to confront the anti-'slum' initiatives in South Africa and to some extent in other African countries, eradication drives which commentators such as Husock (2009) have wished away. In so doing, we have come up against more than merely the 'Cities Without Slums' campaign. On the one hand, fissures have opened up within civil society. Those seeing their pro-poor objectives achieved through a friendly alliance with the state and global agencies, or those accustomed to speaking *for* rather than *with* the poor, are uncomfortable with rights-based activism (a much debated approach which I define in Chapter 1). On the other hand, Cities Alliance, the organisation that first conceived of the 'Cities Without Slums' campaign, has promoted perhaps the most problematic liberal paradox in urban policy: the simultaneous drive to achieve global urban competitiveness and a supposed commitment to improving 'slum' dwellers' lives. The heavily lopsided global–local contest over land-related opportunities in the city drives and deepens largely ignored 'exclusion' of the poor from the city, and the 'informalisation' of their habitat (Bayat, 2004). This contest finds a biased and sustaining agency in most African countries' political elite, working not in favour of the local (let alone the poor), but of the global. For this elite, a liberal, corporate-inspired conceptualisation of cities as competing commercial entities in need of brands, gateways, icons and global standards, reinforces the urgency of the perceived need to free these cities of 'slums'. Local efforts to confront 'slum' eradication, redevelopment and gentrification brush up against opposing actors within civil society (including those who

are members of organisations such as Cities Alliance, and therefore extremely influential), and find themselves in conflict with those who are favoured as consumers of and contributors to the branded city, and against politicians who cater to these branded city demands.

City authorities often repressively dismiss demands from economically weak households for space within the city. The assumption, as Potts (2009: 257) argues, is usually that such demands stem from poor migrants entering the city in large numbers. However, the population of many cities in Africa is growing more slowly than is generally assumed (Potts, 2009), poverty is to a large extent generated within cities due to shrinking formal employment, and in many instances migration has remained circular, binding rural with urban livelihoods on an ongoing basis (Hunter, 2010: 97; Potts, 2009; Todes et al, 2010). Inadequately governed cities, often dependent on 'foreign powers', leave most poor households 'to their own devices' (Hart, 2010: 371). Within the development discourse, poor people's responses, alternatives or innovations have been homogenised and problematised (Escobar, 1995), and 'translated into a war on the poor' (Martin & Mathema, 2010: 15). Global usage of the term 'slum' since 2000 forms part of this homogenisation, problematisation and 'revulsion' (ibid: 16), and in turn justifies blanket eradication of poor people's footholds in the city. Academics analysing the global prospects of reaching the real MDG Seven Target 11 within this fraught and complex context are sceptical. Political scientist Tim Muzio (2008: 307) argues that 'there is substantial evidence to suggest that the campaign will fail'. From a demographic point of view, Philippe Bocquier (2008: v) expands on this argument by asserting that '[m]aking life better by 2020 for at least 100 million slum dwellers might prove much more difficult than expected ... [T]he world might actually end up more unequal twenty years down the road'.

Yet, 10 years after the inception of the Millennium Development Project, UN-HABITAT paints a positive picture. In a high-level press release titled '227 million escape slums' on the occasion of the 2010 World Urban Forum in Brazil, it applauds governments for having made progress towards helping large numbers of households 'escape slums', or 'move out of slum conditions' (UN-HABITAT, 2010c: 1). While referring briefly to 'slum upgrading', the choice of language carelessly departs from one that focuses on improving the lives of 'slum' dwellers to one which implies that such improvement requires a removal of households out of the 'slum'. What might have been termed the 'slum improvement target' is now referred to in the press release as the 'global slum reduction target' (ibid: 2). In the same press release, the statistics for the

'reduction' of 'slums' on the African continent paint a positive picture (ibid: 1). Egypt, Morocco and Tunisia are singled out as success stories. Little is said about the remainder of the continent. The large number of households that over the past 10 years have lost their urban living space to demolition, forced eviction or poorly conceived relocation, often under a directive of achieving 'Cities Without Slums', remains unacknowledged. In other UN-HABITAT documents, those who have given way to the favoured consumers of land in the city are ignored, or at best appear statistically as 'lifted out of slum conditions' (UN-HABITAT, 2010b: vii). No mention is made of those who have chosen not to move out or escape life in 'slums' but instead to defend their 'slums' against demolition or relocation. The negative portrayal of these living spaces in the 'Cities Without Slums' slogan blots out any other dimension of their living conditions that the residents of 'slums' or informal settlements may experience and articulate themselves. The unfortunate language, particularly as packaged in high-level press releases and introductions or forewords (Tibaijuka, 2005; UN-HABITAT, 2010b, 2010c) to UN-HABITAT's more nuanced publications, is widely interpreted word-for-word. South Africa's Deputy Minister of Housing returned from the 2010 World Urban Forum in Brazil bluntly reporting on the global 'progress made in moving people out of slums' (Kota-Fredericks, 2010: 11).

Definitions and usage of the term 'slum'

Early 19th-century industrialisation in Britain, and the rapid urban change and class formation which it brought about, produced stark inequalities in residential conditions. Early factories were in low-lying areas adjacent to canals, and workers' housing was often located nearby on waterlogged land (Cowie, 1996: 263). Any engagement with this reality necessitated the use of a term that referred to this type of dark, damp, cramped, unhealthy and overcrowded accommodation. For this purpose, the term 'slum' was derived in the 1820s from the word 'slump', which was commonly used to refer to a 'marshy place' (ibid). Early legislation in the form of the 'Common Lodging-Houses Act (1851)' required inspection and registration of rental accommodation (ibid). Britain's '1875 Housing Act (the Cross Act)' associated slums with 'Unhealthy Areas' (Garside, 1988: 24) whereas the 'Artizan's Dwelling Act (1875)' empowered 'local authorities to pull down slums and build working-class houses' (Cowie, 1996: 263). This usage of the term 'slum' to label housing as unsuitable for improvement, and thus to signal a first step towards demolition, is a central concern in recent reviews of the word's significance (Gilbert, 2007;

Martin & Mathema, 2010: 15–22; Perlman, 2010: 37). However, the term has taken on different meanings in different contexts. In some regions, it may be used by informal settlement residents 'to raise awareness of the conditions in which they are living' (Martin & Mathema, 2010: 24). In countries marked by a strong British colonial history, postcolonial authorities and societies have continued to apply the term to a range of conditions that elsewhere may have been referred to as 'informal settlements'—unplanned residential areas with sub-standard housing, accommodating the urban poor and often absorbing new migrants to the city. Kenyans use the term 'slum' officially and popularly to refer to unplanned settlements that accommodate the urban poor. In Nairobi, these areas, though with considerable variations, are increasingly commercialised. Most residents are tenants, while many 'structure owners' are richer, politically connected and not residents of these 'slums' (Amis, 1996; COHRE, 2005c; Mwangi, 1997; Syagga et al, 2002). In Kisumu, Kenya's third-largest city, so-called 'slums' contain a far greater mixture of 'structure owners' and tenants. Landlords tend to be 'slum' dwellers themselves and, as a result of the subdivision process that accompanied urbanisation, hold titles to their land (Onyango et al, 2005). In Abuja, the capital of Nigeria, the term 'slum', alongside 'squatter settlement', refers to the informal expansion of indigenous villages that preceded the formally planned city. This expansion primarily took the form of rental accommodation, developed by indigenous villagers or by those informally buying the formerly agricultural land from the villagers. Abuja's 'slums' faced a massive eradication drive from 2003 to 2007, with over 800 000 people losing their living space in the city (COHRE & SERAC, 2008).

In India the term 'slum' has also endured. There it refers primarily to densely packed owner-occupied shacks, with a much lower prevalence of rental tenure. The well-known Slum Improvement Programme (SIP) in Madras in India in the late 1970s incorporated this term, not for demolition but for improvement (see Hasan & Vaidya, 1986). Similarly the international NGO SDI adopted this term from its usage in India. It is from countries like Kenya, Nigeria and India that Cities Alliance in 1999 borrowed the term 'slum'. However, in conceiving the 'Cities Without Slums' campaign, Cities Alliance also subscribed to the idea that fuelled the advent of modern town planning, namely that 'slums' were the antithesis of an aspired-to city. Via the UN Millennium Development Project, UN-HABITAT came to adopt and promote the global usage of the term 'slum' and provided a definition that incorporates unplanned, often spontaneous informal settlements/'slums' typical of cities in peripheral or 'developing' countries. But the definition also incorporates conditions more typical of (though not exclusive

to) the 'developed' world, where 'slum' still refers to deteriorated formal housing, often 19th- and early 20th-century tenements (such as those adorning the cover of UN-HABITAT's *State of the Cities Report*, 2010b) rendered unacceptable through overcrowding or lack of maintenance. Up to the 1960s such areas, once declared a 'slum', became subject to clearance and redevelopment. Later, due to the same resistance that housing demolition continues to encounter worldwide, more cautious and participatory upgrading replaced the 'slum' redevelopment approach (Bodenschatz, 1987). In Germany, although the term 'slum' did not have a direct equivalent, the shift to a more participatory paradigm was accompanied by a change in public consciousness of the value of such areas, and with this came a change in the terminology used (Senatsverwaltung für Bau- und Wohnungswesen, 1990: 9). In comparison, global development agencies' recent universalisation of the term 'slum' with the modernist slogan 'Cities Without Slums' exposes a paradigm which casts doubt on the sincerity of its stated attempts to promote participatory upgrading. UN-HABITAT's endorsement of high-profile 'slum upgrading' programmes that in fact demolish all traces of grassroots initiative and redevelop the cleared land with modern typologies (as set out in Chapter 6 of this book) calls for urgent contestation over the meaning of 'upgrading', and not only over the usage of the word 'slum'.[2]

UN-HABITAT's *Global Report on Human Settlements 2003*, titled *The Challenge of Slums*, presents the following 'operational definition' of 'slums', recommended by a UN Expert Group which, as its insert in parentheses shows, seemingly wrestled with the question of whether to include social, let alone political, aspects in the definition:

> *an area that combines, to various extents, the following characteristics (restricted to the physical and legal characteristics of the settlement, and excluding the more difficult social dimensions): inadequate access to safe water; inadequate access to sanitation and other infrastructure; poor structural quality of housing; overcrowding; insecure residential status ....* (UN-HABITAT, 2003c: 12)

In 2010, UN-HABITAT made the distinction between '"cities with slums" where the divide between rich and poor is quite clear' and 'slum cities' in which the rich and the poor 'live side by side', lacking 'at least one element of adequate shelter, on top of environmental hazards' (UN-HABITAT, 2010b: 38). 'Slum cities' rather than 'cities with slums', we are told, 'are prevalent throughout sub-Saharan Africa'. In what I argue is the use of an irresponsible logic on the part of UN-HABITAT, one is left asking: if 'cities with slums' are to be turned into 'cities without slums', what is to become of Africa's 'slum cities'—are they wished away altogether?

In South Africa, political change in 1994 called for a clear departure from apartheid consciousness, terminology and policy, including the labelling of informal settlements as 'slums' and 'squatter camps' and, associated with this, the notorious 'clearance' of these areas to make way for planned and controlled, racially and socio-economically segregated residential areas.[3] The erstwhile culturally vibrant and racially mixed historical neighbourhoods that the apartheid state declared to be 'slums' in the western sense (under the pretext of deterioration and overcrowding), and bulldozed, are today icons of the struggle against apartheid repression. The most commemorated are Sophiatown in Johannesburg, demolished between 1955 and 1968 with the removal of black households to the sterile and segregated townships of Meadowlands and Diepkloof in Soweto (Brodie, 2008), Cato Manor in Durban, demolished between 1958 and 1960, and District Six in Cape Town, demolished between 1968 and 1980 with relocation of residents to the segregated and sand-blasted townships of the Cape Flats. Each of these removals generated a rich body of literature, music and dramatic works that reflected on the political and personal resonance of these 'clearances'. Each has its museum, and is much celebrated today. Less commemorated are the many informal settlement or shanty-town removals that took place under apartheid. Nevertheless, in December 2009 the African National Congress (ANC) government bestowed the Order of Luthuli in Gold (posthumous) on James 'Sofasonke' Mpanza (The Presidency, 2009), one of Johannesburg's 'squatter leaders' of the 1940s; Mpanza's 'squatter' settlements, though transformed into 'emergency camps' by the liberal government under the United Party, were only fully removed after the new apartheid government of the National Party came to power in 1948.[4] In the turbulent 1940s Mpanza's struggles against forced removal did not receive support from the ANC, which 'does not seem to have taken up the issue of squatting' at the time (Stadler, 1979: 108).

The ANC's 1955 Freedom Charter (Congress of the People, 1955), banned during the apartheid era and now commemorated by a memorial at the new Freedom Square in Kliptown, Johannesburg, where the Charter was adopted, includes a modernist vision for dealing with 'slums': 'Slums shall be demolished and new suburbs built.' This statement must of course be contextualised in its time. An architect and Communist Party leader, Rusty Bernstein, was instrumental in drafting the Charter. Only a decade later did the influential writings of John Turner and Charles Abrahams, borrowing from Latin American practice (Bromley, 2003) bring strong arguments against 'slum' demolition and rigid modernist housing into the development discourse in

the anglophone world. The Freedom Charter, which also informed the Bill of Rights in South Africa's 1996 Constitution, continues to inspire the ANC-led government, with a draft 'Gauteng 2055 Vision' document in 2010 seeking to achieve the goals of the Charter. However, there is always the fear that individual statements in the Charter, particularly that on 'slums', could be interpreted literally (like the slogan 'Cities Without Slums') rather than in the overall spirit of rights and freedom that the Charter stood for at the time.

The post-apartheid Constitution of 1996 included a qualified right to housing and protection against arbitrary eviction. Post-apartheid legislation repealed South Africa's notorious Prevention of Illegal Squatting Act No. 51 of 1951 with all its amendments, and the Slums Act No. 76 of 1979. New legislation seeks to protect poor households against arbitrary, unfair and illegal eviction and provides a careful definition of 'unlawful occupation'. The Housing Act No. 107 of 1997 refers to 'slum elimination' (without defining the term 'slum'), but only as a long-term goal to be achieved through indirect means aimed at the complex causes of inadequate housing. Elsewhere, the Act refers to 'informal settlements'. The launch of the MDGs in September 2000 did not lead to the immediate adoption of the term 'slum' in South Africa. Instead, the first directive from the President to the national Department of Housing was to achieve 'shack free cities' (Huchzermeyer, 2004a). The term 'slum' gradually found acceptance, but policy-makers and politicians still use it entirely interchangeably with 'informal settlements'. It was the new fixation with needing to clear cities of shacks, informal settlements or 'slums' that led to the gradual but steady re-introduction of repressive 'slum'/informal settlement clearance measures of the apartheid era, which I will discuss in detail in this book.

From 'Cities Without Slums' to 'slum' eradication

Academically, the use of the term 'slum' in the Millennium Declaration is criticised. It is understood, by analysts such as British geographer Alan Gilbert, less as continuity (as one may argue for African countries like Kenya and Nigeria) than as a 'return of the word "slum" with all its inglorious assumptions' and 'cloaked in negativity' (Gilbert, 2007: 697, 702). Thus '[s]lums and slum dwellers are viewed as constituting one undifferentiated problem with never a redeeming feature' (ibid: 703). Gilbert (ibid: 704) finds it naïve that UN-HABITAT would defend its use of the term 'slum' on the basis that developing countries have come to use the term without its inherently negative and stigmatising historical connotations.[5] In this book,

I take a different position. The term 'slum' is not the main concern. While 'cloaked in negativity', and in urgent need of replacement with a more suitable term, it is not the word but an entire paradigm that needs to be confronted. In the contexts I refer to, 'slum' is used interchangeably with the less debated though also negative term 'informal settlement', 'informal' being an antithesis to the 'norm' aspired to, the planned and orderly modern city. In the countries I refer to in this book, the phrase 'slum upgrading' (in Gilbert's definition, a contradiction in terms) is used interchangeably with 'informal settlement upgrading'. Likewise, 'slum eradication' is used interchangeably with 'informal settlement eradication' and 'elimination'. In my analysis, the negative connotation today is derived primarily from the powerful 'Cities Without Slums' slogan, which contains the normative statement that cities must be free of 'slums' or informal settlements, and which governments and even UN-HABITAT itself (whether deliberately or not) have confused with a target to improve some 'slum' dwellers' lives over 20 years.

My own concern, therefore, lies not so much with the term 'slum' as with the misunderstood target to achieve cities free of 'slums', shacks or informal settlements. In South Africa, the legitimate political goal of 'poverty eradication' (Mandela, 1996) and 'eradication of the housing backlog' (Mthembi-Mahanyele, 2000) morphed into a new political focus on 'informal settlement eradication'/'slum eradication' or 'elimination', once the Cities Alliance and the UN began promoting the 'Cities Without Slums' slogan. Provincial governments and city mayors competed with ever bolder and less realistic undertakings about the date by which such eradication or elimination was to be achieved. National government brought forward the 2020 deadline of MDG Seven Target 11 to 2014, the end of the confidently anticipated fourth term of ANC government, for which the ANC had articulated a '2014 Vision' that included poverty eradication. In 2005 the then South African Minister of Housing, Lindiwe Sisulu, proclaimed:

> *Thus, in line with our commitment to achieving the Millennium Development Goals we join the rest of the developing world and reiterate our commitment to progressively eradicate slums in the ten year period ending in 2014.* (Sisulu, 2005)

Provinces and municipalities vowed to achieve the 'slum' eradication target by 2010 (Pithouse, 2009a: 10; SAFM, 2005), in time for South Africa's hosting of the 2010 FIFA World Cup. Subsequently, repressive legislative proposals found their way to Parliament and the provincial legislatures, ostensibly

in order to alleviate the mounting pressure to deliver on the informal settlement/'slum' eradication promises.

African governmental forums such as the African Ministers Conference on Housing and Urban Development (AMCHUD), chaired by South Africa's Housing Minister Lindiwe Sisulu at the time, allowed for a dissemination of the perverted 'eradication' commitment and for a proliferation of the misunderstanding of MDG Seven Target 11. With no hint of criticism, UN-HABITAT (2006: 163) reports that Morocco 'set the goal of becoming a slum-free country by 2010'. All of this occurred in a context of heightened pressure for African cities to brand themselves as 'African World Class', a trademark by means of which global city regions with highways, speed trains and corporate skyscrapers are evoked, and shacks and street trading are wished away. Hype surrounding the first African Soccer World Cup played no small part in legitimising such a vision across the continent.

The emergence of a network contesting 'slum' eradication and promoting a right to the city

In South Africa, the year 2000 was a watershed not only because of the launch of the MDGs but because in the same year, the country's second socio-economic rights case reached its young Constitutional Court, and received a sympathetic ruling—the first to do so. Justice Yacoob found that post-apartheid South African housing policy fell short of the reasonableness required of it in terms of the country's Bill of Rights, which includes a qualified right to housing. In the aftermath of what became known as the 'Grootboom' ruling (Yacoob, 2000), the then Minister of Housing humbly conceded to a return to the drawing board to reformulate the housing policy (McLean, 2009). Internationally, South Africa was applauded for this rare and indeed watershed judgement on socio-economic rights, and the country continued to enjoy global recognition for its efforts to redress injustices and inequalities of the past.

Despite the Grootboom ruling, however, urban evictions continued across South Africa. They mirrored the eviction which had removed Irene Grootboom and others in Cape Town from land they had occupied out of desperate need, and which had presented this group with no alternative but to 'camp' on a sports field, and turn to the courts for assistance. The unauthorised occupation of urban land by households fleeing intolerable conditions likewise remained a necessity for urban life among the poor. Few evictions found media attention or human rights activist support. Where the media reported

on urban land invasion, government feared the withdrawal of global investors due to a perceived collapse in the rule of law. This fear spurred a heavy-handed response to any such occupations. In 2001, desperate households long living on a portion of under-utilised land in Bredell, Kempton Park, in the Ekurhuleni metropolitan area on the outskirts of Johannesburg, and others joining them on the same and surrounding portions of land, were issued with an 'urgent' eviction notice. This was within days of exaggerated media reports likening Bredell to the illegal farm invasions in neighbouring Zimbabwe. In the short period of notice that an urgent eviction order permits, the evictees found no network to support them in their plight. Individuals among them who managed to secure *pro bono* legal representation were unsuccessful in the face of an unconstitutional High Court ruling (in favour of the eviction) that remained unchallenged—the mass eviction and demolition took place within days (Huchzermeyer, 2003a). Irene Grootboom's case, too, had been entirely isolated from any wider housing rights activism, in stark contrast to the third socio-economic rights case to be heard by the Constitutional Court, that of the Treatment Action Campaign which sought free access to antiretroviral medication for HIV-positive pregnant women. This case was the result of intense issue-based mass mobilisation (Friedman & Mottiar, 2006; McLean, 2009).

However, the absence of coordinated housing rights activism in South Africa would gradually become something of the past. In Johannesburg, the grassroots Inner City Forum brought evictions from inner-city buildings in Johannesburg to the attention of the Centre for Applied Legal Studies (CALS) at the University of the Witwatersrand. CALS responded not only through litigation but also through a discussion forum in January 2004 that addressed inner-city as well as peri-urban evictions. It invited the Landless People's Movement (LPM), the Homeless People's Federation (HPF), the Inner City Forum and other grassroots structures, human rights lawyers and urban development NGOs to attend, as well as academics like myself attempting to promote incorporation of informal settlement upgrading into South African housing policy. The Geneva-based NGO Centre on Housing Rights and Evictions (COHRE) also attended, expressing first disbelief, then dismay at the proliferation of evictions in a country still enjoying admiration 'on the international seminar and cocktail party circuit' for its concerted redress of apartheid injustices and for the watershed socio-economic rights ruling in the Grootboom case (CALS, 2004: 3).

Though loose, open and largely reactive rather than strategic (therefore not comparable with formidable civil society structures like the Treatment Action

Campaign), the emerging network that was born out of the CALS discussion forum was able to respond to a number of subsequent cases. CALS's litigation on the inner-city evictions in Johannesburg, assisted by a COHRE mission report on evictions in Johannesburg (COHRE, 2005a), progressed to another important Constitutional Court ruling which has significance beyond inner-city housing, particularly in relation to the concept of 'meaningful engagement' or evictees' right to participation in decision-making (Yacoob, 2008). At the same time, South Africa's approach to informal settlements, shaped by a combination of 'Cities Without Slums' and 'African World Class' aspirations, particularly in the wake of the 2010 FIFA World Cup, resulted in several cases of violation in relation to informal settlements, culminating in high-level litigation and public debate. The launch of a revised housing policy in 2004, for the first time incorporating informal settlement upgrading, was simultaneously contradicted by the launch of the N2 Project (later renamed N2 Gateway), initially to upgrade but soon to remove the ocean of shacks and their inhabitants that greet international visitors on their transfer from the airport into the historic City Bowl area of Cape Town.

COHRE's involvement in the loose network, and its growing concern about 'slum policy' as a cause for eviction, resulted in my involvement in two COHRE investigations beyond South Africa's borders, in Nairobi in 2004 (COHRE, 2005c) and Abuja in 2006 (COHRE & SERAC, 2008). In both cases, high-profile development programmes were largely responsible for the evictions—the Kenya Slum Upgrading Programme (KENSUP) in partnership with UN-HABITAT, and the Abuja Master Plan for the capital of Nigeria which called for a city free of 'slums'. Each provided disturbing insights into, and uneasy parallels with, the unfolding situation in South Africa.

In 2005, a broken development promise to the Kennedy Road informal settlement in Durban, and arrests following the community's protest action, sparked the birth of a new shack dwellers' movement, Abahlali baseMjondolo (Bryant, 2008; Pithouse, 2008a).[6] With early support from sympathetic academics at the University of KwaZulu-Natal, further assistance could be mobilised from COHRE and the wider network on housing rights, both to resist evictions and to articulate upgrading demands (COHRE, 2008). In direct response to the state's perceived pressures to free South African cities of shacks and to host the 2010 FIFA World Cup in cities of a world-class standard, the provincial legislature of KwaZulu-Natal drafted a 'Slum Elimination and Prevention of Re-emergence of Slums Bill', which included repressive direct measures used during the apartheid era to tackle informal settlements rather than the causes thereof. National government and the

ANC identified the Bill as a blueprint for other provinces to follow. In outrage, individuals and organisations within the growing network (now including Abahlali, as well as individuals and organisations in Cape Town) drafted responses. To everyone's disbelief, the Bill was enacted in 2007, largely unchanged, as the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act No. 6 of 2007. Abahlali, assisted by CALS, then challenged the 'Slums Act' in an unsympathetic High Court, appealed to the Constitutional Court, and in 2009 finally secured a ruling which removed a central section of the Act, thus rendering it inoperable (Moseneke, 2009).

However, the struggle against informal settlement eradication in South Africa did not end at that point. Abahlali experienced a violent and drawn-out onslaught from the dominant political structures of KwaZulu-Natal. In 2009, in the N2 Gateway case in Cape Town, the Constitutional Court ruled in favour of an eviction and relocation to a distant transit camp (Langa et al, 2009). Also in that year, the same Court dismissed a request for dignified basic services from the Harry Gwala informal settlement in Ekurhuleni on the outskirts of Johannesburg, also endorsing the persistent misreading of South Africa's progressive informal settlement upgrading policy since 2004 (Van der Westhuizen, 2009). In an unexpected turn of events, in 2010, President Zuma announced a new target, namely to upgrade 400 000 units (Zuma, 2010a) (initially 'at least 500 000' (Zuma, 2010b)) in informal settlements. As various organisations compete to define the best approach to meeting this new target (see Chapter 7), and a National Upgrading Support Programme (NUSP) is tasked with compiling the necessary budgets and procedures, fears remain that only those settlements considered to be on land suitable for conventional low-cost township establishment will receive attention in terms of the new commitment. Those that have struggled against relocation over many years remain subject to the pressure of planned relocation projects, while the state increasingly resorts to security measures (surveillance and control) to prevent new occupations of unused land by the poor. The increasingly exclusionary context crystallises the determination of poor households to create their own space in the city, to defend their foothold in urban areas and to have their demands heard at a high level (increasingly through collective protest) as an implicit exercise of their 'right to the city'. This concept, coined in France in the 1960s, spans these three dimensions—the right to shape the city and its public space, the right to permanently inhabit meaningful locations within the city, and the right to participate in decision-making (Lefebvre, 1996 [1968]).

Constitutional rights and obligations in liberal democracies such as South Africa, and Kenya since 2010, represent aspects of the right to the city. While informal settlement communities have to exercise their right to the city largely in defiance of exclusionary policies and practices that are often considered 'legal' and legitimate, they have also sought implementation or realisation of this right through high-level litigation. This has led to some victories. However, courts would benefit from a 'right to the city' lens through which to interpret urban claims, obligations and violations. Bond (2010: 26) argues that grassroots demands for greater concessions from the state which impinge on the prerogatives of capital and rich people expose 'the limits of neoliberal capitalist democracy'. He challenges those 'committed to a different society, economy, and city ... to combine requisite humility, based on the limited gains that social movements have won so far (in many cases matched by the worsening of regular defeats) with the soaring ambitions required to match the scale of the systemic crisis and the extent of social protest' (ibid: 27). For Marcuse (2009: 194), 'anything now on the agenda seems trivial' in the 'long-term perspective' of 'an alternative to capitalism'. The majority of informal settlement and right-to-the-city struggles across South Africa and other African countries are still fought without legal, social movement or progressive NGO and academic support of any kind. While this book tries to grapple with aspects of the systemic crisis that Bond refers to, its immediate aim (which may seem trivial) is to inspire a wider understanding of, sympathy for and solidarity with struggles against informal settlement eradication in South Africa and beyond. It hopes to help promote a far-reaching understanding of and yearning for a right to the city within civil society, but also within global agencies, governments, the courts and political formations, where some of the most strategic reflection, re-conceptualisation and action will need to be located.

Challenging 'slum' eradication—an outline of the book

This book is concerned with the question of 'slums' or informal settlements and the global forces, in the form of campaigns and urban policy norms, that shape the dominant approach to informal settlements. Far from mainstreaming 'slum' improvement, *in situ* upgrading or the integration of informal settlements into the urban fabric, these forces ensure that the improvement of conditions in existing 'slums' remains an exception that has to be fought for from below, but is seldom granted and at times is deliberately reversed. These forces have particular relevance for an understanding of the current situation in many African cities. The book primarily uses the

South African case to explore this, but also shows the parallels that exist with campaigns, projects and programmes in Nigeria, Kenya and Zimbabwe.
Part One speaks to the particular context of informal settlements in cities of the new millennium, pointing to processes, understandings and contestations that have intensified over the past decade. Chapter 1 considers the complex root causes of informal settlements or 'slums', and exposes a widespread reluctance to grapple with them. This reluctance can be traced to the overall approach in the MDGs. It stands in contrast to a rights-based approach which seeks to hold governments to account and to address root causes in the pursuit of freedom. Norms and targets are central to bodies such as the UN and to the MDGs. The chapter argues that the norm behind MDG Seven Target 11, namely that cities should not have 'slums', has a problematic origin and sits uncomfortably alongside a norm that is currently gaining global recognition, namely that all should have a right to the city.

Chapter 2 turns to growing pressure for cities to prioritise economic competitiveness over other policy objectives. Following the logic of needing to attract foreign investment, and therefore to expand high-quality urban environments, cities shun the upgrading of existing informal settlements. This logic extends to adopting repressive approaches in order to keep the poor out of the city. The promotion of freehold as the dominant form of urban tenure, along with urban competitiveness, undermines any realisation of a right to the city.

Chapter 3 explores different conceptions and dimensions of urban informality. Against the backdrop of a mainstreamed understanding of the formal and the informal as a duality, there are calls for more complex notions of informality to be developed, also acknowledging the poles between which informality exists as a field of tension. Dominant representations of informal settlements are made in numerical terms, through icons, or through different external frames, each with its own limitations. Other dimensions emerge when informal settlements are explored from the perspective of their inhabitants. This raises the normative question of whether these settlements should merely be researched and recognised, or whether solidarity is called for with the struggles for urban life within informal settlements.

In Part Two, the book turns to 'slum' eradication drives and activities in several African cities in the new millennium. Chapter 4 provides cases of city-wide 'slum' clearance campaigns. While touching on post-millennial evictions in contexts such as Cameroon, Angola and South Africa, the chapter focuses on Nigeria's deterministic implementation of the 1979 Master Plan

for its capital city, Abuja, with evictions taking place from 2003 to 2007, and Zimbabwe's Operation *Murambatsvina* ('Clear Out Trash') in June 2005. The chapter portrays these campaigns not as exceptions or aberrations but rather as consistent with widely legitimised planning and policy intent, including urban competitiveness and beautification. This distils the unacceptable exception that cautious *in situ* upgrading (in which residents are not removed) remains to authorities, and the legitimising function of unrealistic flagship housing projects.

Chapter 5 presents South Africa's shift from a housing delivery target to informal settlement eradication by 2014. It shows how this new urgency has crowded out any possibility of implementing an informal settlement upgrading programme adopted nationally in 2004. The aspiration of urban competitiveness, intensified by the hosting of the 2010 FIFA World Cup, shaped an obsession with redeveloping and not upgrading those settlements visible to tourists and investors. From national politics and policy, the chapter turns to informal settlement eradication practice as imposed upon and permeating municipal procedures and performance in Gauteng Province.

Chapter 6 returns to flagship 'slum' eradication projects that stubbornly steer away from *in situ* upgrading. It shows compelling similarities between the deeply flawed, troubled and contested trajectories of the N2 Gateway project in Cape Town and the Kibera-Soweto pilot project of the KENSUP initiative in Nairobi. While the N2 Gateway displays the South African Housing Ministry's eradication logic and excuses for not upgrading, the Kibera-Soweto project exposes UN-HABITAT's problematic role in partnership with a national government.

Part Three homes in on recent initiatives that have sought to oppose informal settlement eradication or promote *in situ* upgrading in South Africa. Chapter 7 deals with the particularities of, and quite fundamental differences between, the positions of these initiatives (including municipal programmes), and the roles of global players, in particular Cities Alliance and SDI, within them. Comparing the NGO and expert efforts that surround the new presidential informal settlement upgrading target, the chapter introduces a consistent, but difficult and risk-taking, rights-based confrontation with informal settlement eradication politics and practice.

Analyses of two rights-based initiatives from within informal settlements in South Africa follow, each involving litigation up to the Constitutional Court. Chapter 8 discusses the trajectory of Abahlali's challenge to the

KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums' Bill and Act. It exposes the 'slum' or informal settlement eradication discourse in South Africa, and its reference to global initiatives such as the MDG and SDI in its own legitimation. The chapter contrasts this with what can broadly be termed a 'right to the city' discourse, which challenged the Act, though narrowed down considerably in the actual litigation.

Chapter 9 in turn presents the drawn-out rights-based struggle for informal settlement upgrading by the Harry Gwala informal settlement, affiliated to the LPM. It provides insight into the bureaucratic and political resistance at every level to *in situ* upgrading, even beyond the Constitutional Court which ordered that its feasibility be investigated, and the impossibility of an organised community engaging in any meaningful way with the state.

Chapter 10 returns to the original concept of a right to the city, and explores its relevance in relation to informal settlements. It shows how important aspects of a right to the city today are displaced by events and situations requiring urgent responses, leaving little space even for contestation. This leads to concluding questions about contestation over a right to the city, and who might be involved in advocacy and action for such a right.

End notes

1. At the time (and up to 2002) Habitat was a centre and not yet a UN programme, and was therefore called the United Nations Centre for Human Settlements (UNCHS) (Habitat).
2. In his judgement on the case of unenclosed toilets installed in the Makhaza informal settlement in Khayelitsha, Cape Town, Justice Erasmus adds a footnote (with reference to the usage of the term 'slum' in the MDGs) stating very clearly, 'I do not deem it appropriate to refer to human beings' abode in those terms' (Erasmus, 2011: s.9, footnote 6). Controversy over the 55 unenclosed toilets that were the subject of this case dominated the campaigning for the local government election (and media coverage) in May 2011.
3. Although the term 'squatter camp' is avoided in the official post-apartheid policy and development discourse, it has popular traction among young residents of informal settlements thanks to a 'contemporary South African hip hop band ... [called] skwatta kamp' (Hunter, 2011: 89).
4. 'Sofasonke' can be translated as 'we shall die together' (Stadler, 1979).
5. Alan Gilbert's research has been primarily on Latin America, where the anglophone development discourse and the UN's 'Cities Without Slums' slogan have been less influential. Gilbert (2007: 703) points to the derogatory connotations attached to the term *favela* in Brazil. This term (only one of many terms used in Latin America), though often translated into English as 'slum', has a different origin and

usage across history. Perlman (2010: 37) refers to the two terms as 'worlds apart'. According to Mangurian (1997), *favela* was derived indirectly from a Brazilian plant in about 1900, and applied first to label people who came from a hill on which this plant grew, and who also happened to occupy land informally in Rio de Janeiro. In Brazil's largest cities, society has used the term *favela* for over a century, though not without stigmatisation (see Perlman, 2010). It should be noted that a 'return' of the term *favela* (or 'slum', for that matter) does not apply to Latin America. While the media has raised concerns recently regarding a drive against Rio de Janeiro's *favelas* as a result of preparation for the 2014 FIFA World Cup and the 2016 Olympics (Grudgings, 2011), the word 'slum', universalised as it is in the anglophone world, does not have a direct equivalent in the Latin American discourse.

6. Abahlali baseMjondolo translates as 'people who stay in shacks'.

PART ONE

The urban context in the new millennium

Chapter One

Informal settlements, global governance and Millennium Development Goal Seven Target 11

> *[T]here are important differences between the MDGs and human rights, having to do with agency, accountability, the analysis of causes, and symptoms of poverty, including political and civic freedoms.*
> (Paul Nelson, 2007: 2042)

Informal settlements sit at the intersection of various dimensions of globalisation and local political decisions and processes. They are a complex manifestation of more than just poverty, yet poverty as well as a human resolve to live in the city are intertwined with and reinforced by many of the causes of informal settlements. There is a political and bureaucratic tendency to blame the existence and growth of informal settlements on simplistic 'problems' and to focus only on elimination of the symptoms. This tendency is fuelled by the 'Cities Without Slums' campaign, which, as I show in this chapter and the next, is closely linked to global agencies' promotion of neoliberalism, and therefore of economically competitive cities in the 'developing' world. Global governance bodies on the one hand promote human rights, yet on the other hand they encourage a reductionist and symptom-oriented approach to poverty and informality, while also unintentionally fuelling stigmatisation. This is manifested in MDG Seven Target 11 with its official slogan 'Cities Without Slums' and the implicit norm that cities should not have 'slums'. However, global governance agencies' work in relation to this norm is an example of a larger dysfunctionality within the global governance system in which norms and targets play a particular role.

Informal settlements, cities and globalisation

The causes of 'slums' or informal settlements are poorly researched, particularly as regards the African continent. The current global development focus is almost exclusively on measurable symptoms rather than on the multiple and varied causes, and this has discouraged any serious attempts to understand why informal settlements proliferate.

Not encouraged to do otherwise, governments resort to simplistic and convenient causal explanations that portray informal settlements and their causes as a 'problem' in need of 'control'. When this forms the basis for intervention programmes, the result, as Brazilian urban lawyer Edesio Fernandes (2011: 3) warns, might make 'conditions worse for the low-income residents the programmes are intended [for]' or stimulate 'the development of new informal settlements'. In post-apartheid South Africa, political leaders at various levels of government have all too often blamed the 'mushrooming' or 'ballooning'[1] of 'slums' on undocumented migration from across South Africa's borders (e.g. Johannesburg Mayor Amos Masondo, quoted in a *City of Johannesburg News Update* (City of Johannesburg, 2009)). 'Illegal migrants' are a convenient scapegoat, diverting attention from the processes that intensify domestic (national) inequality and urban disparities. The uncertainty in our understanding of migration and urbanisation (and its variations) across the African continent, which I briefly discussed in the introduction to this book, does little to counter this tendency. Further, the portrayal of 'slums' or informal settlements as an exclusively urban or alternatively cross-border problem also diverts attention from non-urban domestic causes. Ashwani Saith (2006: 1195) speaks of 'a great silence' about the causes of urban 'slum' formation that lie in rural and agricultural policy. Informal settlements are also not readily recognised for their function as an important but fragile 'labour market interchange zone' for people needing to move between the economic sectors of cities and rural areas (Cross, 2010: 7). In South Africa, more than a decade of denialist policy on HIV/AIDS, coupled with a complex interplay of apartheid legacy, post-apartheid socio-spatial geography and growing economic disparities, has shaped urban and rural impoverishment and movement into urban informal settlements, where in turn some of the highest HIV-infection rates have been found to be concentrated (Ambert, 2006; Hunter, 2006, 2010; Thomas, 2006).

While acknowledging the substantial burden of the apartheid legacy, independent analysts have linked South Africa's growing disparities in large part to the country's neoliberal macro-economic policy that has increasingly opened South African markets to global competition (Terreblanche, 2002). David Harvey (2004: 238) has argued that '[t]hirty years of neoliberalism teaches us that the freer the market the greater the inequalities'. For Pacific Asia, analysts point to the 'spatially polarizing effects' of globalisation, which include 'environmental degradation, intense crowding and congestion', as 'the twin processes of globalization and rapid urbanization continue to transform

all dimensions of economic, social and political life' in that region (Douglass, 2002: 53).

The post-independence context of African cities is marked by several 'crises', which explain in part the growing economic 'informalization' (Meagher, 1995), the backlog in formal or adequate housing and the proliferation of informal or largely unprotected living arrangements. Stren and Halfani (2001) analyse the following interlinked components of the sub-Saharan African urban crisis of the 1980s and 1990s: economic decline, unemployment, inability to provide serviced land and infrastructure to growing urban populations, environmental decline and the inadequacies of governance in meeting these challenges. However, little research exists on the role of corruption, patronage and unchecked exploitation—the 'speculative temptations' (Harvey, 2005: 32) that the neoliberal order has failed to keep in check—in contributing to the expansion of informal settlements. On the one hand, there is the corrupt diversion of significant public resources. For Lagos, Nigeria, Gandy (2006: 389) observes that '[v]ast quantities of capital that might have been invested in health care, housing or physical infrastructure were either consumed by political and military élites or transferred to overseas bank accounts with the connivance of Western financial institutions'. Large-scale financial scandals, of similar scale and nature in Nigeria, Kenya and South Africa, demonstrate a 'distortion of the relationship between democracy, business and economy' (Edozie, 2008: 47). On the other hand, with a more direct geographical implication, there is the irregular allocation 'of public land to well-connected individuals' (Klopp, 2000: 8). In the case of Kenya, Klopp (2008: 22) links widespread land corruption to an intensifying '"informalization" of politics' and suggests that this tendency increases as other 'sources of mainstream patronage' (the direct capture of public and donor funds) are closed off. Land corruption occurs at many scales. Syagga et al (2002: 15) cite an academic study of real estate in the Kibera 'slum' in Nairobi in 2000 (Mugo, 2000) which 'reported that out of a sample of 120 landlords interviewed 57% were public officials (government officers and politicians)'. As of 1972, civil servants in Kenya were permitted 'to engage in business' (which included informal rental housing investment), thus 'providing a big loophole for corruption' (Anyang' Nyong'o, 2007: 80). In the South African civil service this is paralleled by a 'growing dual employment and moonlighting' (Butler, 2010: 194).

In cities such as Nairobi, where many 'slum dwellers' are known to rent from wealthier illegal landlords, land corruption and its role in the creation of 'slums' is generally acknowledged (Amis, 1996; COHRE, 2005c;

Syagga et al, 2002). Where most 'slum dwellers' still own the structures they inhabit, as in many southern African cities, the modalities of patronage and exploitation are far more hidden. Yet they are part of the reason why, despite hostility, threats, sporadic evictions and even large-scale displacement, informal settlements have continued to exist in most African cities. An exception is Zimbabwe, where Operation *Murambatsvina* in 2005 put an abrupt end to this very process which, though never occurring at the same scale as in other African countries, was seemingly perceived as a threat to autocratic rule. In cities such as Abuja which actively aspire to world-class status, a realignment of exploitative interests towards new globalised economic opportunities (or 'patronage assets' (Klopp, 2000: 22)) may pave the way for complete informal settlement eradication through extreme repression.

However, far more nuance is required in explaining the existence and growth of informal settlements. An in-depth anthropological study of an informal settlement in KwaZulu-Natal in South Africa shows how 'a series of interconnected shifts that include rising unemployment and inequalities, reduced marriage rates, and the greater mobility of women' contributes to 'the persistent growth of shacks' (Hunter, 2010: 111). It would be incorrect to portray informal settlement residents as merely passive victims of these apparent as well as hidden forces.[2] While the real lack of options must be acknowledged, informal settlements would not exist without the will or resolve of thousands of households or individual men and women, who assess their situation and decide actively to connect their lives to the city or its fringes through a particular informal settlement, and by consciously navigating among (and at times resisting or defying) players whom they know exploit their existence. Collectively and individually, the residents of informal settlements create and shape urban space (even as tenants), often against all odds. It is important to recognise the personal endeavour, ingenuity, intimacy (Hunter, 2010), complexity, human scale, political action, small-scale market activity and cultural and artistic expression in these settlements. Murray (2008: 33) refers to informal settlements as 'incubators for inventive survival strategies where inhabitants have begun to reclaim available space for multiple uses, develop their own specific forms of collaboration and cooperation and reterritorialize their connections both inside and outside the city'. An awareness of such initiative may steer policy-makers' consciousness and discourse away from repulsion and 'eradication' towards improvement and support. But it would be naïve to assume that such awareness alone could counter both the exploitative economic and political forces and interests that, at best, have kept informal settlements

as they are, and the tendency to 'rehearse a set of politically easy choices' (Butler, 2010: 199).

More naïve, though influential, however, are the reductionist assumptions behind a dominant neoliberal approach, captured in the influential economist Hernando de Soto's (2000) book *The Mystery of Capital* and promoted through powerful donor agency slogans such as 'Making Markets Work for the Poor—MMW4P' (McCarthy, 2006). This position overstates the entrepreneurial opportunities that exist in informal settlements, and the potential for improving people's lives (or alleviating poverty) by unlocking their assets through credit and regulation or legalisation (Fernandes, 2002). There exists a strong criticism of this 'discourse of "bankable" slums', which presents '"slum dwellers" as already-constituted financial subjects' (Jones, 2009: 8).[3] International agencies, including UN-HABITAT and Cities Alliance, and a body of urban consultants and NGOs closely aligned to these organisations, like to portray 'slum dwellers' as owners of (bankable and non-bankable) assets and therefore potential agents of their own individualised destiny. In this often patronising approach, the 'problem' is seen, at least in part, as the absence of agency (the ability to make a difference) and the non-optimal use of existing assets. This distracts from the uncomfortable reality that the residents of informal settlements, although treated with hostility by urban authorities, perform a function within a patronage-dependent and often corrupt political and economic system at urban, national and international levels. Consistent hostility, threats of displacement and lack of proper recognition, all of which prevent these settlements from progressing into the living environments that their residents would hope for (and prevent especially young residents from realising their hopes for a better life (Hunter, 2010)), have seemingly come to form part of a regime that relies on and exploits their existence—until more lucrative 'patronage assets' offer themselves.

The causes of informal settlements are a complex combination of political, economic and social forces that include but also limit human resolve. The physical expression or form of informal settlements, by contrast, is fairly easy to explain. To a large extent, where planning is not absent altogether, it is determined by the wastefulness of modern urban spatial plans and engineering, backed and intensified today by the neoliberal responses to the demands of investment. Exported by the UK to anglophone Africa during the era of colonialism (itself a form of globalisation (Grant, 2009: 8)), modern town planning remains obsessed with the motorcar and its spatial claims (superblocks, highways, road reserves) and with the spatial possibilities that the private motorcar unlocks (extravagant land use separation and dormitory

living) (Watson, 2009: 175; see also UN-HABITAT, 2009). In its standardised production of cities, the natural environment is not an inspiration to urban plans but a hindrance. Modern town planning leapfrogs valleys and rivers, wetlands and steep slopes with little thought. At best it uses these as spatial buffers between what it views as incompatible land uses. The perceived incompatibilities include habitation by different income groups. A recent example is South Africa's flagship 'integrated'/'mixed-income' or 'inclusionary' housing development, Cosmo City, on Johannesburg's periphery (Keepile, 2008). Here a natural valley forms a spatial buffer between mortgage-financed and fully subsidised housing units. Due to the threat of environmental degradation (or in response to 'a requirement by the Gauteng Department of Environment and Conservation') the valley is surrounded by a tall concrete palisade (RBA Homes, n.d.: 1), forming an impenetrable barrier that prevents any contact between the social classes. Beyond the valley, in Murray's (2011: 200) description, 'corporate builders' have extended the concrete palisade, marking the 'class and status differentiation'. As South Africans know all too well, in the hands of divisive and racist regimes the perceived incompatibilities requiring barriers between groups have included different ethnicities or colours of skin.

This global form of segregationist city planning has been dominant in Africa since the mid-1940s, when many colonial governments commissioned leading international town planning firms from the west to prepare modern master plans for colonial cities (see Njoh, 1999: 84). Where implemented, and where extended and perpetuated by private gated developments, these master plans and their exclusive private extensions produced leftover space, whether on the overdesigned sides of roads, the buffers between individual (internalised) mono-functional cells of a superblock or the carelessly leapfrogged natural areas deemed unsuitable for the standardised development. Those fortunate enough to own a car and to inhabit suburbia take this space for granted and demand its reproduction (and fortification). Those who can afford neither this form of urban living nor the few alternatives that the mostly underdeveloped and often unregulated rental and apartment markets may offer, have had no choice but to reinterpret the official city plan from a quite different perspective. They recognise in it unplanned opportunities for inhabiting the city. '[L]ike some amorphous tide', informal settlements 'spread everywhere, taking over the interstitial spaces' (Fabricius, 2008: 12, quoting 'Brissac', presumably a text in Portuguese by Brissac Peixoto, 1996). The poverty and environmental degradation that accompany these settlements 'merge with a meaningless modernity to make

a mockery of social and economic development' (Malik, 2001: 875). In most African cities, the fruits of urban planning have from the outset been this juxtaposition of informal settlement (in degraded natural environments) and modern (increasingly gated and privatised) town.

However, there are notable deviations. In Nairobi tenement investors, inhabitants and bureaucrats have collectively reinterpreted and inverted modern layouts into densely developed open gridiron settlements, to the extent that the modern plan can no longer be recognised (Huchzermeyer, 2011). At the other extreme are Zimbabwean cities, where 'the policing and eradication of illegal, squatter dwellings has been pursued with great vigor and general "success" for most of the post-independence era' (Potts, 2006a: 266). Yet, whether Nairobi, Zimbabwean cities, or those in which large areas of informal settlement on the urban periphery contrast with much smaller areas adhering to formal plans, *in situ* upgrading remains an exception to the largely unreformed planning rules. This is despite policy commitments to upgrading as well as legislation that allows evictions (linked to demolition or forced relocation) only in exceptional circumstances. Beyond its request that the exception of upgrading be made, or that marginal unserviced land be released rapidly for the (re)settlement of poor households, urban planning as a discipline has failed to address the reality it has actively co-created. A recent UN-HABITAT (2009: 58) report on planning acknowledges that '[m]aster planning has been used (opportunistically) across the globe as a justification for evictions and even land grabs', but the same report provides only a short list of relatively weak alternatives. Garau et al (2005: 44) call for 'an in-depth revisiting of the theory and practice of urban planning, which is ... divorced from reality and oblivious to the present and future needs of lower-income citizens'.

Segregated urban order, accompanied by exclusionary building regulations, has long been an effective form of control even for weak regimes (see Myers, 2002). The presence of visible informal settlements in the leftover and degraded space in and around formally planned towns signals failure of the state. At the same time, the stark contrast between the informal environments and the officially planned parts of a city in itself lends power to authorities, allowing for control merely through the ease with which these settlements and their populations are identified, delineated and labelled. The larger the gap between formal spatial, infrastructural and regulatory standards and the spatial norm of informal settlements, the greater the ease with which this control is exercised, and the greater the justification for a town planning apparatus that polices the formal order to protect it from

invasion by the informal, rather than closing or bridging the gap, improving, uplifting and incorporating the informal. The spatial drives towards global urban competitiveness and its standards of infrastructural investment, which I discuss in the next chapter, increase the distance in standards between the aspired to (and gradually materialising) formal and the existing informal, arguably beyond the disparities created by colonial town planning.

In situ upgrading of informal settlements, even if incorporated into official urban or housing policies, sits uncomfortably with the political logic that has bought into global competitiveness (in the developing world this logic is supported by that of the developmental state, which depends on economic growth) and therefore underpins this divide. The very 'exception' that informal settlement upgrading remains in urban planning expertise, procedures, practice and political decision-making (irrespective of policy) requires a contestation in every locality for such an exception to be made and sustained. This lies at the core of the paradox (already mentioned in the introduction to this book) that bedevils the current global urban initiative, the urban sector of global governance, dominated as it is by the economic sector and global financial institutions while purporting to prioritise an exception that makes little real sense in the economic terms of urban competitiveness and in the accompanying, pervasive political agenda to secure long-term elite control.

Urban neoliberalism and the legitimacy of global governance structures

Global governance has its origins in the end of World War Two, when the apparent need for post-war cooperation led to the creation of international organisations. One set of organisations was the World Bank and the International Monetary Fund (IMF), formed at a meeting in Bretton Woods in the US. Their agenda was to foster economic cooperation, facilitate trade and capital investment and raise the productivity of labour (Bretton Woods Project, n.d.). The other was the formation of the UN, with a wider agenda spanning human rights, law, security and economic development as well as social progress at international level (UN, n.d.). Apart from its central structures, which include a Human Rights Council with a 'Special Rapporteur on the Right to Adequate Housing', the UN has established a series of centres and programmes. These include 'Habitat', formed in 1978 as the United Nations Centre for Human Settlements (UNCHS (Habitat)) and headquartered in Nairobi. UNCHS (Habitat) began cooperation with the

World Bank and gradual alignment to World Bank policy in the late 1980s through the Urban Management Programme (UMP) (Jones & Ward, 1994). The World Bank articulated its interest in urban poverty and urban research in a policy paper in 1991 (World Bank, 1991). In 1999 UNCHS (Habitat) and the World Bank cooperated in the formation of Cities Alliance—Cities Without Slums, a 'global association of development partners' (Mukhija, 2006: 56), which is based within the World Bank but performs a key function of UN-HABITAT in relation to its 1996 Habitat Agenda. At the same time, the World Bank saw its shift to funding urban development quite plainly as 'good business' (Robinson, 2002: 194, quoting World Bank, 2002: 40).

Neoliberalism, a theory already in circulation under that name in the early 1960s, though in 'relative obscurity', stems from liberal theories of economic and political practice (Harvey, 2005: 2). A handful of influential politicians, including Britain's Margaret Thatcher, transformed neoliberalism 'into the central guiding principle of economic thought and management' (ibid), though with 'an uneven geographical development ... on the world stage' (ibid: 9). Neoliberalism promotes 'deregulation, privatization, and withdrawal of the state from many areas of social provision' (ibid: 3). Correspondingly, by the late 1990s urban policy had mainstreamed the concept of entrepreneurial and competitive cities across 'the advanced capitalist world' (Hubbard & Hall, 1998: 6). Advocates of neoliberalism are influentially located in the leadership of global governance organisations such as the World Bank, the IMF and the World Trade Organisation (WTO) (ibid: 3). Advocates of the entrepreneurial and competitive city, in turn, are influentially located in Cities Alliance and evidently in UN-HABITAT—the successor of UNCHS (Habitat) as of 2002.

The globalised, neoliberal, capitalist society has long destined the poor (whom it persistently fails to uplift) to inhabit the city margins. In Harvey's words, 'there is little to be expected from neoliberalization except poverty, hunger, disease and despair' (2005: 185). In the context of increased economic polarisation, a direct outcome of economic neoliberalism and globalisation (Harvey, 2004; Watson, 2009), the urban poor constitute a convenient surplus of low-cost and unregulated labour, their cheap accommodation in informal settlements thus 'playing a very crucial function in peripheral economies' (Njoh, 1999: 163). Yet, as unemployed masses, informal settlement residents are largely superfluous to the formal, globalising (post)modern economy. Though increasingly recognised as customers of the wireless communication industry, they have no means to hold the formal economy to ransom from within. And nobody currently does so on their behalf.

While in the 1960s a 'sustained delegitimation campaign' was staged 'from "within" the system of global governance', in particular from within the bodies created to govern global trade, the successors to these bodies are now challenged only 'from without' (Steffek, 2003: 269). Since 'the late 1990s ... unprecedented protest' by the 'anti-globalisation movement' at the meetings of the WTO engages 'international organisations in a justificatory discourse with civil society' (Steffek, 2003: 269–270). The international organisations respond by seeking 'to persuade the public of the validity of their arguments'. This suggests that ultimately the legitimacy of organisations such as the WTO and even UN-HABITAT 'is dependent on public approval of its principles, procedures and politics' (ibid: 270). Thus, in legitimising themselves, official global governance structures draw much alarmist attention to the scale of urban poverty and 'slums', while simultaneously promoting the myth that prosperity for all will be achieved through the market and its global investors.

The UN's growing weakness since 1980 is its submission to the neoliberal consensus coordinated by the IMF and the World Bank (Emmerij et al, 2005: 217, citing Toye & Toye, 2004). In the Millennium Declaration, the UN (2000: 2) states its belief that economic globalisation can 'be made fully inclusive and equitable'. At the same time, it attempts to counter the polarising outcomes of this economic system. Here it identifies its 'central challenge', namely that 'while globalisation offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed' (ibid).

It is into a polarising neoliberal world, and precisely because of growing inequalities, that the UN introduced the Millennium Development Project in 2000 and articulated goals and targets. It incorporated Cities Alliance's target 'to significantly improve the lives of 100 million slum dwellers by 2020' with the slogan 'Cities Without Slums' into the MDGs. The other targets, with the exception of Target 9 which relates to broad policy change, are all based on issues which, in the urban setting, intersect with living conditions in 'slums'—extreme poverty, hunger, denial of access to potable water, exclusion from education, inequality, disempowerment, child mortality, ill health and infectious diseases. Achieving these targets for a vast urban population is inextricably tied to improving the lives of 'slum dwellers'. Yet neoliberal economic resistance to achieving a 'slum improvement' target is intense, because 'slums' in most settings are located within a competitive urban land market, which would much rather have 'cities without slums'.

In anglophone Africa, informal settlements are not only located on the vast and largely unmanaged urban peripheries (Watson, 2009: 163), but also on land (leapfrogged by urban planning) long surrounded by formal urban development. As the official urban core expands and intensifies, the inhabitants of informal settlements, lacking secure tenure, face displacement and by implication impoverishment (Du Plessis, 2011). Formal urban stakeholders, whether in government or the private sector, recognise a value in land long occupied informally, perhaps once deemed unsuitable for development. When inhabitants of these settlements, often in defence of their livelihoods, organise and struggle for the exception of *in situ* upgrading rather than the norm of removal/relocation, they have to compete with emerging plans for productive development (ibid) or profitable investment on the same land. Frequently such investment demands are from multinational corporations. If not, they are motivated by the state and its urban economic consultants through the perceived urgency to make the city more attractive to such investors.

Urban competitiveness, which I examine in greater depth in the following chapter, actively steers away from the exception of informal settlement upgrading. To satisfy perceived obligations (and often donor conditionalities), many governments develop a single high-profile 'slum' upgrading pilot project, while allowing 'market-driven displacement' (Durand-Lasserve, 2006) from other 'slums' onto the urban periphery. Global agencies are blind to the scale of this displacement precisely because of its utility in making cities more attractive to global investors. Whereas the South African government has consistently refused to implement its Informal Settlement Upgrading Programme of 2004, instead resorting to informal settlement demolition and relocation, often through forced eviction (COHRE, 2008; Huchzermeyer, 2010a), UN-HABITAT (2006: 162) promotes the myth that South Africa has 'demonstrated consistent political commitment over the years to large-scale slum upgrading'! The vision documents formulated for African cities, particularly since 2000, are not inspired by UN-HABITAT's calls for scaling up 'slum' upgrading. Instead, uniform, globally attractive economic visions proliferate, whether termed *Joburg 2030* (City of Johannesburg, 2002) or *Nairobi Metro 2030* (Ministry of Nairobi Metropolitan Development, 2008).

What Isabelle Milbert (2006: 315, borrowing the term from Bunsha, 2005) calls 'Shanghaization' may be termed 'Dubaisation' for the African continent. Dubai, where 'mega-urbanization projects' are 'mopping up the surplus arising from oil wealth in the most conspicuous, socially unjust

and environmentally wasteful ways possible' (Harvey, 2008: 30), is on the more visible horizon for aspirants of globalisation on the African continent. Beyond the mega-event-driven 'festivalisation' of cities (Häußermann & Siebel, 1993 cited in Haferburg & Steinbrink, 2010) which is a more temporal impact of globalisation, Dubaisation forms a relentless pressure to ignore, evade, stamp out and wish away reality in African cities and usher in an elite-driven African World Class illusion.

The global governance structures are not unsuccessful in legitimising themselves, despite such fundamental problems with the approaches they promote. With regard to UN-HABITAT's agenda in relation to the 'slums' target, prominent urban academics (often acting as consultants) and much of the professionalised NGO sector internalise the organisation's urban statistics and position. UN-HABITAT's World Urban Forum forms a biannual platform at which this sector participates in the organisation's campaigns. While no doubt contributing to and shaping the work of UN-HABITAT, it tends to refrain from using this high-profile platform to criticise UN-HABITAT for contradictions in the urban policy it promotes globally.

A critical perspective on the MDGs as global governance response

In 2000, when the Millennium Development Project was launched, the pressure for urban competitiveness was already apparent. With the MDGs, the UN intended to motivate increased 'pro-poor' development within this 'pro-growth' context (terms used by Lemanski, 2007). However, the MDG campaign was not only careless (Easterly, 2009: 34); the design of the MDGs was such that they are 'impossible to meet' (Clemens et al, 2007: 736). Even though Africa did 'develop' in the first decade of the new millennium (Easterly, 2009; Sahn & Stifel, 2003) the MDGs make 'Africa's performance look worse than it really is' (Easterly, 2009: 26). For MDG Seven Target 11, originally worded '[b]y 2020 to have achieved a significant improvement in the lives of at least 100 million slum dwellers as proposed in the "Cities Without Slums" initiative' (UN, 2000: 5), the urban contradiction between the planning exception of 'slum' improvement and the pressure to attract global investment remained unresolved. My concern in this book is that the campaign surrounding the MDG target on 'slums' reinforced this contradiction, in particular through the 'Cities Without Slums' slogan, which is of great utility to any city wishing to attract global investment. Framing 'slum' or informal settlement clearance as a 'development' obligation under

the Millennium Declaration, as the South African government argued even before the Constitutional Court in 2009 in defence of the repressive KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act No. 6 of 2007 (I return to this in Chapter 8), seemed convenient, particularly when the world was anxiously watching a country live up to the International Federation of Football Associations (FIFA) requirements to host a soccer world cup.

MDG Seven Target 11 differs in evolution and target date from the other MDG targets. The MDG targets addressing poverty and hunger, lack of access to primary education, gender inequality, child mortality, maternal ill health, malaria, HIV/AIDS and other diseases, and a target related to water and sanitation, are all to be attained by 2015. Those related to economic and environmental policy changes and global cooperation have no target achievement dates. Goal Seven Target 11 is the only target projected to 2020. As already mentioned, the UN adopted it into the UN Millennium Declaration as an existing target, articulated by the 'Cities Without Slums' initiative of Cities Alliance.

Most of the MDGs 'can be traced to the 1995 World Summit on Social Development (WSSD) which enjoys great legitimacy among NGO[s] and activists from much of the world' because of its inclusiveness (Nelson, 2007: 2042). However, a far stronger influence of 'OECD [Organisation for Economic Cooperation and Development] governments and the international financial institutions' came to be associated with the evolution of the MDGs since 1996, through the OECD's 'Shaping the 21st Century' document and 'the World Bank/IMF 2000 paper "A Better World for All"' (ibid: 2042, 2044).[4] Political economist Patrick Bond (2006) therefore associates a strong neoliberal agenda with the MDGs. Saith (2006: 1171) speaks of 'the controlling and rather visible hand of neoliberalism' in the MDG exercise. Others welcome this development. Sakiko Fakuda-Parr (2004: 398, 400) identifies an advantage in the fact that 'international cooperation [between the Bretton Woods institutions and the UN] is gradually being aligned with MDG priorities', though cautioning that 'MDGs make sense only when they are properly embedded in national strategies for development'.

The 'slum' target (MDG Seven Target 11), with its unusual 2020 deadline, entered through the back door, so to speak, via the newly formed Cities Alliance with its *Cities Alliance for Cities Without Slums: Action Plan for Moving Slum Upgrading to Scale* (Cities Alliance, 1999), which happened already to include a global target for the improvement of 'slum' dwellers' lives. However, this organisation, too, is heavily influenced by the neoliberal

consensus through the World Bank. Cities Alliance's secretariat operates from the World Bank in Washington, and 'the World Bank's vice president for Sustainable Development and UN-HABITAT's executive director' co-chair the Cities Alliance board of directors (Cities Alliance, 2011). Previously, UN-HABITAT's Executive Director co-chaired the board with the World Bank's 'Vice President (Private Sector Development and Infrastructure)' (Mukhija, 2006: 57). The relationship of Cities Alliance with the Private Sector Development and Infrastructure arm of the World Bank must be highlighted. It is, then, not surprising that Cities Alliance relentlessly emphasises a prominent role for the private sector and public–private partnerships in all 'slum' upgrading initiatives (Jones, 2009). Michael Barnett and Martha Finnemore (1999: 710) explain how the World Bank's reputation for attracting the most accomplished experts, 'coupled with its claim to "neutrality" and its "apolitical" technocratic decision-making style, have given [the Bank] an authoritative voice with which it has successfully dictated the content, direction, and scope of global development over the past fifty years'. Further, '[t]he World Bank, the International Monetary Fund (IMF), and other development institutions have established a web of interventions that affect nearly every phase of the economy and polity in many Third World states' (ibid: 712).

The contradiction between economic interests and a social agenda that has bedevilled MDG Seven Target 11 is mirrored in the implementation of other MDGs. In relation to HIV/AIDS treatment, controversies have emerged as commercial interests have been strongly represented in 'major aid donors and WTO provisions [that] have continued to insist on patent protections for commercial drugs' (Nelson, 2007: 2049). Similarly, social movements have challenged lucrative corporate contracts for the provision of water in favour of 'publicly managed solutions' (ibid). It must be emphasised, though, that due to the location of 'slums' in the competitive urban land market, private-sector interests in contracts to improve people's lives (through *in situ* upgrading) are overshadowed by the lucrative land-related economic stakes that are obstructed by the presence of 'slums' on or near what is perceived as strategic, productively developable land.

The exclusion of rights from the MDGs

It comes as no surprise that the MDG language also 'avoids reference to rights' (Nelson, 2007). The MDGs represent a shift away from a rights-based approach to a 'narrower frame focussing essentially on absolute aspects of some key measurable facets of poverty and deprivation' (Saith, 2006: 1170). It is important to highlight the contrast between rights-based approaches

and the operational approach of the MDGs, particularly as I derive my criticism of MDG Seven Target 11 in this book from a collective rights-based perspective. The South African discourse tends to differentiate between 'rights talk' (focusing on individual rights and litigation) and 'communal' or 'grassroots' mobilisation (focusing on the collective), whereas these are often practised together (Robins, 2008: 12–13). While even the move into an informal settlement may mean the choice in favour of certain forms of individual rights to consumption and against traditionally determined hierarchies and privileges (Hunter, 2010), the uneven distribution of supposedly equal rights under neoliberalism continues to generate collective politics (Robins, 2008: 10). Further, as Zuern (2011: 45) shows for South African social movements, 'the door for rights-based demands' is opened 'once people broadly dismiss general misfortune as the source of their problems and frame grievances to connect their struggles to the actions of broader institutions'. In efforts to counter informal settlement eradication and promote a right to the city, such as those discussed in the latter part of this book, collective politics that confront root causes of deprivation within broader institutions and forces form part of a rights-based approach.

Nelson (2007: 2042) defines 'rights-based approaches' as seeking 'to link the development enterprise to social movements' demands for human rights and inclusion, and to tie development to the rhetorical and legal power of internationally recognized human rights'. Both human rights and MDGs 'are a potential source of legitimacy for aid donors, which are eager to occupy the moral high ground' (ibid: 2044). But Nelson (ibid) identifies three important differences between these approaches (summarised in Table 1.1). Firstly, in the MDGs, the poor are treated as objects rather than agents, whereas '[r]ights, unlike goals, inherently create duties, and these duties give [rights] their political significance' (ibid: 2045). Nelson adds that 'the definition of those duties is among the most difficult and politically charged challenges for human rights' (ibid). Secondly, the monitoring through which an entire industry responds to the MDG targets,[5] 'does not equal accountability', and does not promote 'local and international practices that make governments accountable to organized citizens, and to an electorate as a whole', which rights-based approaches would do (ibid).

Thirdly, and of central relevance to the question of 'slums', 'rights-based approaches tend to call for attention to the *causes and multiple dimensions* of poverty, and to the linkages between poverty and civil and political freedoms' (ibid: 2046, emphasis in the original). By contrast, 'the MDGs are output indicators that aim primarily for progress in some of the worst *symptoms*

Table 1.1: Contrast between the rights-based approach and the MDGs' operational approach

Rights-based approach	*Operational approach of the MDGs*
Treats the poor as agents, and identifies duties for the state. This has political implications.	Treats the poor as objects, and does not articulate duties for the state. Avoids political implications.
Promotes accountability of governments to organised citizens.	Promotes a monitoring industry.
Focuses on causes and complexity of poverty/informality.	Focuses only on symptoms of poverty/ informality.

Source: Based on Nelson (2007)

of poverty' (ibid). Social policy analysts describe the symptom-oriented approach as pounding the tip of an iceberg (Herson & Bolland, 1990). In my own attempt to confront this tendency in the South African government's approach to informal settlements, I have referred to this as a *direct* (usually repressive) approach, rather than an *indirect* approach that would address the root causes (Huchzermeyer, 2008a, 2010a). In Nelson's (2007: 2047) words, 'a human rights analysis points to the ... structural factors ... as root causes'.

The transition from the initial Millennium Declaration in 2000 to the actual formulation of the list of MDG targets one year later also intensified the liberal economic, rather than a social, democratic or rights-based underpinning of the MDGs. The Millennium Declaration listed the target of significantly improving the lives of at least 100 million 'slum' dwellers by 2020 under 'Development and poverty eradication' (UN, 2000: 4). However, the official MDG listing placed the 'slum' target under the goal to 'Ensure environmental sustainability' (UN, 2005). This is a substantial difference in emphasis, linking the environment rather than poverty or people to the 'Cities Without Slums' campaign. Given that informal settlements almost by definition are increasingly destined to occupy environmentally sensitive areas, any call for intervention pits the often conservative environmental lobbies and consultants against those representing the rights of the urban poor.[6] Thus the MDGs can 'be understood as ... a disappointing departure from how they were conceived and framed in the 2000 Millennium Report', and this departure may be due to 'a political compromise among member states' (Giovannini, 2008: 255). The UN experiences pressure from its member states to translate its initiatives that may have a 'radical ethical mandate ... into achievable and measureable goals in order to satisfy member states'

eagerness for practical results' (ibid). Understandably, critics have taken issue with the modesty of the 'slum improvement' target, arguing that even if the target were met, the remaining 90 per cent of 'slum' dwellers would continue to endure 'slum' conditions (Amnesty International, 2010; Leckie, in UN-HABITAT, 2006: 38; Pieterse, 2008: 113). This brings me to a number of limitations of the role of the UN, including the problematic approach of target-setting within the organisation.

Norms, targets and dysfunctionality within the global agencies

The UN is generally associated with the generation and promotion of ideas (Emmerij et al, 2005). These are either normative ideas, namely broad ideas 'about what the world should look like', or causal ideas, which are more operational, and often take the form of a target (ibid: 214). In the case of MDG Seven Target 11, the normative idea is that cities should not have 'slums'. The causal idea takes the form of a target, namely to improve the lives of at least 10 per cent of 'slum' dwellers by 2020. I have already pointed to the contradiction between the rather extreme norm of 'slum-free' cities and the modest target of improving the lives of 10 per cent of 'slum' dwellers (in only one of five dimensions—shelter, tenure security, access to water, access to sanitation or occupation rates). It is relevant first to explore the nature of this particular norm before turning to the target.

The role of the UN is 'to serve as a forum for discussion and norm creation' (Giovannini, 2008: 259). However, discussion may be limited by the fact that norms have a 'prescriptive quality' (Finnemore & Sikkink, 1998: 892). This implies that 'by definition, there are no bad norms from the vantage point of those who promote the norm' (ibid). Once accepted or internalised, norms are not to be questioned:

> *Internalized norms can be both extremely powerful (because behaviour according to the norm is not questioned) and hard to discern (because actors do not seriously consider or discuss whether to conform). Precisely because they are not [considered] controversial, however, these norms are often not the centrepiece of political debate and for that reason tend to be ignored by political scientists.* (ibid: 904)

However, norms have a 'life cycle', and many norms of the past have lost their hegemonic status (ibid: 829). A 'domestic norm' may become an international norm 'through the efforts of entrepreneurs of various kinds' (ibid: 893).

The Brazilian notion or norm that there should be a 'right to the city' for all (Fernandes, 2007) is a relevant case in point. Edesio Fernandes (2007: 208) defines the 'right to the city' as 'the right of all city dwellers to fully enjoy urban life with all its services and advantages—the right to habitation—as well as taking direct part in the management of cities—the right to participation'. Across many parts of the world, '[t]here are ongoing efforts to concretize a normative regime' for a right to the city that would 'enshrine the legal entitlements of all city inhabitants' (Fajemirokun, 2010: 122). 'Norm entrepreneurs' (Finnemore & Sikkink, 1998) under the umbrella of the Urban Social Forum are actively promoting the 'Right to the City' as an international norm (Fórum Social Urbano, 2010) with leading critical urban theorists such as David Harvey (2004, 2008) and Peter Marcuse (2009, 2010). This norm (at least as a slogan) has already entered the mainstream. UN-HABITAT chose it as one of the themes for its annual World Urban Forum held in Rio de Janeiro in March 2010 (UN-HABITAT, 2009b).

Various commentators criticise a depoliticised, trivialised or watered-down use of the phrase 'right to the city', which is typical of the mainstream global development sector (Gibson, 2011; Lopes de Souza, 2010; Mayer, 2009). An example of such depoliticisation in the South African literature is in Parnell and Pieterse (2010), a paper that adopts a definition of the right to the city merely as delivery of entitlements: 'The individual (e.g. the vote, health, education); ... Household services like housing, water, energy and waste; ... Neighbourhood or city scale entitlements such as safety, social amenities, public transport, etc.; ... Freedom from externally induced anthropogenic risk, such as war, economic volatility or climate change' (ibid, 2010: 149).[7] In relation to the South African notion of a 'developmental state', they explore the 'developmental role of the state' as defined or articulated from the 'moral platform' of 'the universal right to the city' (ibid: 147). The claim that South Africa is, can be, or even should be a 'developmental state', or the more recently adopted '*democratic* developmental state' (a state, with examples in Latin America and Scandinavia, that fosters economic growth and redistributes its revenue into social programmes without resorting to the authoritarian means of the otherwise coveted Asian tigers), remains disputed by South African analysts (Creamer, 2010; Fine, 2010; Mohamed, 2010; Von Holdt, 2010). The urban discourse, particularly in South Africa, tends too readily to refer to the concept of 'developmental state' or 'developmental local government' without defining or interrogating its meaning, and displays a similar tendency in relation to the 'right to the city'. What is called for is a

far deeper questioning of the compatibility between a right to the city and contemporary notions of 'developmentalism', lest the meaning of a right to the city be reduced to just a slight improvement on 'business as usual'.

Promoting a new norm is no easy task, as 'new norms never enter a normative vacuum but instead emerge in a highly contested normative space where they must compete with other norms and perceptions of interest' (Finnemore & Sikkink, 1998: 897). In the urban sector, the norm that cities must be competitive (with parallels in the norm that states should be developmental) and the norms on how competitiveness (and developmentalism) is to be achieved, are entirely at odds with a progressive definition of a right to the city, and this contestation is articulated in a rapidly growing body of progressive academic literature (e.g. Harvey, 2004, 2008; Lopes de Souza, 2010; Marcuse, 2009; Mayer, 2009; Mitchell, 2003). It is important to compare, on the one hand, this contestation between the norm that all have a right to the city and the norm that all cities must be competitive with, on the other hand, the completely uncontested adoption (at least by the UN) of the norm that cities should not have 'slums', captured in the slogan 'Cities Without Slums'. Coined by a leading promoter of urban competitiveness, the Cities Alliance, and adopted directly by the UN, this norm has no domestic origin and no origin in progressive movements of and in alliance with the urban poor. The UN never opened up this norm for discussion, although (five years after its adoption) the Task Force that the UN set up for Goal Seven expressed 'unease with Target 11' and proposed that the wording of the target be extended to include 'while providing adequate alternatives to new slum formation' (Saith, 2006: 1194, citing Garau et al, 2005: 21). The Task Force sought thereby to prevent the interpretation of 'Cities Without Slums' as 'endorsement of the failed policies of the past, such as preventing urban migration or bulldozing newly formed informal settlements' and to promote instead proactive and participatory steps (Garau et al, 2005: 21). However, this did not change the repressive and exclusively symptom-oriented interpretation of Goal Seven Target 11 in countries such as South Africa. Instead, it justified repressive measures to 'prevent the re-emergence of slums' such as fencing off and posting of security guards on vacant land, and criminalising the invasion of land no matter how desperate the individual or household (see KwaZulu-Natal Provincial Legislature, 2006). Further, the words in which Saith (2006: 1184) criticises the MDG frame apply even more to the undebated adoption of the 'Cities Without Slums' norm: 'it does not provide a global template, merely "our" [first world] agenda for "them" [the third world]'. In terms of 'Cities Without Slums', this

is the Cities Alliance's neoliberal agenda for the peripheral world! It has been argued that '[i]t would be crude to typecast the Cities Alliance ... as agents of neo-liberalism' due to the internal contradictions within the 'policy package' that Cities Alliance promotes, which includes both 'economic growth and development' (Parnell & Robinson, 2006: 341). However, this combination of economic growth and development, which is not consistent with classical neoliberal economic theory, can be understood as part of the '*irrational* bent' in neoliberalism (Keil, 2009: 234, emphasis in the original). This refers to an 'irrationality' that is 'systemic and fits neoliberalism's ulterior goals' (another aspect of this irrationality is corruption or 'unprecedented scandals') (ibid). Under neoliberalism, the limits of 'development' expenditure (less so of corruption) are determined by neoliberal macro-economic principles. Here the Cities Alliance is no exception.

The global campaigners, norm entrepreneurs and academics now promoting a 'right to the city' never took rigorous issue with the 'Cities Without Slums' norm, possibly because the 'right to the city' movement emanates from Latin America, where the 'Cities Without Slums' slogan and its norm did not take root in local and national politics in the way it did on the African continent. Leading urban scholars have made no more than passing comments on the 'Cities Without Slums' campaign. Alan Gilbert (2007: 708) condemns large-scale 'slum' clearance, but defends Cities Alliance, emphasising that this organisation 'is wholly against this approach and UN-HABITAT is actively campaigning against it'. He adds, though, that UN-HABITAT's 'wise advice' is 'being ignored by some governments' and that 'no doubt ... the slogan "cities without slums" is partly to blame' (ibid). Gilbert's primary criticism, as already mentioned, is not of the slogan, norm or campaign, but of the 'return' to the term 'slum'. Ananya Roy (2008: 252) asks (but without expanding on the point), '[w]hat do we make of the fact that as the MDGs are calling for a "cities without slums" target so many cities in the global South, for example those in India, are brutally evicting squatters and demolishing slums to make way for urban development?'

Many at the receiving end of internationally legitimised domestic 'slum' eradication campaigns, particularly on the African continent, have sought rights-based support for their contestation. From my perspective within the small network that has responded to such calls for rights-based support, it is clear that a 'right to the city' cannot be promoted without challenging the norm of 'Cities Without Slums', because of the utility of the latter for those promoting 'slum-free' cities for the purposes of urban competitiveness.

The process of generating norms plays a role in 'international socialisation', meaning that, over time, those countries that break the norms will be induced to follow them, or 'more and more states adopt and explicitly support the norm at the international level', resulting in 'standard behaviour' across regions (Giovannini, 2008: 258). In relation to MDG Seven Target 11 this suggests two things. One is that South Africa ought to have been singled out as a norm breaker in its use of the 'Cities Without Slums' norm to legitimise repressive anti-'slum' measures. Instead, UN-HABITAT has consistently endorsed South Africa's commitment to 'slum' eradication (Tebbal, 2005; UN-HABITAT, 2006). In its 2006/2007 *State of the World's Cities Report*, UN-HABITAT (2006: 173, also 43, 162) repeatedly praises South Africa as a country that 'in particular stands out in its efforts to keep slum growth rates down'. The other is that '[s]ome states are critical to a norm's adoption; others less so', and the decisions of post-apartheid South Africa have been 'very influential' for norm adoption in other African countries and even 'globally' (Finnemore & Sikkink, 1998: 901). As a result, through South Africa's interpretation of MDG Seven Target 11, one may argue that repressive 'slum' eradication has become the norm and indeed the standard behaviour across much of the African region.

Analysts have criticised the MDG targets for focusing only on advancements achieved for some of the poor while obscuring the simultaneous worsening of conditions that may apply to others, and indeed the repressive measures used to achieve 'slum reduction', as UN-HABITAT now refers to MDG Seven Target 11 (UN-HABITAT, 2010c: 2). The 'forceful removal of people from city centres to city peripheries' is a 'massively under-reported phenomenon' (Huchzermeyer, 2010c: 158). In relation to the MDG monitoring, '[t]he real trends are in the negative direction, but the data base is woefully inadequate to capture these' (Saith, 2006: 1176). The monitoring of progress towards MDG Seven Target 11 does not take into account those whose lives did not improve or instead even deteriorated, be this as the result of macro-economic policy or of state interventions such as 'slum' demolition, forced relocation and displacement, often in favour of urban competitiveness or corporate interests. Further, in projecting the costs of meeting the MDGs, critical questions are left unasked, particularly those that would address root causes rather than mere symptoms. With relevance for the 'slum' MDG, Saith (2006: 1178) asks '[h]ow much would have to be spent to change laws on property rights?' Beyond real definitional problems with the use of 'target concepts' such as 'slums', 'MDG targets, like all others, invite manipulation, misuse and misinterpretation of statistics; and ... more than others, they can

potentially lead to distortions in the development policy agenda' (Saith, 2006: 1176, 1179).

This suggests serious shortcomings at the level of the UN. Indeed, Barnett and Finnemore (1999: 701) note a 'propensity for dysfunctional, even pathological, behavior' among international organisations. They try to understand why international organisations 'often produce undesirable and even self-defeating outcomes repeatedly, without punishment much less dismantlement' (ibid). Little seems to have changed in the decade since their analysis. First, there is a tendency to 'tailor missions [or campaigns] to fit the existing, well-known, and comfortable rulebook' rather than 'designing the most appropriate and efficient rules and procedures to accomplish their mission' (ibid: 720). In relation to improving the lives of 'slum' dwellers, analysis and tackling of the root causes would seem to comprise the appropriate approach, and in the longer term certainly the only efficient way to ensure sustained improvement in the lives of 'slum' dwellers.

Second, there is an inattentiveness 'to contextual and particularistic concerns', leading to a flattening of diversity (ibid: 721). Here, the wide range of 'slum'/informal settlement prevalence across African cities—between 18 and 23 per cent of households in South African cities (McIntosh Xaba & Associates, 2008) to up to 70 per cent in recently post-conflict cities such as Luanda (Jenkins, 2006)—calls into question the relevance of a universal target of improving the lives of 10 per cent of existing 'slum' dwellers.

Third, there is a 'normalization of deviance' within the decision-making process of international organisations (Barnett & Finnemore, 1999: 722). Here Barnett and Finnemore (1999) possibly point to an explanation of why terms such as the 'Cities Without Slums MDG' (UN-HABITAT, 2003c: 243) or 'slum reduction target' (UN-HABITAT, 2010c: 2) have crept into UN-HABITAT's official communications, rather than 'A Home in the City' as proposed by the UN's Task Force (Garau et al, 2005) in 2005.

Fourth, insulation from 'effective feedback loops ... often develop[s] internal cultures and worldviews that do not promote the goals and expectations of those outside the organization who created it and whom it serves' (Barnett & Finnemore, 1999: 722–723). As an example, the World Bank may construct 'a world that has little resemblance to what historians, geographers, or demographers see on the ground' (ibid: 723). Similarly, Cities Alliance constructs a vision of cities that bears little resemblance particularly to the wide range of city realities on the African continent. As Barnett and Finnemore (ibid) argue for the World Bank, one may suggest that in relation to 'Cities Without Slums', UN-HABITAT and Cities Alliance have 'accumulated

a rather distinctive record of "failures" but continue ... to operate with the same criteria and [have] shown a marked lack of interest in evaluating the effectiveness of [their] own projects'.

Lastly, the massive bureaucracies of international organisations, with different 'segments' developing 'different normative views', may result 'in a clash of competing perspectives that generates pathological tendencies' (ibid: 724). The irony, of course, is that the normative notion that cities should not have 'slums' does not clash with but rather reinforces the perception that cities should be competitive. As I argue, this has created pathologies of its own. However, within the UN, the moral commitment to 'impartiality', on the one hand, clashes with 'the principle of humanitarianism' on the other (ibid). This clash appears to paralyse the organisation to the extent that the market-oriented normative ideas of the World Bank and IMF take the lead.

■ ■ ■ ■

In defence of UN target-setting, Emmerij et al (2005) point out that performance on achieving UN targets over the past 40 years has been encouraging. However, they name examples only from the health sector. Linking MDG Seven Target 11 to a normative vision of 'Cities Without Slums' of course suggests treating 'slums' as if they were a disease, to be eradicated through the global distribution of some universal remedy. This simplistic interpretation appeals to country and city decision-makers, whom UN-HABITAT actively encourages to define country-level targets while preventing the formation of new 'slums' (Moreno, 2005). As already mentioned in the introduction to this book, in South Africa, the idea of 'Cities Without Slums' has spurred political leaders at national, city and provincial levels to produce increasingly unrealistic and contradictory targets and statements of intent. I explore these contradictions in South Africa within their political, legislative and policy context in Chapters 5 and 6. In Chapter 4, I expose the ineffectiveness of global and regional governance bodies in curbing mass evictions associated with clearing cities in other African countries of 'slums' and other expressions of poverty and informality. To understand these interactions between global agencies and national politics, however, it is first necessary to examine the growing dominance of urban competitiveness over policy and decision-making for cities globally and on the African continent. A central concern in this book is to expose the utility of the 'Cities Without Slums' campaign for a larger drive for competitive or 'world-class African cities'.

End Notes

1. Human Settlements Minister Tokyo Sexwale introduced this term in his 2010 Budget Vote (Sexwale, 2010).
2. Klopp (2000) provides examples of resistance even to emboldened land corruption in Nairobi, despite repression.
3. See further critiques of De Soto's approach by Bromley (2004), Royston (2006) and Pillay (2008).
4. Member governments of the OECD are developed nations.
5. Saith (2006: 1167) notes that the MDGs 'provide another gravy train for development consultants ... No wonder it is the juggernaut of all bandwagons'.
6. Given the far more substantial impact of middle-class lifestyles on the environment, an urban target to eradicate suburban lawns, swimming pools, electric geysers, golf courses and golf estates would have been more relevant under 'environmental sustainability'!
7. My reading of this article sits uncomfortably against the backdrop of many progressive analytical contributions by Pieterse cited elsewhere in this book. Indicative of a tension or dilemma within the South African urban studies sector, Parnell and Pieterse (2010: 152) distance themselves from the South African left, taking instead a position from which they may have influence on the South African and international mainstream. The article also sits at odds with legal/human-rights usage of the concept of 'generations' of rights.

Chapter Two

Urban competitiveness or improving poor people's lives: why 'Cities Without Slums'?

Are our cities for sale?
(Fumtim, 2010: 197)

But whose rights and whose city?
(Harvey, 2004: 236)

At this point in history, this has to be a global struggle, predominantly with finance capital, for that is the scale at which urbanization processes now work.
(Harvey, 2008: 39)

Since the mid-1990s, policy-makers and economic analysts have increasingly emphasised 'competitiveness' at urban, regional and national levels (Turok, 2004: 1070). This trend was a response to economic globalisation, that is the growing mobility of capital across national borders and the removal of restrictions that would protect national markets from foreign interests (ibid). Since the bankruptcy of major financial institutions in the US in 2008, the world has witnessed the crumbling of liberal economic orthodoxy. Although the economic crisis has its roots in an 'urban crisis' (Harvey, 2009: 1270), namely an overly commodified and under-regulated housing finance market, what we are not yet seeing is a fundamental questioning of urban policy orthodoxy.

For urban policy-makers whose overarching objective is for cities to become and remain economically competitive, the challenge is to create and sustain conditions which attract and retain capital. This requires investment in both a high level of transport and communications infrastructure and high-quality living environments that ensure the attraction and retention of appropriately skilled people (Turok, 2004). Urban policy that is first and foremost concerned with managing the mobility of capital and skilled people has shaped cities in detrimental ways. This is well documented for the west, whereas literature on the implications of urban competitiveness for African cities is scant. In this chapter, I incorporate some of the South African critiques of this policy orientation. The South African trajectory is important,

as increasingly South Africa's 'global city' mayors become advisors to city authorities in other African countries where South Africa has overt business interests (eThekwini Online, 2010). In this book, a particular concern is how policies or strategies for urban competitiveness treat poor urban inhabitants who are only marginally connected to the formal economy but are as mobile as (if not more mobile than) people skilled for participation in the globalising economy. The management of mobility in the interest of urban economic competitiveness in itself justifies the need for 'slum-free' cities. It motivates and operationalises a 'city without slums' vision differently from policy that seeks to respond to a commitment to improving the lives of the poor, to realising their rights or to facilitating their social inclusion.

Competitiveness and its adoption and use in urban policy

With an economic decline in city economies of the west due to de-industrialisation, the idea of 'entrepreneurial governance' became attractive in the 1990s (Hubbard & Hall, 1998: 2). This involved attempting to run cities like businesses, thus actively pursuing a competitive advantage in 'an increasingly unpredictable globalised economy' (ibid). This form of governance gave private and semi-private actors increasing roles, whereas urban development came to be guided by principles of 'place marketing' (ibid: 29; Ward, 1998). Increasingly, a perceived need for 'urban competitiveness' became part of conventional wisdom, later refined to include 'social cohesion' (Gordon & Buck, 2005) and more recently a particular emphasis on creative talent, thus the concept of 'creative knowledge cities' (Musterd & Murie, 2010a: 4).

Urban competitiveness refers both to the economic performance of a city and its active competition with its rivals—it 'is essentially about securing (or defending) market-share' (Begg, 1999: 796). One determinant of competitive cities is 'relatively high per capita incomes or employment' (Turok & Bailey, 2004: 152). However, such indicators to a large extent result from 'past economic processes' (ibid). A city's economic position in relation to other cities is built over many decades. Yet, as a 'prominent goal of development agencies', competitiveness is often taken 'as an end in itself rather than a means of increasing economic development' (ibid). Begg (1999: 796) refers to urban competitiveness as 'a very slippery concept'. As a notion, it was adopted into urban policy before being well defined or even proven relevant. Turok (2004: 1070) observes that 'its prolific use has outstripped coherent definition or robust evidence of its validity'.

Social movements as well as progressive academics have taken issue with the policy of urban competitiveness, particularly the way in which urban management has come to mimic the management modes of large corporations. Critiquing this 'neoliberal and entrepreneurial' approach to urban management in Canada, Stephan Kipfer and Roger Keil (2002: 227, 229) refer to 'Toronto Inc.?'. The Fórum Social Urbano (2010: 15) summarises such 'corporate' urban management practices as 'marketing, competitiveness, pragmatism, flexibility and [centralisation of] decision-making'. Analysts have questioned whether cities can function competitively in the same way that firms or corporations do (Begg, 1999; Jessop, 1998; Turok, 2004). In economic theory, competition has benefits for purely commercial entities (Turok, 2004). Competitiveness sifts out inefficient firms and ensures that they cease to exist, while at the same time applying constant pressure for the remaining firms to increase their innovation and efficiency (ibid: 1072). Turok warns that '[c]ompetition between places cannot operate in the same way'. Unlike firms, 'cities cannot go bankrupt if they are uncompetitive' (ibid). New urban competitors cannot be created overnight in the way new competitive firms may arise. And urban areas, if declining in competitiveness, are cushioned by 'public finance systems' (ibid: 1073). Firms enjoyed no such cushioning, until the economic crisis of 2008 when the rules of liberal economic policy were suddenly turned on their head and western governments dug deep into public coffers to bail out inefficient companies. This selective breaking of the rules of liberal competitiveness may be comparable to the public funds dedicated, for instance, to select cities, and special localities within these cities, chosen to host a mega-event such as a FIFA World Cup.

However, '[c]ompetition between places is a reality' (not only a policy) (ibid: 1075). It occurs through trade and locational decisions of firms and the response of individual people to labour and housing markets. Companies are increasingly footloose and able to select optimal locations for different stages of production (Begg, 1999: 799). '[A]ll cities are integrated into the global economy in one way or another' (Greenberg, 2010: 111), and consequently the adoption of competitiveness policies at city or regional level may, as Stephen Greenberg (2010: 108) argues for South Africa, be 'a defensive response by the state in the face of the growing power of transnational capital, rather than the proactive, visionary stance that it is often presented as'. It is also suggested that available policy alternatives are not relevant to 'meaningful reforms' (Begg, 1999: 805). Further, the promotion, globally, of decentralisation with the devolution of decision-making to 'subnational governments', has placed increasing responsibility on city administrations

to create 'favourable investment climates' for domestic as well as foreign capital (Muzio, 2008: 313). In neoliberal thought, 'this devolution of power' encourages competitiveness while also forcing cities 'to respond to the demands of citizens under their administration', because the 'ability to move' gives both firms and citizens 'structural power over city governments' (ibid: 313–314). However, the view that welcomes the fact that citizens would 'move from those political jurisdictions that provide weak investment climates or standards of living to ones that offer more attractive incentives and living environments' (ibid: 314) also assumes two things about people. One is that the decision to move is a purely economic and qualitative one, unrelated to a sense of belonging to a particular city, community or culture. Recent research has shown that attracting creative skills is not as easily achievable as previously assumed (Musterd & Murie, 2010b: 348). The other is that only those citizens with skills demanded elsewhere really count as citizens. With reference to Delhi, Bhan (2009: 141) criticises the 'erosion of the claim of the poor to be legitimate urban citizens, and the simultaneous erasure of their presence in the city'.

Critics of urban competitiveness have pointed to substantial compromises that result from the policy drive for urban competitiveness. On the one hand, the very creation (with the help of public investment) of quality environments that cater for middle-class reproductive consumption intensifies class segregation and excludes and displaces the poor. Reviewing critical literature on the impact of urban competitiveness in the west, Turok (2004: 1074) notes that when there are 'consistent losers', urban competitiveness incurs 'substantial human cost' and the widening of 'social inequalities'. On the other hand, the prioritisation of select localities, whether through investor decisions or through governments' strategic plans and visions, actively creates disadvantage in other areas. For the Asia Pacific region, Mike Douglass (2002: 56) portrays cities and regions as losers when 'global investors' manage to leverage 'subsidies and other benefits from localities, under the guise of choosing the best location'. Such public spending at the demand of global investors may 'negate the expected benefits in terms of employment-generation, new investment and local spin-off effects' (ibid: 56–57). In the bid to secure 'conditions for global accumulation', policies actively emphasise 'particular sections of the city spatially and geographically, privileging particular spaces ahead of others' (Greenberg, 2010: 111). For Gauteng Province in South Africa, Greenberg (2010: 118) argues that the drive for a competitive global city region which favours high-level infrastructure development in selected areas explains '[t]he existence of

informal settlements without services in the south of Gauteng [as] a direct product of the evolution of investment decisions'.

The City of Johannesburg's drive towards urban competitiveness peaked in 2002 with its 'Economic Development Strategy' for a 'World Class City', the *Joburg 2030 Vision* (City of Johannesburg, 2002—approved in late 2001).[1] This strategy selected five sites for massive public investment in urban regeneration. One is the erstwhile relatively impoverished, but also relatively well located, formal township of Soweto. *Joburg 2030 Vision*'s focus on Soweto saw the removal of former pockets of informal settlement, the modernisation of infrastructure for upmarket investments, including what is currently Johannesburg's largest shopping mall, and gentrification in the housing market.[2] The Council of the City of Johannesburg chose not to consult within or outside of its structures in the preparation and finalisation of the *Joburg 2030 Vision* report (Parnell & Robinson, 2006: 346). Presumably it anticipated opposition from poorer sectors of Soweto's community who would have seen their own displacement planned, while other poor communities would have seen their comparative exclusion from public investment. The *Joburg 2030 Vision* was translated into implementation through new public–private partnerships, through the city's Spatial Development Framework (SDF) and through 'investor friendly leadership' in the municipality (Harrison, 2006: 329). Critics raised concern about 'an apparent insensitivity towards poor citizens within the city', particularly in the form of evictions (ibid: 330). Lindsay Bremner (2004: 77–78), an academic and former politician in the City of Johannesburg, attacked *Joburg 2030* for its unrealistic assumptions about the city's ability to attract 'international corporates', emulate living conditions of the world's established global cities and entice 'the city's poor' to migrate to 'lower cost centres'.[3]

Despite subsequent strategy shifts, concessions and refinements to which I return below, development in Johannesburg and Gauteng Province could be described in the same way in which Douglass (2002: 57) captures the Asian Pacific trend: 'an inefficient oversupply of infrastructure, facilities and services', with 'public finances ... shifted to mega-projects such as hub-airports, high-speed trains and huge convention centres and sports complexes to host global spectacles that are used to symbolize top-level international status'. In the 'heady atmosphere' of 'hyper-competition' (ibid) (which has reached the African shores, through the African World Class City campaign, later than it did Europe and the Asian Pacific) governments 'devote scarce public resources to economic growth through global investment' and divert 'attention away

from the environment, social welfare and other social concerns' (ibid: 58). This is particularly controversial for cities in which poverty continues to grow (Lemanski, 2007: 449; Pieterse, 2008: 83; Robinson, 2002: 187).

Kipfer and Keil (2002: 234) identify three dimensions of competitive cities, namely accumulation, class formation and social control. In the 'developing' world, where city decision-makers' aspirations to urban competitiveness through modernity are constantly challenged by the visual presence of informal trade and informal settlements, social control is translated into mass evictions and demolition. Aspirant competitive cities are hostile to environments that have emerged informally, even if these can be legalised and serviced. Also writing from the Asia Pacific region, Arif Hasan (2010: 293) observes that 'World class cities' shun the upgrading of informal settlements, preferring to relocate older informal settlements to the urban periphery. In Hasan's analysis this is an economic displacement, as urban policy-makers argue that centrally located urban land occupied by low-rise informal settlements, even if upgraded, contributes little to the urban economy when compared to high-rise developments of the private sector. Even in the west, 'gentrification' or market displacement is a 'powerful, if often camouflaged, intent within urban regeneration strategies' (Smith, 2002: 446). However, there is another motivation at play in shunning informal settlement upgrading, one that has more to do with the management of human mobility than with gentrification and the direct opening up of urban space for private investment. Doebele (1987: 13) mentions the 'potential problem' that a policy of upgrading may encourage more poor households to enter the city and settle informally, in expectation of upgrading. In a review of Nairobi's urban policy, Kurtz (1998: 82) refers to decisions already taken in the 1970s not to improve 'the living conditions and facilities in the informal sector' as it was assumed that this 'would only increase migration to the city ... The solution was to make this life as unattractive as possible, thereby discouraging further migration to the city.' City of Johannesburg's 2006 *Growth and Development Strategy* (GDS), which superseded *Joburg 2030* after extensive consultation (and in alignment with a macro-economic policy shift in South Africa to intensify distribution of growth), articulates a challenge and contradiction that 'development success' for Johannesburg will result in 'poor people in search of a better life mov[ing] in from elsewhere in search of opportunities' (City of Johannesburg, 2006: 51). The 2006 strategy responds to this challenge with aims of achieving a 'World Class City for all' through '[p]roactive absorption of the poor' (ibid: 83, 52). However, the strategy provides no clear statement on what role informal settlements are to

play in relation to this aim. Instead, in the period leading up to the hosting of the 2010 FIFA World Cup, cities in South Africa outdid one another with political commitments to eradicate their informal settlements.

At its core, urban competitiveness is about managing mobility. On the one hand, there is the difficult task of attracting and holding on to what Douglass (2002: 56) refers to as 'hyper-mobile' capital. On the other hand, there are mobile people. Drives for urban competitiveness actively seek to encourage those with skills to move to a particular city, while they discourage the same for those without skills or formal economic means, even if strategies state the opposite. Turok and Bailey (2004: 161) confirm that attracting a 'skilled mobile population' is one dimension in which cities actively compete. This population would include 'knowledge-workers', 'potential entrepreneurs' and 'creative talent' (ibid). Writing about the implications of Delhi's competitiveness drive, Gautam Bhan (2009: 141) refers to these as the 'ideal citizen[s]'. One of their attractions for city administrations is that they help to increase the tax base (Turok & Bailey, 2004: 161), and one factor that helps to attract them is 'quality residential environments' (ibid: 162), unaffordable to anyone outside the formal job market.

It is unsaid but implicit that cities, as well as localities within cities, also compete *not* to attract a population that is superfluous to growth in the formal economy, or embarrassing to those aspiring to world-class city status. One mechanism readily used by decision-makers throughout South Africa's large cities is not to provide affordable residential environments in any proportion to the real need, and if the unwanted population still enters through the back door of informal settlements, not to extend services into these areas and not to permit the expansion of these settlements. There are many relatively simple ways to make cities unattractive to the poor, or at least not more attractive than other cities. Selmeczi (2011: 65) refers to the 'withdrawal or denial of basic services' in South Africa's informal settlements as 'a new form of influx control'. In South Africa, inter-city 'collaboration' or shared practice across cities may have spread and legitimised large municipalities' increasing use of 'security measures' to prevent the poor from building new shacks. Ekurhuleni Metropolitan Municipality recently learned about and adopted the approach of outsourcing informal settlement 'management' to security companies from the City of Tshwane (Pretoria) (Williamson, personal communication, 28 July 2010) and finds no fault with this approach. In relation to Canadian cities' drive for urban competitiveness, Kipfer and Keil (2002: 235, 237) refer to 'a broader project of cementing and reordering the social and moral landscape of the

contemporary urban order' and, linked to this new morality, the acceptance of 'the militarization of urban space':

> *exclusionary forms of social control have now become essential ingredients in a competitive race among cities to make urban space safe, clean, and secure for investors, real-estate capital, and the new middle classes.*

In 2006, UN-HABITAT (2006: 43) claimed that South Africa was 'stabilizing' its 'slum' population from 46.2 per cent in 1990 to 29.4 per cent in 2005. The source of UN-HABITAT's statistics is unclear and the methods used to 'stabilize slums' remain unmentioned. The South African Institute of Race Relations (SAIRR) 2007/2008 *South Africa Survey* (SAIRR, 2008b: 486) notes a phenomenal increase in backyard rental in a period that overlaps with the one covered by the UN-HABITAT statistics (1996–2007). A press release issued by the SAIRR (2008a) gives no conclusive explanations for this shift, but suggests that 'the department's policy of eradicating "all slums, or informal settlements, by 2014" might also have played a role'. The press release also points to 'the evictions that are characteristic of most informal settlements'.[4] While UN-HABITAT makes no causal link with interventions that serve urban competitiveness (such as 'slum' eradication/eviction), it does seem that a literal translation of the pervasive 'Cities Without Slums' slogan of Cities Alliance and the UN's MDG Seven Target 11 into eradication-through-eviction has impacted on migration and housing patterns in South Africa, to the benefit of the urban competitiveness agenda.

Competitiveness, social cohesion, development and 'slum' upgrading

In Europe, dominant perceptions of urban economic competitiveness had already shifted in the early 2000s to incorporate 'softer' forms of public intervention. In the 1980s and into the early 1990s (and in South Africa up to the mid-2000s), the assumption had been that 'pursuit of material wealth and competitive advantage in the global economy' depended on 'greater liberalisation of markets and more freedom for private enterprise', i.e. the rollback of the welfare state and regulatory institutions as well as trade unions (Turok & Bailey, 2004: 137). Policy-makers and their consultants at first ignored the social stresses triggered by the policy changes. At best, they assumed the stresses would disappear as economic growth would distribute benefits 'through to all communities' (ibid). However, persistent and 'growing malaise in society' triggered a shift in dominant thinking to maintain 'that

economic success is conditioned by social structures and relationships, often summed up in the term social cohesion' (ibid). Increasingly, competitiveness came to be promoted hand in hand with 'social cohesion' (ibid: 135). The British literature identifies five dimensions of this concept: equity, inclusion and solidarity; social connectedness, social capital or networks; common social values; social order ('or an absence of conflict, unrest and social disorder' (ibid: 185)); and place attachment (Buck, 2005; Turok & Bailey, 2004). In the Asian Pacific context similar attributes are aspired to, in the search for 'new ways of gaining a competitive edge' (Douglass, 2002: 60).

The complete absence of 'social cohesion' from South African reasoning about economic competitiveness in 2001 was evident in the Bredell eviction in eastern Johannesburg (now Ekurhuleni), which I have already referred to in the Introduction. Here, the increasing rate of settlement or shack construction on land already occupied informally drew international media attention as it coincided not only with farm invasions in Zimbabwe but also with an awaited positioning in relation to these invasions by President Mbeki at a meeting of the then Organisation of African Unity (OAU, soon afterwards renamed the African Union (AU)). International investors responded negatively and the value of the rand dropped by 23 cents (2.9 US cents) in a matter of four days, suggesting investor concern over the lawlessness represented by the Bredell land invasion. In support of an urgent eviction application, the Minister of Land Affairs confidently predicted that 'when the foreign investors see a decisive government acting in the way we are acting, it sends the message that the government won't tolerate such acts from whomever' (Bulger, 2001). However, the unsympathetic ruling in the High Court four days later, and the immediate 'urgent' mass eviction, undermined investor confidence. The rand dropped again. An international journalist from the *London Financial Times*, interviewed by the South African public broadcaster (SAFM, 2001, quoted in Huchzermeyer, 2003a: 96), explained the reduction in global investor confidence with reference to the inequality and social disorder (two dimensions of social cohesion) displayed by the forced eviction. He suggested that 'seeing pictures of squatters and of landless people being moved off by policemen and by private security companies' begged 'certain questions about development within the country' and provoked particular sensitivities among investors that might 'affect the rand'.

Cities Alliance has supported the drive for urban economic competitiveness in South Africa hand in hand with a 'developmental agenda' and with networking between cities, particularly through the South African Cities Network (SACN), which it co-funded for several years after the

network was established in 2001 (Boraine et al, 2006; Parnell & Robinson, 2006). One would assume that the extension of services into informal settlements would fall within the developmental focus, and would in turn contribute to social cohesion. However, South African cities' approach to informal settlements over this period regressed. Informal settlement upgrading remained unimplemented and many cities abandoned the extension of interim basic services into informal settlements (fearing it might attract more invaders) and increasingly resorted to harsh security measures to curb informal settlement growth and to achieve informal settlement eradication, as detailed in Chapter 5. Harrison (2006: 330–331) observed that Johannesburg's SDF that formed part of *Joburg 2030* was being 'used to justify evictions', and warned that South Africa's 'global city agendas ... are likely to prove unsustainable in their inability to support social cohesion'. At the time, advocates of urban competitiveness, particularly in defence of the *Joburg 2030 Vision*, dismissed many small-scale public initiatives to negotiate meaningfully with informal settlement communities over development, to foster a spirit of civic pride and responsibility towards the city and to promote local arts and culture (Bremner, 2004: 88). Responsive to such criticism, the City of Johannesburg's subsequent GDS spelled out the need for these kinds of engagements and interventions (City of Johannesburg, 2006). It based this on 'a growing awareness of the need for balance between city-leaders' concerns with "competitiveness" and residents' concerns with "liveability issues"' (ibid: 2).

New 'conventional wisdom' from the west that urban competitiveness needed to be 'balanced' with 'development' appropriate to the lives of the poor was promoted in South Africa through City Development Strategies and State of the Cities Reports of the SACN (with Cities Alliance support). The SACN makes use of a diagram and reporting structure that attempts to balance four policy components: productivity, sustainability, good governance and inclusion (SACN, 2004). These are similar to those promoted by the World Bank's Global Urban Strategy of 2000 (see Table 2.1). In 2008, the SACN grappled in depth with the concept of social inclusion (SACN, 2008). The context of widespread xenophobic attacks across South Africa's low-income areas at the time gave particular urgency to this theme. The SACN's 'social inclusion' report (ibid) places human rights on the urban agenda. It goes to great lengths in defining complex indicators for urban inclusion, and undertakes to address this theme on an annual basis. While the report contains a serious contribution on the migration of poor people (Landau, 2008), its indicators relate to social inclusion only of the existing urban population and do not gauge the challenges faced

Table 2.1: World Bank and South African Cities Network principles for urban development

World Bank	*South African Cities Network*
Liveable	Inclusive
	Sustainable
Well governed	Well governed
Competitive	Productive
Bankable	

Sources: SACN (2004); World Bank (2000: 8, quoted in Robinson, 2002: 194)

by those attempting or needing to enter the city without resources. It is also silent on the increasing resort to security measures by South African local governments in managing informal settlements and curbing their growth.

Pieterse (2008: 80) concludes from an analysis of Cities Alliance's Guide for City Development Strategies that it reinforces 'a hyperglobalization approach to urban competitiveness imperatives, despite the reference to balancing competitiveness with poverty reduction and environmental health concerns'. In South Africa, while the SACN increasingly promotes acknowledgement of the challenges of urban inclusion and 'development' in the context of urban competitiveness (an agenda it conceals behind the term 'productivity'),[5] at the same time parallel policy processes reinforce the overarching objective of economic competitiveness beyond the city level, increasingly branding city regions as competitive entities.[6] As Kipfer and Keil (2002: 236) note, citing earlier research on western cities, the 'soft' strategies of competitiveness are crowded out by 'hard' competitiveness strategies. And while social inclusion and development are added to the local government agenda as a constitutional obligation in South Africa, there is no real evidence as yet of a shift in this country towards portraying urban competitiveness as depending on cohesion or inclusion. And even if such a perception were advanced, there remains concern. While this idea has gained prominence in the west as well as in the Asian Pacific, Turok and Bailey (2004: 151) find the validity of this notion to be as poorly understood as that of competitiveness itself. They conclude that

> *[i]t is becoming an unhelpful cliché to say that cohesion and competitiveness go together, especially if it plays down the need for serious analysis of causal mechanisms and consequences. It may also conceal the inconsistencies and trade-offs in policy, evade dilemmas that need to be faced, or obscure difficult or controversial choices that are being made without full consideration or due acknowledgement.* (ibid)

In part, the problem lies in the dilemma that the very policies sought under the imperative of aggressive competitiveness applied, for instance, to South African cities exacerbate inequalities and undermine social cohesion and inclusion. The creation of geographical inequalities through the favouring of individual localities for the attraction of foreign direct investment seems evident. Yet policy documents 'ignore the possibility that the success of high growth regions may undermine the prospects of growth and inclusion in the poorer regions, whether directly or indirectly' (ibid: 149). The same applies in regard to intra-city disparities. Turok and Bailey (2004) confine their research to poorer cities in the UK that nevertheless are expected to compete. These same disparities that they refer to are accentuated in 'global cities', which Saskia Sassen (2002: 14) defines as cities which fulfil the function of 'linking their national economies with global circuits' while 'managing and servicing ... much of the global economic system'. The central urban areas of these cities receive 'massive upgrading and expansion ... even as larger portions of these cities fall into deeper poverty and infrastructural decay' (ibid). Further, the expansion of an 'internationalized sector' imposes 'a new set of criteria for valuing and pricing', with 'devastating effects on large sectors of the urban economy' (ibid: 22). Small shops in neighbourhoods are displaced by commodity outlets 'catering to new high-income elites' (ibid).

Global cities offer 'agglomeration economies, massive concentrations of information on the latest developments and a market place' (ibid: 19). Global cities are part of a network, which requires not only competition but also collaboration, a division of functions within a hierarchy of the 'global network' (ibid: 29). However, on much of the African continent people access cities with only the promise of a small stake in an informal retail and services market. Marcelo Lopes de Souza (2009: 28), writing about the Brazilian context, refers to this class of people as the 'hyperprecariate' — 'workers who depend on (and often were excluded to) the informal sector in semi-peripheral countries, and who work and live under very vulnerable conditions'. Sassen (2002: 30) concludes that 'as cities become sites of cross-border transactions ... [t]he new urban spatiality produced ... accounts for only part of what happens in cities and what cities are about, and it inhabits only part of what we might think of as the space of the city'. I would go further to argue that the new urban spatiality produced, and the policies that promote them, in fact *must* account for much of what simultaneously happens in the city, namely the relatively small amount of investment in making the city attractive to those affected by growing economic inequality or displaced, for instance through

agricultural mechanisation, failed rural land reform, civil war, climatic changes or economic decline elsewhere.

In South Africa, there is a need to interrogate the perverse political practice that such strategies for urban competitiveness legitimise. No strategy document states an intent to render cities unattractive to the poor, and recent strategies claim to seek 'proactive absorption' of the poor. Yet there exists a parallel logic couched in assumed national populist sentiment, often expressed by politicians. It justifies the perceived need to stem the cross-border tide of foreigners assumed to be ready to steal jobs, grab economic opportunities and bloat the informal settlements (City of Johannesburg, 2009, quoting Mayor Masondo).[7] Cross-border migration means that this *negative* competition between cities spans country boundaries. For instance, South African cities have long been at pains not to cater to the needs of economically distressed Zimbabwean migrants (McDonald, 1998). As displayed in the May 2008 xenophobic violence across South Africa (Gibson, 2011; Hassim et al, 2008; Pithouse, 2008c), social exclusion by the state has contributed to violent social exclusion among the poor.

In the context of competitive policy-making, few city governments make it their central objective to unlock adequate access to housing for the poor. Instead, they see the overwhelming housing need of the 'hyperprecariate' as a burden, an added challenge, a hindrance to economic growth and urban prosperity. Public expenditure on shelter and services for the poor always lags far behind real demand. The urban poor are expected to pass their time in informal settlements or other inadequate and usually criminalised housing situations before finally reaching their turn in the development queue. In numerous cities there are attempts both to keep the poor out of the city and actively to remove them from it. As Murray (2008: 14) and Gibson (2011: 20) note, eradication, eviction, relocation and resettlement go hand in hand with modern world-class city aspirations.

The use of property within an 'urban competitiveness' framework

The tenure form that neoliberal urban policy has promoted globally for the urban poor is freehold ownership (Andreasen, 1996; Durand-Lasserve & Royston, 2002). The neoliberal endorsement of homeownership was preceded by a similar endorsement in modern urban planning, which idealistically promoted low-density suburbia (see Hall, 1990) with homeownership financed through mortgages, assuming that most urban households would

derive their income from formal employment and would qualify for such finance. This model continues to inspire and shape formal urban expansion, although analysts and commentators have long blamed it for creating segregation and motorcar dependence, for being expensive and accessible only to those deemed creditworthy, and therefore for being exclusionary (e.g. Jacobs, 1961).

Across the globe, there have been attempts to cater for city inhabitants, including the 'hyperprecariate' or marginalised urban poor, as homeowners. Gilbert refers to the US-inspired political motivation for homeownership, namely 'the myth that ownership is a central feature of national culture' (Gilbert, 2008: iii). Homeownership is also promoted by a powerful development lobby. At the one extreme is the increasingly influential international NGO SDI, which encourages the mobilisation of the meagre resources of the poor, through savings and credit, towards access to land and self-construction of individually owned housing, whether in India, South Africa or Kenya (Bolnick & Mitlin, 1999; Mitlin, 2008; Weru, 2004), thus irrespective of context. At the other extreme are prominent liberal policy advisors, such as the Peruvian economist Hernando de Soto (2000) who has simplistically argued that wealth will be unleashed for the urban poor through formalisation and titling of their illegal stakes in the city, including titling of land. Patrick Bond (2010: 20) sums up De Soto's vision as 'collateralization of land, shacks, livestock and other goods informally owned by poor people' in order to invoke 'an often mythical rise to market-based wealth generation' through 'microfinance'.

Both De Soto's and the SDI's positions ignore a reality of increasing growth in rental tenure as the only option for the poor and the slightly better-off to access and inhabit the city (Andreasen, 1996; Keyder, 2005). They are blind not only to the existence of rental housing (Gilbert, 2008), but also to the need to intervene sensibly in the growing rental market (Andreasen, 1996) and improve conditions in this largely unregulated housing stock, much of which qualifies as 'slum'. Rental tenure in the 'developing world' is often generalised as a market of 'a myriad of small scale landlords' (Gilbert, 2008: iii). This position takes cities of Latin America, Asia and southern Africa in which owner occupation dominates as the norm—a common weakness in the development literature (Andreasen, 1999).

In several African cities, the percentage of urban households renting is much higher than in Asia or Latin America (Table 2.2). In any context where three-quarters or more of urban households rent, these households cannot possibly all be backyard tenants of small-scale owner-occupying landlords. Where the

rental population makes up 70 per cent or more of urban households, and the majority of rental stock is private (as in the cities listed in the first section of Table 2.2), it is likely that large-scale 'owners' hold a substantial portion of the rental housing stock. Large-scale absentee landlords often enjoy political patronage and impunity from penalties for producing housing that qualifies as 'slum', with excesses that are harmful and exploitative. And yet they produce urban densities and centralities that have relevance to an oil-scarce and economically uncertain future, as illustrated by the case of Nairobi (Huchzermeyer, 2011). This has no place in competitive-city visioning. In Nairobi, the intense tenement reality is ignored by off-the-shelf policy documents, including the *Nairobi Metro 2030* vision for a 'World Class African Metropolis', which promotes (among many standard world-class city notions) the expansion of homeownership (Ministry of Nairobi Metropolitan Development, 2008). In the City of Johannesburg, which (after a long period of depriving black city inhabitants of property ownership) since 1986 has had a policy of issuing freehold titles to the urban poor, the figure of 42 per cent of households renting (Table 2.2) is surprisingly high, and illustrates how limited the will to develop new housing under the 'dominant' freehold tenure form has actually been.

Linked to globalisation and urban competitiveness is the removal of restrictions on the urban land market, and increasing privatisation of public land and its release into a profit-seeking residential and commercial market. This has resulted in a growing scarcity of urban land for owner-occupied low-income housing, in particular self-help 'squatting' or the benign invasion of land by desperately poor households. As a result of this scarcity, migrants in Istanbul, for example, are increasingly forced into low-quality rental units

Table 2.2: Percentage of households in rental tenure—selected cities in 'developing' countries

City	*Percentage of population renting*	*Source*
Mavoko (Kenya)	91.2	Syagga (2006)
Kericho (Kenya)	85.3	Syagga (2006)
Port Harcourt (Nigeria)	86.0	UNCHS (Habitat) (1996)
Nairobi (Kenya)	84.7	Central Bureau of Statistics (2004)
Kisumu (Kenya)	82.0	UN-HABITAT (2003b)
Moshi (Tanzania)	78.0	Andreasen (1996)
Johannesburg (South Africa)	42.0	UN-HABITAT (2003b)

(Keyder, 2005). On the African continent, the liberalisation of land markets promoted by policies for urban competitiveness produces a similar trend. In Kigali (Rwanda), lack of possibilities for owner-occupied housing solutions for the poor has already resulted in more than 50 per cent of the population being tenants (Durand-Lasserve, 2006).

It is ironic that while globalisation, competitiveness and land market liberalisation reduce the possibility for self-help owner-occupation of the poor, and push increasing numbers into precarious rental accommodation, it is unauthorised rental accommodation at which the largest eviction drives on the African continent in the new millennium are directed. The Nigerian government's evictions in Abuja from 2003 to 2007 targeted informal, largely rental 'slums' (COHRE & SERAC, 2008). Zimbabwe's Operation *Murambatsvina* in 2005 included the demolition of unauthorised backyard rental structures (Potts, 2006a). Both eviction drives, which I examine in Chapter 4, have confined poor households to greater destitution in rural areas.

Why property and urban competitiveness undermine the right to the city

In the current urban economy that depends to a significant extent on a property economy, an individual's right to live in the city is often dependent on that individual's claim to ownership of property. This forms part of a larger neoliberal regime of citizenship, in which '[t]he rights associated with substantive citizenship are effectively privatised' (Zuern, 2011: 9). The three notions that Lefebvre (1996[1968], quoted in Mitchell, 2003: 18) linked to his concept of a 'right to the city' are the right to 'the *oeuvre*, to participation and appropriation'. The right to 'appropriation' is 'clearly distinct from the right to property' (Mitchell, 2003: 18). Yet those who are not fortunate to have rights to property

> *must find a way to inhabit the city despite the exclusivity of property—either that, or they must find ways, as with squatting, and with the collective movements of the landless, to undermine the power of property and its state sanction, to otherwise appropriate and inhabit the city. In the contemporary city of homelessness the right to inhabit the city must always be asserted not within, but against, the rights of property. The right to housing needs to be dissociated from the right to property and returned to the right to inhabit.* (ibid: 20)

Referring to Lefebvre (1996[1968]), Mitchell (2003: 18) explains that

> *in the city, different people with different projects must necessarily struggle with one another over the shape of the city, the terms of access to the public realm, and*

> *even the rights of citizenship. Out of this struggle the city as a work—as an* oeuvre, *as a collective if not singular project—emerges, and new modes of living, new modes of inhabiting, are invented.*

In the cities of today, the *oeuvre* or collective work that makes the city

> *is alienated, and not so much a site of participation as one of expropriation by a dominant class (and set of economic interests) that is not really interested in making the city a site for the cohabitation of differences ... More and more the spaces of the modern city are being produced* for *us rather than* by *us.* (ibid, emphasis in the original)

From the perspective of informal settlement dwellers in aspirant African world-class cities, the point to make is of course that cities are not even produced *for* 'us' but rather for international investors and the professionals who service their needs. In effect, the poor are left to produce their own makeshift or seldom permanent enclaves or swathes of the city. And even for these, competing claims arise for a more profitable development. A right to the city must in the first instance defend existing claims of habitation rights from being dismantled, and must therefore confront competing notions or norms such as urban competitiveness that promote the dissipation of these claims. If a right to the city forms part of urban citizenship rights, then '[u]nless the fight for full citizenship is won, the coalition of stakeholders supporting slum dwellers' right to shelter will not be strong enough to withstand market forces aimed at getting back the land on which slums are built' (Milbert, 2006: 316).

Under conditions of neoliberal urban competitiveness, the city's future looks bleak. Unless effectively contested, we face

> *still leaner and meaner urban geographies in which cities engage aggressively in mutually destructive place-making, policies in which transnational capital is permitted to opt out from supporting local social reproduction, and in which the power of urban citizens to influence basic conditions of their everyday lives is increasingly undermined.* (Brenner & Theodore, 2002: 376)

What is deeply disturbing is that urban competitiveness is never an end state that any city will reach, but rather an ongoing state of responding to what competitors do elsewhere. As urban competitiveness and the accompanying liberalisation of land markets, along with the '[d]estruction of ... basic civil liberties, social service and political rights' (ibid: 372), are implemented at ever higher levels, more and more urban stakes are traded or granted (irreversibly?) to an abstract multinational elite. Harvey (2004: 239)

has warned that '[t]hose that now have the rights will not surrender them willingly'. And correspondingly, Abahlali baseMjondolo (2010b: 1) argue that 'if there is a "right to the city", it is a very difficult right to actually get'. They also speak of the 'very high price' they are paying 'to access any meaningful and broader idea of our right to the city' (ibid). As Harvey (2008: 38) observes, the right to the city is still 'restricted in most cases to a small political and economic elite who are in a position to shape cities more and more after their own desires'.

If urban competitiveness is about managing mobility of people, and if it has a tendency to trade quality environments among a skilled elite and to protect these while keeping the undesired out of the city, then it very directly undermines a right to the city. Lefebvre (1996[1968]: 158, emphases in the original) makes it very clear that the 'right to the city' is not merely a 'visiting right'. Instead, it is a 'right to urban life'. He extends this to mean the right 'to new centrality, to places of encounter and exchange, to life rhythms and time uses, enabling the full and complete *usage* of these moments and places' (ibid: 179, emphasis in the original). All these rights prioritise the use value over the exchange value of the city.

In Lefebvre's (ibid: 64, 66) terms, the *oeuvre* or work 'of urban life' (always emphasising the use value) can be considered 'beautiful', for instance in the 'eminent use of the city, that is, of its streets and squares, edifices and monuments ... a celebration which consumes unproductively, without other advantage but pleasure and prestige and enormous riches in money and objects'. For him, the *oeuvre* stems from 'complex thought' (ibid: 154). Today, this notion of an *oeuvre* is contrasted vividly with the urban celebration, almost exclusively, of productive consumption, in what Lefebvre referred to as 'products', be they shopping malls with global brands, waterfronts turned commercial emporia, theme parks or public investment in sports arenas constructed for mega-events and motivated for primarily in terms of their economic returns. Bremner (2004: 25) captures how the celebration of productive consumption displaced the '*oeuvre*' (though not referring to this term or to the right to the city) in Johannesburg as a result of its urban competitiveness policies: 'what has passed is that moment of spontaneity, a space that allowed people to experiment with the city and to make it work in new ways. In its place is a growing alignment of power, an eradication of mess and a singularity of vision'. Mbembe and Nuttall (2004: 354), reflecting on the scholarly discourse on contemporary Johannesburg, in turn warn of an 'antiurban ideology' that goes with the scholarly 'loathing' of productive aspects of the contemporary city. They have sought un-prescriptively to incorporate life, aspirations and experience in the spaces of consumption into our understanding of the African metropolis.

They choose not to take issue with the intensifying normative regime that creates these spaces, and shapes the post-millennial city in ways that pronounce disparities and exclusion. The 'right to the city' discourse, in turn, is unapologetically critical, materialist, as well as normative or prescriptive in that it calls for a different city, one that provides alternative experiences of urban life crowded out by the seeming necessity of the contemporary city-making process.

Already in the 1960s,

> *[t]wo groups of questions and two orders of urgency have disguised the problems of the city and urban society: questions of housing and the 'habitat' (related to a housing policy and architectural technologies) and those of industrial organization and global planning. The first from below, the second from above.* (Lefebvre, 1996[1968]: 177)

Today one may refer to these two 'orders of urgency' as, firstly, urban economic competitiveness and, secondly, the minimal catering to basic needs. In South Africa the latter is executed in a commodified and segregated fashion that imposes significant cost and inconvenience on those 'fortunate' enough to receive such subsidised development (Huchzermeyer, 2010c). Urban planners find themselves caught between the two 'orders of urgency', or, as Van Vliet (2002: 38) puts it, 'inescapably caught up in this dynamic'. In the case of South Africa, Harrison (2006: 328) observes that

> *Johannesburg's post-apartheid policy-makers and planners have been more responsive [than their counterparts under the previous regime] to urban citizens but have, nevertheless, struggled to relate simultaneously to the rationalities of the corporate world and those of ordinary people, and have largely failed to make a sustained impact on the remaking of urban space.*

Instead, they 'have revealed a strong capacity to engage transversally with the rationalities of the corporate world' (ibid: 332) and in that way have of course had a major impact on the remaking of post-apartheid urban space according to the aspirations of private capital. It seems that few consulting and government planners in South Africa understand and take on the real challenge of implementing what Harrison (ibid: 329) refers to as 'post-apartheid planning ideals such as compaction-integration'. But Lefebvre takes us beyond such notions, possibly suggesting what is missing from post-apartheid planning ideals in South Africa. He argues that the two foci, the 'habitat' as opposed to 'industrial organization and global planning', have ignored or even squeezed out the possibility of 'the realization of urban society' (Lefebvre, 1996[1968]: 178). They

have left no space for the *oeuvre*, or have not provided 'the social and political force' for the *oeuvre* to emerge (ibid). Lefebvre therefore concluded in the late 1960s that '[o]nly the taking in charge by the working class of planning and its political agenda can profoundly modify social life and open another era: that of socialism in neo-capitalist countries' (ibid: 179). It is this radical notion that has inspired a 'consistent socio-political mobilisation' in Latin America 'since the mid-1970s', where a right to the city began to be realised 'both in political and legal terms' (Fernandes, 2007: 208). For informal settlements, this meant promoting legal recognition that would secure centrality or convenient location in the city, mechanisms for meaningful direct participation of residents in decision-making, and the improvement of services with minimum disruption to the urban and social fabric or the *oeuvre*. Following this route has not been without 'unanticipated consequences', particularly when isolated from (changes to) broader urban policies, including the fiscal regime (Fernandes, 2011: 35).

For informal settlements in African cities, the first step to giving meaning to the right to the city will be to secure the space of so-called 'slums', transforming them from temporary and uncertain margins to permanent places in the city. Given the negative connotations of 'slums', particularly in relation to productivity and the land market, this on its own will meet with outright rejection from urban economic and political elites. Attempts to secure these settlements need to go hand in hand with a second step, namely their recognition as complex, popular, spontaneous neighbourhoods—as an *oeuvre*, though one that is deficient in important respects. Thirdly, their improvement, and only in exceptional cases their necessary relocation, is possible only through further collective and 'complex thought' that builds the *oeuvre* from within, through a form of planning that is informed by a participatory political agenda in the hands of the inhabitants of these areas. However, the right to the city as envisaged by Lefebvre (1996[1968]) goes beyond this. It is the planning for the entire city that needs to be taken charge of by ordinary citizens (Lopes de Souza, 2006). This requires a far-reaching questioning of the nature of the state and the economy. It is not realisable under regimes of elite and competitive urbanism, and even in Latin America it is not fully realisable under democratic developmental states.

■ ■ ■ ■

As the concept of a right to the city gains global recognition, its contradictory relationship with the objectives and practices of urban competitiveness (even if 'balanced' with intentions of development or cohesion) must be exposed.

A right to the city cannot be merely added to the existing urban agenda. In South Africa, it cannot be realised without unseating the urban competitiveness agenda. This is particularly evident in the way urban competitiveness deals with the 'hyperprecariate', the poor entering the city with the hope and prospect only of a small stake in the informal economy. A right to the city clashes with the way urban competitiveness treats human mobility, favouring the skilled and discouraging, repressing and criminalising the unskilled (even if claiming to absorb them). Organisations such as Abahlali in South Africa feel the brunt of this tension most intensely, particularly when articulating the desire for a shared city that includes its informal settlement membership. The notion of a right to the city, in particular of the transition from urban competitiveness to this right, must be further developed for 'the right to the city' to be a responsible rallying call. As in Harvey's (2008: 39) quote that prefaces this chapter, a right to the city requires a global struggle with finance capital, something that is not easily staged by a shack dwellers' movement. And while urban scholars may realise that they are also not strongly placed to engage in that struggle, their analyses should nevertheless consistently and relentlessly expose the flaws in the (refined) urban competitiveness agenda and its consequences for urban life. Though not subscribing directly to a 'right to the city' approach, Robinson (2003: 278) calls for a shift in urban analysis and theorisation from 'globalisation and developmentalism' to 'embrace the ordinary, but dynamic, complexity of life'. Pieterse (2005: 10) adds a call for a 'more localised and culturally informed understanding' in relation to 'the challenge of slums'. Whether such studies, in turn, might inspire city managers and policy-makers to think less rigidly about city futures and create spontaneous space for the *oeuvre* to unfold is a debate I return to in the next chapter, when reviewing ways in which the academic literature represents urban informality and informal settlements.

End Notes

1. The City of Johannesburg is one of South Africa's six metropolitan municipalities.
2. Though referred to as a 'slum' by global analysts (Davis, 2006: 28; Roy, 2011: 225), Soweto is a formally planned and serviced apartheid-era 'township'.
3. Bremner (2004: 80) traces the City of Johannesburg's attempts at internationalisation to the late 1980s. The more recent strategies (iGoli 2002 and iGoli 2010—Building an African World Class City) sought in the first instance to stabilise the city's declining economic base through greater incorporation into the global economy, and in the longer term to build the African brand of world-class cities (Beavon, 2004: 270; Bremner, 2000: 191; Murray, 2008: 87; Pillay, 2004: 355; Robinson, 2002: 198,

2003: 272). For iGoli 2002, the City had sought technical assistance from the World Bank, despite strong opposition from the South African Municipal Workers Union (SAMWU) and other civil society organisations, which objected to the 'corporatization and partial privatization of municipal services', reducing service levels to the poor, removal of street hawkers and selling off of public assets which formed part of the strategy (Robinson, 2002: 194–195).

4. Carole Rakodi (1995: 231) identified a similar trend resulting from regular 'raids on squatter settlements' in Harare: 'Present signs are that increasing housing shortfalls will be met by proliferation of backyard shacks rather than squatting on vacant land'.
5. The 2011 State of the Cities Report of SACN, written by Ivan Turok who has returned from the UK to South Africa, chooses 'urban resilience' as its overarching concept, due to the 'positive meaning' of this concept 'to most people' in the uncertain context of global economic recession and climate change (SACN, 2011: 12).
6. At the time of writing in 2010/early 2011, the Gauteng provincial government was formulating a Gauteng 2055 Vision, but was not in a position to release drafts for comment.
7. Gauteng Province's registration of informal settlement residents in 2005 revealed that 94.6 per cent were in fact South African citizens (Thring, 2008). The City of Johannesburg (2006: 34), referring to the same survey, provides a similar figure, namely only 6.9 per cent of families in informal settlements being 'non-South Africans'.

Chapter Three

Informal settlements in the discourse on urban informality

... we see, and bask in, the reflection of our own 'autonomous' selves, but behind those mirrors is a world of consequences that we can only, and perhaps only at the best of times, reflect upon in some form of anxious, ambivalent, and opaque nostalgia.
(Del Mar, 2008: 1102)

... they transform their bewilderment into 'catastrophes' ... they seek to enclose the people in the 'panic' of their discourses.
(De Certeau, 1993: 156)

Official urban planning in African cities deals with informal settlements either by stamping them out and replacing them, at best relocating their inhabitants to formally planned, regulated and taxed environments, or by applying the exception of *in situ* upgrading—the recognition and permanent incorporation of informally developed neighbourhoods into the city. Policies for urban competitiveness have shunned applying this exception. Instead they wish away any signs of informality ever having existed. The management of human mobility in terms of such policies is concerned with the needs and perceived desires of a skilled middle class. Whether explicitly or by default, this management of human mobility has included efforts to deflect the poor from the city, and to cater to the 'basic needs' and not the desires of only a small proportion of the existing poor, often through flagship 'delivery' projects. The same policies have deepened inequality, to the extent that urban informality is the only means of habitation and livelihood for a large percentage of the urban population. Whether displaced to the urban periphery, hidden in spaces which the authorities have forgotten about, or relocated to uncompetitive localities, informality, and its overlap with what is now referred to as 'slums', persists in this context (and seemingly it must persist). In order to confront this situation, we need a clearer understanding of urban informality. Indeed, many have sought this understanding since the 1970s, when the term 'informal sector' was first coined. In this chapter, I explore a wide-ranging debate on the many interpretations of 'informality'.

I use this to crystallise a meaning that helps to make sense of the struggles against eradication and for a right to the city, which I address in the remainder of the book.

Definitions of urban informality: from temporary duality to persistent tension

Urban informality as a term is defined by its opposite, urban formality; or, put differently, informality is defined by what it is not (not formal, not planned, not taxed, not regulated, etc.), rather than what it is (Durand-Lasserve, 2003). Scholars often refer to informality as 'extra-legal' and 'unregistered' activities, expressed in housing, services, trade or manufacture (Hansen & Vaa, 2004: 7). Economic terminology refers to two distinct sectors: the formal, regulated and taxed sector and the informal, unregulated and untaxed sector. Urban research first distinguished between formal and informal on the basis of groundbreaking work in the early 1970s, which examined unregulated housing, trade and manufacture, practices that gave livelihood and shelter to a large percentage of the urban population in countries such as Ghana (Hart, 1973) and Kenya (ILO, 1972). The International Labour Office (ILO, 1972) first coined the concept 'informal sector', whereas Keith Hart (1973) pointed to links between political power, corruption and informal industries such as housing and transport (Hart, 2010). The early work on 'informality' gave rise, for the first time, to policies that supported street traders and unregistered open-air manufacturers, hitherto subject to de-legitimising discourses and draconian practices such as raids, evictions and restrictions (King, 1996). The supportive policies acknowledged the benign nature of many of the informal urban activities. Nevertheless, the informal must in some cases be condemned as illicit or illegal, for instance where there is a deliberate and harmful circumvention of labour legislation. Such practices may equally contravene human rights—for example trafficking of humans or trade in harmful illegal substances. Yet the tendency to label all informality as illegal or even criminal has persisted and in some contexts re-emerged, and legitimises draconian programmes aimed at eradication. Hart (2010: 378) observes that 'whereas the informal economy was once seen as a positive factor in development, it is now more likely to be presented as an obstacle'.

Since the conceptualisation of the formal–informal duality in the economy, academics have questioned its validity (Dick & Rimmer, 1980; McGee, 1978). Linkages and continuities between the formal and the informal have led scholars to conclude 'that informality is not a separate sector but rather

a series of transactions that connect different economies and spaces to one another' (Roy, 2005: 148). With reference to such transactions, Abdoumaliq Simone (2001: 113) draws attention to 'the interweaving of potentials and constraints which activate and delimit specific initiatives'.

In the African context, the transition from pre-modern yet sophisticated and structured forms of habitation, production, trade and governance to the modern western equivalent was rapid and largely imposed. Therefore many expressions of informality could be seen as something the modern state, with its particular approach to urban planning and governing, simply never succeeded in registering, taxing, controlling and suppressing. In relation to land tenure, researchers now apply the term 'neo-customary' to many of the processes that determine 'informal' access to urban land on the periphery of African cities (Durand-Lasserve, 2003). This acknowledges that people have informally adapted a pre-colonial form of order and have given it a function in the contemporary African city. Indeed, 'informality should not be read as social disorganizing or anarchy' (AlSayyad, 2004: 25). And yet, persistent expression of visible informality, even if ordered through commonly understood neo-customary practices, remains a bother to states aspiring to urban modernity, if not in the simplistic belief of evolutionary progress which the theory of modernisation promoted since the 1960s, then in the service of urban competitiveness. In this sense, scholars understand informality as 'an age-old issue', which is linked to the 'tension' between 'what a state organ controls and what is beyond its control' (Abdoul, 2005: 237). Highlighting the limitations of simple dichotomies, the philosophical discourse has pointed instead to fields characterised by the tension between two poles:

> *we must learn to see these oppositions not as 'dichotomies' but as 'di-polarities', not as substantial, but as tensional. I mean that we need a logic of the field, as in physics, where it is impossible to draw a line clearly and separate two different substances. The polarity is present and acts at each point of the field. Then you may suddenly have zones of indecidability or difference. The state of exception is one of those zones.* (Agamben, interviewed in Raulff, 2004: 3)

Agamben (1998) uses the idea of 'state of exception' to conceptualise the situation of prisoners of Guantanamo and those of Nazi concentration camps, whose lives are stripped of even the most basic rights and prospects. While Murray (2008: 34–37) uses Agamben's concept of a 'state of exception' to explain the exclusion experienced by 'squatters' in Johannesburg, he also points to the distinction (and tension) between, on the one hand, Agamben's

concern with 'bare life' and, on the other, the relative productivity that may flourish under conditions of 'informality' (Murray, personal communication, January 2011). Therefore it is merely the concept of polarities and fields of tension that I draw from Agamben into a conceptualisation of informality, since it is helpful in critiquing the tendency, for instance in the urban competitiveness discourse, to focus on the visible symptoms of informality and dismiss the varied tension within which these visible symptoms, the embarrassing shacks and informal trading stalls, exist.

This tension is perhaps most explicitly articulated by those exploring a context where the state undertakes to repress visible forms of informality and the people for whom this informality caters. In 'Israel/Palestine', the state considers Bedouin communities informal and subjects them to eviction and demolition in terms of plans for metropolitan expansion (Yiftachel, 2009b). In this context, Oren Yiftachel (2009a: 250, 2009b: 89) refers to 'urban informality' as a '"gray space" ... positioned between the "lightness" of legality/approval/safety, and the "darkness" of eviction/destruction/death'. These grey (or informal) spaces, the 'pseudo-permanent margins of today's urban regions' (2009b: 89) are mostly tolerated but, when 'stubborn', they are dealt with 'not through corrective or equalizing policy, but through a range of delegitimizing and criminalizing discourses' (ibid: 90).

As in Israel/Palestine, informal settlements in South Africa exist under constant threat of ultimate eviction, communicated through a de-legitimising discourse that is in turn legitimised by the slogan 'Cities Without Slums', applied bluntly in the service of urban competitiveness. In Israel/Palestine, not unlike the situation in South Africa under National Party (apartheid) rule, this discourse serves a racialised agenda, one that seeks to claim territory for racially exclusive use. One may argue, as Yiftachel (2009b) implies with the term 'creeping apartheid', that in many regions of the globe today, contemporary South Africa not excluded, a similar discourse (if not explicitly racist) serves the territorialising urban agenda of the globalising market. It requires urban authorities to attract global finance and skilled humans to particular localities and to retain them. It equally requires the authorities to rid these localities of the unwanted, the disorderly, the informal. Therefore informality that caters for the economically weak is marked by a tension (tightened under the pressure of urban competitiveness) between the authorities' desire for their ultimate disappearance and the inhabitants' desire and often need for an urban existence.

Recently, scholars have identified new forms of urban informality, forms that states may deliberately use to achieve certain ends that are not unrelated

to the competitive aspirations of attracting investment and catering to the conspicuous interests of a class of skilled, mobile and globally connected people. Ananya Roy (2009b: 79, citing Ghertner, 2008) observes that much of what looks 'world class' in Mumbai is in fact informal—based on 'extraordinary deals' that states provide for 'corporate investors'. Roy (2005: 149) argues that in this sense, informality can be understood also with reference to Agamben (1998: 18), who conceptualises the 'situation that results from' the suspension 'of order'. And this suspension of order becomes a new order in itself. Nezar AlSayyad (2004: 26) suggests that

> *urban informality does not simply consist of the activities of the poor, or a particular status of labor, or marginality. Rather, it is an organising logic which emerges under a paradigm of liberalization ... governments simultaneously liberalizing and informalizing.*

Therefore, AlSayyad argues, 'much of the discourse on urban informality must be anchored in the structure of [economic] liberalization' (ibid). Keith Hart (2010: 377–378) sketches this context:

> *in the name of the free market, deregulation of national capitalism led to the radical informalization of [the] world economy. Money went offshore and banking was increasingly unsupervised; corporations outsourced and downsized, in the process of making work more casual and precarious; public functions were privatised; the drugs and illicit arms trades took off; the global war over intellectual property became the main site of capitalist struggle; and whole countries, such as Mobutu's Zaire, abandoned any pretence of formality in their economic affairs.*

Roy (2009b: 80) translates this economic informalisation into a definition of urban informality: 'a state of deregulation, one where the ownership, use, and purpose of land cannot be fixed and mapped according to any prescribed set of regulations or the law'. She emphasises the 'structural nature of informality as a strategy of planning' or as an 'idiom' of planning (ibid: 82). As in the Mumbai that Roy and AlSayyad write about, the visible 'order' of aspirant globally competitive cities in Africa is no more than a chimera. Irregularities, circumvention of laws and regulations, and misappropriation of funds are commonplace. While the inhabitants of informal settlements struggle hard to secure support for the exceptional state response of *in situ* upgrading, investors negotiate such exceptions with ease, as witnessed in South Africa in the run-up to the 2010 FIFA World Cup (Herzenberg, 2010). Yet, ironically, '[i]nformality is often seen as a *threat* to private sector development' (Hart, 2010: 378, emphasis in the original).

But is it helpful to refer to the exceptions that states make in the interest of attracting global capital as 'urban informality'? Michela Wrong's (2009) popular non-fiction book, *It's Our Turn to Eat: The Story of a Kenyan Whistle Blower*, gives investigative insight into what Roy calls the 'informal idiom'. And yet, Wrong is critical of the fact that we do not call this by its name, i.e. corruption. Her criticism is directed in particular at the World Bank and Kenya's bilateral donors, who continue to feed a deeply corrupt system, replete with exceptions and extraordinary deals. In my own work on Nairobi (Huchzermeyer, 2011) I found corruption at a lower level forming part of a system that has inverted formal planning, facilitating collective defiance of plans and regulation and allowing the production of extremely dense multi-storey tenement districts—not dissimilar to the process that brought about much of 19th- and early 20th-century Manhattan. Perhaps this could more appropriately be called 'an organising logic' or 'an informal idiom of planning', given the collective and quite systematic understanding, buy-in, legitimacy and political patronage of this system. The high-level corruption that Wrong writes about (and Roy implies for cities like Mumbai) is detested and contested in Kenya. It inspires political mobilisation (Klopp, 2000), even if only to be crushed again by ever larger and bolder acts of corruption and abuse of power.

Turning then to a pragmatic voice in the academic discourse, from a Mozambican perspective Jenkins (2004: 224) argues that 'many African urban analysts may feel uncomfortable with the concept of formal–informal, but it has been very useful shorthand and we all, to a greater or lesser extent use it'. In descriptions of the physical manifestations of the simultaneously 'activated' and 'delimited' local community 'initiative' (to use Simone's (2001: 113) words), we certainly resort to the terms 'formal' and 'informal'. We have a pretty clear picture in our minds when we speak, for instance, of 'informal settlements' or 'informal trade'. Kenyan academic Rosemary Musyoka (2008: 7) provides an important pointer: 'Informality is fluid and for the concept to be well understood it should always be qualified by stating the perspective from which it is used.' The perspective I would like to take from the discourse above into the exploration that follows is, firstly, an awareness of the field of tension within (and the poles between) which informal settlements exist in many contexts, and, secondly, the difficulty with which inhabitants of this form of urban informality negotiate exceptions with city authorities that could secure their place within the city.

Representations of informal settlements: icons, numbers and frames

Beyond descriptions of the physical expression of informal settlements, knowledge about them is, almost by definition, always incomplete or out of date. As Fabricius (2008: 6) notes for Rio de Janeiro, informal settlements 'evade or exceed administrative or bureaucratic oversight' and for this reason most maps and statistics about them are inaccurate. A blind estimation of population figures in informal settlements means that massive numbers of urban inhabitants are either invented or unaccounted for. The absence of clear data and understanding has the general consequence that common points of reference are used to represent this complex and shifting phenomenon. Thus Brazil's *favelas* have become 'iconic images of urban informality itself' (ibid: 5).

But it is also true that each region or continent has its iconic informal settlement, representing the phenomenon in a compelling, if somewhat inaccurate, way. For Latin America, Rio's largest *favela*, Rocinha, in the hills close to the city's sought-after beaches, is the icon. It is home to an estimated 60 000 to 150 000 people (ibid: 10), meaning an uncertainty about 90 000 people (the 2010 Brazilian census, released in May 2011, placed the figure at 69 356 people (ANF, 2011)). For Asia, the icon is India's largest 'slum', Dharavi, in the much coveted centre of Mumbai. Here the estimate is 500 000 to one million people (Neuwirth, 2006: 120), leaving uncertainty about half a million people! And for the African continent, the iconic informal settlement undoubtedly is Kibera in Nairobi, Africa's so-called largest 'slum'. Kibera is well located on land south-west of the central business district, surrounded by middle-class estates and a golf course. Population estimates have varied, and have increased quite dramatically over time. Kibera has been held to be home to over 500 000 people (UN-HABITAT, 2007), over 600 000 people (Government of Kenya, 2004), 700 000 to one million people (Gendall, 2008: 67), 0.8 million people (Davis, 2006: 28), or 'somewhere between 500 000 and one million souls' (Neuwirth, 2006)—as in Mumbai, an uncertainty about up to 500 000 people.

The authority of the seemingly well established and much cited fact that Kibera is 'Africa's largest slum', approaching close on a million 'slum' dwellers if not more, disintegrated overnight as Kenya published its 2009 census results in September 2010. Headlines in the Kenyan *Daily Nation* read 'Myth shattered: Kibera numbers fail to add up' (Karanja, 2010) and 'How numbers game turned Kibera into "the biggest slum in Africa"' (Warah, 2010). The naked

truth revealed by the census is that Kibera hosts 'a paltry 170 070' (Karanja, 2010). Exposing media perceptions of the world's iconic informal settlements, the *Daily Nation* wrote:

> *for a long time Kibera has been touted as Africa's largest slum, with various 'experts' putting its population at anything between one and two million. But the slum does not hold a candle to India's Dharavi with one million. Brazil's Rocinha Favela with a quarter million is probably the closest rival.* (ibid)

As already noted, in Kibera most inhabitants are tenants, and those pocketing the rents are to some extent absentee landlords and indeed wealthier people. Therefore it is not primarily the inhabitants who 'evade or exceed bureaucratic oversight', but their structure owners, many of whom live elsewhere in the city. If no longer the largest 'slum' in Africa, Kibera retains its reputation as 'the most profitable', not only to its landlords, but also to the philanthropic industry. Celebrities, '[m]oved by the sight ... whip up donor organisations abroad to pump in millions of dollars' (ibid). Rasna Warah, until recently an employee of UN-HABITAT, argues that it is likely that 'in the absence of authoritative statistics, the population figure for Kibera was entirely made up to suit the interests of particular groups. And because no one publicly challenged the figures, a lie became a truth' (Warah, 2010). Warah admits that UN-HABITAT used and endorsed the lie, though '[q]uite often, the figure varied depending on which section of UN-HABITAT was publishing it, and for what aim' (ibid). 'NGOs added fuel to these figures' and fabricated 'what had by then probably become the most filmed, researched, photographed and visited slum in the world' (ibid). There has been some debate on the validity of the 2009 census figures, or rather Kenya's census in general, given the 'mentality' of 'being counted at home', that is, in a rural area of origin rather than in the main area of residence, which may be an urban 'slum' (Atwoli, 2010). However, already in mid-2009 the media reported that Kibera's population was 'lower than thought' (*Nairobi News,* 2009). This was based on the results of an Italian 'Map Kibera Project' which had conducted a door-to-door survey in a sample area. It pointed to a population density of only 951 people per hectare for Kibera (MKP, 2009; *Nairobi News,* 2009), whereas the most cited population density for Kibera is 2 000 people per hectare (e.g. K'Akumu & Olima, 2007). However, the findings of the Map Kibera Project did not have the impact that the official Kenyan government's census results did a year later. And as I show in Chapter 6, population size is certainly not the only controversy that the media has recently latched onto in relation to Kibera.

Numbers (whether true or false) are of central importance to the rationale of most urban authorities. Most municipal officials, when asked any question about informal settlements, would respond with numbers of shacks or estimates thereof. In South Africa, the entire drive to eradicate and control informal settlements is based on quantitative target-setting, with a focus on the informal structure or shack. This is strongly reinforced by performance management practices in government departments, as I show in Chapter 5. Yet there is no serious attempt to capture accurate census data on informal settlements in South Africa, as Statistics South Africa counts shacks in unauthorised occupations together with shacks on officially approved serviced sites (StatsSA, 2001, 2008). 'Slum' or informal settlement figures in South Africa are monitored at municipal level. In 2004, 18–23 per cent of households in South Africa's six largest cities were estimated to live in informal settlements (Huchzermeyer et al, 2004). In a more recent review of municipal responses to informal settlements, McIntosh Xaba and Associates (2008) were unable to update these figures due to the inconclusiveness of available data. Replicating the weakness of the census data, they cite figures for 'informal settlements' and for 'informal structures' interchangeably. The latter may be in back yards, on formal serviced sites or in authorised temporary relocation areas. What is important here is not the numbers as such but their inaccuracy or the blindness of the estimates, the possibility of vast over- or under-representation. This opens informal settlement figures to abuse—on the one hand to attract large budgets, to fabricate the achievement of targets or to base a repressive intervention on a fabricated 'threat'; on the other hand to downplay the political significance and validity of demands for large-scale upliftment.

The inaccuracy of informal settlement data points not only to deliberate falsification, but also to the constant and rapid change that informal settlements undergo. As the process of informality responds to changing pressures, newcomers add structures, settlements densify or expand, occupants change, a rental market may emerge and expand, and may be reversed, leadership emerges and may be challenged, struggles for formal recognition and servicing may be waged, sections may be bulldozed and others may consolidate. In South Africa, this process is seldom linear or predictable. Bayat (1997: 61) emphasises the non-linearity of change, noting that '[t]hird world urban life is characterised by ... combined and continuous processes of informalisation, integration and re-informalisation'. A process that runs from invasion through consolidation to formal recognition, legalisation and upgrading, as described by Makhatini (1994) for Cato Manor

in Durban, South Africa, in the ambiguous late-apartheid years, or similarly by Volbeda (1989) for Brazil, has seldom applied in South Africa over the past decade. In particular, the relationship to the occupied land must be understood as shifting ground. While the only elements of official data about informal settlements that remain constant may be the date of formation and the location, the desirability of the location may change as informally occupied land attracts real-estate interest in the larger process of urban change, and with the expansion of quality environments for those serving the competitiveness agenda. And at a lower level, informal sector pressures to extract profit out of commodification, usually through expansion of a shack rental sector, also exist.

The three iconic informal settlements I have mentioned above, Rocinha, Kibera and Dharavi, like many others are not only rapidly changing and fascinatingly elusive. They also occupy prime land in the city, and experience the pressure of real-estate interests backed by policies of urban competitiveness. As sources of sensation and fascination, and more legitimately as representations of the contradictions in 21st-century urbanism, they have featured in popular magazines such as *National Geographic*, *The New York Times* and *The Economist*. Beyond their inhabitants, these iconic settlements are known not only to the urban expert, administrator and development worker, but to the informed public in general. To some extent, the tourism, NGO and even academic sectors have benefited from the attention that these iconic informal settlements attract. They also feature in what Holston and Caldeira (2008: 18) refer to as

> *a new round of [bestselling] books with alarming titles about city 'slums' and their 'billions of slum dwellers' [which] feed an evidently large professional and popular appetite for apocalyptic descriptions of planetary degradation due to current urbanisation.*

The use of the plural is perhaps a little unfair, and Hoston and Caldeira admit this in a footnote. One of the books they refer to is of course Mike Davis' (2006) *Planet of Slums*. The 'other', *Shadow Cities: A Billion Squatters, A New Urban World*, is by the journalist Robert Neuwirth (2006), who, unlike Davis in his rapidly executed literature review, reports first-hand on two years that he spent living in 'slums' across the globe. Predictably, and also admirably, these 'slums' are the notorious Rocinha and Kibera, and although Neuwirth did not live in Dharavi, his hosts and respondents in another of Mumbia's 'slums' spoke much about Dharavi and showed him this settlement. The apocalyptic title may well have been the choice of his publisher, Routledge.

Essentially, Neuwirth's book is about hope, and the need to recognise 'slum' dwellers as future leaders and 'slums' as a norm.

Preceding the books by Davis and Neuwirth, Abdoul (2005: 236) refers to apocalyptic 'slum' descriptions as 'an analysis based on "urban crisis"'. Such analysis is of course grounded in an (often inflated) numerical representation of informal settlements. Abdoul emphasises that it informs a 'normative and curative approach', and applies a terminology 'of economists, political analysts, civil engineers and urban development experts' (ibid). In this terminology, these professions find 'an explanation of the urban crisis and a justification of the restrictive or repressive intervention of the so-called informal activities' (ibid). In South Africa, the terms 'crime', 'disease', 'pathology', 'ballooning' and 'mushrooming', all used to describe informal settlements, justify technical and policy concepts of 'zero tolerance', 'eradication' and 'elimination'. These, in turn, legitimise the use of 'security measures' and indeed the services of private security companies, to manage the 'problem', as I show in Chapter 5, in effect to curb its growth in numbers. Implicit is the perception that informal settlement dwellers threaten the 'ordering of space' (Pithouse, forthcoming). Therefore, a strategy that applies zero tolerance to 'disorder' (and the terminology such a strategy uses) 'also exhibits a *denial* of what the city is' (Merrifield, 2002: 119, emphasis in the original).

Roy (2005: 148) identifies another popular or bestselling 'frame' for informality, which she places alongside that of 'crisis', namely 'heroic entrepreneurialism' (Varley, 2010: 6, 8 refers to a further 'heroic narrative', namely that of 'ecological virtues'—the comparatively low ecological footprint—which 'runs the risk of essentialising poverty and creating a new kind of "noble savage"'). Heroic entrepreneurialism is found particularly in economist Hernando de Soto's (2000) *The Mystery of Capital*. As already mentioned, De Soto's work emphasises creativity and entrepreneurialism in 'slum' dwellers' response to the incapacity of the state to meet their needs. Roy (2005: 148) criticises the way in which both frames (crisis and heroism) equate 'informality with poverty'. To Roy, this ignores the possibility of 'power and exclusion' being embodied in informality, and it suggests that informality is isolated 'from global capitalism' rather than, at a very minimum, interacting, if not resulting from, global economic processes (ibid). Roy criticises a tendency to see (and represent) 'informality as the urban frontier, the unchecked and unfettered', as opposed to emphasising '[t]he material reality of squatting ... that is very much about territorial exclusions, about the lack of space, about the spatial ties of livelihood that bind squatters to the most competitive terrains of the city' (Roy, 2004: 308). Roy calls for a

particular approach, that of '[t]he political economy of informality [which] is ... also the politics of representation' (ibid: 312). This goes beyond what Hansen and Vaa (2004: 19) emphasise, namely the need for 'empirically based, substantive research ... in order to understand ongoing processes of change in African cities and to promote urban development'. Fabricius (2008: 11) in turn argues that it is not necessary infinitely to refine what we know about informal settlements:

> *As geographers, architects or planners, accepting our inability to articulate urban boundaries is infinitely useful for describing the contemporary city. Accepting partial knowledge and relinquishing epistemic control is a step towards a geography of the informal.*

Whether producing a 'geography of the informal' by 'relinquishing epistemic control', by a 'political economy of informality' or by 'empirically based, substantive research', how does this contribute to breaking down the negative forms of control practised against informal settlements, or to releasing the tension within which their inhabitants live? Neil Smith (2008: 196) warns of a 'post-structuralist phlogiston ... namely that if one changes the discourse the world will follow'. While a conscious and critical engagement with the academic discourse is important, it is not only those defining the academic discourse on this topic who wish the world to change, and who articulate visions and strive for better cities and better worlds. This book stems from a still very limited articulation by a network in which movements of informal settlement inhabitants play a very important role in widening the possibility of an alternative understanding being taken up by the authorities, be this through protest, negotiation or litigation. This leads us, in the next section, to a consideration of the little we know about the people who inhabit informal settlements, 'their capacities to deal with these informalities' (Simone, 2001: 104) and their approaches to changing the world we inhabit.

Inhabiting informal settlements: insurgence, tolerability and making cities liveable

Holston and Caldeira (2008: 18) point to informal settlements as 'emergent spaces of invention and agency'. They recognise not only a complexity, but also an insurgent creativity, a 'capacity' to create 'something new that cannot readily be assimilated into established conceptual frameworks' (ibid: 19). But what is insurgence? Holston (2009: 15) defines it as 'a counter-politics

that destabilizes the dominant regime of citizenship, renders it vulnerable, and defamiliarizes the coherence'. Miraftab (2009: 35, citing Holston, 2008) refers to informal settlements as 'the material expressions of poor citizens' insurgency, organized residents enacting their universal citizenship mobiliz[ing] to claim their entitlement to the city and to urban livelihood'. Roy (2009a: 9) addresses the entanglement of 'insurgency and informality':

> *Insurgence often unfolds in a context of informalization, where the relationship between legality and illegality, the recognized and the criminalized, the included and the marginalized, is precisely the cause of counter-politics.* (ibid)

An engagement with insurgence forces us to look beyond the processes of informality to the actual people involved or caught up in these processes and living within their field of tension, which is characterised by intense contradictions. AlSayyad (2004: 9) asks not only 'what is this informality', but 'who are these informals?' He notes that the terms 'urban marginals', 'urban disenfranchised' and 'urban poor' are 'often used interchangeably'. Citing Bayat (2000: 534), he refers to these people as 'members of the urban underworld' (AlSayyad, 2004: 10).[1] These authors note that informality does not always equal organised insurgency. Alsayyad (ibid: 14) reviews Bayat's work on 'the struggles of the Middle East informals', which reveals 'not a politics of protest, but of redress', aiming at 'the redistribution of social goods and opportunities, and attainment of cultural and political autonomy' (quoting Bayat, 2000: 548). Bayat (1997: 55), while acknowledging the existence of social movements, draws attention to 'the vast arrays of often uninstitutionalised and hybrid social activities which have dominated urban politics in many developing countries'. He points to 'a silent, patient, protracted and pervasive advancement of ordinary people on the propertied and powerful in order to survive hardships and better their lives' (ibid: 57). In contexts such as Egypt, in which Bayat bases his work,

> *[t]he repressive policy of the state renders individual, quiet and hidden mobilisation a more viable strategy than open, collective protest. Under such conditions, collective and open direct action takes place only at exceptional conjunctures, in particular when states experience crises of legitimacy.*[2] (ibid: 67)

Lefebvre (1991[1974]: 316) uses the concept of thresholds to understand the situation of 19th-century 'slums', which he argues embodied 'the lowest possible *threshold of tolerability*' (emphasis in the original). He contrasts this with the near 'lowest possible *threshold of sociability*' (emphasis in the original) in modern suburbs, 'the point beyond which survival would be

impossible because all social life would have disappeared' (ibid). Lefebvre implies that 'slums', despite their very low levels of tolerability, had high levels of sociability. It is important to note that in today's so-called 'slums', the threshold of tolerability varies regionally. Therefore the concept of a 'slum' cannot be applied as one universal standard or condition. The way in which the term is used globally wrongly implies that a uniform definition is applicable in all contexts. In 2007, during a visit to the Kennedy Road informal settlement in Durban, I was told of a few Abahlali members who had received support to participate in the World Social Forum in Nairobi. This had afforded them the opportunity to visit Africa's iconic 'slum', Kibera. Abahlali members were alarmed at the congestion, the rents charged, and the lack of even the most basic form of sanitation there, with residents instead resorting to the notorious 'flying toilets'—faeces deposited in plastic bags and thrown onto embankments or narrow pathways that often double as drainage courses.[3] In 2007, I discussed Abahlali's perception of Kibera (as having, to them, less tolerable conditions than Durban's informal settlements) with a resident-activist who lived there. She had been part of a rights-based activist group from her settlement that had travelled to Mumbai, visiting human-rights organisations working in 'slums' in that city. Her delegation had returned to Kibera with great relief, finding the congestion and conditions in Mumbai's 'slums' less tolerable than what they were used to in Kibera.[4]

In my own work on informal settlements in South Africa, I have tried to portray these areas as 'the uncommodified, human face of South African cities' (Huchzermeyer, 2009: 59). This emphasises the universal human requirements and desires expressed through informal settlements, such as community or sociability, individual and collective cultural expression, home-making, access to livelihood and schooling. I have argued that '[u]nlike formal property owners, the residents of these settlements play no active part in the socio-economic processes that deepen poverty: they are excluded from ... the distorted land market ... [which is] so much adorned and guarded by all who play their economic cards in this lucrative game' (ibid).[5] In South Africa, the portrayal of informal settlements as a human face of the city, 'strained or contorted by increasing poverty and deepening inequality' (ibid: 62) was intended to counter the dominant representation of informal settlements as a mushrooming and threatening phenomenon, and instead to point to positive human activity and determination to struggle for an urban life.

As already argued, even where the majority of inhabitants are tenants, often with absentee landlords (as in Nairobi's 'slums'), informal settlements

are made tolerable by those who inhabit them. This is the case often in the face of conscious government drives to make them intolerable (for instance by failing to collect refuse), so as not to attract more poor migrants. While the term 'liveable' is not synonymous with 'tolerable', informal settlements in many cities must be acknowledged in the first instance as a sign of what Andrew Merrifield (2002: 172) describes as 'cities made liveable by people struggling to live'. Making a city liveable involves, as Asef Bayat (1997: 54) observes for Egypt,

> *quietly claiming cemeteries, roof tops and the state/public land on the outskirts of the city. By their sheer perseverance, millions of slum dwellers force the authorities to extend living amenities to their neighbourhoods by otherwise tapping them illegally.*

However, the struggle to live and make an environment liveable or tolerable can take many forms, including mobilisation, collective negotiation, litigation, protest and a combination of all these, alongside 'quietly claiming'.

While recognising and writing about the patience and humanity of those inhabiting informal settlements may be a small step in countering the conservative tendency to see the 'informals' as a threat, there is a need to go beyond this. Organisation or resistance within informal settlements can be difficult to sustain in the absence of some of the most basic resources, and in the context of growing tension as cities seek global competitiveness. Collective organisation may also disintegrate under the constant pressures of political rivalry and exploitation, or when NGOs introduce resources unevenly to achieve their own agendas. Bulldozers often crush fragile mobilisation along with every sign of informality, in an effort to wish away the articulation of the human desires and requirements that informal settlements so embarrassingly represent. Pithouse (forthcoming), urges researchers and academics to defend and support 'popular political empowerment'. He calls for 'concrete dialogical solidarity with actually existing popular struggles—with real movements that abolish the present state of things' (ibid). Quoting Hallward (2006: 162), Pithouse (forthcoming) emphasises the extent to which the 'politics of the future are likely to depend on ... principled forms of commitment, on more integrated forms of coordination, on more resistant forms of defence'. This requires, beyond the 'political economy of informality' which Roy (2004: 312) calls for, a commitment to using theoretically and empirically based analyses and insights in a pragmatic and at times uncomfortable way.

End Notes

1. This is not to be confused with the stigmatising term 'underclass'. The 'underclass' thesis suggests a situation where 'anti-social subcultures, conflict or crime' are 'considered acceptable by local residents' (Turok & Bailey, 2004: 186, citing Atkinson & Kintrea, 2001).
2. Subsequent to the largely middle-class protest in Egypt early in 2011, which resulted in the resignation of President Mubarak, Cairo's 'slum' residents have taken to the streets to demonstrate against state negligence (Blair, 2011).
3. Recent anecdotes suggest that the approach of defecating into plastic bags is increasingly being adopted by those excluded from access to sanitation in South African cities. An example is mentioned in the Cape Town High Court judgement in the Makhaza case, with reference to an affidavit on access to sanitation by one of the Makhaza residents (Erasmus, 2011: s.136).
4. Using the concept 'liveability', rather than 'tolerability', Syagga et al (2002: 8) and Gilbert (2007: 700) argue that universal standards are irrelevant in defining 'slums'.
5. As Harvey (2009: 1276) notes, '[o]ne of the ways in which the rich get richer [and inequality is increased] ... is through speculation in asset values. One kind of asset that works beautifully to that purpose is precisely the increasingly deregulated land and property markets that have underpinned so many financial excesses over the years.'

PART TWO

‘Slum’ eradication in action

Chapter Four

'Slum' elimination in Zimbabwe and Nigeria

> *The Lefebvrian idea of urban life made through the creative impulses of all its dwellers has become redefined as a threat to urban order.*
> (Amin, 2006: 1018)

> *Once again shack settlements are being presented as a threat to aspirations for an elite modernity.*
> (Pithouse, 2010: 134–135)

Paralleling the global curiosity about Africa's iconic 'slum' Kibera, Operation *Murambatsvina* in Zimbabwe is undoubtedly Africa's icon of post-millennial evictions. Because the international community did little to prevent the Zimbabwean government from unrolling this ruthless operation, the media had rich pickings from the tragic aftermath. Only one of many mass evictions from cities on this continent, this iconic episode seemingly saturated the international media's interest in the depressing topic of mass eviction in African cities. The media have taken little interest in recent mass evictions in Nigeria's capital, Abuja, and in other African cities. Even evictions and regressive legislative changes that form part of South Africa's drive to eradicate informal settlements by 2014, to which I turn in the next chapter, have received scant media attention, let alone analysis. And as with the wildly uncertain population estimates for large 'slums' or informal settlements, with mass evictions, iconic or not, the number of affected households remains a guess.

The International Covenant on Economic, Social and Cultural Rights (CESCR) and the United Nations Commission on Human Rights (UNCHR) have long condemned mass evictions, and the accompanying destruction of urban social and economic fabric, as a systematic violation of human rights (Du Plessis, 2006). The proliferation of urban evictions in the new millennium is a glaring sign that the priorities of post-millennial urban management, steered by the growing urge for cities to be more attractive and by implication more exclusive and competitive, is an advance only for the market and a few elites, not for society or humanity.

Global governance, urban competitiveness and perceptions of informality at play in 'slum' evictions in African cities

Nigeria, Zimbabwe and South Africa are by no means the only African countries with determined 'slum' eradication drives. With regard to the African continent, Jean du Plessis (2006: 184) speaks of 'an epidemic of forced evictions, on an unprecedented scale'. In Kenya's capital, Nairobi, a long awaited change in government in 2002 disappointed many 'slum' dwellers when the state announced its intention two years later to clear large numbers of informal dwellings (mostly rented) from power line wayleaves, from railway reserves and from the route of a bypass planned in the 1970s and finally earmarked for implementation (COHRE, 2005c). In the Angolan capital, Luanda, mass evictions after the end of civil war in 2002 had involved excessive force at the hands of police, the military and private security firms (COHRE, 2005b). Many of the victims have experience of internal displacement during the war (Human Rights Watch, 2007). An urban renewal project that aimed 'to attract private investment' to Luanda was one reason for the evictions (OHCHR, 2008). Another was the government's determination to build one million new low-income houses by 2012, rather than to upgrade the existing informal settlements *in situ*. The housing programme forcefully moved informal settlement residents to 'temporary housing camps', where it provided tents for the evictees, often only after much delay and at a cost, and all in a context of extreme corruption (Tolsi, 2009c; York, 2010). Evictions were under way in Luanda in October 2009, the same month in which UN-HABITAT celebrated its annual World Habitat Day in that city under the questionable banner of 'harmonious cities' (Amnesty International, 2009). When Innercitypress.com asked the UN-HABITAT Executive Director about this, the official response from her spokesperson was 'that HABITAT director Anna Tibaijuka stood with Angola and had no comment on eviction', though when asked again three weeks later, the Executive Director responded, 'It is the responsibility of the UN not just to condemn but to engage and encourage' (Innercitypress.com, 2008).

The government of Cameroon has likewise been undertaking large-scale evictions since 2005 in its capital, Yaoundé (Teschner, 2008). These have found hardly any resonance in the international media. The politician heading the urban development of Yaoundé, Gilbert Tsimi Evouna, was tasked by Cameroon's President with carrying out a comprehensive modernisation of the capital by 2010 (ibid). Such actions were usually presented as being

in the public or the country's interest (Du Plessis, 2006). By 2008, more than 100 000 people in Yaoundé were affected by the demolition of entire neighbourhoods. Evouna compared his task with that of Baron Haussmann, who created the 'beautiful' city of Paris. In a local newspaper interview he warned residents of Yaoundé that

> *[t]he year 2010 is almost there. Yaoundé citizens must acknowledge that in 2009 I will accelerate the job started, they have to be ready for more sacrifice. I repeat that by 2009 it would be terrible because we have to succeed.* (*Cameroon Tribune*, 2008, quoted in Teschner, 2008: 5)

Drawing parallels between post-2000 evictions in Yaoundé, Harare and Abuja, Klaus Teschner (2008: 7–8) identifies typical perceptions that legitimise these urban evictions. They all resonate with the discussion in the previous chapters, and I find it helpful to organise them into two broad groups, which are mutually reinforcing:

- One group of perceptions is based on a perverted understanding of rights. Firstly, there is the assumption that cities have a right to modernise and that the poor are an obstacle to realising this right. Secondly, there is a questioning of the right of the poor to occupy urban land. Instead, the poor are associated with a rightful place only in rural areas, not in cities.
- The other group justifies not applying the 'global best practice' of *in situ* upgrading of informal settlements. Firstly, there is the view that informal settlements cannot be improved due to prevalence of crime and other pathologies, and should rather disappear. This is reinforced by criminalising the informal occupation. Secondly, 'slums' are viewed as a never-ending problem unless governments take brave and decisive action to remove them. Lastly, there is the argument that the land is too valuable to be used for low-income accommodation.

Citing the post-2000 eviction drives of Zimbabwe, Nairobi and inner-city Johannesburg, Berrisford and Kihato (2006: 26) discuss two further perceptions which legitimise recent evictions within urban management in sub-Saharan Africa:

- Firstly, there is the perceived urgent need for much-neglected 'implementation' and enforcement of existing plans and regulations as part of 'good governance', even though these are usually colonial and not compatible with democratic governance. The drive for 'implementation' carries more legitimacy than do calls for reform.

- Secondly, they discuss the assumption that 'a good city is a clean city ... and a clean city is a city in which there are no (visible) poor people' (ibid). In their assessment, planning law has 'provided a pseudo-legal smokescreen behind which real harm and damage has been inflicted on cities already buckling under a range of social, ecological and political pressures' (ibid: 21).

Returning to the discussion on urban informality in the previous chapter, it is ironic that accounts of the 'mushrooming' or 'ballooning' of 'slums' fuel the discourse of urban crisis, while the crisis in excessive regulation and enforcement, with mass destruction to produce 'clean' and 'competitive' urban environments such as Abuja and Harare alongside South African cities, and perhaps post-2010 Yaoundé and 2012 Luanda, escapes attention. In this and the following chapter I try to argue that it is not the disorderly but the over-sanitised city that must be condemned. In many people's perceptions, the 'African city' is associated with extensive informality and disorder. Within this perception, the modern city of Abuja in Nigeria, Zimbabwe's capital Harare and South Africa's excessively engineered, regulated and segregated apartheid and post-apartheid cities are indisputable exceptions. Potts (2006a: 268), for instance, makes this argument for Zimbabwe. But as Servant (2003: 2) argues for Abuja, in these sanitised contexts, informality creeps through the cracks of a modern veneer. The obsessed authorities remain determined to rip up and plaster over any signs of an informal African city, and it is the veneered city that is held up as the 'world-class African city'.

The Kenyan government's *Nairobi Metro 2030: A World Class African Metropolis* (Ministry of Nairobi Metropolitan Development, 2008) mentions only two African countries as implementing 'global best practices' in terms of 'world-class cities'. These are Nigeria and South Africa. A study by Izak van der Merwe (2004: 41–42) which determined which sub-Saharan African countries 'had the best capacity to house global cities' found 'South Africa and Nigeria are top scorers, with Kenya in a strong third position'. Sani Tahir (2010: 1) argues that 'due to Nigeria's leadership position on the continent', Abuja 'is the window through which African countries are viewed'. It is a stark reality that cities across sub-Saharan Africa compete for foreign direct investment with the few overly sanitised, iconic and repressive so-called 'African world-class' cities. While informality may be the dominant reality in most African cities, in this millennium the direction that urban development takes across the continent is undoubtedly inspired and legitimised by practice that excludes and suppresses informality and by

implication represses (or at best wishes away) the population that depends on informality for its urban life.

In the next sections, I review large-scale evictions in Nigeria (Abuja) and Zimbabwe (mainly Harare). In both cases (and with strong parallels in the South African case examined in the following chapter), the evictions are closely linked to the themes I have explored in the earlier chapters of this book. For Abuja I draw in part on some first-hand insight, though only from my participation in a short COHRE and Social and Economic Rights Centre (SERAC) 'mission' in November 2006 which informed their 2008 report (COHRE & SERAC, 2008), and on literature assembled initially for that purpose. For Zimbabwe, I draw on academic and non-academic commentators.

My intention with these two case studies is not to demonstrate the impact of the evictions on poor people's lives and the fears, tensions and uncertainties they instilled. This would be to replicate the approach and reporting of housing rights organisations such as COHRE and SERAC, although more of this work is certainly needed. My intention instead is to provide a context for the themes that I explored in the preceding chapters, while expanding on the common perceptions that analysts and commentators such as Berrisford and Kihato (2006) and Teschner (2008) have identified. One theme raised in the preceding chapters is the ineffective role of global governance and, linked to this, the mutual legitimisation of eradication and eviction through African regional bodies such as AMCHUD, the Southern African Development Community (SADC) and the AU. Another is the direct link between, on the one hand, persistence and reinforcement of modern town planning and associated planning control and, on the other hand, the urge for urban competitiveness, hosting of global events and beautification. This focuses on removing symptoms of urban poverty rather than engaging responsibly with its causes, and underpins the legitimisation of policy language such as 'eradication', 'elimination', 'restoring order' or 'cleaning out trash'. A third theme is the increasing tension which defines urban informality when occupied land gains real estate value and is coveted for profit-yielding uses. Linked to this is the high level of corruption (also in relation to land deals) in the same regimes that push enthusiastically for 'slum' eradication, and the questionable political use of such eradication. All of this underpins the great reluctance with which these same regimes implement informal settlement upgrading, which could afford the poor a permanent right to reside affordably in the city.

However, my intention with these case studies is also to introduce a new set of themes that I explore further in the latter part of the book. One is the

problematic use of temporary relocation areas (though this was not applied in Abuja), which prolongs uncertainty and can be terminated at any time. The other is the façade of flagship relocation projects. These are almost without exception unrealistic or over-ambitious, and inappropriate to the lives of the evictees. They are seldom genuinely intended for this class of people. And yet, alongside temporary relocation areas, they effectively serve to legitimise repressive eradication drives to a global audience, and in South Africa (as I show in Chapter 6) even to the country's highest court.

Mass evictions to restore the order of Abuja's 1997 master plan

Nigeria's capital Abuja resulted from an overly ambitious modern master plan burdened with national symbolism and 'the aspirations of independent nationhood' (Umeh, 1993: 228). The realisation of massive opportunities for enrichment by Federal Capital Territory (FCT) ministers, officials, contractors and developers further frustrated the development of the city. This resulted in neglect of affordable housing construction and the inevitable emergence of 'slums'. Since 2003, a perverted modern town planning discourse around the 'restoration of the Abuja master plan' has treated corruptly authorised upmarket private developments with the same brush as Abuja's largely rental informal settlements (Figure 4.1). In practice, bulldozers have flattened both (COHRE & SERAC, 2008), while corrupt land allocation to new private developers as well as beneficiaries in important government positions has continued. To explore the reasoning behind Abuja's mass evictions, it is necessary to set out the short history of this young city.

The emergence of 'slums' as a function of Abuja's development

In the 1970s, Nigeria's military rulers considered the colonial capital, Lagos, a disgrace due to its unruliness, informality and congestion. The city's coastal location among rivers and lagoons also constrained urban expansion and accessibility (Umeh, 1993). Nigeria's military aspired to build a capital city that could instil pride and unite an ethnically fragmented nation. Thus, it 'was interested in building a new monumental capital ... basically [and ironically] ... a "European city in Africa"' (Morah, 1993: 257).[1] In 1975, a 'special committee' examined 'the desirability or otherwise of relocating the capital from Lagos' (Ikejiofor, 1997: 411). The committee chose an area in the centre of Nigeria, to the south of a town then called Abuja, but renamed

Figure 4.1: Planned demolition—crosses on a crèche in Lugbe, one of Abuja's 'slums', and on a multi-storey building in central Abuja

Source: Author's photographs (2006)

Suleja when the state gave the name 'Abuja' to the new capital (ibid). The military state created the Federal Capital Development Authority (FCDA) in 1976, with the task of developing a new capital for Nigeria. A year later, the FCDA commissioned International Planning Associates, a US-based town planning consortium (one of almost a hundred expatriate firms that competed for the job) to design a master plan (Ikejiofor, 1997, 1998; Morah, 1993). In 1979, the planning consultants submitted a 'comprehensive' master plan, to be implemented in four phases (Ikejiofor, 1997: 411) (Figure 4.2). Similar to the aeroplane-shaped structure of Brazil's modern capital Brasilia, Abuja's master plan consists of two banana-shaped arms/wings on either side of a central government spine. On plan, each arm bears a striking resemblance to Cape Town's prototypical late-apartheid township Khayelitsha, designed in the early 1980s.[2] While the FCDA has only constructed a small portion (Phase One) of the Abuja master plan to date, the generous dual carriageways, wide road reserves, strictly engineered road layouts and separated land uses trigger an uncanny *déjà vu* in any visitor familiar with South African cities.

Nigeria's rulers conceived of and commissioned the design of the new capital in a period when the country's oil revenues were expanding, and from the outset the project of building a capital demanded a 'large financial commitment' (Umeh, 1993: 227). Erasmus Morah (1993: 259, 260) argues that due to the 'undisputed assumption of the military, at the initial stages of the new capital ... that Nigeria was a wealthy country ... decision-makers

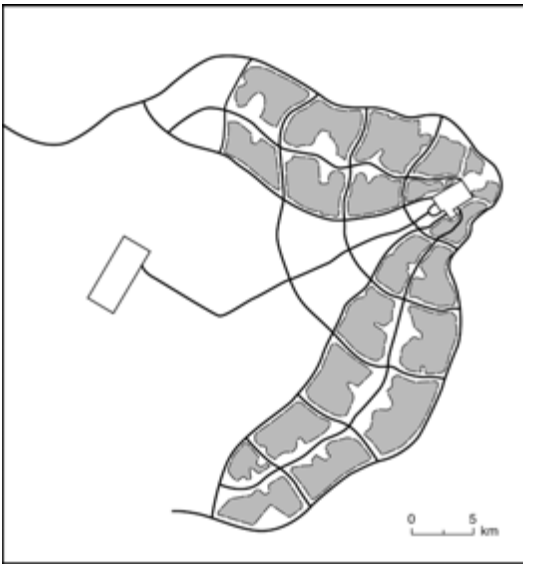

Figure 4.2: Diagram of Abuja's 1979 master plan

Source: El-Rufa'i (2006: 41)

in Nigeria' were expected to 'show an attitude of indifference towards costs during the formulation of construction plans for the city'. This overly ambitious and unrealistic approach to Abuja's development informed its master plan (ibid) and has persisted to date (COHRE & SERAC, 2008), and implementation has lagged far behind the intended schedule.

In 1986, ministerial and parastatal headquarters began to relocate and in 1991, a decree formally transferred the federal capital from Lagos to Abuja. The presidency forced reluctant ministries to relocate by 1996. This period saw 'sudden increases in the city's population' and 'enormous pressure ... on the city's still rudimentary infrastructure, particularly housing' (Ikejiofor, 1997: 413). Rents rose rapidly, and as housing affordability decreased, civil servants and others employed in the new city resorted to sharing accommodation in overcrowded conditions. Small-scale private rental rooms emerged in what were then 'outlying settlements of Abuja' (ibid).

From its inception, the FCDA built Abuja to extremely high standards, with no affordable accommodation (Elleh, 2001). A survey of officials' attitudes to housing and development in Abuja in the early 1990s found that the

majority believed that 'low-cost housing would probably be contrary to the intended showcase image of the new capital' (Morah, 1993: 255). Further, the officials perceived that a high standard of housing symbolised 'progress towards modernity' (ibid: 158) and that 'any manifestations of poverty in Abuja should be eradicated at all costs' (ibid: 265). In this study, Morah (ibid) quotes a 'principal officer' in Abuja's development authority stating that 'not only do the poor not have any business in the city but, if allowed in, they are sure to "spoil" the place just like they "spoiled" Lagos'. The majority of Morah's respondents believed 'that it is possible to avoid squatters in Abuja'—this at a time when 'squatting' was already a visible reality in the city (ibid: 256). This incapacity or unwillingness to recognise reality and engage with it meant that officials were 'unprepared to deal intelligently with the problem of squatters in the city' (ibid: 257).

The international consultants planned Abuja for a maximum of 3.1 million people. They envisaged that by the year 2000, implementation would have progressed to cater for just under half of this ultimate population; Phase One would have been completed by 1986, with 25 000 formal housing units for an anticipated 150 000 people. However, by 1984 the FCDA had only constructed 3 524 units, and an optimistic estimate was that the city would formally house 48 000 people by 1986, less than one-third of the anticipated population (Ago, 1984). The pace of development continued to lag far behind the schedule set out in the master plan. It is not surprising that in the 1990s, levels of end-user dissatisfaction with housing in Abuja were high, with junior officers in particular being under-housed (Ukoha & Beamish, 1997: 148). Housing allocation and maintenance by the FCDA were also not to end-users' satisfaction (ibid).

People and settlements as obstructions to Abuja's master plan

When the Nigerian state identified the 8 000 km^2 FCT, indigenous groups inhabited the area. The state initially planned to resettle all of the estimated 25 000–50 000 original inhabitants in the three states at whose convergence the territory was carved out. However, due to the large sums of compensation required for this resettlement, the rulers postponed relocation until the implementation of the master plan reached the indigenous villages (Ago, 1984). In 1978, General Obasanjo made an exception to the unrealistic assumption of endless Nigerian wealth, arguing that '[t]he meagre funds available now should be spent more on development of infrastructure rather than on payment of compensation' (quoted in Jibril, 2006: 5). The military rulers decided that resettlement

would eventually occur, if so preferred, within the FCT, although the master plan's concept for regional development of the territory did not foresee this (Ago, 1984).

In response to the demand for affordable accommodation, the indigenous villagers began either illegally selling their customary land to others who were investing in unplanned low-cost rental accommodation, or themselves investing in such stock. This resulted in 'the rapid expansion of existing settlements and the growth of approximately 65 informal settlements' (Fowler, 2008: 12). By 1997, research had already identified 'multifamily rooming houses ... as constituting the majority of all rental units' in Abuja's unauthorised settlements (Ikejiofor, 1997: 416) (Figure 4.3). Critics blame Abuja's 'slums' on the hasty move of government offices to the city before housing was constructed; in addition, senior politicians prevented the development of affordable housing construction, by corruptly allocating developable land (Zacks, 2001: 2). Stephen Zacks (ibid) observed in 2001 that 'Federal ministers continue to occupy themselves by trading property for government posts and construction contracts'. The same remained true almost a decade later. FCT Minister Modibbo, in his short term in office from July 2007 to October 2008 which ended with accusations of 'financial mismanagement', 'made a mockery of the Abuja master plan', authorising irregular land deals with property developers and 'giving land gifts to

Figure 4.3: Multi-family rooming house in one of Abuja's 'slums'

Source: Author's photograph (2006) before demolition of this 'slum'

state governors, editors, law enforcement officials, and top government functionaries' (Akinbajo, 2010: 2).

In line with international best practice, in 1992 the FCDA recognised that the indigenous villages, which predated the master plan, provided much-needed accommodation for the city and 'had *de facto* become part of the city' (COHRE & SERAC, 2008: 49) (Figure 4.4). Making an exception to the strict adherence to the master plan (other exceptions were of course the corrupt land allocations), the FCDA legalised the village of Garki and 'integrated' it into Phase One of the master plan. This *in situ* upgrading of one of Abuja's informal settlements was 'a complete U-Turn' (Jibril, 2006: 5), but it also remained a one-off exception. Under Minister el-Rufa'i as of 2003, the FCDA reversed its approach with a full onslaught on Abuja's 'slums', including Garki (COHRE & SERAC, 2008). Officials whom we interviewed in Abuja for the COHRE/SERAC mission report exposed a discourse which viewed the upgraded settlement of Garki as an intolerable disjuncture with the generously planned city. They considered Garki too dense, of too low a standard and its mixed land use an aberration that justified its erasure from the city's face. However, the FCDA at the time did not implement the Garki integration or upgrading in the way it was intended (ibid: 50). This leads Ibrahim Jibril

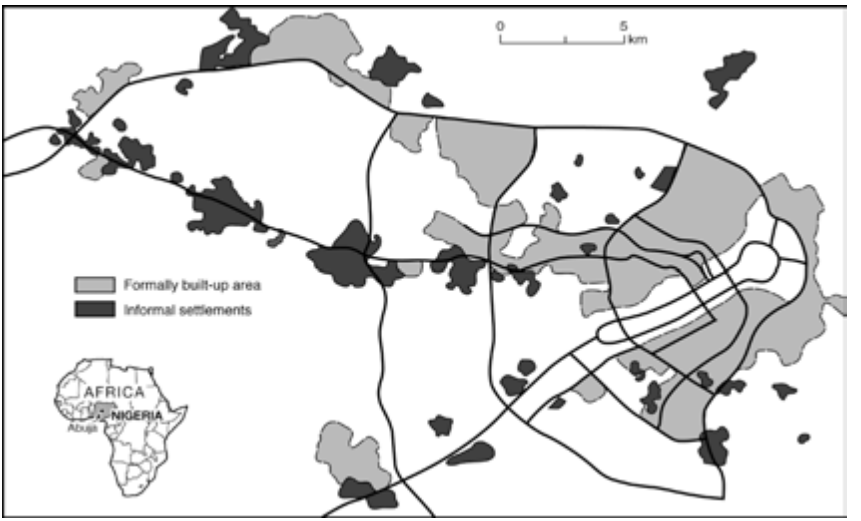

Figure 4.4: Abuja as built, with its 'slums'

Source: Redrawn from El-Rufa'i (2006: 38).

(2006: 12), who is otherwise critical of the fact that Abuja's master plan was never reviewed or revised, to conclude that '[t]he "integration policy" ... created an urban slum within what could have been a beautiful city'.

Although the main eviction drive in Abuja began under the tenure of the newly appointed FCT minister El-Rufa'i in 2003 (COHRE & SERAC, 2008), his predecessors had already indulged in 'slum' demolition. In October 2000,

> *the soon to be deposed minister of the Federal Capital Territory ... casually ordered the demolition of the villages of Kado, Garki, and Wuse, accomplished with bulldozers and a squadron of police. When the villagers came back from work, many of their homes were gone. It was a necessary step towards completion of the master plan: service population's shanties were in the way.* (Zacks, 2001: 2)

In 2001, 'the incoming administration' promised that 'no more villages will be demolished without adequate warning and provision of low-income housing' (ibid). At this time, Zacks (ibid) observed that 'faith in the masterplan ... is seemingly impenetrable; no one appears to wonder if Abuja's problems have anything to do with the design of this absolutely planned piece'.

Minister El-Rufa'i 'set the clock ... back' when he assumed leadership of the FCT in 2003 (Jibril, 2006: 6). His administration 'embarked on the restoration of the original provisions of the master plan' (ibid). In a narrow interpretation of the law, this required the resettlement only of the people indigenous to the original villages that were in the way of the master plan, and not of Nigerians who had migrated to Abuja and lived in rental accommodation within and surrounding these villages. El-Rufa'i expected these migrants to return to their rural places of origin. In November 2005, Chika Village, saw a week-long onslaught by bulldozers displacing 'tens of thousands of people' (SERAC, 2006: 2). In the affected households' understanding, the only reason that the demolitions became sporadic thereafter was 'the huge demand for bulldozers at other sites in the Abuja Metropolis' (ibid). In the course of the COHRE/SERAC investigations late in 2006, it was estimated that 800 000 households had lost their access to the city from 31 settlements or 'villages', with further evictions planned from 34 settlements that were obstructing the implementation of the next phases of the original master plan (COHRE & SERAC, 2008).

At a presidential retreat in 2005, Minister El-Rufa'i claimed that Abuja had reached a population of six million people, although his predecessors had only achieved an 'overpopulated dirty Phase 1 surrounded by unplanned squatter

settlements' (El-Rufa'i, 2005: 6). Committing the FCDA to 'make Abuja a world-class city' (ibid: 75), he recapped the Nigerian President's 'priority areas', among them 'Strict enforcement of the Abuja Master Plan' and 'Control [of] growth and eventual elimination of squatter settlements' (ibid: 10). This included, for instance, uncompensated demolition of 'corner shops' (ibid: 27), a phenomenon that the modern master plan did not foresee. El-Rufa'i envisaged compensation only for 'indigenes', households belonging to the tribal groups that were indigenous to the FCT.

Despite the 'indigenes' preference for integration or upgrading, in 2006 the FCDA was in the process of planning and developing three resettlement sites well outside Abuja for the 31 indigenous villages obstructing Phase Two of the master plan (COHRE & SERAC, 2008). No plans existed to compensate or provide any housing alternative to 'non-indigene' households who were living in Abuja in the midst of 'indigene' villages, or in the so-called squatter settlements or 'slums' that surrounded them. Only 'after facing criticism from various quarters over the harshness of the demolitions, the FCT Minister and the FCDA introduced a "human face" to the policy in the form of relocation' (ibid: 77). However, the 'human face' remained insensitive to the urgency of the need for housing of non-indigene evictees (ibid). Relocation sites were positioned at an even greater distance from Abuja's Phase One than the resettlement sites for indigene households, plots were only made available upon purchase, and relocation sites were only ready for occupation many months after the evictions (ibid: 78). Due to the cost of constructing formal houses and commuting to and from the relocation areas, evictees who had acquired plots had in many cases sold these, unleashing new accusations of 'running away from paying property taxes' (ibid: 82, quoting the Director of Urban and Regional Planning in the FCDA).

In a well-calculated move, Minister El-Rufa'i channelled the critics of his relocation plan into an 'Affordable Housing Task Team', setting them the task of designing 64 m^2 loan-financed houses for 1 000 plots in the Peggi relocation site. The existence of this Task Team 'perversely legitimized the inadequate relocation policy, which was still not departing from its position that the "squatters" had deserved the destruction of their homes, assets and livelihoods and their expulsion from the city' (ibid: 86). In a typical endorsement of the work of the Task Team, UN-HABITAT official Johnson Falade internalised the logic of the FCDA: 'Something is happening now. It's very painful. We have to be sensitive to the needs of the poor. We have to respect the poor. But do we respect the poor who don't follow the law?' (interviewed by and quoted in COHRE & SERAC, 2008: 86).

Regional and global resonance with Abuja's 'slum' eradication drive

The Nigerian state's position on Abuja's development is seemingly immovable. It resonates with that of the South African government during the 2004–2009 term of Housing Minister Lindiwe Sisulu, as I show in the following chapter. The Nigerian state's determined discourse is captured in the following extract of a 2006 press release by the Federal Ministry of Housing and Urban Development, in response to condemnation of the Abuja evictions by Miloon Kothari in his capacity as the UN Special Rapporteur on Adequate Housing at the time:

> *The truth of the matter is that the demolition exercise that took place in Abuja was for reasons of upholding the principles of good governance, combating corruption, and respect for the rule of law, city beautification and promotion of environmental sustainability, especially the prevention of the build up of slums in Abuja, the new Federal Capital of Nigeria. Unfortunately Mr. Kothari's report ignored these cardinal principles which underlay the actions taken in Abuja ... Obviously, in the course of removal of illegal development within the city some inhabitants were affected. But those affected are by no way near the number quoted by Mr Kothari. Since those affected choose* [sic] *to embark on illegal development without recourse to the provisions of the Master Plan ... their removal was on the ground of maintaining the rule of law.* (Federal Ministry of Housing and Urban Development, 2006)

Referring to the experience of Nigerian cities, Fumtim (2010: 196) emphasises that 'this urban planning is accompanied by a repressive system equalling the one seen in South Africa during the time of apartheid'. The South African Housing Minister Lindiwe Sisulu, in her capacity as Chair of AMCHUD, seemed oblivious to such ironies. Her high-profile statements at the July 2008 meeting of AMCHUD in Abuja, when she handed over the AMCHUD chairmanship, lacked expressions of condemnation (Sisulu, 2008a). Elsewhere, she had expressed a direct solidarity with 'slum' eradication campaigns across the African continent (Sisulu, 2005). In line with this sentiment, the South African public broadcaster, the South African Broadcasting Corporation (SABC) (SABC News, 2008) reported that the 2008 AMCHUD conference had deliberated 'on how best to eradicate the continent's growing slums'. During the AMCHUD meeting in Abuja, Reuters UK (2008) briefly reported that evictions were once again under way in that city.

Abuja, from the start, was an elite project (Elleh, 2001: 24). In 2003, Jean-Christophe Servant (2003: 2) referred to Abuja as the 'imagined Nigeria', in which the 'real Nigeria' has erupted through the 'Western makeup [which]

has kept peeling away from the visage of the city ... The display window for foreign investors is cracking'. 'Slums' are 'an ugly wart on the sparkling city' and are 'threatened continually with demolition' (ibid: 2). At the same time, he said, 'Abuja has naturally become the symbol of ... corruption' (ibid: 3). By 2007, developers had laid foundations for the much awaited Abuja Wonder Towers, with the aim of elevating Abuja's skyline to that of a 'world-class city' (Ezigbo, 2007) (Figure 4.5). In FTC Minister Modibbu's statements to mark this occasion, the official vision for Abuja was no longer that it represented an independent and united Nigeria, nor the African continent, but in fact the world. Thus, said the Minister: 'Structures like the SSC Towers we are commencing today, are testimonies that Abuja is a world class city' (quoted in Ezigbo, 2007: 1). While the drive for 'world-class city' status for Abuja may not be as advanced as for Johannesburg, the Minister clearly voiced the government's objective of creating a city which, in the first instance, would be attractive to global investors (ibid).

Figure 4.5: Abuja's 'world-class' skyline (above); billboard announcing the construction of the Abuja Wonder Towers (below)

Source: Author's photographs (2006)

Evictions in Nigeria by no means abated after the release of the COHRE/SERAC report on Abuja in 2008. A year later, Women Environmental Programme (WEP) and the Federation of the Urban Poor (FEDUP) in Nigeria issued a press statement condemning a new mass eviction drive in Port-Harcourt, involving 'joint military operations'. Tracing this trend to the 'Abuja Master Plan', they argued that 'the unending forced evictions and demolitions of houses and properties of poor people has now spread to other parts of the country, including Port-Harcourt' (WEP & FEDUP, 2009: 1). With reference to global campaigns, they stated that '"Cities without Slums" projects introduced by the United Nations have been misunderstood by the various states to mean "Complete annihilation of the poor slum community members"' (ibid).

'Restoring order' in Zimbabwe's cities: Operation *Murambatsvina*

In May and June 2005, the Zimbabwean government carried out Operation *Murambatsvina*, a massive and rapid campaign to eradicate unauthorised land use, buildings and economic activity across the country. The operation targeted informal markets, informal settlements, transit areas and unauthorised backyard rental structures. *Murambatsvina*, though often translated as 'restore order', is the Shona term for 'we don't want rubbish' or 'trash'. Rubbish or trash in this case refers to overcrowding, unauthorised structures, urban informality, and in official statements seemingly also to the people engaged in urban informality. As Kamete (2009: 897) observes, '[p]eople became filth if they occupied or used urban spaces in violation of planning and property laws'. In the context of a downwardly spiralling economy, this so-called 'filth' or 'trash' made up a large proportion of the Zimbabwean population. The Zimbabwean government carried out Operation *Murambatsvina* without effective challenge, and therefore achieved its destruction and eradication target—'[b]y the end of July, virtually every urban centre had been emptied of 'filth' (ibid). Anna Tibaijuka, the UN-HABITAT Executive Director, in her capacity as UN Special Envoy on Human Settlements Issues in Zimbabwe, reported on 18 July that an estimated 700 000 people across Zimbabwe had 'lost either their homes, their source of livelihood or both' (UN-HABITAT, 2005: 1). She estimated that a further 2.4 million people had 'been affected in varying degrees' (ibid). Urban geographer Deborah Potts (2006b: 276) equates those affected by Operation *Murambatsvina* with approximately one-fifth of the Zimbabwean population, though cautioning that '[s]uch figures are notoriously difficult to verify'.

The eviction drive received widespread international media attention and condemnation. However, the sensationalism with which the Zimbabwean evictions were covered in the international media related primarily to the portrayal of a deranged and curiously excessive dictator (Teschner, 2008). There were two further aspects about which the media misrepresented the events. On the one hand, it over-reported 'the demolition of a minority of "legal" houses', implying that 'poor, "shanty" housing ... somehow, regrettably, deserves demolition' (Potts, 2006b: 276). In this way, the media unwittingly lent legitimacy to the Zimbabwean government's own justification for the evictions. On the other hand, the media paid little attention to the 'national and wholesale' destruction of backyard rental accommodation (ibid: 285). Potts' (ibid: 286) analysis suggests that 'over half of those displaced from their houses came from backyard accommodation', and only a 'minority from "squatter" settlements'. Indeed, the percentage of the Zimbabwean population living in 'squatter camps' was estimated to be as low as 0.8 per cent prior to Operation *Murambatsvina*, due to rigid and consistent use of the draconian colonial-era eradication measures since independence in 1980 (ibid: 283). Interrelated factors such as poverty, urbanisation, informalisation of the economy and the shrinking of formal employment opportunities, coupled with strict prevention of informal settlement formation, forced the urban poor into unauthorised rental accommodation, which prior to 2005 'was not faced with a policy response of rapid clearance in the way that freestanding informal housing was' (ibid: 290).

A sustained campaign against the visible symptoms of urban poverty

Despite the new turn to eradicate backyard rental rooms through Operation *Murambatsvina*, Potts (2006a: 271) is at pains to demonstrate that Operation *Murambatsvina* was

> *not a sudden change of direction for the Zimbabwean government. It has maintained an almost unyielding battle against informal housing since 1980. In and around Harare this was largely 'successful' (for the planners), when compared with the situation in other parts of Africa.*

Zimbabwe's post-independence government continued its predecessor's campaign against urban informality, though the Rhodesian government had allowed 'extensive squatter areas' to develop during its last years of rule (Rakodi, 1995: 74). The new government dealt with most of these

through demolition and a combination of temporary removal to disused hostels, 'relocation to serviced plot schemes of various sorts, and pressure to return to the rural areas' (ibid: 230). In 1981, it dismissed arguments for upgrading and instead demolished both a 'squatter area' and a 'transitional squatter relocation area' in Chitungwiza. In 1982, 'the central committee of ZANU-PF [Zimbabwe African National Union-Patriotic Front]' initiated 'Operation Clean-up ... a purge of squatters, along with people labelled as "prostitutes" and "vagrants"' throughout Harare (ibid). Increasingly, those resorting to shack construction on invaded land were households unable to afford even the lowest rents (ibid: 74). In 1991, the government gave notice of its renewed intention of demolition on the grounds that the informal settlements presented a cholera threat, and stated explicitly that this had nothing to do with the pending visit of the British queen, as the media had speculated (ibid: 74–75). But the campaign against visible informality did receive political boosts over the decades, particularly in relation to the image the government liked to portray to the outside world through its capital, Harare. Potts (2006a: 271) mentions the forced relocation of Harare's beggars before the 1984 meeting of the Non-Aligned Movement in that city, and the removal of informal settlements from various parts of Harare in preparation for the city's hosting of the Commonwealth Heads of Government meeting in 1991 (which occasioned the visit of the British queen).

A Zimbabwean victim of Operation *Murambatsvina*, who shared his insight in an informal interview, recalls a distinct intensification of the 'battle' against informal housing as of 2000, after ZANU-PF experienced its first political defeat in a constitutional referendum. The ruling party's realisation that rural-urban migration brought with it a political conscientisation in favour of its opposition led to intensified attempts (well before Operation *Murambatsvina*) to return people to rural areas and patronise them through provision of fertilisers and food supplies (Anonymous A, personal communication, 5 August 2010).

As in Abuja, the imperative of 'planners', and their modernist power of determination over Zimbabwe's towns and cities, has played a large part in the long-term campaign against urban informality since 1980, and its intensification since 2000. Operation *Murambatsvina*'s popular translation into 'Operation Restore Order' directly equated informality with disorder. The 'government-appointed Mayor' of Harare justified the operation with the words 'Harare has lost its glow. We are determined to get it back' (Potts, 2006a: 283). However, it would be hard to claim that the campaign actually restored 'order' even in an aesthetic sense. Rubble, ruins and makeshift

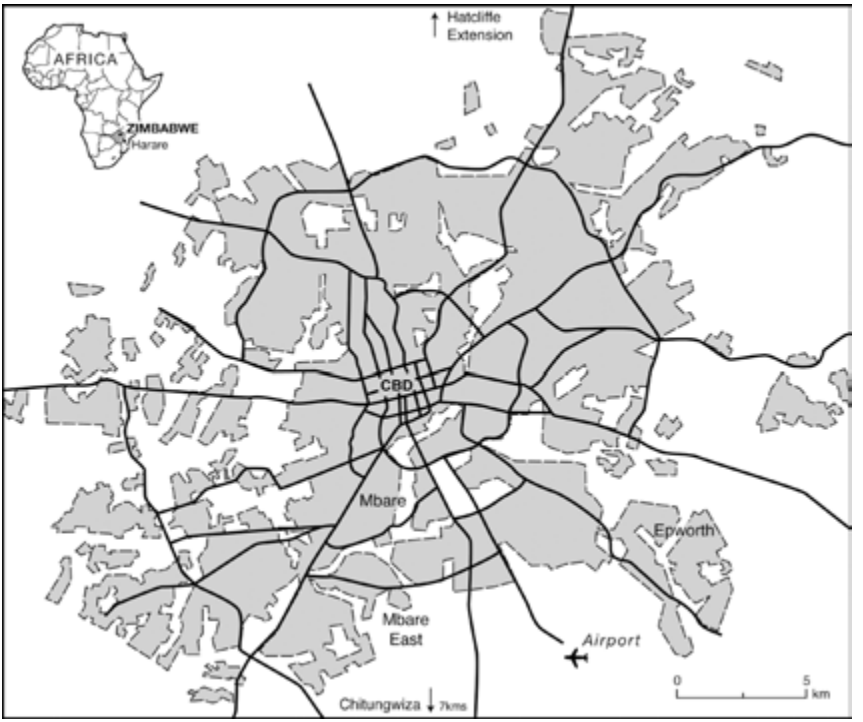

Figure 4.6: Harare's built-up areas, including its low-income settlements

Source: Adapted from Globetrotter Travel Maps (1995: 10)

shelters in camps on the urban outskirts, as well as evictees resorting to sleeping in the open, characterised Zimbabwe's cities in the aftermath of the operation (Irin News Service, 2006).

The post-independence government treated *in situ* upgrading of informal areas as an extreme exception, resorting to this approach with great reluctance and mainly with the intention of 'freezing' or controlling population increase in such areas (Potts, 2006a). Harare's only large informal settlement, Epworth (though it is outside the town boundaries) (Figure 4.6), which has its origins on mission land in about 1950, underwent upgrading in the late 1980s and early 1990s. However, the process was frustrated by '[l]ack of experience in handling ... upgrading' and by 'inappropriate standards of infrastructure' (Rakodi, 1995: 77). Where this exception of upgrading was made, as in Epworth, the state reversed this in 2005 during Operation *Murambatsvin*a, its bulldozers flattening these areas on the grounds that the dwellings still did not adhere to building standards (Potts, 2006a).

In the government's consistent drive to eradicate rather than upgrade informal settlements when these did emerge, it resorted to 'holding camps'. In the current, similarly modernist South African intervention pallet for informal settlements, these are termed 'transit camps', 'decant camps' or 'temporary relocation areas', although 'holding area' is also occasionally used. The term 'holding camp' has a particularly nasty resonance with the restriction of rights, and indeed 'holding' in Zimbabwe had a literal meaning:

> *Being forbidden to leave until they have an alternative place to live gives residents the feeling of being confined to a camp, a feeling that is reinforced by the municipal police post at the gate.* (Rakodi, 1995: 76)

These holding areas, which 'looked more like concentration camps' (Kamete, 2009: 904), were also subject to demolitions during Operation *Murambatsvina*. One example is Hatcliffe Extension in Harare, created in 1990 for relocations from different informal settlements (Potts, 2006a: 275). Despite a process of formalisation, in which occupants had paid fees for official plot allocation (ibid), it was razed to the ground along with its crèches, a clinic and an orphanage (Ewing, 2005; Mutasa, 2005).

During Operation *Murambatsvina*, the Zimbabwean government launched what the UN Special Envoy refers to as a 'counter programme' (UN-HABITAT, 2005: 2). Operation *Garakai*, meaning 'rebuilding and reconstruction', was 'to address the housing backlog and the new needs caused by [Operation *Murambatsvina*] and to provide new infrastructure for informal marketing and production' (Potts, 2006a: 281). The UN Special Envoy mentions Zimbabwe's 'limited capacity to fully address the needs of the affected population' and therefore calls for assistance from the international community in Operation *Garakai* (UN-HABITAT, 2005: 3). Potts (2006a: 281) denounces Operation *Garakai* as a mere 'public relations exercise for international purposes', which 'to some extent ... seemed to work'. Eleanor Sisulu (2009) noted, four years later, that the victims of Operation *Murambatsvina* were still displaced, had not been compensated and their housing had not been rebuilt. She linked the cholera epidemic that erupted in Zimbabwe in November 2008 to the destruction and hardship caused by Operation *Murambatsvina*.

Local and international opposition to the restoration of urban order in Zimbabwe

Three main factors are believed to have reinforced one another in motivating Operation *Murambatsvina* (Potts, 2006b: 291). The least disputed of these was the 'ideological adherence to modernist planning'. The second was the

very real food crisis that Zimbabwean cities were facing as a result of the way the economy was being managed (ibid: 291). Thus the 'desire to decrease the presence of the poorest urban people, by driving them out of the towns' was motivated by 'an incapacity to provide sufficient and affordable food and fuel for them' (ibid). In extension of this argument, a representative of Zimbabwe Lawyers for Human Rights, Arnold Tsunga, as well as Catholic Archbishop Pius Ncube, held that Mugabe's motivation for Operation *Murambatsvina* (as with previous anti-urban campaigns) was that urbanites should return to the rural areas, where he could control them through emergency food channels (Nduru, 2005). The third factor was the ruling party's 'desire to punish the urban areas for their almost universal tendency since 2000 to vote for the opposition MDC [Movement for Democratic Change]' (Potts, 2006b: 291). From this perspective, the MDC believed that the campaign was aimed at reducing its urban support-base (Nduru, 2005). A further political motivation, as argued by activist Daniel Molokela of the Peace and Democracy Project, was that Mugabe used Operation *Murambatsvina* to divert attention from the much criticised election held earlier that year (ibid).

These motivations were not just temporary. Opposition to the operation did not lead to any fundamental change in the reasoning about informal urban development by those in power. The widespread legitimacy that the ideology of modern town planning enjoys, coupled with the lack of real political representation of the experiences of impoverished households facing exclusion from urban informality, including those directly affected by Operation *Murambatsvina*, has prevented any significant politicisation of urban development approaches. Draconian campaigns to restore town planning 'order' are not only the political preserve of the ruling ZANU-PF. In the winter of 2009, the *Sunday Times* in South Africa reported that the MDC-led city council of Harare was proposing 'an urban clean-up', based on 'the growing perception that Harare is turning into "another Kibera"' (Irin News Service, 2009). In language only too reminiscent of that which had surrounded Operation *Murambatsvina*, Harare's Deputy Mayor pronounced that '[w]e should not promote anarchy; let us remove all the illegal structures as soon as possible and bring back order' (ibid). Contributing to the legitimacy of the pursuit or restoration of urban order, even the courts take the side of the state and are ineffective in protecting the poor. Commenting on the role of the courts in Operation *Murambatsvina*, Arnold Tsunga noted that 'our judiciary has become a liability to the society it is supposed to serve' (quoted in Nduru, 2005). Lawyers for Human Rights had 'filed seven cases in a bid to end the [Operation *Murambatsvina*] evictions, but ... these were thrown out

by the high court' (Nduru, 2005: n.p.). COHRE (2005d: 2) reported that '[a] legal challenge against certain evictions in Hatcliffe Extension was dismissed by Judge Tedias Karwi ... [who] held that the authorities "were within their rights", although "a longer period of notice would have been better"'.

Global agencies, too, had no effect on de-legitimising Operation *Murambatsvina* and changing the course of events. Influential heads of state such as South Africa's President Thabo Mbeki 'withheld comment on the destruction of homes and businesses across Zimbabwe, pending the report by UN Special Envoy Anna Tibaijuka' (Boyle, 2005: 21). This position of patience was agreed with the UN Secretary-General Kofi Annan 'on the sidelines of the African Union summit in Libya' (Gandu, 2005: 16). And by the time the UN Special Envoy's report was released, 'the [Zimbabwean] government appeared to have largely achieved its objectives' (Potts, 2006a: 265)—the eradication was complete. South Africa, in turn, refrained from issuing any presidential statement even at that point (Sisulu, 2009). During the eradication campaign, COHRE urged '[AU Chair] Nigerian President Olusegun Obasanjo to place events in Zimbabwe on the agenda of the upcoming African Union (AU) summit' (Nduru, 2005). Reluctance to do so might have stemmed from Nigeria's own mass displacements under way in its capital, Abuja, since 2003, which had as yet not attracted international attention or condemnation.

COHRE (2005d: 1) suggested that the evictions under Operation *Murambatsvina*

> *may constitute a crime against humanity since the Statute of the International Criminal Court clearly prohibits the deportation or forcible transfer of population under certain conditions that appear to be present in the Zimbabwean operation. According to the Rome Statute, deportation or forcible transfer of population is the forced displacement of persons from the area in which they are lawfully present, without any grounds permitted under international law, and in the context of a widespread and systematic attack against civilians.*

However, the UN Special Envoy responded that 'a case for crime against humanity under Article 7 of the Rome Statute might be difficult to sustain' (UN-HABITAT, 2005: 3). Instead, seemingly with a large measure of ignorance about (if not sympathy for) the Zimbabwean regime, she recommended that the Zimbabwean government be encouraged 'to prosecute all those who orchestrated this catastrophe' (ibid). Ironically, several Zimbabwean commentators held President Robert Mugabe directly responsible for orchestrating Operation *Murambatsvina* (Nduru, 2005), implying of course

that the Zimbabwean government was most unlikely to bring him to book. Mugabe in particular was criticised from within his party for 'not discussing the operation with the party's supreme organ or the cabinet before it was implemented' (Gandu, 2005: 16). Again, this points directly to President Mugabe as orchestrator of the operation and calls the UN Special Envoy's wisdom into question. The Zimbabwean regime's widespread flouting of the law in the years leading up to Operation *Murambatsvina* (Berrisford & Kihato, 2006) is something the UN Special Envoy surely ought to have taken into account.

More than 150 international rights organisations had petitioned the AU and African governments to take a position in relation to the humanitarian crisis created by Operation *Murambatsvina* (*Mail and Guardian*, 2005). In the disappointing response to Operation *Murambatsvina*, the UN Special Envoy's only recommendation to the international community was one of quiet diplomacy:

> *The international community should then continue to be engaged with human rights concerns in Zimbabwe in consensus building political forums such as the UN Commission on Human Rights, or its successor, the African Union Peer Review Mechanism, and the Southern African Development Community.* (UN-HABITAT, 2005: 2)

During Operation *Murambatsvina* and before the release of the UN Special Envoy's report, the South African national Department of Housing invited Zimbabwe's Deputy Minister of Local Government, Public Works and Housing, Dr Ignatius Chombo, to a housing conference in Cape Town, affording him a platform alongside housing ministers from other sub-Saharan African countries. Speaking before Deputy Minister Chombo, the Zambian Housing Minister voiced her view that she was 'looking forward to learning from Zimbabwe on how to deal with informal settlements, crime and so on'.[3] In response, the Zimbabwean Deputy Minister made a great deal of the country's national housing delivery programme, with its targets of delivering 250 000 units per year and eliminating the housing backlog by 2008. On the subject of Operation *Murambatsvina*, he saw fit to explain that

> *rural-urban migration had reached alarming standards, therefore we needed to decongest urban areas, and people have official homes on tribal trust land ... [yet] want to stay in shacks in town without a job. We tell them 'go to your land and build your house, not in the city'. They were involved in illegal activities in cities and in social decadences.*[4]

The Zimbabwean Deputy Minister knew what Carole Rakodi had already identified in 1995, namely that in other countries in Africa, 'politicians and officials alike ... abhor ... the urban characteristics and problems' associated with 'squatter settlements' (Rakodi, 1995: 231). Looking to the other ministerial representatives on the podium, the Zimbabwean Deputy Minister sought legitimacy from eviction campaigns elsewhere on his continent: '[Y]ou sister countries are also evicting your illegal people, but if Zimbabwe does it ... it's our problem with Britain.'[5] Despite an outraged audience, the next speaker, Housing Minister Kimunya of Kenya, sympathised with the Zimbabwean Deputy Minister, arguing that 'it would be irresponsible to let the people live like this into the future. We owe it to them to remove them from sewers [and] power lines.' Nairobi had faced human rights criticism for its forced evictions from such servitudes in the previous year. Thus the Minister proceeded: 'It is irresponsible for governments not to intervene, just because everyone believes there should be no evictions.'[6]

In full display of its disrespect for the UN Special Envoy and her report, the Zimbabwean government resumed evictions when her report was first discussed in the media (SAFM, 2005; Zim Online, 2005, cited in Potts 2006a). In South Africa, the Gauteng Member of the Executive Council (MEC — i.e. provincial minister) for Housing, Nomvula Mokonyane, expressed sympathy with the Zimbabwean government and vowed that in South Africa all unauthorised structures would be demolished by 2010, in time for the FIFA World Cup (SAFM, 2005).

Activist and political analyst Eleanor Sisulu (2009) points out that the UN Special Envoy's report on Operation *Murambatsvina* was shelved, rather than being tabled before bodies such as SADC. Further, when the UN Special Envoy's report was released, President Mbeki's Finance Minister and Reserve Bank Governor were 'considering a payment to the International Monitory Fund (IMF) to settle Zimbabwe's debt' (Boyle, 2005).

■ ■ ■ ■

Abuja and the cities of Zimbabwe, alongside those of South Africa, provide the rationale for eviction drives in African cities characterised by informality. They are important examples of a perverse continuity of colonial-era modern town planning, regulation and control with that driven by urban competitiveness and beautification. The relative 'cleanness' of these cities stands out as an enviable example to other African countries, and in the drive for competitiveness among African cities to attract strategic investment and

host important events, this continues to lend legitimacy to a restrictive and repressive mode of planning.

The slogan 'Cities Without Slums' begs the question: what is a city? Is it a modern construct that, in its ideal form, is predetermined and controlled by modernist planners and contains no complexity or so-called disorder? Or is it a place of complexity and encounter, contestation and tension, opportunity, intensity and freedom? The African city seems to be the latter in reality, though, with the shining exceptions of cities like Abuja, Harare, Cape Town and Johannesburg. And in the normative thinking of policy-makers and politicians, the 'World Class African City' is the former, unapologetically a place of un-freedom, a place where 'slums' are eradicated and control must be imposed from above.

One respect in which the South African case which is considered in the second and third parts of this book differs from that of Zimbabwe and Nigeria is in the role of the courts. While courts in Abuja and Zimbabwe unashamedly protect the modernisation agenda, jurisprudence in South Africa has played an important, though not entirely consistent or effective, role in the struggle against eradication and for a right to the city.

End Notes

1. An irony needs to be pointed out here, namely that most European cities incorporated a matrix of traditional villages, many of which survived as historical neighbourhood centres, providing variance in a continuous and mostly modern urban fabric. The 1979 modern blueprint plan for Abuja foresaw the removal of any sign of pre-modern urban formation.
2. Large portions of the highly segregated township of Khayelitsha in Cape Town were built to original plan after 1994, by the post-apartheid government (Huchzermeyer, 2003b). The size of the whole of Khayelitsha is the same as a quarter of one of Abuja's planned arms/wings.
3. Author's notes taken at the 'South African Minister of Housing's International Housing Research Seminar: Building an International Body of Knowledge on Housing and Urban Development: Towards Achieving the Millennium Development Goals', 4–5 July 2005, Cape Town International Convention Centre, Cape Town.
4. See Note 3.
5. See Note 3.
6. See Note 3.

Chapter Five

South Africa's drive to eradicate informal settlements by 2014

Too many people in local, provincial and national government think that shacks are a problem and the solution is to demolish them, but one has to see shacks in a different light. They are a symptom of other problems—they are not themselves the problem.
(South African housing rights lawyer Advocate Geoff Budlender, quoted in Jordan, 2008)

Despite important changes in law, there has been much continuity in the South African state's practical treatment of informal settlements since the ambiguous late-apartheid years. Shacks, the visible dimension of informal settlements, remained an embarrassment to the newly elected democratic state, which envisaged them being replaced by neat estates of pitched-roof houses. A more explicit drive to eradicate informal settlements began in 2000 with the perceived MDG obligation to achieve 'slum-' or shack-free cities. This drive intensified from 2004 to 2009, a period shaped by preparations for the 2010 FIFA World Cup and involving a realignment of power within the ANC. In this period, the increasingly conservative housing leadership of the South African government stooped so low as to excavate repressive 'slum' eradication tools from the graveyard of repealed apartheid-era legislation. International agencies, and organisations close to these agencies such as the prominent international housing NGO SDI, unwittingly legitimised South Africa's informal settlement eradication drive to the world. Despite a watershed socio-economic rights ruling in the South African Constitutional Court in 2000, the return in policy and legislative terms to apartheid-era approaches in subsequent years filtered through to provincial and municipal performance management. Here it reinforced a technocratic categorisation of the poor and increasing militarisation or resort to security measures in dealing with unwanted categories of people in urban areas. Within this context, *in situ* upgrading is treated not even as an exception. Where authorities consider informally occupied land suitable for low-income development, 'upgrading' still takes the form of conventional subsidised housing development only

for qualifying households. This requires the destruction of the informal settlement and removal of a large proportion of its residents.

From a million-house target to a shack-free nation

Targets have played an important role in the efforts of South Africa's post-apartheid state to address urban housing needs. The formulation of these targets was underpinned by an obsession with shacks. Already in the late-apartheid years the private sector think-tank, the Urban Foundation, legitimised the state's embarrassment about urban shacks by focusing high-level policy recommendations bluntly on 'informal housing' rather than on the many complex dimensions of urbanisation and informal settlements (Urban Foundation, 1991).[1] On the advice of the Urban Foundation, in the early 1990s the apartheid state had begun piloting a capital subsidy for the fully subsidised, standardised delivery of urban homeownership to qualifying poor households in the form of serviced sites (Bond, 2000; Huchzermeyer, 2004b).

The newly elected government in 1994 undertook substantial institutional restructuring with the creation of the national Department of Housing (renamed the Department of Human Settlements in 2009) and a National Housing Subsidy System. This incorporated the Urban Foundation's capital subsidy, a standardised amount per household allocated to a developer for expenditure on a package including standardised plot size and level of infrastructure. Some refinements to this system followed in subsequent years. To its electorate in 1994, the African National Congress–South African Communist Party (SACP)–Congress of South African Trade Unions (COSATU) Alliance had promised the delivery of one million houses in the first five years of government, through a Reconstruction and Development Programme (RDP) (ANC, 1994). The most immediate, and also persistent, substantive change for beneficiaries as of mid-1994 was the extension of the capital subsidy from financing a serviced site to including a small standardised 'house' on the site (replacing informal housing, which was equated with the housing 'backlog') (Bond, 2000; Harrison et al, 2008; Huchzermeyer, 2004b). One-size-fits-all standardised capital subsidy funding, top-down delivery through private developers, commodification through homeownership and the modest size of these 'houses' all contradicted the progressive principles of the election manifesto or RDP, which the new state had officially discarded by 1996 in favour of a neoliberal macro-economic policy of growth and redistribution (Bond, 2000). Whether in irony or in hope, the small, newly delivered houses came to be referred to popularly as 'RDP houses'. Politicians and officials later incorporated this into official terminology, though with

increasing discomfort to the state (and attempts at enforcing a change in this name). Apart from this constant reminder of the distant RDP, the ANC and its alliance partners have restated their commitment to the original principles of this programme at every subsequent election, but with waning credibility.

Informed and backed by political commitment, the target of delivering a million houses effectively focused resources and administrations towards this end.[2] However, this strict, almost militaristic commitment had important consequences. The target restricted the government's housing efforts to an obsession with symptoms, and steered it away from the more complex terrain of addressing the root causes of informal settlements through far-reaching reform. With few exceptions, the mass housing delivery meant that the state demolished informal settlements and relocated households (often forcibly) to new estates. The state also resorted to the removal of households to transit areas, while demolishing and redeveloping their former informal settlements as conventional housing projects at much lower densities. Originally referred to as 'roll-over upgrading', this approach is increasingly confused with '*in situ* upgrading'. Another term linked to this approach is '"de-densification", the polite word for getting rid of shacks' (Harber, 2011: 18). Few traces of non-state initiative remain in the layout of formal low-cost portions of the post-apartheid South African city.

Dominant attempts to alter the course of state housing intervention took the form either of the call for a return to the principles of the RDP (Bond, 1997, 2000) or the demonstration of poor people's ability to pool resources, partner with governments and build their own houses (Bolnick, 1996). The latter position was put forward by the externally funded NGO People's Dialogue, which modelled its approach on 'slum dweller' federations in India supported by the NGO Society for the Promotion of Area Resource Centres (SPARC), with which it entered into alliance through the increasingly influential organisation SDI. Both these positions or lines of criticism focused on the 'house' rather than the many complex dimensions of *in situ* upgrading of informal settlements. And neither had significant traction or impact, as the delivery target closed all doors to feedback or commentary from 'the tertiary policy cluster', that is, 'civil society, people's forums and NGOs' (Booysen, 2001: 139). The dismissal of criticism was also indicative of an increasing 'conservatizing' of the 'ANC in power' and its trend of 'centralization and control in policy making' (Prevost, 2006: 127). A focus on symptoms and targets sat well with this trend.

In the years up to 2000, the Ministry of Housing applied the language of 'eradication' primarily to the housing backlog, to homelessness and to poverty (e.g. Mthembi-Mahanyele, 2000). By 2000, the then Housing

Minister recognised the need for informal settlement upgrading, a practice hitherto not supported by the Ministry's subsidy system:

> *Countries with similar economies as that of South Africa such as Brazil have huge housing backlogs and sprawling informal settlements. They have adopted various successful strategies of informal settlement upgrading from which we have plenty to learn.* (ibid)

However, when the state had met its goal of a million houses, not five but seven years into ANC rule, the 'Cities Without Slums' slogan of Cities Alliance and the Millennium Development Project inspired a new political target. Informal settlement eradication by 2014 came to replace the target of delivering a million houses. They are, of course, two sides of the same coin, as the focus remained unreservedly on the symptom: a flood of shacks to be stemmed at the outer edge of an orderly city, through neat rows of state-sponsored formal housing units. In the shift from a housing delivery target to a 'slum' eradication target, government gave transit camps a new utility. For the state, they conveniently count as shacks or informal settlements eradicated, without the expenditure of housing delivered. For social movements opposed to 'slum' eradication, they remain a major concern, as I show in Chapter 8.

By 2001, the international 'slum-free' city agenda had overtaken the priority of learning about informal settlement upgrading from countries such as Brazil. In her 2001/2002 Housing Budget Vote, Minister Mthembi-Mahanyele referred to the need to eradicate informal settlements:

> *So far, we have, indeed come, Madam Speaker, still faced with daunting challenges, albeit different from those we faced at the beginning of this journey. . . Then, it was where to build new houses;* today it's how to eradicate informal settlements. (Mthembi-Mahanyele, 2001, my emphasis)

Officials in the national Department of Housing understood this 'daunting challenge' of informal settlement eradication as a directive. In terms of a new political vision for a 'shack-free city', derived from the MDGs, they understood that they were mandated 'to "eradicate informal settlements" in the next 15 years' (Huchzermeyer, 2004a: 335). Nevertheless, a state-led review and reflection in 2003 finally resulted in the official acceptance in 2004 of the need to revise housing policy (Charlton & Kihato, 2006; Huchzermeyer, 2006).[3] At that time, Minister Mthembi-Mahanyele's successor (2003/2004), former human rights lawyer and subsequent Minister of Justice Bridget Mabandla, had already begun to respond to calls from within South Africa for a more sensitive approach to informal settlements through support and upgrading.

With a progressive team of officials, she commissioned the groundwork for the subsequent policy shift in 2004 which is mostly attributed to her successor Lindiwe Sisulu (2004–2009).

When appointing Sisulu as Housing Minister, then President Mbeki mandated her (somewhat unfairly) to draw up a 'comprehensive programme dealing with human settlements and social infrastructure ... within three months' (Mbeki, 2004). After her officials had consulted only with 'task teams' (groups made up primarily of government officials) and with no wider public discussion (Huchzermeyer, 2006), Minister Sisulu tabled and Cabinet adopted a *Comprehensive Plan for the Development of Sustainable Human Settlements:* '*Breaking New Ground*' (Department of Housing, 2004a). Besides a dedicated programme for inclusionary (mixed-income) housing, this plan introduced 'Housing Assistance in Emergency Housing Situations' and an 'Upgrading of Informal Settlements' programme—Chapters 12 and 13 of the *National Housing Code* (Department of Housing, 2004b, 2004c), later reformulated into Volume 4 Part 3 of the 2009 re-draft of the *Code* (Department of Human Settlements, 2009a, 2009b).[4] The innovation in the latter was its shift away from financing development through the standardised household-linked capital subsidy, with its household qualifying criteria that inevitably excluded some poor households from development.[5] For the first time, housing policy enabled a municipality to plan an *in situ* upgrade (rather than replacement of an informal settlement in a fully standardised fashion), to quantify its cost and to apply for the relevant amount of funding for land purchase, land rehabilitation, land regularisation, introduction of services and provision of basic social and economic facilities. This enabled a municipality to respect existing grassroots initiative and investment, and minimise disruption. The programme provided for interim servicing and made specific provisions for 'community empowerment' and participatory layout planning (Department of Housing, 2004c).[6] It formed a basis for social inclusion and a response to poverty and vulnerability, stated objectives of the Department of Housing in 2004 (Huchzermeyer, 2006).

An important target accompanied the new Upgrading of Informal Settlements programme, namely to pilot the programme in all nine provinces and to achieve 'full programme implementation status by 2007/2008' (Department of Housing, 2004a: 12). However, as already suggested, the progressive content of this programme and other aspects of the Breaking New Ground (BNG) policy must be ascribed to the high-level policy team appointed under Minister Bridget Mabandla. It appears that Minister Sisulu never aligned her approach to many of its progressive innovations. Caught

up in other urgent matters, including the preparation of South Africa's cities for the 2010 FIFA World Cup and demands for generous housing subsidy pledges from the charismatic leadership of FEDUP, backed by SDI, she gave no consistent leadership for the piloting of the Upgrading of Informal Settlements programme and drew no public attention to the target of full programme implementation by 2007/2008. The programme remained on the shelf, promoted only through rights-based action from within civil society (in the form of negotiation and litigation), through the NGO-supported Hangberg *in situ* upgrading attempt in Cape Town, and later through a National Upgrading Support Programme, resourced as of 2007 by Cities Alliance.

SDI, with its local NGO and FEDUP affiliates (broadly referred to below as 'the Alliance'), refrained from lobbying the state for implementation of the Upgrading of Informal Settlements programme. Instead, SDI focused its efforts from 2004 to 2008 on FEDUP's high-level relationship with the Ministry, including a demand for a generous pledge of housing subsidies, which Minister Sisulu acceded to at an extravagant state-funded celebration initiated by SDI in the Cape Town International Convention Centre in 2006.[7] However, SDI evidently overestimated Minister Sisulu's powers to bend subsidy allocation rules. Her pledge yielded no subsidies for the federation (Bradlow et al, 2011), despite generous donor-funded follow-up including exchange visits to India with the Minister. Bolnick and Bradlow (2010: 36) position the SDI in South Africa as a longstanding and consistent promoter of *in situ* upgrading. However, as SDI staff member Ted Baumann (personal communication, 23 May 2006) explained at the time, SDI chose to support FEDUP's direct relationship with Minister Sisulu (which included efforts to unlock the subsidy pledge) rather than using 'moral suasion and intellectual argument' or 'critical debate', for instance in relation to non-implementation of the Upgrading of Informal Settlements programme.

SDI honoured Minister Sisulu with an invitation to join the board of its Urban Poor Fund International (UPFI) (SDI, 2009), which she accepted.[8] Sisulu and her special advisor Saths Moodley's support for the SDI/FEDUP, with seemingly unbudgeted pledges for subsidy allocation through untransparent deals, became part of the rigid position on housing and informal settlements during Sisulu's tenure. Such, at least, was the experience from the perspective of the small rights-based network trying to promote informal settlement upgrading, a break with 'slum' eradication, a commitment to implementing legally entrenched policy and a voice for the non-FEDUP urban poor.

Legitimised in part, one may argue, by the SDI or the Alliance's close relationship with the Ministry, and despite policy innovation in the form

of an *in situ* upgrading programme for informal settlements, with the appointment of Lindiwe Sisulu the political approach returned squarely to symptoms and simplistic targets. Through Minister Sisulu government voiced, for the first time, a determination to reach an informal settlement eradication target:

> *As government, we have articulated our concerns over informal settlements. These are growing at an alarming rate and this government has indicated its* intention to moving [sic] towards a shack-free society. *The difference now is that we are not dealing with intent, we will now be operational. There will be visible results within the timeframes we set ourselves.* (Sisulu, 2004, my emphasis)

In the same address, the Minister revealed that provincial bravery linked the 2014 date to the vision of a city without 'slums', informal settlements or shacks.

> *The Premier of Gauteng [Province] has fired the first salvo in our war against shacks. His bold assertion that informal settlements in his province will have been* eradicated in ten years, *is the best news I have ever heard in my tenure as Minister … What we shall then be delivering to Cabinet by the end of July is the how, and how many. That is our commitment.* (ibid, my emphasis)

A year later, Minister Sisulu indicated that the state had adopted the year 2014 as a national target for informal settlement eradication. She associated this directly with the MDGs:

> *Thus, in line with our commitment to achieving the Millennium Development Goals we join the rest of the developing world and reiterate our* commitment to progressively eradicate slums in the ten year period ending in 2014. (Sisulu, 2005, my emphasis)

The KwaZulu-Natal Provincial Department of Housing set its eradication target date at 2010, though shifting it to 2011 a year later (Pithouse, 2009a: 10). In 2005, the MEC for Housing of Gauteng Province committed to achieving shack-free cities by 2010, in time for the FIFA World Cup (SAFM, 2005) and the City of Johannesburg vowed 'to eradicate informal settlements by 2008' (City of Johannesburg, 2005). While cities and provinces undertook to outperform one another, 2014 remained the official national target. This coincided with the ANC's 'Vision 2014', coined in 2004 along with a 'People's Contract to Create Work and Fight Poverty' (Mbeki, 2004). In a naïve if not dangerous endorsement, UN-HABITAT praised South Africa (alongside the

Philippines) for having officially stated its commitment to the 'slum' target (Tebbal, 2005).

During Minister Sisulu's tenure, government proposed and partly adopted repressive legislation motivated by the urgency of the informal settlement eradication target. The Minister supported the adoption (and replication in other provinces) of the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act of 2007 (referred to below as the KZN Slums Act). The Minister also supported the repeated proposed amendments to the Prevention of Illegal Eviction from and Unlawful Occupation of Land (PIE) Act No. 19 of 1998. Both the enacted KZN Slums Act and the PIE Act Amendment Bills of 2006 and 2008 resorted to criminalisation of land invasion, a provision under the 1951 Prevention of Illegal Squatting Act (PISA) used to free the apartheid city from squatters. As Justice Sachs explains in the 2004 Constitutional Court judgement in the case of *Port Elizabeth Municipality v Various Occupiers,*

> *PIE not only repealed PISA but, in a sense, inverted it: squatting was decriminalised and the eviction process was made subject to a number of requirements, some necessary to comply with certain demands of the Bill of Rights [s.12] ... Thus, the former depersonalised processes that took no account of the life circumstances of those being expelled were replaced by humanised processes that focussed on fairness to all [s.13].* (Sachs, 2004)

I return to the trajectory of the KZN Slums Act in more detail in Chapter 8. Here it is relevant to quote those sections of the act relating to 'prohibition of unlawful occupation': 'No person may occupy any land or building without the consent of the owner or person in charge of such land or building' (s.4(1)). Further, '[a]ny person who unlawfully interferes with the reasonable measures adopted by an owner or person in charge of vacant land or building to prevent the unlawful occupation of such vacant land or building commits an offence' (ibid: s.19) and 'is liable to a fine not exceeding R20 000 or imprisonment for a period not exceeding 5 years or both such fine and imprisonment' (ibid: s.21). It is important to point out that the penalty for unlawful occupation in the KZN Slums Act by far exceeds that of the notorious 1951 PISA, which limited this to 'twenty-five pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment' (s.2(1)).[9] The 'reasonable measures' by owners 'to prevent the unlawful occupation' are mandatory under the 2007 KZN Slums Act: 'An owner or person in charge of vacant land or building must, within twelve months of the commencement of this Act,

take reasonable steps to prevent the unlawful occupation of such vacant land or building' (s.15(1)), failure of which, after expiry of a notice period, 'constitutes an offence' (s.15(3)).

At national level, the 1998 PIE Act prohibits only the action of 'directly or indirectly' receiving or soliciting 'payment of any money or other consideration as a fee or charge for arranging or organising or permitting a person to occupy land without the consent of the owner or person in charge of that land' (s.3(1)). The 2006 and 2008 PIE Act Amendment Bills both sought to extend this to the action of arranging or permitting 'any person to occupy land without the consent of the owner or person in charge of the land' (s.3(1)(b)). The 'Memorandum on the Objects of the [PIE] Amendment Bill' (both 2006 and 2008) sets out a justification for this amendment that is drawn directly from the 'slum' eradication drive: 'Due to the nature and increase in land invasions, often on land which has already been earmarked for housing development, it is deemed necessary to make it an offence for a person to arrange the unlawful occupation of land' (s.2.3). This is in the absence of evidence of any particular increase in the speed or change in nature of land invasions since 1994—all indications were that the 'slum' elimination drive was in fact reducing the rate at which shacks were being built in informal settlements (this was confirmed in 2008 (SAIRR, 2008a)).

Both PIE Amendment Bills also sought to introduce a new justification for granting an 'urgent' eviction order, namely if the court 'is satisfied that ... it is just and equitable to grant the order taking into consideration the speed and scale of the unlawful occupation' (s.5(1)bA). The 'Memorandum on the Objects' does not provide any further explanation for this amendment, but it can be read as an intention to permit courts to grant urgent evictions when it considers the speed and scale of the occupation a political threat. Although these concerns were raised in a submission to the Department of Housing (Huchzermeyer, 2007a), the Ministry of Housing tabled the 2006 Bill in Parliament unchanged. Parliament turned it down on other grounds. The 2008 Amendment Bill contained exactly the same provisions. The relevant official at the Department of Housing explained that the Portfolio Committee of Parliament 'said more work needed to be done—it seems to be a political thing. The Minister refused to withdraw it, said the Portfolio Committee had had enough time' (Thatcher, personal communication, 12 August 2008). The Portfolio Committee's concerns were, however, unrelated—the Department of Housing had not coordinated with the Department of Land Affairs (ibid).

Urban competitiveness and the 2010 FIFA World Cup

The South African state's growing sense of urgency and enthusiasm in the new millennium to achieve a shack-free city must be understood in the context of its macro-economic policy. The Growth, Employment and Redistribution (GEAR) strategy, adopted in 1996, focuses on 'direct foreign investment as a driver for economic growth' and provides a conceptual basis for promoting the idea of a 'globally competitive city' (Greenberg, 2010: 117). The South African state first conceptualised its policies for competitive cities and city regions in 'the early 2000s, a time when there was a resurgence of the global debate about world cities, global cities and competitive cities' (ibid: 116). Greenberg (ibid) contextualises this period as 'the tail-end of strong neo-liberal tendencies in the South African state, which favoured integration into the global economy on the terms offered by global elites'.

In May 2004, at the beginning of President Mbeki's (troubled) second term in office and the start of Sisulu's term as Minister of Housing, FIFA announced that South Africa would be the host of the 2010 World Cup. This immediately impacted on two initiatives. One was a housing project that was envisaged along the N2 highway from Cape Town International Airport to the famous Victoria and Alfred Waterfront and the historic centre of that city. Intergovernmental discussions in the previous year had led to the idea for such a project (Khan, 2004 cited in Huchzermeyer, 2006). The other was the drafting of the *Comprehensive Plan for the Development of Sustainable Human Settlements: Breaking New Ground*, in which the 'N2 upgrading project' is identified as the lead pilot project for informal settlement upgrading (Department of Housing, 2004a: 12). The drive to eradicate informal settlements by 2014, to which the hosting of the FIFA World Cup in 2010 added urgency, influenced and shaped the implementation of both the 'N2 upgrading project' (later termed the 'N2 Gateway Project') and the BNG policy.

A high-level government obsession with the removal and redevelopment of 'visible' informal settlements reared its head in different places. One was in the task team discussions during the preparation of the Upgrading of Informal Settlements programme (as part of BNG) in 2004. Drafts of this programme made a clear distinction between 'visible' informal settlements, for which formal housing was envisaged, and 'non-visible' informal settlements which were to receive serviced sites (Huchzermeyer, 2006: 45). This generated debate, and did not find its way into the final wording of the Upgrading of Informal Settlements programme, nor did the target of

eradicating informal settlements by 2014. However, as soon as the state adopted BNG, it announced in the media that 'the plan's drive is to eradicate the informal settlements spread throughout the country within the next 10 years' and '[d]epending on their location, shacks will be replaced with formal houses' (Mfoloe & Lekota, 2004). From the outset, the eradication target and obsession with redevelopment (instead of upgrading) of 'visible' informal settlements overrode the freshly adopted and legally entrenched policy.

Understandably then, the obsession with 'visible' informal settlements shaped the flagship N2 Gateway Project. It was 'driven by a desire to change the physical appearance of the city as quickly as possible' (Baumann, 2005: 22), and was 'prioritised in light of its high visibility on the gateway corridor linking Cape Town International Airport to the main city' (COHRE, 2009: 3). The project targeted 'the most visible informal settlements in Cape Town' (DAG, 2007b: 5). SDI summarised its own early criticism of the N2 Gateway Project as follows: 'a new cocktail' to 'create the façade of a slum-free city before the football hordes arrived' (SDI, n.d.: 36).

Although identified as a lead pilot project for informal settlement upgrading (Department of Housing, 2004a: 12), the N2 Gateway was announced through the media in September 2004 'along with a pictorial depiction of the plans, which included three and four storied blocks of flats where the [Joe Slovo informal] settlement stood' (COHRE, 2009: 11). Minister Sisulu, never referring to the official policy undertaking for the N2 Gateway to pilot *in situ* upgrading, defended the approach: 'We need society to buy into the idea behind the N2 Project Gateway [sic]—replacing informal settlements with formal housing structures' (Sisulu, interviewed in Robinson, 2005: 31).

Taking their cue from the Ministry, journalists referred to the N2 Gateway as 'government's pilot initiative to eradicate shacks' (Merten, 2005b) and 'an ambitious blueprint for nationwide slum eradication by 2014' (Thamm, 2006b). Indeed, the Ministry undertook to build 22 000 houses in six months (Underhill, 2009). However, by 2007, only 821 units were complete (ibid). The project compelled the City of Cape Town to redirect 'R246-million' from 'its own township-based infrastructure projects' to help finance the N2 Gateway (Merten, 2005b). By April 2007, the project's 'budget overrun' stood 'at about R150-million' (Joubert, 2007b). As the media latched onto mounting inconsistencies, it became 'Minister Lindiwe Sisulu's flagship housing project ... dogged with controversy since its inception' (Joubert, 2007a). The project is associated in a range of media and other reports with city beautification efforts in preparation for the 2010 FIFA World Cup (Clarno, 2008; Ley, 2010; Newton, 2009; Smith, 2010; Sports Portal, 2010). On the eve of the 2010

FIFA events, the media described the N2 Gateway as '[t]he most prominent controversy surrounding preparations for the World Cup' (Sports Portal, 2010).

In the next chapter, I present parallels between the troubled trajectory of the N2 Gateway Project and that of Kenya's flagship Kibera-Soweto pilot of the Kenya Slum Upgrading Programme KENSUP. However, the link between urban competitiveness and 'slum' eradication in this period did not only play itself out in the flagship N2 Gateway Project. Gauteng Provincial Government's (2009) *Gauteng Urban Management for Elimination of Slums and Informal Settlements Policy* makes a very clear link between informal settlement eradication and urban competiveness. It states that 'Informal Settlement Eradication is an important aspect of the Global City Region' (ibid: 20). The Gauteng MEC for Local Government, mirroring national government documents on this topic, explains that as a 'vital national priority', the Gauteng Global City Region is a 'drive to develop [the Province] as a globally competitive city region', concerned with 'benchmarking with other cities' and attracting and retaining a 'super-creative core' and 'creative class' (Mahlangu, 2007: n.p.). Greenberg (2010: 116) observes that

> *[g]overnment documents on the city-region have been remarkably uncritical of the concept, tending to support the notion that a global city-region in Gauteng will advance the interests of all citizens in the urban region ... [and avoiding] deeper questions about locating the city-region concept in a highly unequal socio-economic system.*

Greenberg (ibid: 120) summarises the state's slum eradication rationale and dilemma: 'slum' eradication is predicated on the assumption that the poor can be brought 'physically closer to economic opportunity, primarily by improving the location of new housing and building transport infrastructure'. However, 'as government develops housing and improves living conditions near jobs, low-income households are driven out because they can't afford the houses' (ibid: 121). The more detailed discussion of the N2 Gateway Project in the next chapter shows how this project exemplifies this trend, though finding that it is perhaps not quite as unanticipated by the state as Greenberg suggests.

In Gauteng Province, these arguments blend with a new obsession with (or urgent drive for) densification on well-located land, justified by the claimed non-existence of vacant land for housing development. Perversely, this has become a new excuse not to upgrade informal settlements *in situ*, once feasibility for development of the occupied land is established. The urgency

instead is to redevelop such land with multi-storey typologies. Displacement of the poor due to the expense of these developments, in turn, is justified by another pressure, namely the need for mixed-income developments. This has shaped the post-Constitutional Court trajectory of the Harry Gwala informal settlement, which I set out in Chapter 9.

Eradication practice in Gauteng

Gauteng is unique in South Africa in its largely 'urban' character, and therefore in the provincial drive to achieve urban or city-region competitiveness, and existence of several large, well resourced and politically powerful metropolitan municipalities (Figure 5.1).[10] Inevitably, there are tensions over political as well as administrative control between the provincial government and the metropolitan municipalities (Harrison, personal communication, 25 October 2010). These take different forms at different times, depending on the particular constellation of political control of the provincial government. Where this tension is inadequately managed it may escalate into a legal challenge (ibid).[11]

Planning and housing have become an independent power base for Gauteng. Due to the large budgets at stake, Gauteng, like other provinces, long resisted the empowerment or 'accreditation' of its municipalities (Narsoo, personal communication, 23 July 2010; Tissington, 2011: 78). In line with the constitutional imperative that municipalities 'administer' or implement national housing programmes (Tissington, 2011: 76), the process for accreditation was introduced in 1997 through guidelines from the national Department of Housing (McLean, 2004: 163). This was at the time of the enactment of the Housing Act, when the democratic government had recognised the need for devolution of power and a greater role for local government in the delivery of housing (McLean, 2004). However, seemingly deliberate confusion followed 'over how the process [was] to be administered' (ibid: 166). The Gauteng Department of Local Government and Housing's 2002–2005 Strategic Plan placed the 'province at the centre of the [housing] delivery process, trying to ensure that it will not become marginalised in the future, once the [Greater Johannesburg Metropolitan Council] is accredited' (ibid: 167).

A new municipal accreditation framework was established in 2006 and in 2009, the national Ministers and provincial Members of Executive Councils (MINMEC) decided on a process to accredit metropolitan municipalities. However, in 2008, the Gauteng MEC for Housing issued

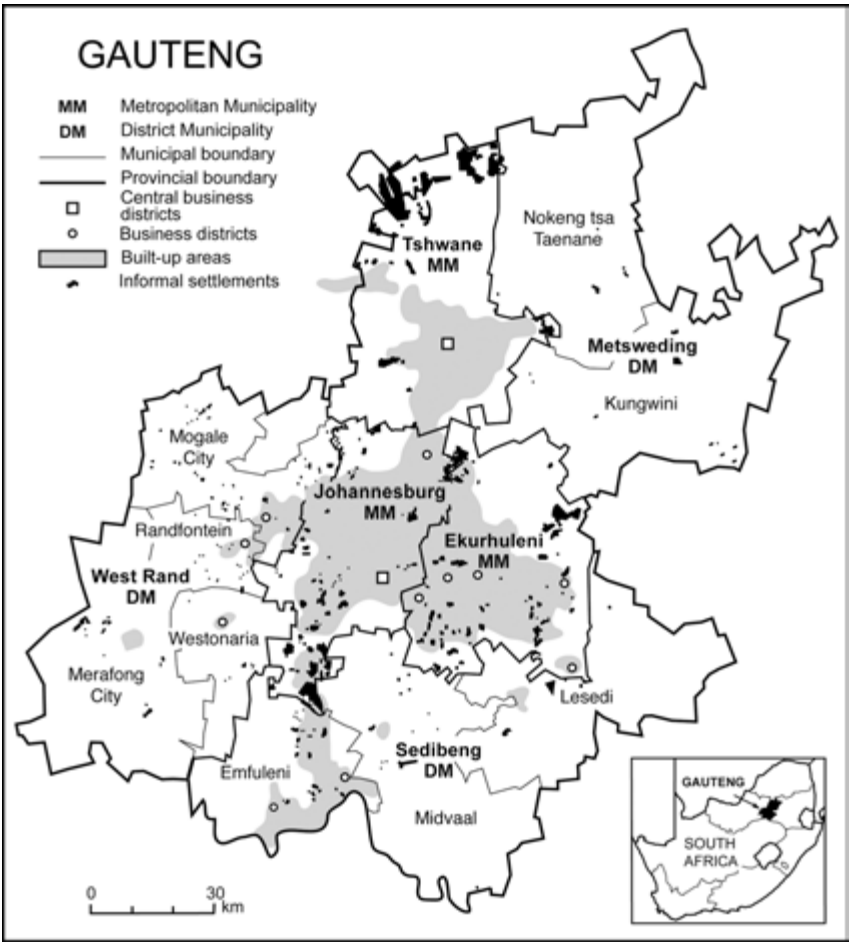

Figure 5.1: Informal settlements in Gauteng in relation to the main metropolitan and urban centres

Source: Redrawn from the Gauteng Provincial Government informal housing layer, accessed through the Gauteng City Region Observatory (GCRO).
Note: Tshwane Metropolitan Municipality incorporated Metsweding District Municipality after the May 2011 local government election.

a directive that housing (planning and implementation) was a provincial competence and that the metropolitan municipalities were only to deal with engineering services. Ironically, due to its own limited capacity, the provincial government outsourced this work by appointing external professional teams. Gauteng's focus on informal settlement eradication

rather than *in situ* upgrading, and the Harry Gwala informal settlement trajectory within the Ekurhuleni Metropolitan Municipality discussed in Chapter 8, must be seen within this particular governance context. Only in March 2011, subsequent to my research for this book, did the Department of Human Settlements announce Level Two accreditation of eight municipalities, including Johannesburg, Ekurhuleni and Tshwane (Waka'Ngobeni, 2011). In my interviews with municipal officials, the experience and relative resentment of control from Gauteng was evident (Maytham, personal communication, 3 November 2010; Mokgosi, personal communication, 13 July 2010; Mojapelo, personal communication, 22 July 2010). Both the drawn-out resistance to municipal accreditation and the political zeal with which provinces (led by KwaZulu-Natal) latched onto the informal settlement eradication target and carved out a controlling and even legislative role for themselves are explained in part by a prominent political debate which resurfaces periodically in South Africa, questioning the need altogether for provincial government. Within this context, Gauteng has also been in a tense relationship with the national Department of Housing, stretching its latitude to develop and control its own policies and programmes. In 1997, it developed an 'Essential Services Programme' through which it channels land (under freehold title) and basic services in a standardised manner to households that qualify for the once-off household-linked capital subsidy for housing. In 2005, the Province therefore deemed that it 'did not need a pilot' under the new Upgrading of Informal Settlements programme (Odendaal, personal communication, 27 May 2005). A determination not to depart from entrenched ways of dealing with informal settlements, coupled with rigidity imposed by the provincial government, has resulted in the perpetuation of informal settlement 'eradication' in Gauteng Province through control, categorisation and continued resort to temporary relocation camps or areas, tools all readily used by the apartheid state in its bid to keep South Africa's cities 'clean'.

Controlling informal settlement growth and the fear of triggering informality

In July 2009, the *Gauteng Urban Management for Elimination of Slums and Informal Settlements Policy* (Gauteng Provincial Government, 2009) spelled out responsibilities for the Provincial Housing Department and municipalities in relation to the control of informal settlements. In terms of this policy, the Provincial Housing Department has the role (among many others) of being 'responsible for the registration of all slums and informal settlements and

the residents thereof' (ibid: 14). Municipalities in turn must '[e]stablish a dedicated land invasion unit', '[e]nsure that beneficiaries who are allocated housing units do not construct shacks in their yards' and '[p]revent illegal re-occupation of land after relocation' (ibid: 15). An 'Informal Settlements Manager/Officer' in each municipality has, among many responsibilities, to 'ensure that the principle of one structure up, one structure down is maintained in all informal settlements' (ibid: 16).

In 2008, Gauteng presented the City of Tshwane's (Pretoria's) informal settlement management as 'best practice' (Gauteng Department of Local Government and Housing, 2008). The City had reduced its number of informal settlements from 60 in 2001 to 41 in 2007/8, with a total reduction of 1 443 structures (City of Tshwane, 2008). The City of Tshwane's approach is to outsource land invasion management and eradication to private security companies. In 2008, its budget for 'prevention of illegal land invasion' (through the services of private security companies) was higher than that for providing basic services ('water tanker services') to existing informal settlements in the city (ibid).

By 2010, Ekurhuleni Metropolitan Municipality had followed suit. It appoints 'service providers' on a 'two-year' contract through a 'normal tender process' (Mokgosi, personal communication, 13 July 2010). Private companies tender separately for the following, in each of the municipality's three regions:

> *(a) land monitoring and land invasion [i.e. eviction] as and when required;*
>
> *(b) providing water and emergency toilets as and when required;*
>
> *(c) for disasters—blankets, food parcels and rebuilding of shacks.* (ibid)

Currently, three companies provide all three services in each of the city's three regions. They are Urban Metro, Batlokomedi and Red Ants (ibid). The last of these is one of several eviction companies that have named themselves after the nickname 'red ants' largely associated with Wozani Security's eviction squads in red uniforms. Wozani's 'red ants' carried out most major evictions in Gauteng between 2000 and 2005, though many other security companies provide the same service.[12] In 2008, the City of Tshwane's list included Lenong Security Services and Joint Venture Security. An official in Ekurhuleni Metropolitan Municipality defended the approach of contracting security companies to manage informal settlements, arguing that there is 'unfortunately a stigma to the Red Ants. Yet, when there are disasters, the very same Red Ants will go and provide blankets' (Mokgosi, personal communication, 13 July 2010).

Some officials disagree with the strategy of zero tolerance of shack construction in instances where this frustrates other aspects of their performance. A particular concern is the hidden increase in overcrowding. In Ekurhuleni's well-located informal settlements such as Dukathole and Good Hope, there are 'now two to three families in a structure' (Williamson, personal communication, 28 July 2010). The same official shared his frustrating experience during the relocation from the Gabon informal settlement to the Chief Albert Luthuli subsidised housing development. At the time of relocation, they found that

> *suddenly there are tenants who don't qualify—what do we do with them? We can't evict them. ... [It's a real] challenge to plan for 2 000 beneficiaries but by the time of the development it's 4 000. People have taken on tenants [and] the tenants are a source of income.* (ibid)

A housing official in the City of Johannesburg expressed concern that neighbouring municipalities Tshwane (Pretoria), Ekurhuleni and Sedibeng City 'employ security companies who deal with invasions timeously', with the result that evicted households 'run to Joburg, which has a more humane approach' (City of Johannesburg official C, workshop intervention, 22 July 2010). 'When City of Joburg services [its informal settlements] it attracts more from Ekurhuleni ... it's hard then to quantify demand' (ibid). However, all municipalities are active in preventing informal settlement formation. In 2009, a City of Johannesburg newsletter announced that '[t]o ensure no further informal settlements mushroom in Joburg, [Mayor] Masondo said future informal settlement growth would be curtailed and security measures would be put in place' (City of Johannesburg, 2009: n.p.). In 2010, a City of Johannesburg planning official acknowledged that due to the municipality's approach,

> *[i]t's a bit more difficult now to establish a new informal settlement in Johannesburg, and if they do happen, we clear the sites very quickly ... Firm containment. But we're not good at managing existing informal settlements—they grow. People are going into the inner city. When we evict them, they tend to densify existing settlements.* (City of Johannesburg official A, workshop intervention, 22 July 2010)

Ekurhuleni Metropolitan Municipality had also previously handled its informal settlement management or control in-house:

> *Ekurhuleni Housing Department initially requested Council to establish a Land Invasion Unit—under the Community Safety Department ... 100 personnel were*

> *appointed. They became the Land Invasion Unit, but they upgraded themselves to become Metro Police officers. Then they no longer needed to do the land invasion monitoring. [That is why the Ekurhuleni Housing Department] opted to contract outsiders.* (Mokgosi, personal communication, 13 July 2010)

As municipal performance continues to be measured by 'eradication' targets, typical responses from officials are that due to the 'swelling of informal settlements ... we take forever to come to the quota' (City of Johannesburg official C, workshop intervention, 22 July 2010). At the same time, there is a concern that due to the qualification criteria for formal land and housing delivery, 'we create informal settlements of non-qualifiers' (City of Johannesburg official B, workshop intervention, 22 July 2010). An Ekurhuleni official confirmed this tendency:

> *Freehold titles only go to qualifying households. We have not consciously reserved sites for non-qualifiers. They stay behind in the informal settlements. We haven't completely 'cleared' an informal settlement. Some people remain behind.* (Mokgosi, personal communication, 13 July 2010)

Because of the eradication targets, officials harbour real fear of attracting more informal settlements. A Gauteng official observed that while the provincial government had a process under way 'to prioritise the 50 poorest wards in the province ... there is the fear that it might just lead to more proliferation of informal settlements in these areas' (Gauteng Department of Local Government and Housing Official, workshop intervention, 22 July 2010). In Ekurhuleni Metropolitan Municipality, there is an explicit decision not to communicate to the public which portions of land have been identified for relocation of informal settlements, due to the fear that 'we might create undue expectations ... people might invade' (Williamson, personal communication, 28 July 2010). 'Only once we have identified land and found it to be suitable, we speak to the community [that is to be relocated]' (Mokgosi, personal communication, 13 July 2010). The mistrust inherent in this approach stems from the pressure of the shack eradication campaign and the tendency to perceive the poor as enemies of the campaign. This in turn engenders justifiable fear and mistrust of the state among informal settlement residents. Expanding on this dilemma, one Ekurhuleni official suggested that '[p]eople are in the habit of telling communities what they want to hear, and communities also don't want to accept what they don't want to hear' (Williamson, personal communication, 28 July 2010).

The chess board: eradication through counting, categorising, containing and moving people about

There is much evidence that the dominant interpretation of the term 'informal settlement eradication' is not the creation of conditions where informal settlements no longer need to exist. 'Eradication' has taken on the meaning of a very particular practice. Thus Gauteng Provincial Government's (2009: 6) 'elimination of slums' policy has the objective of clearing 'the housing backlog through eradicating slums or upgrading informal settlements'. 'Eradication' here is a different approach from 'upgrading', and the policy favours the former. But the policy is ambiguous. It refrains from defining 'eradication', requiring municipalities to use tools such as 'ring fencing' and preparation of a 'migration plan' (Gauteng Provincial Government, 2009). In the next paragraphs I piece together how this translates into practice.

In 2005, a Cities Network newsletter reported that Gauteng had '392 identified informal settlements' of which half were deemed 'viable for formalisation. This means that top structures can be built on the land' (Dlamini, 2005). In the same year, a Gauteng Provincial Department of Local Government and Housing official explained that

> *Gauteng Province has registered 372 informal settlements in Gauteng. These are being* ring fenced *... It was a political agreement to register all informal settlements in the province. ... The Premier wants all informal settlements formalised by 2009. Those that need relocation need to be completed by 2014 ... The problem is there is not enough funding to implement the political decision.* (Odendaal, personal communication, 27 May 2005, my emphasis)

In an interview in 2010, the Director of Development Planning in Gauteng Province identified 2005 as a decisive moment. In 2005, the province had 'registered all 405 informal settlements' (Van der Walt, personal communication, 30 July 2010). An environmental, geotechnical and planning 'desktop study' around 2006 had deemed only 122 of the 405 settlements 'suitable for formalisation' (ibid). The provincial official explained that 'the department's performance is measured on the 2005 figures—we report to our executive on this' (ibid). He mentioned that since 2005, there are 82 new informal settlements, but his department's performance is not measured against these. Therefore, '[w]e haven't checked if [these] are suitable for formalisation' (ibid).

As is evident from the above, informal settlement numbers are not clear-cut and definitions vary considerably. For Gauteng, growth in the number of informal settlements did not necessarily mean more shacks as such, as 'some

are broken into smaller clusters, therefore in some instances there is a larger number now' (ibid). The City of Johannesburg, for instance, used to have 125 informal settlements, but now reports 180 (ibid). A municipal official confirmed this: 'often when City of Joburg recognises several informal settlements next to one another ... Gauteng sees them as one' (Ntsooa, personal communication, 24 August 2010).

Municipalities adopt the approach of listing and categorising their informal settlements, and planning for their 'eradication' on that basis. Ekurhuleni Metropolitan Municipality makes use of a 'Migration Plan' as set out by the Province. This is 'a broad vision of what we intend to do—a working document ... Technically it's a relocation plan' (Williamson, personal communication, 28 July 2010). It lists 'beneficiary communities' and the waiting list, identifies which settlements can be developed '*in situ*' and lists land (mostly privately owned) identified for different projects. Due to rigid adherence to planning standards, half of the households in a so-called '*in situ* upgrade' still need to be relocated. Using a gross density of 40 units per hectare, the migration plan also identifies how many households can be accommodated on each vacant portion of land (ibid). The Migration Plan is merely 'where settlements are and numbers ... We plot this onto a Migration Plan ... It's a rough pattern to help identify how much land is still needed to accommodate all informal settlements ... This is technical, it does not involve participation' (Mokgosi, personal communication, 13 July 2010). In Chapter 9, I return to the frustration organised informal settlement communities (in particular the Harry Gwala Civic Committee) experience regarding the rigidity of the lists which determine their status. Essentially, it is impossible to lobby for an *in situ* upgrade if an informal settlement is categorised for relocation (even where land may be rehabilitated according to the Upgrading of Informal Settlements programme) as the municipalities base their lists on conventional subsidised housing development standards and parameters. These differ considerably from what is permitted in the Upgrading of Informal Settlements programme, which treats 'relocation' as a 'last resort' (Department of Housing, 2004c: 35; Department of Human Settlements, 2009b: 9, 25, 32).

The City of Johannesburg measures its eradication achievements not on the 2005 figures against which the Province measures its progress. The City's Deputy Director of Human Settlements in the Department of Housing explained that 'during 2008, we started on a clean slate. We decided to do feasibility studies of all informal settlements. We found 180 informal settlements' (Ntsooa, personal communication, 24 August 2010). The municipality then

'unbundled' these 180 settlements into 'five categories', adding an additional category into which settlements could be placed once they had been dealt with and no longer displayed the characteristics of an informal settlement. However, the other categories, too, appeared to include settlements that would not qualify as informal settlements in terms of the conventional definitions of unauthorised and officially unplanned occupation of land, therefore leaving uncertainty about the actual scale of informal settlements in the city. The city's informal settlement categories are as follows:[13]

1. *Formalisation underway. Includes settlements established under the 1997 Extension of Security of Tenure Act (decrease from 73 to 71 in 2009)*[14]
   Many of these settlements seemed not to be unauthorised. According to the official, many 'don't have township registers'; land had 'not been transferred to the owners'; often 'there has been a re-informalisation, therefore surveying and pegging has to be redone'. The 'General Plans may not be traceable'. But the 'majority' of households 'qualify for the subsidy' for top structures (ibid).
2. *Informal settlements located on unsuitable land and with Council Resolutions to relocate (increase from 16 to 34 across 2009)*
   For these settlements, a hydrological and geotechnical study has shown that the land is unsuitable for low-cost housing (ibid).
3. *Settlements that are candidates for 'regularisation' (decrease from 23 to 11 across 2009; by mid-2010, decreased to 3)*
   Regularisation (undertaken by the Development Planning and Urban Management Directorate) fast-tracks formalisation. 'We recognise where they are, give them semi-formal status, for lack of a better word'. Regularisation involves giving the occupants 'some kind of title. PTOs [permits to occupy] are still hypothetical.' The idea is to 'give them an address, basic services and a layout plan' (ibid).
4. *Programme-linked (increase from 21 to 25 across 2009)*
   These informal settlements are within the Alexandra Renewal Programme or the Johannesburg Development Agency's (JDA's) Kliptown renewal project. Some will be formalised, some are relocated (ibid).
5. *Not linked to a project or a programme (decrease from 47 to 22 across 2009)*
   These settlements await feasibility studies according to which they would be moved into categories 1 or 2, possibly 3 in future (ibid).

6. *Eradicated informal settlements (increase from zero to 17 across 2009)*
   These settlements are 'either fully formalised', which means 'township registers opened, or cleared completely to greenfields, through Category Two and Four'. These informal settlements are 'no longer existing ... Of 180 [informal settlements] more and more are slowly moving into Category Six'. This category exists purely for reporting purposes, 'so the Mayor can see where they went' (ibid).

The City of Johannesburg established 'Regularisation' (Category Three) as its (only) programme for 'settlements that are to be upgraded *in situ*' (Urban LandMark, 2010: 18). For the City and for Gauteng Provincial Government, 'formalisation' does not mean *in situ* upgrading (as per the Upgrading of Informal Settlements programme) but rather a step towards 'eradication', in terms of the particular meaning this term has taken on. Thus, according to Gauteng's Director of Development Planning, layouts 'must comply. We can't do irregular-shaped plots ... We also want to give all the same stand size ... The shack gets shifted to the new stand. Then in the second phase, we eradicate the informal settlement by building top structures' (Van der Walt, personal communication, 30 July 2010). *In situ* upgrading, in contrast, as promoted under the Upgrading of Informal Settlements programme which the Province treats with scepticism (ibid), would leave as many structures as possible in their original position, provide formal rights to the occupants of the land, introduce infrastructure and services with minimal disruption, and provide support for the gradual transformation of 'shacks' into more durable housing.

The categories listed above give informal settlement communities little certainty. The City of Johannesburg's Programme Manager for Informal Settlement Formalisation in the Development Planning and Urban Management Directorate explained that 'when you interrogate each settlement, you find challenges. You find settlements that should not be in that category. We reshuffle them' (Fredah, personal communication, 3 November 2010). Even once the City has placed a settlement in the 'Regularisation' category, it experiences challenges in the face of rigid feasibility criteria. I return to the Regularisation programme in Chapter 7.

Temporary relocation within eradication practice

Relocation, whether via Ekurhuleni Metropolitan Municipality's Migration Plan or the City of Johannesburg's Category Two, is not always directly to a permanent site. Municipalities establish 'temporary' relocation areas (TRAs), though often for indefinite periods, usually under the Emergency Housing Assistance programme (Department of Housing, 2004b; Department of

Human Settlements, 2009a). TRAs take different forms. In Ekurhuleni Metropolitan Municipality, the approach is to stake out stands in an area designated for permanent housing development, and to settle three families on each stand as an interim measure. The plan for an indefinite future time 'when funding is available' is that one (qualifying) family remains on the stand and the other two are relocated once more (Williamson, personal communication, 28 July 2010). All of the municipality's 'TRAs will become permanent eventually' (ibid). In the Makause eviction in February 2007 (which was unlawful as the municipality failed to secure a court order), Ekurhuleni Metropolitan Municipality established a TRA at Tsakane Extension Ten, 40 km from the Makause informal settlement (Figure 5.2). Gauteng Provincial Government (2009: 16), which supports this practice, officially refers to transit camps as 'emergency holding areas', similar to the language used in Zimbabwe which I mention in Chapter 4.

Figure 5.2a: The demolished strip through Makause informal settlement after the unlawful eviction in 2007

Source: Author's photographs (2007)

Figure 5.2b: The temporary relocation area in Tsakane Extension, 40 km from Makause

Source: Author's photographs (2007)

The City of Johannesburg has a poor track record of temporary relocation areas. Anton Harber (2011) provides vivid insight into the complex challenges that the Diepsloot 'Reception Area' (an earlier term for TRAs) has posed for vulnerable residents and the City alike in the decade since its establishment. As Harber (2011: 18, 153) puts it, the City's intention for the Diepsloot Reception Area was to 'export' the 'problem' of shacks and overcrowding faced by the Alexandra Renewal Programme (in one of Johannesburg's oldest, most competitively located and densely inhabited 'townships') to Diepsloot, a now sprawling low-income enclave on the northern suburban outskirts of Johannesburg. In Johannesburg's south, at the southern end of Soweto, the City of Johannesburg (through its Johannesburg Social Housing Company (JOSHCO)) more recently failed in its attempt to channel an informal settlement relocation (or 'eradication') from Protea South (Figure 5.3) through a temporary relocation or transit area. Starting in 2006, the municipality leased land from a private owner for a predetermined period, fenced off the land and constructed tightly packed, uninsulated, one-roomed tin structures and rows of shared toilets. The Protea South community, mobilised through

Figure 5.3: Established home in the Protea South informal settlement

Source: Author's photograph (2006)

LPM, resisted the relocation. By 2009, it had secured a High Court order that the feasibility for *in situ* upgrading of Protea South be investigated. At the time when LPM was celebrating the Protea South Court decision in November 2009 (Figure 5.4), the municipality's land lease for its transit area had expired. In a sorry display of wasted local government resources, the municipality dismantled the transit area, with its rows of toilets and tin shacks that had never been used (Figure 5.5).

■ ■ ■ ■

Post-apartheid urban policy is consistently characterised by an embarrassment at the presence of shacks and a rigid, reductionist focus on delivery targets. There is a strong political, professional and financial investment in an entrenched way of dealing with informal shacks and settlements as a 'problem'. The analysis provided in this chapter may make the *status quo* in South African policy and implementation seem untenable. In the last part of this book, I describe a range of initiatives that are confronting aspects of the situation, and show the real difficulties involved in achieving any change

Figure 5.4: Landless People's Movement celebrating a High Court decision that feasibility of upgrading be investigated for Protea South, 15 November 2009

Source: Author's photograph (2009)

in direction. If there is to be any progression away from informal settlement eradication and towards embracing the national Upgrading of Informal Settlements programme in South Africa, and beyond that a meaningful right to the city more broadly across this continent, one needs to grapple with the factors and forces that legitimise the entrenched approach to informal settlements. I have already extensively indicated the—perhaps sometimes unwittingly—inappropriate positions and actions of global agencies and aligned organisations in this regard, as well as the drive for beautification, modernisation and economic competitiveness of cities. A further dynamic that legitimises long-run repressive treatment of shacks/informal settlements and their inhabitants is the tendency of governments to latch onto a single high-profile pilot project, rather than systematically introducing and driving reform in policy and implementation. It is to the fraught trajectory of such pilots that I turn in the next chapter.

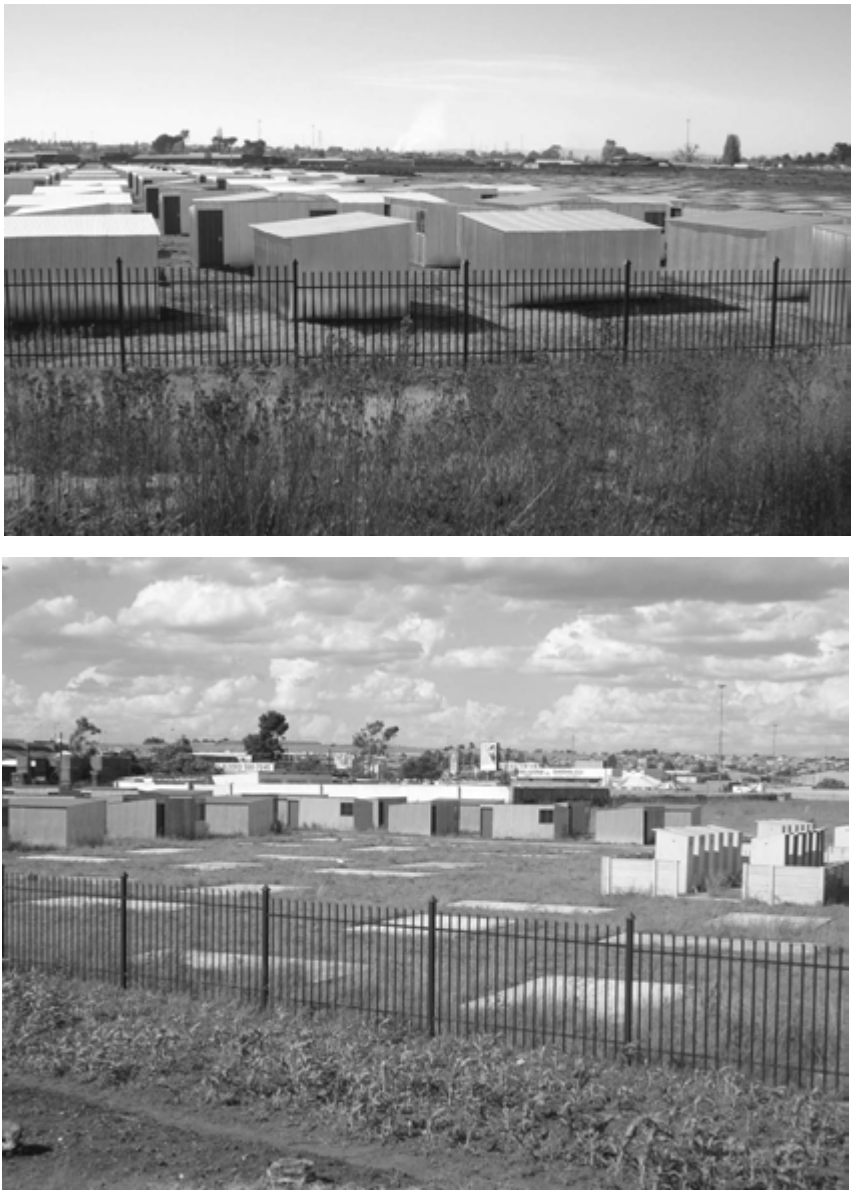

Figure 5.5: The Protea South temporary relocation area under construction on state-rented, privately owned land in 2006 (top); unused and being dismantled in 2009 (bottom)

Source: Author's photographs (2006, 2009)

End Notes

1. With parallels in UN-HABITAT practices today, the Urban Foundation's high-level statements and releases contradicted nuanced and carefully researched positions which Urban Foundation staff produced from the late 1970s to 1994, when the organisation was disbanded (Huchzermeyer, 2004b).
2. While one outcome has been the redistribution of assets to poor households, the real role of this redistribution in alleviating poverty has been questioned (Charlton & Kihato, 2006; Department of Housing, 2004a).
3. This was despite UN-HABITAT awarding a Scroll of Honour to the 1995–2003 Minister of Housing, Sankie Mthembi-Mahanyele, at the World Habitat Day celebrations in Brazil in 2003 for South Africa's mass housing delivery (UN-HABITAT, 2003a).
4. Cities Alliance made available its sub-Saharan African representative based in Pretoria, Carien Engelbrecht, to draft Chapter 13 of the *National Housing Code* for the Department of Housing. As a team of consultants tasked at the time by the Department of Housing's Research Division with conducting a study, subsequently published as the *Study into the Support of Informal Settlements* (University of the Witwatersrand Research Team, 2004), we had two poorly timed opportunities (before commencement of the study) to make presentations to the Task Team and comment on drafts of Chapter 13.
5. Qualification criteria for subsidised housing include: household head above 18 years of age; existence of at least one dependent; not having benefited from a housing subsidy before; South African citizenship or permanent residency (Department of Housing, 2000).
6. The High Court ruling in the Makhaza case in Khayelitsha, Cape Town, underlines that 'participation' in the *Upgrading of Informal Settlements* programme must be treated as 'meaningful engagement' through 'substantial and active community participation' (Erasmus, 2011: s.86).
7. Baumann (personal communication, 23 May 2006) explained SDI's rationale for the conference as follows: 'NGO types like Joel [Bolnick] and I played a facilitating role, essentially opening the door for the slumdwellers to engage the highest decision-makers in housing. At the conference the slumdwellers walked through that door and engaged the Minister directly, with concrete results. No NGO or intellectual process has achieved that yet. In this light it would be a mistake to see the "award" of subsidies to FEDUP and the focus on "numbers" etc. as the chief achievement (or problem) of this conference. The most important achievement is that through their evangelical-style singing, ululating, and so on, slumdwellers have opened a door that *only they can open*—the door to real ongoing engagement with key government decision-makers around practical issues ...' (emphasis in the original).
8. Elsewhere, SDI states that UPFI board members are nominated by their governments (UPFI, 2009). Sisulu continued to serve on the board in her new

capacity as South Africa's Minister of Defence (SDI, 2009). In 2010 FEDUP (2010) announced its intention to approach the new Human Settlements Minister, Tokyo Sexwale, 'to serve on the UPFI Board of Governors, or to nominate Deputy Minister Zoe Kota-Fredericks as the representative from the South African government'.

9. This Act was tightened several times in the period leading up to the height of the apartheid state's repressive shack eradication drive in the mid-1970s (Howe, 1982).
10. The Provincial Government of the Western Cape has also conceptualised a city region for the less densely urbanised surroundings of Cape Town.
11. A conflict over municipal and provincial powers (in particular the City of Johannesburg's Development Planning and Urban Management Directorate and the Gauteng provincial planning tribunal) in relation to township establishment and rezoning reached the Constitutional Court, with a judgment handed down on 18 June 2010. The Court restored a level of autonomy for municipalities by declaring sections of the Development Facilitation Act, which allowed the Premier (the political head of the province) to overrule provisions in the municipal Integrated Development Plans (IDPs), unconstitutional (Jafta, 2010). Nevertheless, Gauteng Province and the City of Johannesburg then together approached the Court for a declaratory order, to clarify the issues at hand (Harrison, personal communication, 25 October 2010).
12. Melanie Sampson's unpublished research in 2006 into the encroachment of the security industry into development first alerted me to this trend.
13. Anton Harber (2011: 168–169) provides a journalistic narrative about this same categorisation, having interviewed City of Johannesburg's Mayor Amos Masondo and the Mayoral Committee member for development planning and urban management.
14. The figures for decrease and increase in informal settlement numbers are from City of Johannesburg (2010b).

Chapter Six

Flagship 'slum' eradication pilot projects: flaws and controversies in the N2 Gateway in Cape Town and Kibera-Soweto in Nairobi

> *... the planners' dream of sanitary paradise is rarely the social panacea it at first appears, and in practice, if it does not simply mask the whole issue (slum dwellers being forced into even worse conditions so that middle class housing can be built on the land cleared) it often creates more intractable social problems than those it set out to solve.*
>
> (Bujra, 1973: 1)

In 2004, within a month of one another, South Africa and Kenya each launched what were initially planned to be national 'slum upgrading' pilot projects. Both projects, responding to the state's embarrassment with visible informal settlements, would distort the meaning of 'upgrading' as an approach to dealing with informal settlements and would find partners in global organisations professing to promote *in situ* upgrading. In South Africa's tourism capital, Cape Town, the tellingly named N2 Gateway Project targets informal settlements that no visitor can avoid noticing when entering the city from the airport on the N2 highway. In Kenya's capital, Nairobi, the pilot project of KENSUP targets Africa's iconic 'slum' Kibera (whose size, as discussed in earlier chapters, is often exaggerated), visible in particular from Langata Road, which leads tourists to Wilson Airport and the gates of the Nairobi National Park. In both cases, modernist conceptions of 'slum' eradication have shaped these pilot projects, translating 'upgrading' into redevelopment that involves erection of expensive, attractive-looking multi-storey blocks of flats, with considerable disruption to the lives of the affected informal settlement residents. Striking images of 'before' and 'after' announced the pilot in both Cape Town and Nairobi, leaving no space at all for resident households and interest groups to shape the development model. In both cases, a perceived urgency of the need to improve urban competitiveness complemented the governments' 'slum' eradication commitments in justifying this approach. Temporary relocation areas or decanting sites, though developed to very different standards in Cape Town and Nairobi, form part and parcel of the

'slum' redevelopment model. Both projects have overrun their budgets substantially and are delayed by controversy over the redevelopment model. In Cape Town, the global NGO SDI shifted from critic to partner of the state in the N2 Gateway Project. And in the case of Nairobi, UN-HABITAT plays a direct, though shifting and seemingly uneasy, role as a high-level partner of the Kenyan government. The KENSUP pilot has been no less contradictory than the N2 Gateway Project of the reality of its host city, its target population and the core values that SDI and UN-HABITAT profess to represent.

The N2 Gateway Project displacements: flagship distraction from entrenched policy and good practice

In Cape Town, the apartheid state's resumption in the mid-1980s of low-income residential developments for African households led to transit camps and sites-and-service areas as well as core housing developments, but only on the distant and sandswept periphery of the city. Not surprisingly, in the ambiguous late-apartheid years informal settlements emerged on unused parcels of more conveniently located land. After lobbying and contestation, the early post-apartheid state integrated the residents of some of these settlements into nearby formal developments, making exceptions to the otherwise continued apartheid patterning of the city. Examples are Marconi Beam in the seaside suburb of Milnerton and Imizamo Yethu in the hilly and leafy luxury suburb of Hout Bay.

Best located of the 'black' apartheid/pre-apartheid era townships is Langa, 12 km from the city centre and adjacent to Cape Town's early 'garden city' suburb of Pinelands (Figure 6.1). As per accepted engineering practice, the township is separated by a wide road reserve and stormwater ditch from the N2 highway, which leads past it and into the city centre. The first shacks appeared on this land in the early 1990s (Dhupelia-Mesthrie, 2009: 27; Sizani, 2009) and came to be known as Joe Slovo informal settlement after the first post-apartheid Minister of Housing. This settlement became the target of the first phase of the N2 Gateway Project. Housing Minister Lindiwe Sisulu, whose 2004–2009 term in office was intertwined with the trajectory of the N2 Gateway Project, explains that 'in 1990, the ANC decided to mobilise society, saying "occupy all the vacant land that belongs to the state". One such group occupies Joe Slovo' (Sisulu, 2008b). Around 2002/3, in a bid to reduce the risk of fire and improve the living conditions in Joe Slovo informal settlement, the City of Cape Town provided electricity, communal toilets with waterborne sewerage and communal taps. The government, however, did not

Figure 6.1: Location of Joe Slovo informal settlement and the N2 Gateway Project within Cape Town

Source: Adapted from Parliamentary Monitoring Group (2010)

formalise the residents' rights to occupy the land. By 2004, the municipality estimated that 5 600 households lived in the partly upgraded Joe Slovo informal settlement bordering Langa (Oscroft, personal communication, 11 November 2010).

Early challenges and unlikely partnership in shack clearance and temporary relocation

The N2 Gateway Project announced itself to households living along the N2 highway, including the Joe Slovo informal settlement, in September 2004 through the media (COHRE, 2009: 11). Soon, through a somewhat unclear series of events, households in the first targeted portion of the settlement found themselves shifted aside onto vacant portions of the remaining settlement, to make way for the planned construction (Figures 6.2, 6.3).[1] The displaced residents understood that they had been 'promised permanent homes' in the areas they had vacated (ibid: 12; Merten, 2005a). However, the state, endorsed by the highest court, later disputed the legitimacy of this expectation.

Figure 6.2: Joe Slovo informal settlement (left); the official projection (from the opposite direction) for the N2 Gateway Project in 2004 (right)

Source: Courtesy of City of Cape Town

Figure 6.3: Phase One of the N2 Gateway Project under construction in 2005

Source: Courtesy of City of Cape Town

In early 2005, a sweeping shack fire in Joe Slovo settlement and the adjacent hostel area rendered 3 800 households homeless. The N2 Gateway Project subsequently accommodated 2 500 of these in a 'communal tent camp' (DAG, 2007b). The project disallowed the rebuilding of the burnt shacks, as the fire had conveniently opened up land for the planned construction of new

housing. Instead, the project accelerated its plans for TRAs. As its attempts to secure well-located land had met with objections from neighbouring landowners, the project resolved to develop its TRAs on vacant land (which had been earmarked for a future cemetery) in Delft, 15 km further from Joe Slovo towards the urban periphery (DAG, 2007b). Former Joe Slovo residents from the communal tent camp were moved to the first of these TRAs, which contained 2 000 temporary units in what came to be known as the 'Tsunami' TRA. Delft is a sandy, windswept island of low-cost housing, bounded by the Cape Town International Airport on one side, highways on two sides and a major arterial road on the fourth. The name 'Tsunami' refers to the stress residents experience living under the control, confines and isolation of the TRA, with uninsulated corrugated iron rooms cheek-by-jowl — 'it's a disaster waiting to happen' (Joubert, 2007d). Dhupelia-Mesthrie (2009: 28) observes that the Delft TRA 'bears all the hallmarks of an apartheid era relocation camp'.

The N2 Gateway Project attempted to cater for households needing regular care from the local clinic in Langa. It therefore established a small TRA adjacent to Joe Slovo settlement in the Langa township, the 'Intersite TRA', referring to the company that owned the land (Oscroft, personal communication, 11 November 2010). However, those displaced by the Joe Slovo fire and not accommodated in the tent camp invaded these units. The project removed them to the 'Tsunami' TRA in Delft, where they joined others from the tent camp whom the project had already relocated (DAG, 2007b).

In the previous chapter I summarised various reservations voiced about the N2 Gateway Project. I included criticisms voiced by the influential SDI, namely that the project was attempting to 'create the façade of a slum free-city' (SDI, n.d.: 36). However, SDI, with the South African federation it supports, shifted its position from critic to active role player and partner in the project. In the wake of N2 Gateway relocations, in May 2005 Minister Sisulu was invited by the then South African Homeless People's Federation (SAHPF — soon renamed and restructured as FEDUP) to a 'mass public meeting in an informal settlement' in Durban (Baumann, 2005). There, she 'committed herself to a partnership with the HPF, including financial support for building skills training and, remarkably, a request for HPF assistance in surveying shack dwellers in Cape Town's N2 settlements' (ibid). Thus, the SAHPF, with a professional team from SDI, took on the particular task of facilitating the unpopular relocations through an 'enumeration' process.

This involves training of community members for door-to-door collection of household data, in a process that is intended to share information about pending developments or unavoidable relocations, empower ordinary residents and facilitate the organisation of communities (UN-HABITAT & GLTN, 2010).[2] SDI/HPF's decision to partner with the state on the N2 Gateway Project occurred in the context of internal turmoil and crisis within the federation and its SDI-affiliated NGO, People's Dialogue. The powerful and much acclaimed Victoria Mxenge community, a stronghold of the SAHPF in Cape Town and centred around its flagship housing project, was striving for autonomy. As a result, SDI severed its ties with this group, and most of the SAHPF's remaining savings groups formed FEDUP (Baumann, 2006).[3] The NGO People's Dialogue was also closed down in this period and the SDI-affiliated Community Organisation Resource Centre (CORC) took over many of its support functions. The SAHPF continues to function as a federation of savings groups in Cape Town and beyond, under that name, but without SDI and donor support. Interpretations of the 'crisis' that led to this split remain contested.

A year later, the dust had settled over the SAHPF–SDI/FEDUP split and the latter's partnership with the Ministry of Housing flourished. At SDI/FEDUP's suggestion, the Department of Housing funded the extravagant International Slum Dwellers' Conference in the world-class Cape Town International Convention Centre mentioned earlier.[4] At the conference, SDI/FEDUP reported on the enumeration and on how its enumeration team had tried to help the City of Cape Town update its informal settlement information. My own enquiries with the housing research unit of the City of Cape Town on the same day revealed no knowledge of the enumeration or its findings (Kuhn, personal communication, 18 May 2006). Later enquires clarified that 'although SDI had tendered to enumerate the targeted settlements at no cost to the City, the City had not contracted with SDI' as such (Oscroft, personal communication, 11 November 2010).

More disconcerting, however, were SDI/FEDUP's statements at the International Slum Dwellers' Conference regarding Joe Slovo residents' resistance to the N2 Gateway relocations. Rose Molokoane, the FEDUP chairperson, SDI board member and 2005 recipient of a UN-HABITAT scroll of honour, publically explained SDI/FEDUP's position in relation to the households refusing to relocate from Joe Slovo to the TRA in Delft: 'We identify it as a problem that for example in Langa people are demanding and not helping themselves. SDI and FEDUP are offering to speak to these people to help them enter into negotiations' (Molokoane, 2006). SDI's

response to the N2 Gateway Project evictions was that they were 'going to happen regardless' of criticism and suggestions for alternatives (SDI, n.d.: 9). It is interesting that Ananya Roy (2010) explains and subtly questions a similar strategic–pragmatic positioning in the SDI-affiliated NGO SPARC in relation to evictions in Mumbai. Like SDI in South Africa, SPARC 'rejects rights-based approaches to inclusion that seek to confront the state' (Roy, 2010: 153). Ironically, rights-based or legal action by the Joe Slovo residents ultimately led to the abandonment of the Phase Two eviction in the N2 Gateway Project. At that point, as I will show, SDI happens to have switched its position and stepped in to promote *in situ* upgrading of Joe Slovo settlement, an approach that the Joe Slovo community had demanded all along in its resistance to relocation to the Delft TRAs.

SDI explains its shift from project critic to collaborator in the planned relocation as follows:

> *Instead of arguing for holistic and participatory development that created decent built environments close to public facilities and places of work, [SDI's office in Cape Town, CORC] agreed to participate in* the city's ill conceived master plan *that involved the relocation of 10 000 families to transit housing and private developer construction of (not so) low cost rental accommodation ... Federation members followed [the relocatees to the Delft TRA] and began to mobilise them into savings groups.*[5] (SDI, n.d.: 36, my emphasis)

However, the description here of the N2 Gateway Project as 'the city's ... master plan' is not accurate. In December 2005, the state took a decision to terminate the then ANC-led City of Cape Town's involvement in the N2 Gateway Project altogether. In place of the City, the national Department of Housing appointed the ill-fated Thubelisha Homes, a government-initiated special purpose finance vehicle, then tasked with managing the project 'under contract to the provincial Department of Housing' (Oscroft, personal communication, 15 November 2010). 'The change to the MoU [Memorandum of Understanding], which formally relieved the City of its role as Developer, was signed off by the ANC Executive Mayor Mfeketo in February 2006' (ibid). Soon after this, in the 2006 local government election, the Democratic Alliance (DA) took over the Cape Town municipality from the ANC. The new mayor (2006–2009), Helen Zille, distanced herself from the project, complaining about improper planning and implementation and the 'unfunded mandate' which the municipality had carried and which now translated into 'huge claims from various companies involved' (Thamm, 2006a). The ANC saw her criticisms as 'mischievous and divisive' (IOL, 2006).[6] By 2009, Thubelisha

Homes had become technically insolvent and was closed down. The newly established Housing Development Agency (HDA) took over Thubelisha's function in the N2 Gateway Project. According to the Parliamentary Monitoring Group (2009), 'Thubelisha had a troubled history from the start, due to under costing and its involvement in the N2 Gateway Project, which was dogged with political problems'.

Very few of the households that were relocated at the time when the first phase of the N2 Gateway Project was initiated could afford to return and move into any of the 705 units that had been constructed in neat-looking multi-storey blocks (Figure 6.4). Rentals were too high. Municipal housing official Peter Oscroft explained that the nearby Hostel to Homes project in Langa had achieved 'affordable rentals', whereas the first phase of the N2 Gateway Project, for bureaucratic reasons, had to rely on the 'social housing policy whose cost recovery rental structure rendered the units unaffordable to residents of the informal settlement' (Oscroft, 15 November 2010). The project allocated these units on a market basis (Baumann, 2005; COHRE, 2009; Thamm, 2006b) to people from other lower-income parts of Cape Town. Many interpreted this as a breaking of the original promise to upgrade the informal settlements along the N2. Minister Sisulu's (2008b) justification for this shift from informal settlement upgrading to housing for richer groups

Figure 6.4: Rental housing, Phase One of the N2 Gateway Project

Source: Author's photograph (2006)

was the need for mixing income groups — 'because we are committed to overcoming apartheid spatial planning, we will not build only for the poor'. However, controversy went beyond the question of who the legitimate target groups were for the N2 Gateway housing. Once constructed, the buildings themselves were marred with controversy over construction standards and rapid deterioration (COHRE, 2009; Joubert, 2007b; Parliamentary Monitoring Group, 2010). While this became the subject of lengthy investigation by the auditor-general, in what follows I focus merely on the struggle that unfolded over relocation versus informal settlement upgrading within the N2 Gateway Project.

Legal challenges to extended removal and temporary relocation

In Phase Two, the remaining mainstream partners in the project (the national Ministry of Housing, the provincial government and Thubelisha Homes) (SDI/FEDUP's role being merely that of facilitating the relocation) then planned to construct 3 000 mortgaged homeownership units along the N2 freeway, again not for the displaced Joe Slovo residents holding out in the distant Delft TRA, but for formally employed 'bankable' households. The project undertook to construct further TRA units at Delft to allow the remainder of the Joe Slovo shack dwellers to be cleared for Phase Two. Phase Three of the project now envisaged building permanent housing affordable to the erstwhile Joe Slovo residents in Delft, rather than attempting in any way to accommodate them within the visible and far better located parts of the N2 Gateway. Adding to the project's controversy, poor households living as backyard tenants in permanent low-income estates in Delft invaded these new housing units before they were officially allocated to the intended beneficiaries (Chance, 2008; Joubert, 2008a).

Meanwhile, residents in the remaining parts of the Joe Slovo informal settlement raised objections to 'the threat of forced removal to Delft' (COHRE, 2009: 16). They established a formal task team, replacing an inactive system of committees (Sizani, 2009: 38). The task team 'criticised the government for dumping them "in a slum called Delft" more than 30 km on the outskirts of the city' (COHRE, 2009: 16). The Housing Minister responded 'that while she understood people's anxieties, this had to be balanced with eradicating slums that were both a blight on democracy and unsuitable for human development' (ibid: 17). Dissatisfied with the response, the residents barricaded the N2 freeway. In an ensuing clash with the police, 'more than 30' of these residents were injured (ibid). The Minister then announced her intention to use a legal route to compel the Joe Slovo residents to move.

Jointly with the Western Cape provincial MEC for Housing and Thubelisha Homes, Minister Sisulu 'secured an interim eviction order' from the High Court (ibid: 18). In response, '3 500 Joe Slovo residents walked to the Cape High Court ... and individually lodged their objections' (Joubert, 2007c). The media reported this as 'one of the biggest class action cases brought in South Africa' (ibid). The legal representative of the residents, Advocate Geoff Budlender, highlighted the seriousness of this case to the media, observing that he did not 'remember another case in which government started the eviction of a settled community of 20 000 people where people have lived for as long as 15 years' (Budlender, quoted in Joubert, 2008b).

However, in March 2008 the High Court ruled in favour of the eviction, finding that the 'residents of Joe Slovo had no legitimate expectation or any right to remain in Joe Slovo', given that the state was providing 'more than adequate temporary accommodation' (COHRE, 2009: 18–19). With legal support from CALS, COHRE, the Community Law Centre (CLC) at the University of the Western Cape (UWC), the Legal Resources Centre (LRC) and the Western Cape Anti-Eviction Campaign (AEC) in different capacities, the Joe Slovo community's task team and one other committee from the settlement appealed the judgement in the Constitutional Court.

The state's excuses for not upgrading in situ

A large delegation of Joe Slovo residents, supported by members of the AEC, travelled to Johannesburg to attend the Constitutional Court hearing on 21 August 2008 (Figure 6.5). The state's representatives at the Court, and the formal papers submitted by the state, exposed the official thinking about the N2 Gateway Project and the rationale for the relocations. The *Amici Curiae* (Friends of the Court) in turn gave evidence that the BNG policy document identified the N2 Project as an informal settlement upgrade pilot, arguing therefore that the then 'Chapter 13 of the Housing Code' (the Upgrading of Informal Settlements programme) ought to have been implemented in the Joe Slovo settlement. The *Amici Curiae* demonstrated that the principles of this programme applied to all informal settlements, including those where relocation could not be avoided because of engineering interventions (Community Law Centre & COHRE, 2008). They argued that current implementation of the 'N2 Gateway Project in relation to the Joe Slovo residents is fundamentally at odds with the principles on which BNG is based' (ibid: s.16).

The Minister of Housing, in her response to the Joe Slovo applicants, admitted to a shift from an original undertaking to upgrade the N2 informal

Figure 6.5: Representatives of the Joe Slovo community and the Western Cape Anti-Eviction Campaign at the Constitutional Court in Johannesburg

Source: Author's photograph (2008)

settlements, stating that '[t]he Project has evolved over time' (Minister of Housing, 2008: s.155). She referred to the N2 Gateway broadly as the 'pilot project of the BNG policy' (ibid: s.167.5). The Minister provided a list of reasons for not attempting to upgrade or relocate through a participatory process as set out for informal settlements under BNG. When setting out these reasons, she referred to an affidavit by former Deputy Director-General of Housing Ahmedi Vawda who 'was tasked specifically with rewriting national policy' (ibid: s.142), i.e. under whom the BNG policy was formulated:

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

The very purpose of pilot projects is, of course, 'to create experience from which others can learn' rather than to shy away from such experience (Mattingly, 2008: 129). Four years after the adoption of BNG with Chapter 13 of the Code, by which time the state had originally envisaged full implementation of the upgrading programme, each of the above challenges ought to have been addressed through pilot projects. Experience, skills and support from the professions should have been actively developed, and institutional mechanisms created. Consensus on partial relocation would almost certainly have been easier to negotiate under Chapter 13 of the Code than on the deeply contested relocation to poorly located Delft TRAs via the High Court and Constitutional Court. The resources and time absorbed by the contestations over the first two phases of the N2 Project could have been used for upgrading in terms of Chapter 13 of the Code. And as Charlton (2006) points out, isolated *in situ* upgrading programmes in the early 1990s, including the large-scale Besters Camp upgrade in Durban, resulted in the development of skills and experience that should have been built upon. However, in her response, the Minister of Housing further justified the approach to the N2 Gateway Project by arguing that '[t]he eradication of informal settlements (of the nature that exist at Joe Slovo) is consistent with the State's obligations' (Minister of Housing, 2008: para. 178.2). In the Minister's usage, the term 'eradication' means 'clearance', 'demolition' or 'removal'.

Less than a week after the Constitutional Court hearing, the Wits Institute for Social and Economic Research of the University of the Witwatersrand in Johannesburg hosted Minister Sisulu as respondent to a lecture by internationally acclaimed cultural anthropologist Arjun Appadurai. Professor Appadurai himself has had a close relationship, fascination and affinity with the SDI and its methodology, and through SDI had also made close acquaintance with Minister Sisulu. Appadurai's favourable analyses of SDI's practices among 'slum dwellers' in Mumbai over the past decade highlighted SDI's contributions, in achieving 'deep democracy' (Appadurai, 2001, 2002), in spreading a positive 'politics of patience ... constructed against the tyranny of emergency' (ibid, 2001: 30), in achieving 'risk-taking' among bureaucrats (ibid: 34), and in building poor people's 'capacity to aspire' (Appadurai, 2004). Anthropological research on SDI practices in South Africa, meanwhile, has pointed to limits in the applicability of Appadurai's concepts, in particular that of 'deep democracy', in the operation of SDI's savings groups and federation in South Africa (Robins, 2008). Nevertheless, Professor Appadurai, possibly unaware of the N2 Gateway controversy and the Constitutional Court hearing in the previous week, delivered his paper to the University of the Witwatersrand

academic audience with reference to these concepts, alongside statements of deepest admiration for the Minister and the leadership of SDI. In her response to his lecture, Minister Sisulu (2008b) was at pains to set out her Ministry's position on the N2 Gateway controversy. Although the Constitutional Court case centred on an appeal against the state's court order for eviction, Sisulu somewhat mischievously argued that

> *because of our history, there are certain terms we would like to erase from our vocabulary. We do not evict. We remove people. We would like to tamper with the language, replace it with 'temporary relocation' ... In order to rehabilitate the land, we built what we learnt from India—a transitional area—so we can build an integrated settlement where they can live.*

To the alarm of many in the audience, she then adopted two concepts which Professor Appadurai had unwittingly warmed up for her, namely a 'politics of patience', lacking among the evictees who had taken her Ministry to court, and 'risk-taking'—seemingly implying that government was carrying a disproportionate burden of risk in the N2 Gateway Project when compared to that carried by the Joe Slovo residents. While Professor Appadurai had no direct doing in this, the Minister's use of these concepts demonstrated the legitimising role of her close relationship with SDI, against a rights-based critique and rights-based action.

From constitutional endorsement of the relocation to the eventual adoption of in situ *upgrading*

The irony in a 'pilot project' that fails to 'pilot' escaped the Constitutional Court judges, though to be fair, this was not at the core of the case at hand. In a much delayed ruling in June 2009, the Court endorsed the eviction 'with regard to humane consideration' (COHRE, 2009: 20). This included a stipulation that 70 per cent of the units built (in Delft) in the third phase of the project be allocated to the affected Joe Slovo residents, that the TRA units comply with certain standards (which they already did) and that the residents participate or be 'meaningfully engaged' in the relocation decisions. The Court essentially condoned a flagship 'vanity project', even though an auditor-general report two months earlier had presented a damning assessment, citing improper planning and wasteful expenditure (ibid: 22). Legassick (2009) lists the project's deficiencies and describes them as 'a morass of officially committed illegality'. In a further display of wasteful illegality, the state authorised First National Bank (FNB) to construct some 40 bonded homeownership units at Joe Slovo, adjacent to Phase One. Constructed in

2008, these have since stood vacant as 'the land is owned by the City but the parent erf [i.e. stand] and title deed issues have yet to be resolved, which has prohibited any transfers and sales' (Oscroft, personal communication, 11 November 2010).

With political changes in provincial and national government, political leaders at various levels found themselves inheriting the problematic N2 Gateway Project. After the 2009 general elections, Helen Zille of the DA inherited the role of project partner in her capacity as Premier of the Western Cape Province. Already as Cape Town Mayor, she had voiced her support for *in situ* upgrading as the 'only way ... to improve shack dwellers sustainably' (Joubert, 2008a). Zille herself has a background as a development consultant and is familiar with the debates around informal settlements. The NGO Development Action Group (DAG) had also lobbied and assisted the City of Cape Town in submitting the first application in the country for *in situ* upgrading under Chapter 13 of the Housing Code (the Hangberg Project, which I briefly return to in Chapter 7). When the President appointed Tokyo Sexwale as the new Housing (subsequently renamed Human Settlements) Minister in 2009, Sexwale and Zille resolved the 'tensions between the spheres of government that had marred the N2 Gateway project' (IOL, 2009). However, in her new position as Defence Minister, Sisulu continued to defend the N2 Gateway Project, blaming its failures on 'political infighting in the Western Cape' (Rossouw & Mataboge, 2010). Displaying the high political stakes and ambitions involved in heading the Housing Ministry, she also blamed her successor, Sexwale's, concerns over the N2 Gateway Project and other 'failures of the national housing programme' on his ambitions to become 'the next president', therefore 'seeking to neutralise other potential contenders' (ibid).

Sexwale adopted a cautious approach to the N2 Gateway. Initially, he postponed the Joe Slovo residents' removal to Delft, acknowledging people's need to live near their sources of livelihood (*Cape Times*, 2009, quoted in Sizani, 2009: 45). This message raised new hopes for a permanent *in situ* solution for the Joe Slovo residents. By October 2009, he 'had approved an agreement that had apparently been reached between the residents and the developer and the MEC to the effect that *in situ* upgrading would take place' (Ngcobo et al, 2011: s.11). In March 2011, the Constitutional Court accepted the government's commitment to *in situ* upgrading and issued a judgement in which it 'discharged' (i.e. withdrew) its earlier eviction order, arguing among other points that '[t]here is no reason why the threat of eviction ... should continue to disturb the applicants' (ibid: s.37(f)). SDI, meanwhile, had

adjusted its role accordingly, developing models for *in situ* improvement of Joe Slovo settlement including the establishment of communal toilet facilities (Adlard, personal communication, 3 November 2010; A. Bolnick, 2010b).

Critics predicted the failure of the N2 Gateway Project from the start, affected informal settlement residents exercised their rights in opposing the project, and with hindsight it is now seen by many as a malignant outgrowth in policy implementation. Controversy over the constructed Phase One rental units and the TRAs lingers on, but in current and future phases the project now seeks to implement the legally entrenched Upgrading of Informal Settlements programme. However, a lasting legacy is an increased confusion over the term 'upgrading', and the readiness with which city and provincial governments will propose the removal of an informal settlement on well-located land and its replacement with 'inclusionary' or 'mixed-income' housing (with the inevitable displacement of poor households), as I show for the Harry Gwala informal settlement in Chapter 9. In Nairobi, the Kibera-Soweto 'slum upgrading' pilot project to which I turn next follows a comparable development model. It is driven by similar visions, legitimised by similar interests and, through similar diversions from policy, it has led to excesses, controversies and challenges that are yet to be arrested.

The KENSUP Kibera-Soweto pilot project—'slum' redevelopment for the middle class?

Africa's iconic 'slum' Kibera has long formed a functional part of Nairobi. Previous attempts at redevelopment have failed to reach scale, and have catered to the housing needs of the middle class and not Kibera's 'slum dwellers'. While the current clearance and redevelopment attempt as a pilot of KENSUP is fraught with delays and controversy, the government has not abandoned or changed its approach.

If no longer considered the largest, Kibera is certainly among the oldest 'slums' on the African continent. It 'was established under military administration in 1912 ... for Sudanese soldiers' (White, 1990: 49) who enjoyed usufruct rights on the land (ibid: 146). At the time, Kibera was outside the town boundaries. In the decades that followed, which also saw Kibera's incorporation into Nairobi and the formal growth of Nairobi beyond Kibera (Figure 6.6), the settlement came to accommodate tenants. By the late 1960s, poor migrants to the city 'outnumbered Nubian [Sudanese] landlords' in Kibera 'two to one' (ibid: 216). To accommodate their tenants, landlords packed tight rows of rooms made of wattle and daub and corrugated iron in 13-16 so-called 'villages' (COHRE, 2005c) on the

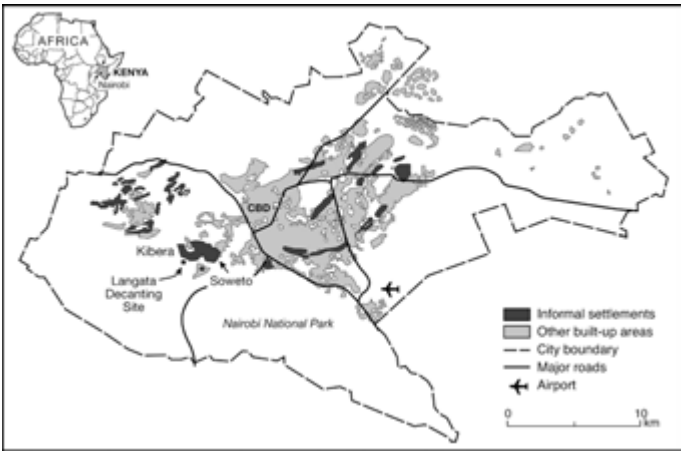

Figure 6.6: Location of Kibera within Nairobi

Source: Adapted from Huchzermeyer (2011: 165)

110 hectares of land (Government of Kenya, 2004). In essence, Kibera is one continuous mass of single-storey rooming establishments (interspersed with some owner-occupied structures) along narrow paths that double as drainage (Figure 6.7). Access to water and sanitation is precarious. An analysis of Kibera in 2000 established a 4:1 ratio of tenants to landlords (Olima & Karirah-Gitau, 2000: 28, cited in Omenya & Huchzermeyer, 2006). By all accounts, many of the landlords or 'structure owners' do not live in Kibera, and the area has a reputation for being 'the most profitable' 'slum' in Nairobi (Mwaniki, 2009).

UN-HABITAT's role in legitimising modernist 'slum' redevelopment in the name of 'upgrading'

Following isolated attempts at 'slum' upgrading in different parts of Nairobi, the first comprehensive initiative began in 2000 with an agreement between President Moi and UN-HABITAT, which is based in Nairobi. This gave birth to KENSUP. Predating KENSUP, in 1999 the newly established Cities Alliance had received 'a proposal for slum upgrading in Nairobi' (UN-HABITAT, 2007). This led to Cities Alliance's subsequent support for KENSUP. An early decision was to pilot KENSUP in the iconic Kibera, after a detailed situation analysis in 2001 (Syagga et al, 2001). A Cities Alliance grant agreement was also signed in July 2002 (Ministry of Housing, n.d.). Early in 2003, the new National Rainbow Coalition (NARC) government

Figure 6.7: Typical view of Kibera from the Mombasa-Uganda railway line (left); intense commercial activity in Kibera's narrow streets (right)

Source: Author's photographs (2004, 2005)

under President Kibaki renewed the KENSUP agreement with UN-HABITAT (Omenya & Huchzermeyer, 2006). 'This was the birth of the Nairobi Collaborative Slum Upgrading Programme focussing on Soweto village in Kibera' (UN-HABITAT, 2007: 1). A year later, on World Habitat Day in October 2004, the two partners launched the Kibera-Soweto pilot project with graphic media presentations of the planned redevelopment of the 'slum' into orderly blocks of flats with 50 m^2 two-bedroom units to be privately owned (Kiprotich & Mugo, 2004). After the 'inception phase' had been funded to the tune of US$110 000 by UN-HABITAT, funding for the 'preparatory phase' was made up of US$240 000 from Cities Alliance and US$60 000 from the Kenyan government (UN-HABITAT, 2007).

At that point, in 2004, the plan was to 'decant' residents from Soweto Village to a temporary or 'decanting' site in Athi River, about 30 km from Kibera. In 2004, a COHRE mission to investigate evictions in Nairobi found that Kibera's residents feared future displacement, particularly once they had been 'decanted' to the distant Athi River site (COHRE, 2005c). This temporary relocation plan was subsequently shelved (Omenya & Huchzermeyer, 2006). Instead, the project identified a site adjacent to Kibera, now termed the Langata decanting site.

Despite UN-HABITAT's involvement, and also to some extent as a direct result of some of its employees' ideas, the KENSUP 'slum' upgrading pilot from the outset envisaged the complete demolition of Kibera and its replacement with attractive-looking multi-storey blocks of flats. In 2004, my visit to the offices of UN-HABITAT as part of the COHRE mission revealed that UN-HABITAT officials were drawing up (and vigorously defending)

plans for two-bedroom flats with car parks, clearly designed for middle-class consumers. A specialised mortgage was envisaged to enable select 'slum' dwellers to become homeowners by renting out the two bedrooms to other households. This model had been tried before in Nairobi. In the Nyayo High Rise development of the National Housing Corporation (NHC) in the early 1990s, adjacent to Soweto-Kibera, 'slum' dwellers made way for middle-class homeowners, through high-level corruption (Huchzermeyer, 2008b). The corruption was, of course, enabled by the adherence to middle-class design standards and does beg the question of whether a replication of this design (by UN-HABITAT) provided any obstacles to the same corruption unfolding.

At this time, all indications were that UN-HABITAT was adding little value to the concept of the KENSUP pilot project, which would have unfolded in much the same manner had the UN agency been replaced with the NHC. For unclear reasons, the Housing Ministry was 'shutting out the NHC' from KENSUP (Anonymous Group, personal communication, 12 October 2005), although at the same time the NHC was tasked with the second phase of the Pumwani-Majengo 'slum' redevelopment in Nairobi. Here the NHC applied exactly the same model. Single-room tenant households in high-rise blocks with two-bedroom flats were to finance the asset accumulation of a few households selected for homeownership. Attempts at achieving affordability for former 'slum' dwellers through this model were unconvincing when compared to rents in 'slums' and in multi-storey private tenements elsewhere (Huchzermeyer, 2008b). The extent to which this approach is actually hostile to the very 'slum' upgrading that all UN-HABITAT's documentation promotes, is exemplified in the following extract of a pamphlet issued by the NHC (2005), directed at the public:

> *The main lesson learned from this project [Pumwani-Majengo 'Slum' redevelopment] is that it is possible to remove or get rid of slums by redeveloping* rather than the concept of upgrading which only postpones the problem. (my emphasis)

Proceeding along these lines, the Soweto-Kibera pilot project developed the Langata decanting site. Unlike the South African TRAs, the plan for the decanting site was to construct permanent multi-storey housing and to use this temporarily for the purpose of relocation (three households per three-bedroom flat) while construction would be under way on the cleared site in Soweto. Seventeen five-storey blocks with a total of 600 units were planned for Langata, and were 'expected to be completed in 2007' (Ministry of Housing, n.d.). Unlike the temporary relocation area in the N2 Gateway Project, shelter in the Langata decanting site was to be a distinct step up from the 'slum'

accommodation, and on a par with the housing ultimately promised back in Soweto. However, this was to come at a cost. KENSUP communicated from the outset that rents would be charged for this temporary housing.

UN-HABITAT's U-turn: dual messages and a dual KENSUP pilot

By 2007, construction at Langata was far from complete. UN-HABITAT, seemingly having come under criticism for its problematic role in this project, reviewed its position in relation to KENSUP and the Kibera-Soweto pilot.[7] Most KENSUP initiatives within UN-HABITAT were 'moved to the Water, Sanitation and Infrastructure Branch' under the Human Settlements Financing Division (UN-HABITAT, 2008: 9). Speaking to the different projects within KENSUP, not only the flagship Soweto-Kibera pilot, the UN-HABITAT Executive Director announced a 'new focus' in 'our involvement with KENSUP', introducing and testing 'the provision of basic infrastructure such as water and sanitation, as an entry point into slum upgrading' (Tibaijuka, 2008).

One of the reasons for this shift was UN-HABITAT's own fragmented nature, where projects related to KENSUP were 'scattered amongst many different units and branches within UN-HABITAT, each with their own objectives, strategies and *modus operandi*' (UN-HABITAT, 2008: 9). This had made communication 'between UN-HABITAT and its KENSUP partners, particularly the Ministry of Housing', difficult (ibid). Ongoing monitoring had not taken place and

> *[t]he fragmentation within UN-HABITAT has also caused a lack of an effective implementation strategy, which has contributed to UN-HABITAT's failure to deliver enough tangible results in the programme.* (ibid)

Presumably referring to practices such as the drafting of building plans that I witnessed in the UN-HABITAT headquarters in 2004 (though not addressing the problems with the middle-class models that were being drafted), UN-HABITAT's strategy document adds: 'This has further been compounded by UN-HABITAT's KENSUP staff "remote controlling" development in the field from the headquarters in Nairobi' (ibid).

In a separate document, UN-HABITAT notes that '[t]he vast majority of water and sanitation initiatives have not been integrated: water, solid waste, sanitation (excreta management), and drainage need to be addressed simultaneously in settlements like Kibera if there is to be a perceivable improvement in the living environment' (UN-HABITAT, 2007: 2). UN-HABITAT therefore aimed 'to mobilise resources in an efficient and timely manner to implement integrated water and sanitation projects under a governance

structure that is conducive to expansion and upgrading ... [T]he initial intervention will be carried out in the Kibera "villages" of Soweto and Laini Saba' (ibid).

Thus started a dual process, at least as viewed from the outside. The media reports described the UN-HABITAT Executive Director, Dr Tibaijuka, handing over 'to the residents ... toilets, bathrooms, water kiosks and water storage facilities' in Kibera 'built by her organisation' (Ojow, 2008). At the same time, the media reported statements from the Kenyan Housing Ministry promoting a very different concept for the same area. In August 2008, the Minister of Housing, Soita Shitanda, confirmed that 'shanties' in 'Soweto East ... would be demolished to open up land for 1 000 high-rise houses' (Ogosia, 2008). Minister Shitanda further proclaimed that 'Kenya was capable of upgrading its slums like Singapore, Malaysia, Egypt and the Asian tigers did' (ibid), implying complete 'slum' redevelopment and not *in situ* improvements.[8] Permanent Secretary of Housing Tirop Kosgey perhaps tenuously implied UN-HABITAT's continued support for this approach:

> *The government is determined to eradicate slums in all parts of the country by partnering with organisations such as UN Habitat and constructing modern houses to replace the informal settlements.* (Mwaniki, 2009)

Similarly, the national coordinator of KENSUP, Leah Muraguri, proclaimed to Soweto residents that 'KENSUP ... was started by government in 2004 with the aim of resettling all the people living in slums into decent houses' (*Daily Nation*, 2009a). For the 'kick off' ceremony of the 'relocation' to the Langata decanting site, the media mentions the presence of President Kibaki and Prime Minister Raila Odinga (Kibera and Langata fall into the latter's constituency), but not the UN-HABITAT Executive Director (Kiplagat, 2009b).

Kenya's 'slum' eradication target as part of its urban competitiveness vision

In an ever clearer parallel to South Africa's target-driven 'slum' eradication drive, the Kenyan media reported that '[t]he government plans to remove all shanties in 10 years' (Kiplagat, 2009a). Further, the Housing Minister confirmed that the project to transfer Soweto residents to 'modern houses' was 'the first in a series of planned slum upgrading activities, which seek to do away with shanties in 10 years' (Koross, 2009b). While the dominant media in Kenya remained critical and sceptical of this approach, others internalised the government's messaging, pointing to 'the eye sore on Nairobi's landscape', which Kibera had become and the importance of

'face-lifting Kibera', and suggesting that '[t]he future is at last looking bright from Kibera' (Jagero, 2009). Linking the Soweto pilot not only with face-lifting, vanity or beautification, the *Daily Nation* (2009b) observed that the Kibera upgrading approach with the costly modernist makeover is 'in line with Vision 2030 development strategy'.

The Kenyan government launched the *Nairobi Metro 2030: A World Class African Metropolis* (Ministry of Nairobi Metropolitan Development, 2008) in December 2008. As already mentioned, the vision speaks to the needs of investors and visitors, and seeks to position Kenya's capital within a competitive city region: 'a world class business setting, recognised nationally, regionally and globally' (ibid: v). The first listed 'policy intervention' under 'enhancing quality of life and inclusiveness' reads as follows:

> *Housing and Elimination of Slums Programme: will include a comprehensive urban regeneration & renewal plan, fast tracking and up scaling the Kenya Slum Upgrading Programme (KENSUP) ... and to obviate growth and proliferation of slums.* (ibid: 71)

The vision document further underlines a 'focus on achieving the vision of a metropolitan [sic] without slums' (ibid: 74). Under the objective of 'Housing and elimination of slums', there is no mention of water and sanitation interventions of the kind UN-HABITAT had adopted (within KENSUP) for Kibera in 2007 (ibid: 76). Instead, the focus is entirely on regeneration, renewal and expansion of the formal housing stock. To underline the obsession with obliterating the embarrassing icon Kibera, the vision further claims that '[e]limination of slums, of which Kibera gives the NMR [Nairobi Metropolitan Region] an infamous image as host to the largest slum in Africa, is critical to these strategies' of promoting and branding the metropolitan region (ibid).[9]

Delays, protest and legal action in the Kibera-Soweto pilot

Completion of the 600 units in the multi-storey blocks at the Langata decanting site took two years longer than envisaged. In August 2008, in anticipation of the completion, but also of 'slum' dwellers' fears of corruption in the allocation process and therefore their displacement, Housing Minister Shitanda reassured the official target population that the new housing would be 'occupied by residents of Soweto East' (Ogosia, 2008). The Minister was also at pains to demonstrate to all residents of Nairobi (who might feel entitled to the two-bedroom units at Langata) that the flagship KENSUP pilot project was not the only housing project it was planning for the city. In particular, he highlighted projects earmarked for civil servants (often the beneficiaries

of corruptly allocated state-funded units intended for the poor). However, he also created new sensitivities by announcing that the vacated 'shanties would be demolished to open land for 1 000 high-rise houses' (ibid). This raised two sets of concerns: one among Nubian structure-owners, whose forefathers had received rights to the land from the colonial government; the other among tenants who derived a livelihood from trading from these structures. Responding to the demands for compensation, in August 2009 the Minister treated all the livelihood claims with one brush: 'They have earned from the slum for a long time. This is government land and there is nothing to compensate' (Koross, 2009b).

The Housing Ministry repeated its assurances that Soweto residents would occupy the new flats as the anticipated completion date shifted from July 2009 (Mwaniki, 2009) to August of that year (*Daily Nation*, 2009a). Due to the many postponements 'since the project began in 2004, Kibera residents [read] mischief, adding that this might be a plan to shut them out of the project' (Koross, 2009b). The Minister again 'gave assurance that only Kibera dwellers will benefit from the project unlike the past where outsiders have invaded such projects' (ibid). However, tenants' fears of costs imposed in the modern decanting site were not allayed by further statements from the Minister: 'We have not set out the exact amount they are going to pay [as] ... [w]e fear that giving a big figure will be like telling them to stay put in their shanties. The ministry will tailor a payment that will suit the income of the occupant' (ibid). The Minister added that full cost recovery from the 'slum' dwellers was needed in order to raise money for the ambitious 'slum' eradication programme (ibid).

On 14 August, the 'slum' dwellers received notice 'to vacate their structures' within one month (Kiplagat, 2009b). As the often postponed opening ceremony for the Langata decanting site drew near, the media reported that 84 resident structure owners of Nubian descent had sought legal representation to claim their property, refusing to leave their structures on that basis (ibid). The High Court ruled that while the government was 'advancing its cause of bettering the lives of residents by upgrading the slum' the group had raised 'issues dealing with fundamental rights' (Kiplagat, 2009a). Justice Abida Ali-Aroni put a week-long hold on the demolition (and relocation) process, pending further representation in the court (ibid). More than a week later, as residents threatened to stage a protest outside the Ministry headquarters, the Minister pleaded with them 'to be patient as we wait for the court case to be concluded' (*Daily Nation*, 2009b). At this point, residents were still asking 'how much they [were] supposed to pay for the new houses' (ibid). The Ministry (contradicting earlier charges it had announced), gave a figure of

KShs 10 000/month per room, half of this made up of rent and the other half of water and electricity. It also announced that 'businesses that were taking place in the slum ... will continue ... in the new houses', with the exception of illegal activities such as brewing (ibid). In a nasty political turn, the Minister also blamed the Nubian land claim on Prime Minister Raila Odinga, in whose constituency Kibera falls (ibid). By mid-September, tensions had risen in other parts of Kibera 'as members of the Nubian community threatened to evict all residents from the area claiming that it is their ancestral land' (*Daily Nation*, 2009c). 'Nubian youth set fire on an office used by Nubian elders' collaborating with the 'slum' upgrading programme (ibid).

On 16 September 2009, residents finally received the green light for their move to Langata. 'Prime Minister Odinga ... arrived to flag them off' (Koross, 2009a). He assured the Nubians that their claims were legitimate and that they would 'not be left out of the programme' (ibid). Despite 'a court injunction stopping the demolition of the structures', the project would nevertheless 'go on as scheduled' (ibid). However, 'rowdy youth' were already threatening 'to invade the vacant houses left by those who had moved' (ibid). Ten months later, the land claim was still not resolved, the vacated structures had not been demolished and construction for the envisaged 1 000 buildings was delayed indefinitely (Irin News Service, 2010b). Controversy also arose from the allocation process for temporary occupation of the housing at Langata (Figure 6.8). It is alleged that flats were allocated to '200 outsiders' (ibid). Legitimate relocatees claimed to have been approached repeatedly by officials asking for bribes. They also knew of fraud in the registration or enumeration process prior to their relocation (ibid).

The account I have presented here from 2008 through to 2010 is largely drawn from the Kenyan media, which makes no mention of the approaches UN-HABITAT (2007: 66) spells out for the KENSUP 'Kibera slum upgrading initiative'. The same process is otherwise known as the 'KENSUP slum decanting initiative' (Irin News Service, 2010a). UN-HABITAT's wording seems suggestive of an *in situ* approach, a distancing from the pilot redevelopment project as it unfolded. UN-HABITAT's approach includes an 'improved layout plan for Kibera' and 'formation of housing cooperatives' (UN-HABITAT, 2007: 66). UN-HABITAT has maintained an official 'partnership' with a state that has little intention of following its guidance. In what could make for a bizarre caricature, UN-HABITAT upgrades *in situ* while the Kenyan government demolishes and carries out a modernist redevelopment in the very same 'slum'. Perhaps explaining UN-HABITAT's caution not to offend African governments throughout the first decade of the new millennium, its

Figure 6.8: The Langata decanting site

Source: Photograph by Baraka Mwau (2011)

Executive Director since 2000, Anna Tibaijuka, stepped down in August 2010 to follow her long-rumoured ambitions of becoming a leading politician in her home country, Tanzania.[10] At one of the farewell ceremonies for her, Kenyan 'Prime Minister Raila Odinga thanked Mrs Tibaijuka for her service and said he was certain that after the elections in Tanzania, he would be meeting her in a new role as Cabinet minister' (Mutiga, 2010). The media further speculated that she was a strong contender for the post of Minister of Foreign Affairs, 'traditionally viewed as the president-in-waiting' (ibid). However, her appointment to the Tanzanian Cabinet in November of that year was as Minister of Human Settlements, Housing and Urban Affairs (*Daily Nation*, 2010). Joan Clos, a Spanish medical doctor, Catalonia Socialist Party politician and former Mayor of Barcelona, replaced Tibaijuka as Executive Director of UN-HABITAT. Clos was responsible for the ambitious but also 'controversial ... 2004 Universal Forum of Cultures' in that city, a mega-event that boosted the city's international standing (City Mayors, 2006). During his terms as mayor, Barcelona underwent 'massive urban redevelopment', but also absorbed 'hundreds of thousands of immigrants' and served 'as the political center for greater autonomy for Catalonia from the Spanish government' (ibid).

■ ■ ■ ■

The flagship N2 Gateway and Kibera-Soweto pilot projects reflect many of the themes introduced earlier in this book. Both projects focus squarely

on symptoms, the embarrassing shacks or 'slums' seen from tourist routes. The pilot projects form pillars of the respective countries' 'slum' or informal settlement eradication drives, and are motivated as (and criticised for being) part of a necessary stride towards achieving urban competitiveness. Near-defeatist positions of global organisations that profess to stand for participatory *in situ* upgrading of informal settlements, yet partner in their clearance and redevelopment, legitimise the pilot projects' determination to remove the symptoms and replace them with more acceptable-looking housing developments. Both pilot projects relegate the subjects of embarrassment, the 'slum dwellers', to temporary relocation or decanting areas without providing certainty about timeframes for their subsequent move to a permanent neighbourhood.

Both project trajectories include a struggle for *in situ* solutions, in large part a struggle over the definition of informal settlement 'upgrading'. As 'upgrading' pilot projects, the N2 Gateway and the Kibera-Soweto pilot have promoted 'slum clearance' and 'redevelopment' under the banner of 'upgrading'. While in the Kibera-Soweto pilot UN-HABITAT changed gear and attempted to demonstrate an '*in situ*' approach to water and sanitation improvements, in the N2 Gateway it was rights-based action that challenged the slum-clearance-as-upgrading approach, and ultimately (though not directly through the Courts) provided the possibility for *in situ* upgrading. It is these themes that I explore further in the last part of this book. Within a new national commitment to informal settlement 'upgrading' in South Africa, the contestation over the meaning of 'upgrading' continues. It is in this context that rights-based work is making a hard-fought and poorly recognised contribution, ultimately towards a right to the city.

End Notes

1. According to City of Cape Town housing official Peter Oscroft (personal communication, 15 November 2010), Phase One of the N2 Gateway Project was built on land already vacated before the initiation of the project and 'identified as low hanging fruit to kick start' the project.
2. It should be mentioned at this point that the SDI was not the only former N2 Gateway critic won over by the Ministry of Housing. *Mail and Guardian* journalist Marianne Merten, one of whose articles on the N2 Gateway Project I cite earlier in this chapter, became the official spokesperson for Minister Sisulu's department.
3. SDI-affiliated federations in several countries have chosen the name FEDUP. In Chapter 4 I mention FEDUP in Nigeria. These are country-specific formations, though there are regular exchanges between them facilitated by SDI.

4. The first two days of this conference were dedicated to setting up an 'African Platform of the Urban Poor', and the remaining three days to celebrating the Minister of Housing's pledge to ring-fence 9 000 subsidies per year for FEDUP (Sisulu, 2006).
5. Like most SDI publications, this magazine has no date (in keeping with the leading SDI professionals' puzzling anti-professional philosophy). However, it is likely to hail from 2005 or 2006. The magazine, produced for one of SDI's funders, the British Lottery, was distributed at the May 2006 International Slum Dwellers' Conference in Cape Town.
6. The media's interpretation was that Minister Sisulu, via 'the forum for Ministers and MECs (MINMEC)', removed the municipality from the N2 Gateway Project (IOL, 2006) and that the ANC and ANC Parliamentary Caucus welcomed and supported the decision (ibid).
7. Already in 2003, Warah (2003) noted a 'discrepancy between advocacy and implementation' within UN-HABITAT in the KENSUP pilot project. As of 2007, UN-HABITAT's involvement in a road through Kibera entailed substantial demolition without relocation (Van Soest & Levine, 2009).
8. São Paulo's infamous 'Cingapura Project' during the city's centre-right municipal administration from 1993 to 2000 redeveloped *favelas* or informal settlements that were visible from major highways in the city into multi-storey blocks with flats for purchase by the erstwhile *favela* residents. The rationale for these flagship projects was to boost 'the urban economy through the construction industry' (Huchzermeyer, 2004b: 36). Having part-financed the project, the Interamerican Development Bank also evaluated it, finding problems with corruption, lack of cost recovery, circumvention of regulations, and illegal trade of the units (ibid).
9. In 2010, the World Bank developed a loan agreement with the Kenyan government for a Kenyan Informal Settlement Improvement Programme (KISIP). This is in parallel with KENSUP, the Kenyan government's partnership with UN-HABITAT, and UN-HABITAT's more recent water and sanitation interventions within KENSUP. In what seems to be a lack of coordination between international agencies, and a tendency for duplication of donor-funded initiatives by the Kenyan government, a 2010 report for the Ministry of Housing on the Environment and Social Management Framework for KISIP makes no mention of KENSUP, UN-HABITAT or the Kibera-Soweto pilot programme (Repcon Associates, 2010). The report does, however, articulate with Kenya's Vision 2030, of which Nairobi Metro 2030 forms a part (ibid). In a media announcement in March 2011, the World Bank's team leader for KISIP highlights the programme's role in 'enhancing competitiveness of cities' (Kelley, 2011).
10. Tibaijuka managed the difficult transition from the United National Centre for Human Settlements—UNCHS (Habitat)—to the organisation's new status in December 2001 as a fully fledged Programme within the UN, to which she was then appointed as the new Under-Secretary General and Executive Director (UN-HABITAT, 2010a).

PART THREE

The struggle against ‘slum’ eradication in South Africa

Chapter Seven

A new target-driven upgrading agenda: space for rights-based demands?

Hegemonic domination limits 'creativity' to finding ways of surviving within this oppressive state of things.
(Butler et al, 2010: 2)

Calls for informal settlement upgrading in South Africa have intensified over the last four years, culminating in the Presidency announcing a new national target in 2010. Consultants, NGOs, think-tanks and donor-funded initiatives, including SDI, with varying degrees of collaboration, are all attempting to influence or define the new upgrading agenda. They have also shaped municipal initiatives towards upgrading. The varying lobby groups have, on the one hand, focused on the critical aspects of intergovernmental and institutional arrangements, building institutional capacity and changing mindsets. On the other hand, they have promoted the improvement of living conditions through rapid installation of interim services and the provision of incremental tenure, but without challenging the conventional criteria according to which settlements are deemed either suitable or unsuitable for permanent *in situ* upgrading. At the time of writing, these initiatives were as yet not addressing a further challenge. Many communities in informal settlements located on land conventionally labelled 'unsuitable' for low-income housing developments would like to see existing policy implemented which allows for (among other things) a change in the parameters and processes that determine which settlements can be upgraded. Their struggle, which addresses real blind spots in the mainstream initiatives, is expressed through rights-based action. This remains separate from most of the work of the mainstream lobbies, yet is critical in securing a meaningful future for informal settlement communities within South Africa's cities.

A turn from eradication to upgrading?

Housing Minister Sisulu's successor Tokyo Sexwale, the head of the renamed Ministry of Human Settlements since May 2009, avoids any public commitment to an informal settlement eradication target. In April 2010, his

deputy carefully mentioned that 'we dream of South Africa, free of slums' (Kota-Fredericks, 2010: 2). But for provinces and municipalities, informal settlement eradication by 2014 remains the operational target. In July 2010 the City of Johannesburg's Development Planning and Urban Management Directorate was still reporting to the Mayoral Committee on its progress towards 'eradicating informal settlements by 2014, in line with the national goal of a "nation free of slums"' (City of Johannesburg, 2010b: 39.1). Increasingly, eradication is to be achieved through 'formalisation' (still distinct from proper *in situ* upgrading), hand in hand with the undertaking to 'manage and control illegal occupation' (see for example Mogale City Local Municipality, 2010: 5). While cautious of his predecessor Lindiwe Sisulu's eradication target, Minister Sexwale is nevertheless fully behind the idea of curbing land invasions. Sexwale has not only denounced the courts for taking the side of 'squatters', but has also requested Parliament to call the courts to order (Steenkamp, 2010).

For Gauteng's municipalities, 'formalisation' means developing informally occupied land according to standard development criteria, rather than improving the settlement with minimal disruption to the existing irregular layout, as *in situ* upgrading is commonly understood. 'Formalisation' does not follow the Upgrading of Informal Settlements programme (Department of Housing, 2004c; Department of Human Settlements, 2009b). It does not attempt to change the parameters that define whether or not an informal settlement can be improved to the standard of a permanent settlement, and therefore has not worked towards treating relocation as a last resort, recognising intrinsic value in informal settlements or minimising the disruption to people's lives. Although some municipalities are finding innovative ways of financing aspects of the formalisation themselves, most still work within the parameters of standardised township establishment and housing subsidy allocation criteria. Consultants and development agencies have assisted municipalities with the creation of relevant governance structures, also developing innovations for implementation. Below, I describe two recent municipal initiatives in Gauteng which attempted to form a basis for informal settlement upgrading. A limitation of both is that they failed to revise the parameters that define whether or not the land on which an informal settlement is located is suitable for long-term, low-income residential use.

Several government-commissioned reviews in 2008 and one commissioned by Cities Alliance all confirmed that not a single one of the nine upgrading pilot projects across South Africa for informal settlement upgrading called for under BNG in 2004 had attempted to implement the new Upgrading

of Informal Settlements programme (McIntosh Xaba & Associates, 2008; Misselhorn, 2008; Narsoo, personal communication, 23 July 2010; Topham, personal communication 8 August 2008). Several of the pilot projects were not even addressing informal settlements, but rather existing sites-and-service or subsidised housing projects that still lacked community facilities (Narsoo, personal communication, 23 July 2010; Odendaal, personal communication, 27 May 2005). Municipalities had 'not explored the space created by the shift in policy', continuing instead 'to focus on RDP housing delivery' (Klug & Vawda, 2009: 43).

As an important exception, the NGO DAG, in conjunction with a local civic committee, lobbied and then assisted the City of Cape Town in 2007 and 2008 to initiate an *in situ* upgrading project for a small informal settlement, Hangberg (Figure 6.1, Chapter 6), in the coastal suburb of Hout Bay (DAG, 2007a). As a result, the City of Cape Town pioneered the first application for an *in situ* upgrade under the provisions of the 2004 Upgrading of Informal Settlements programme (Macgregor, personal communication, 29 July 2008). Hangberg consists of some 360 households living on a steep slope above an apartheid-era public housing estate, adjacent to the Hout Bay harbour. However, even this initiative, in a municipality that has embraced the Upgrading of Informal Settlements programme as per the Housing Code, is facing serious challenges that relate to the political pressure to prevent new informal settlement formation. From the start of the Hangberg *in situ* upgrade, the informal settlement experienced demand from local people wishing to join the settlement (Macgregor, 2008). Housing rights lawyer Stuart Wilson commented at a roundtable discussion in 2008 that this was inevitable when *in situ* 'upgrading projects are islands of progressiveness in a sea of bad policy implementation which is making other people homeless through demolitions and poorly conceived relocations' (Wilson, workshop intervention, 11 June 2008). The 'upgrade project' was also 'sowing division among the community' as the City of Cape Town expected 'the community to prevent any expansion of the settlement' (Soeker & Bhana, 2010). In September 2010, the media associated the Hangberg project with 'slum clearance' as the City of Cape Town, with support from the provincial government, resolved to violently evict households that had spilled onto a fire break adjacent to the original Hangberg informal settlement (Alfreds, 2010). These tensions in the still isolated Hangberg *in situ* upgrading initiative display the consequences of treating upgrading as an exception, in this case singling out 360 beneficiary households, when backyard tenants and multiple households in overcrowded public housing continued to experience housing stress.

While DAG promoted the 2004 Upgrading of Informal Settlements programme in the City of Cape Town, Cities Alliance (though since 2006 funding the establishment of an 'upgrading' programme in Ekurhuleni Metropolitan Municipality, with no reference to national upgrading policy) finally raised concerns about the as yet unimplemented upgrading programme under the national Housing Code. In 2007 Cities Alliance requested the national Department of Housing to submit a funding application to strengthen the newly formed NUSP, which would refine policy and develop frameworks for implementation (Cities Alliance, 2007).[1] Working across all provinces, a small team of consultants under NUSP has assessed the obstacles to proper *in situ* upgrading at all levels, and is seeking ways to overcome them, though it is as yet unable to stretch the boundaries in terms of which settlements are deemed suitable for upgrading.

Early in 2010, with the presidential announcement of a new target to upgrade informal settlements *in situ* for 400 000 households by 2014, the national upgrading agenda received a boost. Two initiatives complement a dedicated promotion of the national Upgrading of Informal Settlements programme through NUSP. One is a lobby of consultants expressing the urgency of the need for basic servicing and interim improvements in informal settlements. The struggles for permanent upgrading from within informal settlements which the planning and political regime wishes to relocate still have only limited resonance in this initiative. The other is the Informal Settlements Network (ISN), a new project of SDI, which seeks to represent informal settlements countrywide and to have direct access to state decision-making and resources for informal settlement upgrading. The SDI's ISN also does not consistently resonate with local voices that have challenged the 'slum' eradication agenda since 2004. These local rights-based initiatives form the longest-standing and most determined call for *in situ* upgrading along the lines of the 2004 Upgrading of Informal Settlements programme.

Municipal initiatives in Gauteng *in situ* upgrading barely an exception

Two recent municipal programmes in Gauteng have sought to provide the basis for the improvement of conditions in informal settlements. In 2006, Ekurhuleni Metropolitan Municipality looked to Cities Alliance for a 'partnership' (essentially funding and technical assistance) for a somewhat awkwardly named 'Upgrading for Growth' programme. In 2008, the City of

Johannesburg looked to Brazil for practical direction in providing a basis for tenure 'regularisation' in informal settlements. While both programmes contain important and relevant innovation, they have also shown up the real difficulty of pursuing the exception of permanently improving informal settlement dwellers' lives without relocation, within an unreformed planning and decision-making system. For different reasons, neither initiative consciously provides a basis for implementing the 2004 Upgrading of Informal Settlements programme. Both experienced waning support or bureaucratic obstacles within their municipalities, were narrowed down substantially from the original undertakings and had not reached implementation at the time of writing in October 2010.

No in situ *upgrading as part of Ekurhuleni's 'Upgrading for Growth'*

At the inception of Ekurhuleni Metropolitan Municipality's Upgrading for Growth programme in 2006, the 'ultimate aim was to roll it out to all 114 informal settlements in Ekurhuleni' (Mojapelo, personal communication, 22 July 2010). Although 'Cities Alliance [had] wrapped up the project' at the time of my interviews in the municipality in July 2010, the programme continued to exist (ibid). The name 'Upgrading for Growth' seems contradictory—was it an attempt to make the idea of informal settlement upgrading palatable to those who see cities primarily as competitive or uncompetitive engines of economic growth? Cities Alliance lists the Upgrading for Growth programme on its website under 'examples of slum upgrading projects', also explaining the name:

> *The [Ekurhuleni Metropolitan Municipality] has adopted an approach to slum upgrading that uses the upgrading process to drive sustainable economic development. Instead of focusing solely on housing for slum residents, the Upgrading for Growth approach involves providing opportunities for economic growth that meet the livelihood and social needs of the poor within Ekurhuleni's informal settlements.* (Cities Alliance, 2010)

According to the municipality's proposal to Cities Alliance (which Cities Alliance no doubt helped to shape), the aim was to 'identify ways in which to leverage upgrading and service delivery investments through linkages to opportunities for economic growth to directly address the livelihood and social needs of the poor within Ekurhuleni's informal settlements' (Cities Alliance, 2006: 7). The programme also had the objective of promoting energy efficiency and local economic development (Nkosi & Chainee, n.d.). High-level consultants conducted detailed surveys and investigations for

the municipality, but these are as yet not in the public domain (Mojapelo, personal communication, 22 July 2010).

While Cities Alliance's website suggests that this 'upgrading' methodology was 'adopted', in July 2010 Upgrading for Growth had identified only three pilot projects, none of which had been 'rolled out' as yet, and none of which ultimately could be *in situ* upgrades. John Dube Village is a greenfield development (on vacant land) with 1 660 stands. Bapsfontein was found to be underlain by dolomite and therefore 'not suitable for development' (ibid). Payneville Extension 3 (also called Guguletu), an informal settlement located near a mine dump, was intended as a 'formalisation' project. Detailed soil studies, however, found radiation levels for which the state nuclear regulator requires clearance of the land (ibid). Relocation is now foreseen to a TRA with three households per stand. As in the approach discussed in Chapter 5, the relocation will ultimately be permanent for one of the households on each stand, the others either to be relocated back to the rehabilitated Payneville land or moved elsewhere (ibid).

The Upgrading for Growth programme was designed without knowledge of the 2004 Upgrading of Informal Settlements programme, Chapter 13 of the Housing Code at the time (Mojapelo, workshop intervention, 11 June 2008). Cities Alliance's technical assistance seems to have involved no suggestion to engage with national policy, with media coverage or with legal and academic debates about the unimplemented Chapter 13. This exemplifies the heavy reliance in processes involving international technical assistance on assumptions based on international 'best practice' and consultants' expertise, with a tendency to overlook local demands, debates, mobilisation and sources of knowledge.

To date, in line with unreformed practice across most of South Africa's municipalities, the programme still conceives 'upgrading' in terms of standardised delivery, financed through individual household-linked capital subsidies for qualifying households using the provincial government's Essential Services Programme. The intention of Upgrading for Growth was to improve this form of delivery through better coordination with other departments (ibid). At the time of its inception, the project enjoyed endorsement from the City Manager. However, subsequent 'changes in management' had undermined this support (ibid). In July 2010, the official responsible for the programme herself had resigned and there seemed to be little hope that the programme would be revived and developed into actual *in situ* upgrading, or anything close to what the Cities Alliance website suggests about it.

Is any in situ *upgrading facilitated through the City of Johannesburg's new regularisation policy?*

The well-established Brazilian land regularisation approach through Special Zones of Social Interest (ZEIS) for all areas occupied by *favelas* or informal settlements, as a first step in securing permanent tenure rights for *favela* residents,[2] inspired the City of Johannesburg's Development Planning and Urban Management Directorate (under Professor Philip Harrison[3] from 2006 to 2009) in its own search for a more responsive approach to its informal settlements. Under the Directorate's new Regularisation Programme, an 'incremental tenure approach' is seen as a method to provide 'legal recognition' and interim services for those informal settlements that ultimately need to be relocated, and to provide tenure security and a basis for improvements for informal settlements that will ultimately become permanent in their current location (Urban LandMark, 2010). Officials and consultants conceived of regularisation as an incremental route to 'make improvements in informal settlements during the period between settlement formation and housing subsidy allocation' (ibid: 31). Accordingly, unlike the Brazilian ZEIS, the Directorate officially refers to regularisation 'as an interim relief' (City of Johannesburg, 2010b: 39.2).

Like Ekurhuleni Metropolitan Municipality with its Upgrading for Growth programme, the City of Johannesburg does not conceptualise its Regularisation Programme with reference to or in alignment with the 2004 Upgrading of Informal Settlements programme under the National Housing Code. It explains that the

> *[a]pproach is not rooted within any National Housing programme or related subsidy scheme—it is an IDP programme of the City of Johannesburg, not dependent on a national source of funding or on the Province for being the conduit of that funding. Funding arrangements contained in the [National Housing] Code do not apply.* (City of Johannesburg, 2010a: 21)

Nevertheless, the City of Johannesburg (ibid) considers that the '[b]asic paradigmatic principles are the same'.[4] However, as remains poorly understood country-wide—though underlined (and etched into law) by the Constitutional Court in 'Abahlali' (Moseneke, 2009) as I show in the next chapter—the most important principle of the Upgrading of Informal Settlements programme is that it treats relocation as a last resort. The City of Johannesburg's Regularisation Programme does not consider any change to the parameters that conventionally determine which settlements are feasible for permanent development. The approach still steers, unreformed (though

incrementally), towards standardised housing development on the occupied land (or elsewhere). While providing important improvements in the interim for those settlements deemed suitable for permanent development, it makes no contribution towards ensuring that fewer settlements require relocation. In the national Upgrading of Informal Settlements programme, this principle is realised through an innovative subsidy mechanism that allows municipalities to motivate for funding to rehabilitate unsuitable land and purchase privately owned, informally occupied land. The Regularisation Programme, which is financed by municipal resources and consciously steers away from depending on subsidies from the national Department of Housing/Human Settlements, is unable to embrace these principles.

For a municipality to implement the principle of relocation as a last resort, it cannot rely only on government subsidies for land purchase and rehabilitation. What is required is far-reaching reform of planning norms and standards. A step in this direction, but more as a bypass than a reform, is the 'General Scheme Amendment' of the City of Johannesburg's Regularisation Programme, which introduces a 'Special [zoning] for Transitional Residential Settlements' (City of Johannesburg, 2010a: 9) (the idea initially drawn from the Brazilian ZEIS). Its aim is '[t]o bring informal settlements into the City's regulatory framework, while proceeding with the lengthier process of full, formal, legal establishment' (ibid: 8) and therefore an 'occupancy permit' is issued to '[e]ach occupier' (ibid: 11). Alongside this legal recognition, the Scheme Amendment allows for '[p]rovision of basic services' (ibid: 6). However, before this innovation kicks in (as 'Step Two'), conventional feasibility studies sift out those settlements that do not meet the unreformed criteria for formal development. These settlements exit the programme under the category 'relocate' (ibid: 7).[5] Only for those settlements deemed suitable to 'stay' do the Amendment Scheme, occupant registration and basic servicing follow. Ultimately (as Step Four), these settlements proceed to conventional formal township establishment (City of Johannesburg, 2010a: 7). As a project manager under the Formalisation of Informal Settlements Programme explained, the Amendment Scheme is an annexure to the conventional zoning, allowing for 'informal settlement' as a land use, but under the condition that all residents are registered and land use is controlled (Maytham, personal communication, 3 November 2010).

The City of Johannesburg initially envisaged 60 informal settlements regularised 'in the next financial year' (2009) under its new Regularisation Programme (City of Johannesburg, 2008). A year later the City had reduced this to 'about 20' (City of Johannesburg, 2009). A 2010 report by the

Development Planning and Urban Management Directorate responsible for the Regularisation Programme reports that it listed 23 settlements under this category early in 2009, but reduced the list to 11 by the end of the year. These settlements were all thought to be on state-owned land (City of Johannesburg, 2010b). In the second half of 2010, at the time of my interviews with City officials, three settlements had been chosen as pilots in this programme—Lyndhaven in Region C, Happy Valley in Region D and Meriteng in Region G (Ntsooa, personal communication, 24 August 2010). A geotechnical report had already found that Mereteng (some 500 households, located in Ennerdale) could not be upgraded *in situ*. This settlement 'needs to go to Category Two—Relocation' (Fredah, personal communication, 3 November 2010). Basic services would be provided, but the Council had already decided that the settlement would move to Sweet Waters. The relocation was delayed due to bulk water supply problems (Maytham, personal communication, 3 November 2010). The programme was exploring interim sanitation solutions, Joburg Water declining to roll out chemical toilets as these were 'too expensive' (Fredah, personal communication, 3 November 2010). For Lyndhaven (some 800 households, located in Grobbelaar Park Extension One), the geotechnical investigation found that the soil conditions allowed only for middle-income housing. In addition, a national road was planned to cross a large portion of the occupied land, which in turn was found to be privately owned. Lyndhaven, too, would move to Category Two, but basic services would be provided (ibid). For Happy Valley (120 households, located in Klipspruit West/Tshiawelo in Soweto), the geotechnical report showed that development was feasible, but due to the unconventional nature of the occupation (several households sharing 30 pre-existing houses, seemingly hostels), this would not be an *in situ* upgrade. Further, it also seemed that 'some [households] might not qualify' for housing subsidies (ibid). In the interim, they were to receive addresses as well as ablution facilities (with solar-heated water) and high-mast lighting (Maytham, personal communication, 3 November 2010).

From my interviews, there was no evidence that the drastic reduction in the number of informal settlements under the Regularisation Programme was due to completion of regularisation in 20 or more settlements in 2009. The City of Johannesburg's Director of Housing explained that while initial feasibility studies early in 2009 had suggested that formalisation was viable for 23 settlements, more detailed environmental, geotechnical and hydrological studies subsequently eliminated most settlements from this list, the programme finding that 'most could not be regularised' (Ntsooa,

personal communication, 24 August 2010). Officials hoped that the number might once more increase in future (ibid).

In a discussion about the difficulty of making exceptions for upgrading, the Housing Director, who had participated in the visit to Brazil to learn about ZEIS, thought the City of Johannesburg team might not have explored in detail how geotechnical and environmental impact assessments (EIA) are handled in Brazil. The EIA requirements in South Africa seemed more extensive than in Brazil (ibid). In South Africa, for township establishment, the EIA 'is a must' (ibid). The 'intention for the Regularisation Programme' remains '[t]o create an environment conducive to investment by the state and owners' (City of Johannesburg, 2010a: 5). The Director of Housing explained, 'The idea was that [with regularisation the beneficiaries] could start to invest, building in brick. But it's not realistic. They can't invest till formalised, [until the] township is registered or [until] it's at an advanced stage' (Ntsooa, personal communication, 24 August 2010). This underlined the position of the Gauteng Provincial Department of Local Government and Housing:

> *Professor Phil Harrison introduced this while he was still at City of Joburg. Province's thinking is that [regularisation] would be short term, interim, contradicting what we're already trying to do. [We must] rather fast track the formal process. [Under the regularisation programme] people would not have ownership.* (Van der Walt, personal communication, 30 July 2010)

Philip Harrison recalls that 'Province was squeamish' about the introduction of the Regularisation Programme (Harrison, personal communication, 25 October 2010). The provincial department found use in the Regularisation Programme only in as much as it could conform to its objectives of controlling informal settlements: 'If it's to count and curb the people on the land, provide services and reduce risk, Province supports it' (Van der Walt, personal communication, 30 July 2010). And indeed the City of Johannesburg meets these requirements: 'built into the scheme conditions is that a register MUST be kept of the occupants of the shelters linked to a layout plan showing the position of such shelters' (City of Johannesburg, 2010a: 15). However, the City's rationale for registration of the occupants of each shack is not explicitly that of control, but rather to grant 'the occupants some form of security in land with a recognisable address' (ibid). With the Regularisation 'approach de-linked from the delivery of housing subsidies' (ibid: 22), the tenure security and integration through issuing of a formal address is inclusive of those not formally qualifying for a subsidy, and in that sense does align with

another central objective of the national Upgrading of Informal Settlements programme and could form a basis for its implementation, but only in settlements deemed suitable in terms of conventional criteria.

Given the province's use of 'housing' subsidies for informal settlement intervention (and not the inclusive area- or community-based subsidy in terms of the Upgrading of Informal Settlements programme), the Provincial Director of Development Planning asks of the City's Regularisation Programme: 'What about those that don't qualify, given that it's governments' money being spent?' (Van der Walt, personal communication, 30 July 2010). Implicit in this position is the view that households not qualifying for the housing subsidy do not deserve to benefit from government expenditure. The unresolved concern that single indigent people without dependents, those whose former spouses are listed as having benefited from a subsidy in the past, large or extended households with a combined income just above the cut-off level, or households that for financial or other reasons were unable to hold on to their subsidised house and returned to an informal settlement, among others, remain excluded. As an interim measure, the City of Johannesburg's Regularisation Programme does seek to address these households if they are lucky enough to live in an informal settlement deemed suitable for permanent low-income residential land use. What happens to these households when exiting the programme through 'relocation' remains unclear.

Consultants lobbying for a 'new response'

With Gauteng's resistance to engaging with the 2004 Upgrading of Informal Settlements programme, the City of Johannesburg's approach might have been the only realistic route to ensuring real improvements in informal settlements. However, the City's regularisation programme also relies on, or was shaped by, a position among South African consultants linked to Urban LandMark, a South African urban land policy think-tank funded primarily by the UK Department for International Development (DFID). This group promotes a 'new response' or 'new approach' to informal settlements (Misselhorn, 2010; Smit, 2010). Rather than promoting implementation of the Upgrading of Informal Settlements programme, it has called for 'de-linking' informal settlement intervention from the subsidies of the national Department of Housing (Misselhorn, 2010). Given that a dedicated area-based subsidy within the department was specifically designed for informal settlement upgrading, already separating the first three phases of upgrading from any household-linked housing subsidy and its qualification criteria, this

position may be seen to complement rather than compete with the Upgrading of Informal Settlements programme (Narsoo, personal communication, 25 November 2010).

However, the 'new response' contains a false dichotomy between 'housing delivery' through the national Department of Human Settlements subsidies and the provision of 'interim services'. It does not engage with the first three phases of the Upgrading of Informal Settlements programme, which include initial feasibility studies, interim servicing and the more advanced geotechnical and environmental investigations. Based on rapid categorisation of upgradeable informal settlements and those needing relocation, this 'new response' initiative does not change the parameters according to which informal settlements are barred from permanent *in situ* upgrading. It considers neither the possibility of informal settlement communities challenging relocation, nor the possibility of land rehabilitation, a mechanism in the Upgrading of Informal Settlements programme specifically to enable upgrading on land not normally deemed suitable for permanent low-income residential development. It also assumes that rapid categorisation into a list of settlements that are deemed suitable for relocation would not later be challenged by detailed geotechnical and environmental assessments, new public interest imperatives, or policy directives such as the need for mixed-income developments. Status given under rapid categorisation provides no certainty. The 'new response' provides no challenge to the existing technocratic and exclusionary parameters that may (even randomly) determine which settlements can be upgraded permanently. From a distance, the 'new response' or 'new approach' seems little more than the late-apartheid era imposition of 'transit camp status' on informal settlements (often by progressive courts) which went hand in hand with the provision of basic services. It was the only form of recognition possible at the time to prevent immediate eviction, but it prolonged uncertainty, with relocation still remaining a future possibility (Huchzermeyer, 2004b).

Closely in line with the efforts of the Urban LandMark lobby group, the City of Johannesburg (2010b: 39.4) reports that

> *more innovative approaches are being developed that will most likely result in new policy formulation at national government level. However, in establishing a rigorous IDP-based programme to formalize and upgrade informal settlements by providing emergency relief and interim basic services in a more broad-based fashion, the City of Johannesburg is already setting a precedent in terms of implementing this new and innovative approach well in advance of a formal policy position or directive from the National Government.*

The City of Johannesburg (ibid) further reports that it 'has worked closely with the main "think tanks" in the country such as Urban LandMark and the FinMark Trust'[6] in developing its regularisation approach and in benchmarking itself against other South African cities, eThekwini (Durban) being the only other city that was rolling out the 'new response' (ibid: 39.5). With the help of the think-tanks, it had found that

> *Johannesburg has been the most progressive in the implementation of the new response to informal settlements, and it is envisaged that the Johannesburg experience will feed into national dialogues on the new incremental approach to the formalization and upgrading of informal settlements.* (ibid)

With reference to the consultants' lobbying work, the City of Johannesburg (ibid) anticipates that 'the policy dialogue will probably start to interrogate ... the need to de-link the new approach ... possibly from the housing programme itself'. This would be problematic if it sidelines the very real advantages of the Upgrading of Informal Settlements programme (Department of Housing, 2004c: Chapter 13) and its slightly watered-down successor in the 2009 Housing Code (Department of Human Settlements, 2009b), currently not being implemented by the City of Johannesburg.

A more nuanced version of the 'new response' is promoted by Urban LandMark's LANDFirst campaign, in partnership with the NGO Afesis Corplan. LANDFirst focuses on incremental land tenure and basic services. It calls in particular for managed land settlement (formal release of initially unserviced land for occupation), as a complement to informal settlement upgrading and a measure to curb land invasion. Lauren Royston (2009: 71), Urban LandMark's theme champion for secure tenure, articulates this position as follows: 'The informal settlement outcome of BNG ... implies achieving a fine balance between in situ upgrading, relocation and proactive land release'. LANDFirst brings together a number of initiatives, including recent work by SDI and its affiliated NGO CORC on informal settlement 'upgrading' in Cape Town, in particular in the Joe Slovo informal settlement of the N2 Gateway Project (A. Bolnick, 2010b). LANDFirst has hosted events in which social movements have participated, and through Urban LandMark has produced training material explaining incremental tenure and basic servicing options. In September 2010, LANDFirst collaborated with the Socio-Economic Rights Institute of South Africa (SERI) in hosting a joint workshop which, for the first time, brought together the rights-based network including lawyers and social movements, NUSP, Urban LandMark and the SDI's ISN. I return to this meeting in the conclusion to this chapter.

The National Upgrading Support Programme

The national Department of Housing's 2007 funding proposal to Cities Alliance for NUSP admits that 'many of the provinces ... have adopted different approaches to upgrading ... which vary in terms of their divergence from the national framework' (Cities Alliance, 2007). NUSP's initial task in 2008 was to conduct reviews of a number of projects across South Africa, including the pilots set up under the BNG policy in 2004. It found that 'most people in provinces and local government didn't know Chapter 13' (the 2004 Upgrading of Informal Settlements programme), though with the exception of officials in Durban and Cape Town (Narsoo, personal communication, 23 July 2010). Provinces and cities experienced the NUSP reviews as interference. In order to address this mindset and work towards unlocking proper *in situ* upgrading, the NUSP consultants recommended the formation of a 'National Upgrading Forum' which would bring together provincial and local authorities, housing practitioners and community organisations. Despite shifting and at times waning support from the leadership at the national Department of Housing/Human Settlements, the Forum has brought together provincial and (through the provinces) some local governments. In addition, the Development Bank of South Africa (DBSA), Urban LandMark, LANDFirst and SDI with its ISN have participated in the Forum (ibid). The 'intention was to create a community of practice, local and international, for upgrading according to current policy', namely the Upgrading of Informal Settlements programme (ibid). NUSP sees initiatives such as SDI and Urban LandMark as complementing itself, and provides them with 'the platform to have access to key decision-makers' (Narsoo, personal communication, 25 November 2010).

In 2009, the renamed Department of Human Settlements restructured the 2004 Upgrading of Informal Settlements programme into Volume 4 Part 3 of the Housing Code (Department of Human Settlements, 2009b).[7] Early in 2010, it finally made this accessible on the department's website. A year later, government (through the Presidency, not the Ministry of Human Settlements) signalled an intention to move *in situ* upgrading from hard-won exception into mainstream practice. Due to the high prevalence of protests from informal settlement communities, President Zuma had indicated his interest in visiting informal settlements. NUSP had supplied a list of settlements and after the President's informal settlement visits NUSP's work 'found fertile ground ... [it] suddenly made sense to the Presidency' (Narsoo, personal communication, 23 July 2010). Perhaps the public contestation, media coverage and outcome of KZN Slums Act litigation, so evidently

having embarrassed the ruling party (as will be described in Chapter 8) also played a role. In his State of the Nation Address in February 2010, President Zuma announced a new target: 'We are working to upgrade well-located informal settlements and provide proper service and land tenure to at least 500 000 households by 2014' (Zuma, 2010) (as already mentioned briefly in the Introduction to this book). The President accompanied this statement with a commitment to 'set aside over 6 000 hectares of well-located public land for low income and affordable housing' (ibid). The announcement of the upgrading target (later reduced to 400 000 households) came as a surprise even to the consultants working under NUSP (Narsoo, personal communication, 23 July 2010). NUSP consultant Monty Narsoo (ibid) insists that 'one should not underestimate this pressure from the Presidency. Government, for the first time, says publicly we have to upgrade informal settlements with a target. The Presidency is in total agreement.'

The new targets announced by the Presidency are formalised under 'Outcome 8 Delivery Agreements: Sustainable Human Settlements and Improved Quality of Household Life' of the document *Measurable Performance and Accountable Delivery—Outputs and Measures* (Republic of South Africa, 2010), in terms of which NUSP is tasked with promoting and unlocking implementation of the Upgrading of Informal Settlements programme. Municipal accreditation is critical to achieving the target, as it allows municipalities to receive funding directly from the Treasury.[8] The accreditation process under way for 27 municipalities at the time of my interview with Monty Narsoo from NUSP (Narsoo, personal communication, 23 July 2010) was linked to informal settlement upgrading (as already mentioned in Chapter 5, several metropolitan municipalities finally received Level Two accreditation early in 2011). NUSP was conscious of the provincial resistance to accreditation and 'the huge issues around bureaucracy. It's almost like taking a missionary position ... It's a big battle to change practice to informal settlement upgrading' (ibid). In July 2010, provinces were tasked with submitting project lists. NUSP's challenge was to ensure that these were lists of 'genuine informal settlements' (ibid).

In a brief follow-up discussion in mid-2011, Monty Narsoo pointed to ongoing challenges faced by NUSP in achieving a universal understanding among South African municipalities of 'upgrading', in addition to relevant governance capacity. By this time, the Cities Alliance/World Bank had terminated funding to NUSP, ostensibly on the grounds that South Africa's 'slums' were not as overcrowded as elsewhere in the developing world (Narsoo, personal communication, 4 June 2011). In 2011, the HDA, which

had taken over the role of Thubelisha Homes in the troubled N2 Gateway Project, began defining its role in relation to 'informal settlement upgrading'. It bases this on its 'involvement in the N2 Gateway Project' which it mistakenly understands to have been 'underpinned by the Upgrading of Informal Settlements Programme (UISP)' (HDA, 2011: 8). The HDA's focus on 'housing' solutions for informal settlement residents draws attention away from the many complex aspects of *in situ* upgrading, thus distracting from the definition of upgrading that NUSP is attempting to promote. Early in 2011, the South African Treasury was negotiating a loan agreement with the World Bank for informal settlement upgrading. For this purpose, and in response to the seeming deadlock over South Africa's interpretation of 'upgrading', the World Bank brought officials from São Paulo municipality in Brazil to South Africa to present their experience.

Progress towards official adoption of informal settlement upgrading has involved important steps, but is also riddled with contradictions. Already in November 2010, the Gauteng Premier had signed a letter committing his administration to upgrading 96 000 households *in situ* (by implementing the Upgrading of Informal Settlements programme, Volume 4 Part 3 of the Housing Code) by 2014, as part of the Presidential upgrading target (Narsoo, personal communication, 3 November 2010). However, at the same time the media reported that his MEC for Local Government and Housing 'would like to see the law [the PIE Act] that compels his administration to take care of land invaders repealed' (Moeng, 2010). This is mirrored in statements by Minister Sexwale (Steenkamp, 2010). Within a persistent 'eradication' mindset, the concession to upgrade a select list of settlements *in situ* (whether through Department of Human Settlements subsidies under Volume 4 Part 3 of the Housing Code, or funded directly through new grants from the Treasury) still goes hand in hand with an intention to tighten land invasion control repressively. Improving lives or securing a place in the city for a group of select urban poor still comes at the price of closing the city to others, a serious concern for rights-based groups to which I return below.

The aim of nation-wide informal settlement representation: SDI's Informal Settlement Network

The ISN in South Africa emerged late in 2008, under the NGO SDI. I have already mentioned this ubiquitous global NGO, which enjoys almost 'iconic' status within the development sector. In numerous countries, SDI

works with federations of the urban poor, made up of groups committed to daily savings and often trained in carrying out and replicating local surveys or 'enumerations', alongside mobilisation through the formation of new savings groups. The national leadership of these federations is not elected. It is appointed and receives NGO-funded salaries.[9] In South Africa, for all intents and purposes, it forms an extension of SDI and its NGOs (CORC and Utshani Fund). The national federation leaders from South Africa and other countries also serve on the SDI board. In South Africa this leadership has come to play an important role in the ISN, which it sees as a new vehicle to promote an improved version of SDI's approach of daily savings as a tool for empowerment and grassroots development. In SDI and FEDUP's own analysis, my bundling together of SDI with its South African organisations CORC, Utshani Fund and FEDUP would probably gloss over divergences between the different groupings of professional facilitators and grassroots leaders. Various documents I cite below present the formation of ISN as a FEDUP idea. However, in my analysis it is important to acknowledge the permeable boundaries between these various organisations, and to rather draw a line between, on the one hand, professionals and unelected, salaried, so-called 'grassroots' office bearers increasingly advocating for *in situ* upgrading and, on the other hand, the active grassroots membership which has to pool its own resources and faces very similar challenges to members of other social movements in their demand for *in situ* upgrading and a voice in local 'development' decisions. While these high-level office bearers themselves reside in what may be termed informal settlements, they do not face the livelihood threats that mobilise ordinary informal settlement dwellers into defending their settlements.

The SDI, its global influence and constraints

Before exploring relevant aspects of the relatively new ISN, it is relevant to contextualise SDI within global initiatives and trends, as well as the particular approach it has adopted. With its federation leaders, SDI serves on a wide range of influential UN-HABITAT and World Bank bodies: the 'Slum Task Force of the MDGs ... UN-HABITAT's Slum Upgrading Facility (SUF) advisory board ... Cities Alliance's Governing Body' and 'UN-HABITAT's Advisory Group Against Forced Evictions' (SDI, n.d.: 57). SDI and its 'urban poor Federations' claim to represent the 'voices of the urban poor' on these global bodies (ibid). SDI approves of the MDG approach, also claiming to 'have played a significant role in ... contributing to meeting the Millennium Development Goals in urban areas' (ibid). Through its presence in global

agencies and major international forums and through its established academic collaborators,[10] the SDI has influenced these agencies over more than a decade, and in part carries a responsibility for their positions.

A strong tendency among development agencies, states and the media is 'to celebrate grassroots and their collective actions selectively ... applauding those that help the poor cope with inequality, while criminalizing the others' (Miraftab, 2009: 39, citing World Bank, 1998). SDI reinforces this through a simplistic duality between the deserving, patient women's-based organisations of the poor that save and seek partnerships with the state, and those, invariably male-dominated, that are not saving and are irresponsibly resorting to protest (J. Bolnick, 2009b; FEDUP, 2010). By extension, SDI promotes the same false duality between SDI's own pragmatic approach, on the one hand, and a rights-based approach on the other. Because SDI seeks partnerships with states, it refrains from supporting rights-based action (for instance the struggle against the KZN Slums Act) and taking public positions that may be seen as oppositional to the state (J. Bolnick, 2009a). With its increasing influence over international development thinking, the SDI has also defined to which (or through which) NGOs several mainstream donors, in their quest for coherence, direct their funding in South Africa (Bhana, personal communication, 15 June 2010). This has led to tensions with the less generously funded local urban sector NGOs in South Africa, which work with a diversity of grassroots groupings and approaches.

There has been no systematic evaluation of the concerns that researchers, commentators and former SDI staff have raised about the SDI's approach, some of which SDI disputes as mere axe-grinding (J. Bolnick, 2010). Academics have criticised SDI and the South African Federation's authoritarian potential, 'strong lines of inclusion and exclusion' (Pieterse, 2008: 56), financial mismanagement and lack of transparency and democracy (Robins, 2008: 78). SDI seemingly accommodates these criticisms, as they are or can be read as directed at the Victoria Mxenge project in Cape Town, once SDI's flagship and therefore much researched. As already mentioned, in response to a struggle for autonomy or control over federation assets and resources in 2005/6 by the Victoria Mxenge membership and its leaders who had set up a separate organisation, SDI disbanded the SAHPF and restructured its remaining members under the new name FEDUP (Baumann, 2006). I have already pointed to SDI's shifts in relation to the flagship N2 Gateway 'slum' eradication project, in Chapter 6. There, SDI ultimately reaped the benefits (opportunities to pilot *in situ* upgrading) of the community's confrontation

with the state (resistance to relocation), despite SDI's criticism of a rights-based approach and its open willingness to collaborate in the relocation which communities were resisting, and which was ultimately prevented by rights-based challenges. In the next chapter I refer to SDI's role in (unwittingly) legitimising the KZN Slums Act. Although such legitimisation is an unintended outcome, I argue that SDI and its donors can no longer claim complete innocence in this regard.

Tension and divergence in the formation of the Informal Settlement Network

SDI has experienced various problems with its savings-based model of mobilisation, through which it never represents more than the actively saving inhabitants of any informal settlement (J. Bolnick, 2009b). It therefore launched what can be interpreted as a new hegemonic project, the ISN, with the aim or 'design' (SDI Alliance, n.d.: 4) of creating 'a united voice of all homeless poor across all informal settlements in South Africa' (A. Bolnick, 2010b). The ISN was introduced in various provinces from September 2008 onwards through a series of 'Informal Settlements Dialogues', an 'initiative of the Federation of the Urban Poor (FEDUP) in collaboration with its support organisations, that is, Utshani Fund, CORC and SDI' (Utshani Fund, 2008: 3). The report of the Johannesburg 'Dialogue', which preceded the others, states that the aim was

> *to bring together all stakeholders involved in land and housing and to create solidarity between different organisations so that they may speak in one voice in tackling land and housing issues and not fight isolated uncoordinated battles.* (ibid)

SDI's Johannesburg offices (the Utshani Fund and CORC-Johannesburg) are interested in wider interpretations and more diverse approaches than those promoted by SDI's Cape Town office, and have often participated in urban seminars and conferences (including discussions on evictions) at the University of the Witwatersrand. For the Gauteng Dialogue, Utshani Fund in Johannesburg invited me to make a presentation on evictions, and allowed me to suggest participants from LPM and an independent informal settlement leadership with which I have contact. Utshani Fund staff in Johannesburg understood the Dialogue as a bottom-up initiative, at which grassroots organisations gave its NGO partners a bottom-up mandate. However, at the Dialogue, SDI board member and President of FEDUP, Patrick Magebula, gave an opening statement in which he presented the logic

of an informal settlement network (though not naming the ISN as such) as the only alternative to saving: 'What are you doing to help yourself? You have to do something, make noise. Why do you keep quiet? Either save, or work with other organisations, upgrade your settlements together' (author's notes of the workshop). National Chairperson of FEDUP and SDI board member Rose Molokoane then gave a run-down on the SDI approach: exchange programmes, lobbying and using governments to lobby one another, collecting people through savings, enumeration or information-gathering, identifying land and fighting for security of tenure. Mentioning her own involvement in international meetings of the MDGs, Cities Alliance and the World Bank, she then praised Minister Sisulu for her 2006 pledge of '9 000 subsidies for FEDUP', though adding that 'we are not getting the subsidies'. Despite this, 'we are not saying we're going to *toyi toyi* [protest]. No, we will knock on the door, sit in their offices and end up getting what we want. That is the strategy of the SDI' (author's notes of the workshop).

Two days of presentations, as well as discussions in various commissions, were followed by 'closing remarks' from the FEDUP President inviting 'all the organisations present to form a coalition that takes forward the decisions and resolutions' taken (Utshani Fund, 2008: 16). Magebhula then shared what seemed to be a premeditated plan, namely the standard SDI approach:

> *enumeration or needs analysis in the different communities must be conducted by the support organisations and ... resources need to be mobilised for this purpose ... [O]nce this has been done, various government departments and organisations [will] be approached for assistance and partnership.* (ibid)

My own exposure to the formation and work of the ISN in Gauteng over the next two years was through intermittent conversations with the settlement leaders from the two informal settlements in Ekurhuleni whom I had proposed as participants in the Gauteng Dialogue. They were elected onto the Ekurhuleni ISN structure, and to some extent shaped its work, which has included a strong collaboration with CALS at the University of the Witwatersrand and, more recently, with SERI around resistance to evictions. This approach is endorsed and supported by the Johannesburg office of CORC and Utshani Fund, despite a public distancing from rights-based approaches by the vocal Cape Town office of CORC and SDI (J. Bolnick, 2009b; Bradlow, 2010b).

Though this was not announced at the Informal Settlements Dialogue in Johannesburg in September 2008, SDI was also working towards a 'Durban Declaration', which was signed at a workshop of the Department of Housing

and SDI a few weeks later (Department of Housing & SDI, 2008). This was to 'serve as a "rallying point for lobby and persuasion" at UN-HABITAT's World Urban Forum' in Nanjing, China, in the following month (Tolsi, 2008). Abahlali in Durban refused to attend the Durban event. Journalist Niren Tolsi reported 'an underlying hypocrisy amid all the back-slapping at this initiative to "give voice to the poor" ... While talks about talking with the "poor" contain a layer of sincerity, the foul taste of a jet-setting NGO class which travels the world eating up donor funds for talking is difficult to wash out of one's mouth' (ibid). In his unpublished but widely circulated response to the *Mail and Guardian* in which Tolsi's article appeared, SDI Director Joel Bolnick (2008: 1) labelled the journalist as having 'nailed his colours to the ABM [Abahlali baseMjondolo] mast' and warned that both FEDUP and Abahlali were 'weakened if they continue to wage their struggles independently and sometimes even in opposition to one another' (ibid: 2). Labelling Abahlali as an immature organisation that only undertakes marches, Bolnick argued that unless Abahali evolves 'to look more like FEDUP ... it will lose its effectiveness and therefore its constituency' (ibid). In the following chapter, the description of Abahlali's relentless and ultimately effective work in challenging the KZN Slums Act of 2007 gives insight into the nuances of rights-based work. This contrasts with the often simplistic and exaggerated misrepresentations that SDI publishes of Abahlali and other grassroots organisations that are not part of the 'SDI Alliance'.

SDI's rationale for the Informal Settlement Network

In justifying the formation of the ISN, it is such misrepresentations of the 'other' in order to single out the virtues of FEDUP that the SDI resorts to, rather than spelling out the intrinsic value of networking and building solidarity. Joel Bolnick (2009b: 2), writing about the intentions of the ISN, argues that 'the value of the Federation approach to community mobilisation has yet to be fully recognised by formal institutions—especially the state'. In its tradition of constructing a false dichotomy between FEDUP and non-FEDUP community initiatives, Bolnick argues that

> *[c]ommunities of the urban poor either wait passively for the state to deliver until they run out of patience. [Then] they take to the streets and resort to confrontation ... They seldom ask the state to allow them to be stakeholders and participants in the crafting and the delivery of solutions. Rather, they prefer to hand over their problems to the paternalistic state. When the state then fails to deliver ... [c]ommunity leaders return to mobilisation against the state, encouraging members*

> *to focus their participation in development on making further demands—often unreasonable and unrealistic.* (ibid: 3)

Bolnick contrasts this with the 'Federation approach' of saving and negotiating with government.[11] He concedes the 'relatively sparse footprint [of FEDUP and active saving] in South Africa's informal settlements' and points to the 'limiting effects' of using 'savings as a mobilisation tool' (ibid: 5). In this line of reasoning, the ISN counters these limiting effects, namely the division 'between those who are willing to help themselves and participate actively and consciously in their development and those who prefer to wait for the state and the market to deliver the solution' (ibid). It also resolves the 'dual accountabilities with the less-informed, passive majority accountable to local leadership and the relatively empowered savers accountable to external Federation leadership'. The design of the ISN can be interpreted as a hegemonic project to entrench SDI's savings methodology (which itself has problems of local accountability):

> *[ISN] is a network of predominantly male-driven, traditional settlement based leadership, who mobilise communities around critical issues such as land, services or housing. Whenever any affiliated group in the network seeks resources and capacity in order to participate in development, they are encouraged to call in the Federation who then transfer their knowledge, experience and skills in terms of savings, information management and negotiations to women's collectives in those settlements ... The Federation (and the Informal Settlement Network) are now faced with the challenge of getting Government to institutionalise this approach and to use Federation members to replicate their knowledge with State authorisation to all informal settlements in the country.*[12] (J. Bolnick, 2009b: 5)

Bolnick's document is a call for donor funding for seven items, which include

> *[to] deepen and strengthen savings schemes, but using a new approach that ensures that savings are settlement wide and accountable to local households and structures [an admission that at present they aren't]. The aim should be to reach all informal settlements in the country (for which state support will be required) ... engage the state in order to get Government to incorporate these Federation-driven social technologies into policy and their programmes, using Federation leadership as trainers, replicators and implementers.* (J. Bolnick, 2009b: 6)

Item Five in the call is to 'develop and implement in-situ upgrading and housing pilots, especially in terms of building community capacity to participate and constructively [sic] in these pilots' (ibid). Neither Joel Bolnick

(2009b) nor FEDUP (2010) present solutions to the problems faced by real *in situ* upgrading in South Africa today, for instance that most informal settlements are categorised as being unsuitable for *in situ* upgrading, or pointers as to how these might be solved.

Limits to the Informal Settlement Network's mode of mobilisation and representation

The ISN was set up with a sense of urgency. FEDUP (2010) reports that in 'just a little over a year, ISN now links 518 informal settlements in Johannesburg, Ekurhuleni, Kimberley, Ethekwini, Cape Town, and Nelson Mandela Bay municipalities'. Its claims are not dissimilar (in their misrepresentation) to those of Cities Alliance in relation to the Upgrading for Growth programme: FEDUP (2010) maintains that ISN's work has led to 'the upgrading of informal settlements in Johannesburg, Ekurhuleni, Ethekwini, and Cape Town metropolitan'. My interviews in the first two cities gave no evidence of informal settlement 'upgrading' projects. This points again to problems with the misinterpretation of this term. For SDI and FEDUP, informal settlement 'upgrading' refers to any isolated settlement intervention that amounts to an improvement, be it a tap, a hall, or an unblocked drain (see A. Bolnick, n.d.). While this may be legitimate, SDI's claims about 'upgrading' in the mainstream and donor-oriented 'upgrading' discourse are confusing and misleading.

Magebhula (2010) announced ISN's creation in the media as 'the first major attempt in the post-apartheid era to bring South Africa's settlement-level and national-level organisations of the urban poor under one umbrella, this time to work with government in finding solutions to slum poverty'. However, FEDUP (2010) mentions (and others recall) an earlier attempt. In 2004, at the start of Sisulu's term as Minister of Housing, CORC/SDI brought together 'traditional, generally male-dominated leadership to form a broad-based network of community-based organisations', named the Coalition of the Urban Poor (CUP) (ibid). Joel Bolnick's reflection on CUP in 2004 was that

> *whilst it currently takes the form of a number of autonomous networks (South African Homeless People's Federation–SAHPF, South African National Civic Organisation–SANCO, Landless People's Movement–LPM, etc.) it will not be long before the various components come together to form a kind of 'UDF' (United Democratic Front) of the Urban Poor.* (J. Bolnick, 2004: 6)

To briefly contextualise CORC/SDI at this time, 2004 was a moment when it sought to overcome divides, including those between the pragmatic and rights-based approaches. Joel Bolnick and his colleague Ted Baumann

agreed to join a University of the Witwatersrand research team that included leading housing-rights scholar Theunis Roux, architect Rodger Wimpey, and Aly Karam and myself, both policy researchers, as the core team in a Department of Housing-commissioned Study into Supporting Informal Settlements (University of the Witwatersrand Research Team, 2004). As a team, we had a brief opportunity to make inputs into the drafting of Chapter 13 of the Housing Code, the Upgrading of Informal Settlements programme. To my disappointment, Ted Baumann and Joel Bolnick could not be enticed to lobby for its implementation over the following years, despite their close relationship with the Ministry of Housing. As already briefly mentioned in Chapter 6, Baumann (personal communication, 23 May 2006) explained that in FEDUP's relationship with the Ministry (in contrast to CORC's professional or intellectual policy work, whether on slum upgrading or the self-help programme People's Housing Process), 'slum dwellers took centre stage and attracted the attention of the Minister and her political advisors, for obvious reasons ... No NGO or intellectual process has achieved this'. And the 'slum' dwellers' agenda was to secure subsidies through which they could define their own housing development, not to unlock informal settlement upgrading policy implementation (ibid).

The CUP initiative of 2004 was short-lived. According to FEDUP (2010), this was due to '[f]inancial constraints and lack of support capacity'. In the bigger picture, however, the internal crisis in the SAHPF in 2005/6, which led to its restructuring into FEDUP, will have played a role. In addition, the massive efforts in 2006 to woo Minister Sisulu into pledging subsidies to FEDUP, subsequent patient attempts to have this implemented, and the awkward role that SDI/CORC/FEDUP was drawn into playing in the flagship N2 Gateway Project, namely of facilitating relocation to the much hated TRAs, suggest that while navigating a partnership with Sisulu's administration, SDI/CORC/FEDUP could simply not sustain CUP on its agenda.

In contrast to CUP, six years later ISN did not attempt to network with 'autonomous networks' (J. Bolnick, 2004: 6) or existing social movements and instead set up new structures at settlement, city, provincial and national level. In addition, the social movement landscape had shifted since 2004, with the formation of Abahlali in Durban and later in the Western Cape, and the formation of a Poor People's Alliance bringing together progressive, rights-based grassroots movements Abahlali, LPM, AEC and the Rural Network. According to Magebhula (2010), ISN includes settlements linked to Abahlali. However, since its first encounter with the idea of ISN, Abahlali has raised concerns. Taking bottom-up democratic processes and leadership

very seriously (Zikode, 2010), Abahlali has long objected to FEDUP and the SDI's procedures, which include the unelected and salaried entrenchment of FEDUP's leadership (Magebhula being appointed, not elected, as ISN Chairperson). Abahlali takes exception to claims that through the ISN, Abahlali falls under SDI: 'You cannot claim to represent another organisation just because you once attended a meeting together. You cannot claim to represent people that you never consult with' (Abahlali baseMjondolo, 2010a). Rather than networking with existing social movements and alliances, ISN signs up settlement-level leadership structures. 'ISN Gauteng deems a settlement to be part of the ISN once ISN has profiled a settlement and engaged with the community' (A. Bolnick, 2010a: 1).[13]

It appears that with its ISN initiative, SDI never resolved carefully how 'representation' of all informal settlements would be achieved, let alone be maintained. To FEDUP and the SDI, the claim to representation seems more important than its practice. In July 2010, one of my informal settlement contacts, an elected office bearer in the Ekurhuleni structure of ISN, shared his unease at the imposition of a national ISN structure by SDI, in the form of the unelected FEDUP President Patrick Magebhula and others.[14] He had also been puzzled to hear requests (seemingly from Cape Town's CORC/SDI offices) to account for how many savings groups ISN had set up in the 'signed up' informal settlements (Anonymous B, personal communication, 11 July 2010).

The rapid signing up and enumerating of informal settlements under the ISN is threatening to unfunded social movements struggling to expand their support base across informal settlements through more grounded approaches. Abahlali, for instance, does not sign up settlements as such. It encourages the formation of Abahlali branches in informal settlements, and recognises these only once at least 50 residents of a settlement work together, support the idea, democratically elect a leadership and work collectively (Zikode, 2010).

SDI's purpose with the rapid collection of technical settlement data was to win over municipalities. In Gauteng, it lacked serious commitment both to accuracy and to giving recognition to settlement leadership. CORC/SDI's city-level informal settlement data book for Ekurhuleni (CORC, 2009), though based on the uncompensated groundwork of ISN office bearers, does not acknowledge the grassroots contributors at all. While the book contains information on numbers of taps and toilets, it provides no names, contact details and affiliations of leadership structures, the primary information that would be relevant to any serious 'network'. Referring to the CORC/SDI book, SDI researcher Ben Bradlow explains that 'ISN challenged the established [informal settlement] list of Ekurhuleni' (Bradlow, workshop intervention,

28 September 2010). The recipient of this data at Ekurhuleni Metropolitan Municipality, while acknowledging CORC/SDI's assistance in engaging with informal settlement communities, expressed scepticism about the data. CORC's professionals, he said, 'were very proud of the data' (Williamson, personal communication, 28 July 2010). However, he added, 'I fear someone sorted the spreadsheets. In the book, the wrong info is with the wrong photo. I know all these informal settlements intimately. I can see a lot of mistakes immediately' (ibid). In addition, there was confusion about the definition of informal settlements in this initiative. 'We have some projects, old PHPs [People's Housing Projects–self-help housing projects on formal stands], Tsakane Extension, beneficiaries are already allocated—it's not an informal settlement. CORC still calls it an informal settlement' (ibid). Much of this may be resolved through engagement with CORC/SDI/FEDUP, who are open to such observations and suggestions. However, the hard issues of claiming representation through settlement-level linkages rather than meaningful networking with existing movements and alliances, and the undemocratic appointment of national-level leadership, will remain areas of contention.

Seeking state partnership and ring-fencing state resources

In Cape Town and Gauteng, ISN's approach has been to use data-gathering to identify the worst-off informal settlements and lobby local government for their improvement (Adlard, personal communication, 12 November 2010; A. Bolnick, 2010a).[15] This should be welcomed (provided it can be sustained). However, the aspects of ISN that must be questioned are the absence of democratic representation through its structures and the signs of aspiration to hegemony. As SDI seeks to reinvent itself through a new state-'community' partnership via ISN, presumably to be replicated in other countries where mobilisation through savings has exposed similar limitations, the FEDUP President, Patrick Magebhula, plays a strategic representational role. In August 2010, Magebhula, 'Chairman of the Informal Settlements Network', was appointed as one of five advisors to Human Settlements Minister Tokyo Sexwale (Department of Human Settlements, 2010). Magebhula 'hopes to begin a dialogue on aligning national policy to maximize the capacities and energy of organized communities of the poor' (Bradlow, 2010a).

As the pressure to meet the new national upgrading target grows, FEDUP/SDI has made a bold demand for a R50 million state grant to its Utshani Fund 'to be used as pre-finance for settlement upgrading and for housing delivery', to 'be topped up, and increased, once capacity is demonstrated, on an annual basis' (FEDUP, 2010). Again drawing a line between the good,

saving poor and the passive and resistant ones, SDI/FEDUP will make the aspired-to state grant available only to communities that can match grant funding by 10 per cent (ibid)—the new incentive for expanding FEDUP's savings model. Only '[a]fter a negotiated period, access to the Fund and access to its Governance structures will be opened to all communities with the demonstrated capacity to manage decision-making and community projects' (ibid). These recommendations, according to FEDUP's claim, 'are endorsed by all structures associated with the Federation of the Urban Poor–uTshani Fund, Community Organization Resource Center, and the Informal Settlement Network' (ibid). However, there is no evidence that these ideas were passed through the leadership of 518 signed-up informal settlements. Therefore, endorsement means approval largely from the imposed, unelected ISN leadership, essentially SDI.

A challenge to contradictions in the upgrading agenda: rights-based, grassroots initiatives promoting informal settlement upgrading

In this book I hope to rectify the widespread misperception about rights-based approaches. By pointing to the role of locally grounded rights-based work in the N2 Gateway Project in Chapter 6 and two other rights-based initiatives in more detail in Chapters 8 and 9, I hope to show that these approaches do not exclude engagement and negotiation with the state. There is pragmatism within rights-based work, which at certain points of legitimate impatience includes resorting to statutory (and as a last resort, non-statutory) modes of contestation. Despite its own limitations that become apparent in Chapters 8 and 9, there is a continued need for rights-based work, particularly relating to the blind spots in consultant- and donor-driven work. The real duality that must be exposed is not between rights-based and pragmatic approaches, but between the potential tyranny of pragmatism or 'patience' as a strategy and the potential for emancipation inherent in rights-based work, particularly where it is focused on achieving a meaningful right to the city.[16]

It is seldom acknowledged that there is a groundswell of demand for permanent recognition and *in situ* upgrading (rather than standardised housing delivery) from people living in settlements. This demand manifests itself in resistance to relocation. It is often assumed by academic and civil society commentators of the left that the idea of *in situ* upgrading is imposed on settlement dwellers, that it amounts to accepting second-best when the state has promised more, and is the result of demobilisation.[17] However,

as argued in the light of similar debates in Brazil, '[w]hat often seems like conformism ... is for people such as these slum residents a rigorous material and conjunctural evaluation of the limits to bettering their lives' (Valla, 1999: 98). Selmeczi (2009: 536) explains Abahlali's rationale in its 'appropriation of the idea of *in situ* upgrade': 'Relocation to distant housing areas in the unforeseeable future, the no-place of eviction and the no-time of "informality" are opposed to the here-and-now in the demand of developing existing settlements'. The Western Cape chapter of Abahlali has articulated its detailed position on informal settlement upgrading under the slogan 'don't destroy it upgrade it' (Poni, 2008).

In the grassroots resistance to relocation and the associated eradication agenda, the principles of the 2004 Upgrading of Informal Settlements programme have found support. At the same time, as social movements have become familiar with the programme, indignation has grown at its non-implementation. Some active demand from within informal settlements for its implementation has found legal support and made its way through the courts. While no direct litigation on the non-implementation of Chapter 13, i.e. the Upgrading of Informal Settlements programme, has reached the Constitutional Court, the rulings in three cases at this level have referred to Chapter 13. In Chapter 6 I have already mentioned the Joe Slovo ruling on the planned relocation from an informal settlement to a transit area under the N2 Gateway Project in Cape Town. The other two are the Abahlali case which challenged the KZN Slums Act's inconsistency with the Constitution, legislation and Chapter 13 (Moseneke, 2009), and the Nokotyana case, which demanded delivery of basic interim sanitation and high-mast lighting for the indefinite period in which feasibility for upgrading was supposedly being investigated (Van der Westhuizen, 2009). The request of the Harry Gwala Civic Committee was for the initial phases of Chapter 13, which include the provision of basic services, to be implemented in their settlement, in line with the Constitution and the Water Services Act No. 108 of 1997. I had some direct involvement in the latter two cases and have therefore been able to compile a record of the difficult trajectory of each of these challenges, the contrast between the rights-based and the eradication discourses exposed in the litigation, and their hard-won outcomes (presented in the following two chapters). They display the inordinate resistance from within government to the idea of informal settlement upgrading, and expose the ongoing discourse of hostility to informal settlements which surrounds the commitment to eradicate such settlements by 2014, in contrast to a discourse challenging informal settlement eradication.

With reference to these cases and the network of solidarity that helped to bring them to the Constitutional Court, and other cases to a resolution in the High Court, I adopt Nelson's (2007: 2041–2042) definition of a rights-based approach (already quoted in Chapter 1), which seeks 'to link the development enterprise to social movements' demands for human rights and inclusion, and to tie development to the rhetorical and legal power of internationally recognised human rights'. Unlike the symptom-focused MDGs, human rights 'have been an important mobilizing resource and source of leverage for social movements and local citizen organizations in demanding government action to protect, respect, and fulfil their rights' (ibid: 2042). Pithouse (forthcoming) refines this approach, cautioning in particular against a 'flight from the concrete situation towards the abstract universal, be it human rights, socialism or something else'. Instead, there is a need for a 'shift from general commitments to abstract concepts like "housing rights" to specific commitments to specific struggles; and from calls for "change" to actual confrontation with oppression' (ibid). However, this involves 'all kinds of risks that extend beyond the risk of losing funding' (ibid). To a large extent, this is the approach that has provided support and solidarity (to some, not without risks) to Abahlali's struggles in Durban. The APF, LPM and AEC, themselves to varying extents part of this network of solidarity, have also made use of similar support in a grounded rights-based struggle.

Through litigation, these movements have resorted to the most respected of statutory outlets for contestation with the state. Unlike protest action, which even if approved and following all statutory protocol is often met with immediate repression, litigation is thought to be a form of contestation that largely enjoys the state's respect. In the KZN Slums Act case, however, the state and the ruling party seemed to afford the court process and the applicants their due respect only until three weeks before the judgement, which the state and ruling party apparently correctly predicted would not be in the state's favour. State and ruling party aggression against communities working towards defining how the state ought to help to improve their lives (and refrain from undermining the same) seemed to develop into a pattern that replicated itself in Gauteng Province (Sacks, 2010). The Chairperson of the Harry Gwala Committee experienced arrest on trumped-up charges that were subsequently dropped, a few months after the Constitutional Court ruling, which required the state to investigate feasibility of *in situ* upgrading of the settlement within 14 months (LPM, 2010). In the case of the LPM-affiliated Protea South informal settlement committee in Johannesburg, whose upgrading-related

litigation received a sympathetic hearing in the High Court in February 2009 (followed by a ruling in LPM's favour in August that year, also requiring investigation into the feasibility of *in situ* upgrading), respect for this legitimate contestation also eroded. Two weeks after the hearing, LPM Convenor Maureen Mnisi and seven other community leaders from Protea South (after a meeting with their ward councillor in which they insisted on being listened to) were arrested on the basis of unfounded allegations by the ward councillor of public violence, intimidation and that they had planned to set fire to the disused transit area (Fig 5.5, Chapter 5) (Mnisi, personal communication, 1 March 2009, 19 November 2010). Further attacks and arrests followed in May 2010 (Sacks, 2010).

■ ■ ■ ■

An analysis at this level raises difficult questions. It shows that positions on how to improve the lives of 'slum' dwellers diverge. The meaning of 'informal settlement upgrading' differs significantly across the initiatives covered in this chapter (the differences are summarised in Table 7.1). A further position, based on social and demographic research in South Africa, is that most forms of intervention, even 'well-conceived and well-executed *in situ* upgrading' will lead to displacement, as the 'functionality' of informal settlements in relation to livelihood and employment may be undermined (Cross, 2010: 11). There is little debate in South Africa on what ought to be done. At the September 2010 LANDFirst/SERI workshop, which brought the divergent (and partly converging) groupings on informal settlement upgrading together for the first time, some contestation was voiced. For instance, housing rights lawyer Steve Kahanovitz argued that 'ISN needs to work out how it deals with difference ... there is never going to be a single voice' (author's notes from the workshop). The debate might have intensified if Abahlali (who were prevented from attending due to a miscommunication) had been present to share their experiences, interpretations and vision. The workshop organisers sought to put a 'joint position' rather than a divergence of positions into the public domain, in the hope of drawing attention to the neglected issue of informal settlements and the opportunity that presented itself through NUSP and the new national upgrading target (LANDFirst & SERI, 2010; Tissington & Royston, 2010).

The real danger exists that those closest to resources and power, and most eager to please the state by helping it realise its target at whatever cost, will unwittingly legitimise 'upgrading' programmes based on categorisation (into desirable and undesirable settlements/people) and removal of symptoms,

Table 7.1: Divergent interpretations of 'upgrading' in South Africa (with some simplification)

Interpretations of 'informal settlement upgrading'	*Also referred to as*	*Proponents of this interpretation*
Clearance, replacement with formal housing not necessarily targeted at the original informal settlement residents.	Eradication	• N2 Gateway Project • Housing Development Agency (HDA) in its early engagements in upgrading debates.
Clearance and replacement with formal, fully subsidised housing in a standardised layout at a lower density and made available to a portion of the original residents. In some instances possible through removal of some households and shifting the shacks of others.	Formalisation	• Gauteng Provincial Department of Local Government and Housing • Ekurhuleni Metropolitan Municipality's Upgrading for Growth programme • City of Johannesburg's 'formalisation' programme
Interim basic servicing coupled with temporary security of tenure, while awaiting relocation or permanent 'formalisation' as above.	Regularisation	• Consultants working under Urban LandMark • City of Johannesburg's Regularisation Programme
Ad hoc improvements in the form of community-based self-help construction of basic services (e.g. taps, communal ablutions, community halls and houses).	NGO-supported self-help	• Shack/Slum Dwellers International (SDI) • Federation of the Urban Poor (FEDUP)
Permanent securing of tenure, rehabilitation of unsuitable land, meaningful community participation in decision-making, permanent provision of infrastructure, services and facilities with minimal disruption to people's lives, assistance with house improvements. Relocation only as a last resort.	*In situ* upgrading	• Volume 4 Part 3 of the Housing Code (previously Chapter 13) • National Upgrading Support Programme (NUSP) • Development Action Group (DAG)—Cape Town, • Abahlali baseMjondolo—Durban and Cape Town • Various housing rights lawyers and organisations

along with continued criminalisation of poor people seeking an entry into informal settlements. This would continue to crowd out demands on the ground for informal settlement upgrading in a way that realises a meaningful right to the city for all. These demands, if ignored, are voiced through demonstrations and litigation as communities defend their right to inhabit, participate in and shape the city. But even this might be curbed, should Parliament take Minister Sexwale's requests to silence the Courts seriously (Steenkamp, 2010), or should the state take on SDI and FEDUP's idea of using state support to promote a 'politics of patience' in all informal settlement communities. The two chapters that follow demonstrate the hostility with which rights-based activism from within informal settlement communities is received. At the same time, they demonstrate the extent to which these grassroots initiatives, struggling against eradication and related interpretations of informal settlement upgrading, are lone voices that make up a still fragile campaign for a right to the city.

End Notes

1. South Africa joined Cities Alliance in the same year and is currently one of 16 member states.
2. The creation of ZEIS in Brazil prevents land speculation as only 'special interest' (low-income) residential development is permitted in this zone (Maia, 1995).
3. Philip Harrison now occupies a National Research Foundation (NRF) Chair in the School of Architecture and Planning at the University of the Witwatersrand in Johannesburg, where he was a professor before departing to take up the post with the City of Johannesburg.
4. Klug and Vawda's (2009: 46) enquiries at the inception of this programme indicate that the early intention was 'to put in place a programme for *in situ* upgrading, which would be in accordance with Chapter 13 of the Housing Code'.
5. Urban LandMark (2010) suggests that the programme foresees legal recognition and interim servicing for these settlements. However, the officials I interviewed were not familiar with this intention (Fredah, personal communication, 3 November 2010; Maytham, personal communication, 3 November 2010; Ntsooa, personal communication, 24 August 2010).
6. Also funded primarily by DFID, FinMark Trust promotes pro-poor access to finance, including housing finance. Like Urban LandMark, its overall approach, drawn from (or imposed by) DFID, is to 'Make Markets Work for the Poor (MMW4P)'.
7. In the restructuring from Chapter 13 to Part 3 of the Housing Code, the programme regressed in several ways. One is a return to the individualised treatment of households through the household-linked capital subsidy for housing, the use

of freehold ownership (with only a very unresolved suggestion of a collective ownership option), and a standardised 'housing option' that precludes an irregular *in situ* layout (Huchzermeyer, 2010b). It is hoped that NUSP efforts at policy refinement will address these concerns (Narsoo, personal communication, 3 November 2010).

8. Level One accreditation is for planning functions and Level Two for project and programme management, which would ease the implementation of the Upgrading of Informal Settlements programme (Narsoo, personal communication, 23 July 2010).
9. SDI denies this, arguing that the appointed FEDUP and ISN leaders (11 individuals in total) receive small 'stipends' (in the order of R1 000/US$142 per month) in return for their time-consuming efforts (A. Bolnick, personal communication, 8 September 2011). My primary concern is not the amount, but rather the notion that appointed and paid individual are presented as part of grassroots structures rather than being acknowledged as functionaries of the NGO.
10. SDI's most influential academics are David Satterthwaite, Diana Mitlin, Karen Levy and Arjun Appadurai.
11. This duality is perpetuated in the pro-SDI academic literature: 'On the one hand are the groups that have opted for armed, militarized solutions to their problems of inclusion, recognition and participation. On the other are those that have opted for a politics of partnership' (Appadurai, 2001: 24).
12. The same argument is made online in FEDUP (2010).
13. This representation drawn up by the Cape Town office of CORC, which tends to gloss over nuances and challenges, may not be accurate. But it should be noted that while, in Ekurhuleni, the Harry Gwala civic committee, which is a longstanding affiliate of LPM, is linked to ISN, ISN never approached the LPM as an organisation with an offer to 'network' with it.
14. Mzwanele Zulu, coordinator of the Joe Slovo Task Team in Cape Town, was 'appointed as the vice president of the ISN nationally' (A. Bolnick, 2010b: 3).
15. In Cape Town ISN brings together 11 settlements, none of which are located on 'suitable' land. ISN has committed the municipality to pilot projects in the three most difficult settlements (Adlard, personal communication, 12 November 2010).
16. I owe some of this analysis to Steve Ouma Akoth, the recently appointed Director of Pamoja Trust in Nairobi, who has challenged SDI from within about its 'phobia' about rights-based work (Akoth, personal communication, 26 July 2010).
17. These views were aired in informal e-mail discussions within civil society following the 'Abahlali' ruling on the KZN Slums Act in the Constitutional Court.

Chapter Eight

A challenge to legal regression in the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act of 2007

> *The shack dwellers of AbM [Abahlali baseMjondolo] and other grassroots activists threatened by local power are the front line in the fight to keep us democratic.*
> (Friedman, 2009)

Contestation over how informal settlements should be treated in South Africa found an unanticipated, public and ultimately high-level outlet in the urgent challenge to the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act No. 6 of 2007 (the 'Slums Act'). This contestation did not happen within carefully thought-through academic papers or well-articulated policy positions prepared for forums or conferences. Instead, it was spontaneous. On the one side, it reflected the bluntness of bureaucratic thinking, possibly explained by an unpreparedness for the need to defend a position which the state assumed to be beyond question. It exposed the state's reasoning on the legitimacy of slum eradication—the perceived urgency of achieving urban competitiveness and perceived obligations in relation to the UN's MDG initiative. On the other side, it reflected an impassioned, collectively debated position based on experience on the ground and driven by both fear and a sense of urgency. It emerged into a spontaneous but vulnerable campaign for a meaningful right to the city by the grassroots social movement, Abahlali baseMjondolo. Neither side's position was carefully theorised. While later narrowing into a sharp legal battle, the positions on both sides contain a clarity that brings the opposing positions into clear relief.

As already briefly mentioned in the Introduction, the shack dwellers' movement Abahlali baseMjondolo emerged in Durban in 2005 in the context of 'a major upsurge in popular protests around the country' (Pithouse, 2008a: 75). Beginning in the well-located Kennedy Road informal settlement, Abahlali 'coalesced as representatives of other settlements began meeting together' in a desire 'to bring their conditions into public view' (Bryant, 2008: 45–46). To this end, it welcomed media sympathy, garnered initially through support from a small group of academics at the University

of KwaZulu-Natal. My own interaction with Abahlali emerged through this group in 2006, in particular through Richard Ballard and Richard Pithouse, and involved correspondence on informal settlement policy, obstacles to upgrading of settlements such as Kennedy Road and initial concerns about the KwaZulu-Natal Slums Bill which had just been released for comment. My first direct contact with Abahlali was at a COHRE-funded housing and educational rights workshop at Kennedy Road informal settlement in Durban, in December 2006. Abahlali had asked that I comment on eThekwini (Durban) Municipality's housing plans, budgets and procedures, which Abahlali had acquired through a formal request under the Promotion of Access to Information Act (PAIA) No. 2 of 2000.[1] At this workshop, I also had the opportunity briefly to contrast the language of the KwaZulu-Natal Slums Bill with that of the BNG policy (and its Upgrading of Informal Settlements programme) and the South African Constitution. While I presented this contrast only in the abstract, Abahlali members at the workshop felt directly implicated by the aggressive wording in the Slums Bill and deemed it necessary to prevent its enactment in their province.

Content and intentions of the KwaZulu-Natal Slums Bill

The KwaZulu-Natal Legislature drafted its Elimination and Prevention of Re-Emergence of Slums Bill as a response to the slum eradication targets that provinces and municipalities set themselves as of 2004, to outdo the national target date of 2014. As mentioned in Chapter 5, KwaZulu-Natal was leading in the 'war against shacks' (Sisulu, 2004). Then already praised by the Minister of Housing, KwaZulu-Natal was later held up as an example to other provinces for being the first to come up with slum eradication legislation. The KwaZulu-Natal Legislature released its 'Slums Bill' for comment in October 2006. Tabling it in the provincial legislature, the MEC for Local Government, Traditional Affairs and Housing, Mike Mabuyakhulu, explained its purpose in relation to the hosting of the 2010 FIFA World Cup: 'We in KwaZulu-Natal hope to make a serious dent on slums by 2010' (quoted in *The Mercury*, 2006).

The Kwazulu-Natal Legislature framed its Slums Bill around the notion of housing delivery, with which the BNG policy in 2004 had sought to break by introducing the Upgrading of Informal Settlements programme. Within this notion of subsidised housing, informal settlements, in particular their new formation on land set aside for housing delivery, are deemed a hindrance to housing delivery. The Preamble to the Bill claims 'it is desirable to introduce measures which seek to enable the control and elimination of slums, and the

prevention of their re-emergence, in a manner that promotes and protects the housing construction programmes of both provincial and local governments'. The rationale of the legislation is not to protect the poor from inadequate housing delivery, but conversely to protect government housing projects from the poor! Accordingly, the Bill (s.4) starts out with the criminalisation of land invasion, detailing offences in the event that persons interfere 'with reasonable measures ... to prevent ... unlawful occupation' (s.20, 21), already compared in Chapter 5 of this book with apartheid-era legislation. Applying to occupied buildings as well as land, the Bill seeks to curb 'substandard accommodation' by mandating eviction from such buildings (s.5) (only in s.14 does it require municipalities to 'give written notice' to such owners to improve the conditions).

The Bill mandates the MEC to ensure that municipalities adopt a 'slum elimination programme', to monitor municipalities' progress and ensure coordination (s.8). On an annual basis, the MEC must table 'a consolidated report ... in the Provincial Legislature', detailing progress made, challenges faced and ways to overcome these (s.17). To this end, the Bill requires municipalities 'within six months of the commencement of this Act, [to] prepare and submit' to the MEC 'a status report' on the 'existing slums', with 'details of its slum elimination programme and key performance indicators' (s.11). This includes identifying persons who have rights under the PIE Act of 1998, namely, who 'have been in occupation [of a slum] for more than six months' and for these persons to identify land (or buildings) for their relocation. This is to be 'in reasonable proximity to one or more economic centres' (s.12). But, treating feasibility of upgrading with scepticism, only lastly is the status report to identify 'which slums, if any, are suitable for upgrading' (s.11). The MEC is to approve and finance both relocation and upgrading of 'slums' (s.8), but with no mandate to prioritise upgrading or treat relocation as a last resort.

The Bill specifically permits municipalities to establish 'a transit area to be utilized for the temporary accommodation of persons who are evicted from a slum pending the acquisition of land or buildings for their permanent accommodation' (s.13). The problematic rationale here is that an informal settlement whose residents are removed to a transit area is deemed eliminated, and the performance criteria met, without any commitment to a timeframe within which permanent accommodation is to follow.

With parallels in the repealed apartheid-era legislation, the Legislature obliges landowners to take on a role in eliminating informal settlements. It recommends that this be done through a militarisation of urban space,

while criminalising landowners who fail to take such action. The Bill places a duty on owners of vacant land (or buildings) 'within twelve months of the commencement of this Act, [to] take reasonable steps ... to prevent unlawful occupation' (s.15). The 'reasonable steps' are spelled out to include 'erection of a perimeter fence ... [and] posting of security personnel' (s.15). In Section 16, the Bill mandates municipalities to notify non-compliant owners, whose subsequent failure to comply 'constitutes an offence'. Owners of occupied land (or buildings) 'must, within a period determined by the responsible' MEC, in compliance with the PIE Act, 'institute proceedings for the eviction of the unlawful occupiers concerned' (s.16). Where owners fail to comply, the municipality 'must invoke the provisions of section 6' of the PIE Act, namely to institute eviction proceedings (s.16). The Bill allows (but does not mandate) the MEC to 'make regulations or issue guidelines' in relation to various aspects of the Bill and to make non-compliance with these regulations 'an offence' (s.22).

All avenues exhausted: attempts to challenge the KwaZulu-Natal Slums Bill

Abahlali took all possible statutory steps to oppose the enactment of the Slums Bill, drawing on its membership as well as its network of solidarity. In the following paragraphs I detail the sequence of activities, debates, positions and decisions, all of which failed to sway the Legislature in any meaningful way from its adherence to its reasoning on slum eradication.

Abahlali took full advantage of the statutory hearings on the Bill. Only upon enquiry had the Provincial Legislature informed Abahlali of public hearings and that written submissions were welcome. Abahlali participated in the scheduled hearings, mobilising its membership and preparing responses to the Bill. The organisation documented its experience in this process through detailed minutes which show how the participation process was treated merely as an exercise to legitimise the Bill, with little effort on the side of the Legislature to make the public hearings known, to make the Bill available, to provide information about the decision-making process or to take on board the concerns raised (Abahlali baseMjondolo, 2007c). Abahlali members attended the Pietermaritzburg public hearing on 3 May 2007 where 'an estimated ten people attended' (ibid: 6). Most of those present had been informed about the meeting by COHRE's Pietermaritzburg office and not by the Legislature.

Abahlali hosted the Durban hearing on 4 May at the public hall in Kennedy Road informal settlement. The 'legislators arrived with police officers who

patrolled Kennedy Road during the exercise. Given [recent] harassment and brutality by the police ... their presence did not lend itself to open discussion' (ibid: 3). Abahlali members raised particular concerns about the language of 'elimination', 'eradication' and 'slums', the role that the Bill gave to eviction, the mandates it gave to municipalities and landowners with respect to eviction, and the unrestricted resort to 'transit camps' in the Bill (ibid: 2). Abahlali members explained their own recent experiences of unlawful evictions and their lack of trust of the authorities, and yet they were told that they could only get answers to most of their questions once the Bill was enacted.

My own lengthy comment on the Bill (Huchzermeyer, 2007a), prepared after encouragement by Abahlali, reached the Legislature on 13 May. Pointing to inequality and vulnerability, the comment argued that provincial legislation ought to mandate and monitor the realisation of the right to adequate housing by promoting the implementation of existing programmes such as Chapter 13 of the Housing Code (the Upgrading of Informal Settlements programme). This could help to reduce the existence of or necessity for informal settlements. It pointed to the anti-democratic and anti-poor language in the Bill, and its frightening similarity to the 1951 Prevention of Illegal Squatting Act. It requested a change from treating the poor as a threat to housing projects, to preventing housing projects such as the N2 Gateway Project in Cape Town from being a threat to the poor. It also called for a focus on alleviating immediate needs and responding to emergencies experienced in informal settlements, in order to improve rather than displace settlements. In this respect it pleaded for informal settlements to be allowed to expand, rather than to forcefully prevent any new construction of shacks. It called for a full alignment with the language and intent of the Constitution, also in the naming of the Bill. It pointed to the Brazilian concept of a social function of property. Quite specifically, it asked for tenure insecurity to be included in the definition of 'slum' (its omission reflecting the overall obsession of the Bill with the embarrassing physical manifestation of 'slums'). It pointed to the exclusionary nature of the 'reasonable measures' set out in the Bill to prevent occupation of unused land. It also pointed to similarities with apartheid-era legislation in mandating (in s.16) landowners to institute evictions. What the submission did not raise was an issue of critical concern to Abahlali, namely, the unrestricted resort to transit camps already experienced in KwaZulu-Natal Province.

A month after this submission, Shepstone Wylie Attorneys (SWA), for the Legislature, had prepared a detailed reply to this comment (SWA, 2007). The Legislature or its lawyers never made me aware of their comment, but

once the Bill was enacted and when Abahlali had filed its legal challenge to the Act, the Province submitted the reply as part of its response to Abahlali's application to the High Court. The SWA comment captures the state's reasoning that lies behind the policy of slum elimination. Finding no contradiction between the Bill and the Constitution or BNG, it blames me for pessimistically suggesting that a 'target for total elimination of slums' would be 'futile' (ibid: 2). It captures the essence of the Bill as being about 'the replacement of slums with adequate housing' (ibid: 3) (indeed not with the promotion of *in situ* upgrading). It supports the Province's logic: 'Needless to say, the efforts of the Province to eliminate slums will be nullified if such slums are allowed to re-emerge, either in the same areas or elsewhere' (ibid). Agreeing with my argument that the Bill is about 'zero tolerance', the SWA comment claims that 'it is not correct that wide scale evictions will take place while housing delivery continues' (ibid). Regarding the threat of the poor to housing projects, the comment argues, without substantiation, that 'it is not uncommon for persons to invade vacant land that is privately owned or is earmarked for housing development, and their reason for that is, invariably, to jump the queue in the housing waiting list compiled by the local authority' (ibid: 4). That 'proper consultation and participation procedures' could resolve this, says the SWA comment, 'is, with respect, not only naive but also impractical' (ibid). Instead, 'consultation and participation procedures' are considered more effective 'to dissuade ... communities from creating new slums once [municipalities'] programmes for the elimination of existing [slums] have begun', for instance through the MEC's regulations (ibid).

SWA recommend only two minor amendments to the Bill. One is the inclusion of 'without security of tenure' in the definition of 'slum' (ibid: 7, amending s.3.3.2 of the Bill). The second is to mandate owners of 'slums' to improve conditions within a period stipulated by the municipality, but then still to resort to instituting eviction should the former fail (ibid: 8, amending s.6.1 of the Bill). Though not recommended by SWA, one further change to the Bill was the deletion of the 'reasonable steps' to 'prevent unlawful occupation', namely 'erection of perimeter fence' and 'posting of security personnel' (s.15(1)(a), (b)).

Abahlali's own submission to the Legislature was ignored, in a sequence of events of which Abahlali kept detailed records. The Legislature invited Abahlali to the provincial Parliament on 21 June 2007, where the Bill was to be discussed. For this discussion, Abahlali prepared its own written submission (which was also a press release) titled 'Operation Murambatsvina comes to KZN: The Notorious Elimination and Prevention of Re-emergence of Slums

Bill' (Abahlali baseMjondolo, 2007b). Sharper and more topical than my own submission, Abahlali's document summarised the Bill as a 'legal attack on the poor' and 'an attempt to legalize a KZN Operation Murambatsvina before the World Cup in 2010'. Abahlali committed itself to 'fight it all the way' (ibid: 1). Abahlali contrasts pronouncements by the MEC with the actual provisions of the Bill, and in turn with reality on the ground: 'Mabuyakhulu [MEC for Local Government, Traditional Affairs and Housing] says that we shouldn't worry because the real targets are the slum lords and shack farming but this is not what the Bill says and, anyway, there are no slum lords in Abahlali settlements' (ibid). Abahlali set out what the legislators had omitted from the Bill—the need to compel government to address the root causes that 'force people to leave their homes and move to shack settlements', to address the urgent need for basic services including 'toilets, electricity, water, drainage, paths and speed bumps', to follow laws and policy to prevent eviction and ensure upgrading rather than relocation, and to involve shack dwellers in planning (ibid: 2). They continued:

> *We do not need this Bill. The first thing we need is for government (local, provincial and national) to begin to follow the existing laws and policies that protect against evictions, forced relocations and which recommend in situ upgrades instead of relocations. After that we need laws that break the power that the very rich have over land in the cities and we need laws to compel municipalities to provide services to shack settlements while people wait for houses to be built.* (ibid)

Abahlali expressed objections to the negative labelling and the 'violent and threatening' and excessively controlling wording in the Bill. 'Our communities should be nurtured, not eliminated. The people who live in the *imijondolo* [shacks] must decide for themselves what they want their communities to be called. We must be allowed to define ourselves and to speak for ourselves' (ibid: 3). They raised concerns about the prospect of criminalisation ('[i]f this law is passed it will make us all criminals' (ibid: 4)), the powers and responsibilities given to municipalities and the Province, and the mandate to landowners to evict settlement dwellers. Naming the example of Turkey, the Abahlali submission refers to countries where legal rights exist for poor people 'to use vacant land or buildings that are owned by the rich but not used by them', and pleads that '[t]he need of the very poor for housing in the cities near work and education should come before the needs of the very rich to have their properties protected' (ibid). Regarding temporary relocation, Abahlali objects that '[t]he Bill does not give any guarantees as to where these "transit areas" will be located, what services

will be provided there, if communities will be kept together or broken up when people are taken to these places or how long they will have to live in these places' (ibid: 4). Abahlali refers to the 'long and terrible suffering' in controlled camps that were 'supposed to be temporary—a "transit" between one place and another' (ibid). They plead for a meaningful role in the planning of cities, and argue that, in relation to law-making, this means 'listen to shack dwellers before making laws' (ibid: 5). They share their vision of the city:

> *A World Class city is a city where the poor are treated with dignity and respect and money is spent on real needs like houses and toilets and clean water and electricity and schools and libraries rather than fancy things for the rich like stadiums and casinos that our cities can just not afford.* (ibid)

The provincial Parliament considered neither Abahlali's written submission nor one submitted on the same day from Cape Town by the International Labour Research and Information Group (ILRIG), prepared by community leaders from a number of informal settlements in Cape Town (Matthews et al, 2007). The latter expressed their grave offence at 'the wording and implications' of the Bill, calling for a refocus on causes rather than symptoms: 'the need of slums is what needs to be eliminated' (ibid). It asks with indignation: 'In 2010 if there are no slums, then where will our people go? Are we going to live in the stadiums? We cannot accept it' (ibid).

At the parliamentary sitting on 21 June, after a half-hour session, in which 'Members of Parliament were reading submissions made about the Bill ... the session broke for lunch and the Speaker told the Abahlali members to return at 1:50'. This is when they 'learned that Michael Mabuyakhulu (the MEC for Local Government, Traditional Affairs and Housing) had left and that the remaining MECs were no longer discussing the Bill. A journalist, asking for their comment, informed the Abahlali members that the Bill had been passed by Parliament' (Abahlali baseMjondolo, 2007c: 3). Abahlali's sense was that their active participation in and mobilisation for the hearings, and their visit to Parliament, had merely been used to validate the Bill (ibid). *The Witness* reported the next day that the 'Bill was passed unopposed ... in the legislature'. It suggested that MEC Mabuyakhulu had taken note of Abahlali's objection, but defended the Bill: 'This is not Operation Murambatsvina ... but a revolutionary and long-term solution to the challenge of slums and slum conditions. We dream of a tomorrow free of slums' (quoted in Mbanjwa, 2007). Despite this evidence that the MEC had read (at least the title of) Abahlali's submission, in his answering affidavit for the High Court to which

I return below, MEC Mabuyakhulu (2008: s.58) claimed 'I have not seen the written submissions by the applicants'!

Final enactment of the Bill, however, depended on a decision by the Premier of the Province. As a last attempt to sway the Premier, COHRE, at Abahlali's request, sent a letter, respectfully urging him 'to seriously reconsider the wisdom of this legislation', with reference to entrenched policy, legislation, the Constitution and international law (COHRE, 2007: 2). A number of position statements followed, as Abahlali sought to refine its own strategy in relation to the approved but as yet not enacted Bill. An initial analysis by constitutional law expert Kirsty McLean for Abahlali developed into a formal legal opinion (McLean & Zeffertt, 2007) which was influential in framing the later legal challenge to the Act. It set out the most pertinent legal concerns with the Bill, also clarifying that the Bill could only be challenged in court once enacted. Among the technicalities raised by McLean and Zeffertt (ibid) were the two issues which later crystallised into the Constitutional Court submission. One (which the Constitutional Court turned down) was the competence of the Province to enact a Bill that was not directly concerned with housing but with eviction or land, which are exclusively national competencies. The other related to Section 16 of the Bill (the basis of Abahlali's Constitutional Court victory)—the inconsistency between the PIE Act and the Bill's mandate for landowners to institute eviction procedures, and subsequent discretion for municipalities to do so (ibid).

On 13 July, Abahlali, having elected a Slums Bill Elimination Task Team, held a 'meeting to discuss legal and political strategies to oppose the Slums Bill' (Abahlali baseMjondolo, 2007a). Abahlali invited those interested in forming a coalition to oppose the Slums Bill. Leap, a 'voluntary association of tenure practitioners ... housed within the Legal Resources Centre' prepared a written submission for this meeting, calling for the recognition of 'people driven shelter' and for upgrading instead of elimination. It demonstrated how the MDGs and BNG had been 'misappropriated' for 'slum' elimination, and added a particular focus on promoting tenure security (Leap, 2007).

The 13 July meeting (minuted in Abahlali baseMjondolo, 2007a) involved a careful discussion of the objections to the Bill, and of Abahlali's own alignment with the BNG policy and the Constitution or, as argued, *vice versa*: '[t]he good parts of these existing documents and policies, and also parts of our Constitution, are full of Abahlalism ... but they are not put into practice' (ibid). It reflected on the 'deeply insulting process' of the hearings for the Bill, which had denied ordinary people a say. In terms of its strategy, Abahlali

acknowledged 'that this opposition to the Bill includes building a broader coalition of organisations and people to work with us because it is a broad struggle with different aspects' (ibid: n.p.). The meeting considered the 'danger of focussing on tackling the Bill' while 'losing sight of the people's own issues and agenda'. The resolve was to 'use the Bill to assert the power of Abahlali'

> *[to] rise above it and not be limited to just engaging a piece of technical law. To mobilise around it, we must—as we always do—start with a living politics, a politics of what's close and real to the people. This has been the basis of the movement's success ... In this way, it is OK to venture into this 'enemy territory' with our tactics, but we always return to the people and will not let the enemy's approaches and language dominate.*[2] (ibid)

Having the offer for legal support from CALS, Abahlali resolved to meet supportive experts in Johannesburg in the following week. 'The Premier has rubbished us in public saying we are ignorant and haven't read his Bill—well, we will turn the tide and show him when we meet in court if this Bill becomes law' (ibid). In addition, Abahlali undertook to 'build wider mobilisations' through its connections in Cape Town and to 'look at broadening the coalition to draw in also middle-class and religious people too who can be concerned and conscientised around these issues of social justice'. It also considered connecting the crimes of 'Operation Slum Free Cities' to the 'Soccer World Cup 2010' (ibid).

The *Sunday Tribune* covered Abahlali's anxiety over the Premier's pending enactment of the Bill, citing also COHRE's letter and Abahlali's call for more consultation. However, it also presented the administration's view, namely that 'they had consulted widely before taking the Bill to the legislature' (Makhaye & Reid, 2007). While the Premier's office acknowledged COHRE's letter, the KwaZulu-Natal Department of Housing spokesperson stated that 'Abahlali BaseMjondolo have the right to take the matter to the Constitutional Court' (ibid). Two weeks later, on 2 August 2007, the Premier made the decision to enact the Bill. Over the following months, Abahlali, with its legal team, prepared its challenge for the High Court.

Provincial confidence: KwaZulu-Natal Slums Act of 'national importance' and 'internationally compliant'

KwaZulu-Natal's 'slum' eradication legislation became a model for other provinces to follow. At its 52nd conference in Polokwane which installed Jacob Zuma as ANC President, the ANC adopted Resolution 71 to 'develop

appropriate legislation to prevent the mushrooming of informal settlements' (ANC, 2007). The new ANC President included in his statement to the party's National Executive Committee reference to 'a number of [Polokwane] Conference resolutions that we will need to implement, including ... legislation to address the proliferation of informal settlements' (Zuma, 2008). Early in 2008, the Housing MINMEC announced that 'all provinces should formulate provincial legislation on the eradication of informal settlements' (Eastern Cape Department of Housing, 2008). In Gauteng, housing officials dubbed this the 'Polokwane mandate' (Gauteng Department of Local Government and Housing, 2008). The national Department of Housing's terms of reference issued to the Eastern Cape Department of Housing in June 2008 (by which time Abahlali's High Court challenge was well under way) stipulated 'that by November 2008, all Provinces must have the legislation in place, using KwaZulu-Natal as a base or reference as they already have the legislation on the eradication of informal settlements' (Eastern Cape Department of Housing, 2008). In the official correspondence, this requirement is linked to the 'presidential priority on eradication of informal settlements' (ibid). Having received the same directive from the national Department of Housing, the Gauteng Department of Local Government and Housing (2008) sets out, under departmental 'roles and responsibilities', to '[d]evelop and implement a legislative framework for the eradication and control of the proliferation of informal settlements in the province' (ibid: 13). An international media report (Costa, 2008) mentions a ministerial 'decision that KZN assist other provinces in formulating legislation'.[3]

Seven months after its enactment, and with real urgency given the directives for other provinces to replicate the KZN legislation, Abahlali submitted its opposition to the Act. With the support of the litigation department at CALS, headed by Stuart Wilson and counsel Heidi Barnes, Abahlali's President S'bu Zikode filed a founding affidavit in the High Court on 13 March 2008. It sets out how Abahali's 'members live in fear of eviction' since the enactment of the Slums Bill (Zikode, 2008: s.14). Zikode raises concerns about the 'disrespectful and uncaring' language of the Act (ibid: s.21). He provides examples of the eThekwini Municipality already demolishing shacks 'on the basis that the Slums Act entitled it to demolish shacks erected after October 2007' (ibid: s.26). The affidavit questions the legislative competence of the Province to enact the Bill (ibid: s.28). It further shows that 'section 16 of the Slums Act is inconsistent with section 26(2) of the Constitution' (ibid: s.29) and 'conflicts with provisions of the Housing Act and PIE Act' (ibid: s.30). Detailing these challenges, the founding affidavit refers to provisions in the

Constitution, these Acts, the Housing Code and, in that context, Chapter 13 (the Upgrading of Informal Settlements programme). It draws attention in particular to provisions for community participation, minimising disruption to communities, relocation as a last resort and tenure security, setting out its four phases in detail.

In the answering affidavit, MEC Mabuyakhulu (2008: s.59) responded to Abahlali's concern that eThekwini Municipality had demolished shacks erected since the enactment of the Slums Act, confirming that it 'sought to enforce its policy against unlawful invasion of land to prevent the erection of shacks so as to ensure that informal settlements do not proliferate'. Without analysis, the MEC dismissed all other challenges in Zikode's affidavit, also claiming that the Slums Act 'gives effect to the provisions and objectives identified in ... Chapter ... 13 of the Housing Code' (ibid: s.66).

The answering affidavit from the MEC for Housing very clearly exposes the South African government's rationale and justification in relation to its 'slum' target. A very problematic interaction between the government's approach, on the one hand, and the UN's 'slum' estimates and predictions, its MDGs and other global commitments, on the other, comes clearly to the fore. This includes the problematic legitimisation that SDI/FEDUP unwittingly provides through its 'deals' with the South African government.

The affidavit begins by quoting the UN's global 'slum' population figures, referring to this as a 'crisis' (ibid: s.10). It refers to the exponential 'slum' growth as well as MDG commitments as 'background within which South Africa enacted ... in particular its approach to informal settlements' (ibid: s.12). The MEC sets out how the UN's MDGs, along with national and provincial housing policies and national laws, informed his initiation, development and approval of his department's 'Eradication of Slums Strategy "Vision 2014"' of April 2007 (ibid: s.30) (subsequent to the drafting of the KZN Slums Bill). He quotes from this strategy: 'The KwaZulu-Natal department of housing in aligning itself with millennium development goals set [the] target to substantially reduce informal settlements and slums in the province by 2010 and eradication of the latter by 2014' (ibid: s.31). Further, the AMCHUD meeting in 2005 at which 'African Ministers committed themselves to an enhanced framework ... to deal with the challenge of slums in Africa' (ibid: s.43) included the priority to 'set national slum targets ... and also set out plans and strategies to reach those targets' (ibid). Mabuyakhulu (ibid: s.47) further justifies the Act on the basis that the UNHRC's Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, had sent a 'favourable' response, 'very positive and supportive of the KZN Slums Act' to the MEC's explanation of the KwaZulu-Natal Slums

Act (ibid: s.49). The MEC had 'pointed out [to Mr Kothari] that the KwaZulu-Natal Slums Act had nothing to do with "forced evictions" and was a measure to address the UN Millennium Development Goals and constitutional goals' (ibid). Mabuyakhulu (ibid: s.56) also points to 'international' alongside 'national and provincial legislative and policy obligations which refer to these concepts ... of "slums" and "elimination"', as evidence that these 'descriptions' are not 'disrespectful in an way'!

Mabuyakhulu expresses scepticism about Abahlali's representivity (ibid: s.52). He contrasts this scepticism directly with the respect that the national Department of Housing has for

> *other non-governmental organisations, representing residents in informal settlements, and in particular ... the agreements reached with the FEDERATION OF THE URBAN POOR ('FEDUP') in efforts to improve the standards of living and housing conditions in Cape Town. These constructive engagements resulted in agreements with FEDUP signed in September 2006 for the upgrading of informal settlements in Cape Town.* (ibid)

As mentioned in Chapter 5 of this book, the deal that FEDUP/SDI brokered in Cape Town in 2006 was about ring-fencing housing subsidies for FEDUP members, not about informal settlement upgrading. Despite intensive media coverage of the KwaZulu-Natal Slums Bill and Act controversy (Ardé, 2007; Ardé & Sarille, 2007; Buccus, 2007; Huchzermeyer, 2007b, 2007c; Kockoff, 2007; Mthembu, 2007), SDI and FEDUP never once formulated a position on this legislation, which evidently was to have a bearing on its membership in informal settlements in that province. Only early in 2009, when a media debate erupted after the High Court's dismissal of Abahlali's challenge, did SDI see itself compelled to issue a statement. The Head of Media Services in the Department of Housing (Mbaya, 2009), welcoming the High Court judgement, had made the same point as Mabuyakhulu about Abahlali versus FEDUP in his article 'Working towards a slum-free South Africa'. Bolnick's reply on behalf of SDI argued that '[t]his juxtaposition is disingenuous and misleading' (Bolnick, 2009a).[4] While conceding the existence of SDI's 'partnership agreement with the Department of Housing', Bolnick sought to explain that 'this does not mean that we support everything the Minister and the Department decide to do ... SDI does not support the Slums Act' (ibid). But Bolnick also clarified that

> *SDI is not in the habit of making press statements and seldom makes public statements of opposition to actions and decisions of other stakeholders in the*

> *urban sector. Public declarations have the habit of compromising our capacity to negotiate with and on behalf of organised shack dwellers in the SDI network, including members in over seven hundred informal settlements in South Africa.* (ibid)

However, at the time of taking on the Slums Bill and Act, Abahlali too were in negotiations with local government over the upgrading of settlements in which it had active community structures. While preparations for the High Court hearings of 7 November 2008 were under way, Abahlali negotiated with the eThekwini Municipality on an appropriate interpretation and implementation of 'upgrading' for these settlements. This is important, given the tendency by the state and by SDI to portray Abahlali as a protest movement in contrast to the constructive deal-making approach of SDI (Bolnick, 2008; Mbaya, 2009). In the negotiations Abahlali was specifically steering away from the offer of RDP houses for only a small proportion of Kennedy Road households, insisting instead on inclusion of 14 informal settlements in the intervention plans and on provision of immediate basic services to all, rather than full housing delivery for a select few. Project Preparation Trust (PPT) was acting as an intermediary in these negotiations. In a press statement on 3 November 2008 in anticipation of the High Court hearing three days later, Abahlali announced that '[a]lthough evictions continue, there are now negotiations on the future of 14 of the Abahlali settlements that are in the eThekwini Municipality—we welcome these negotiations and we have hope in these negotiations. After a year of talking there are now some important breakthroughs' (Abahlali baseMjondolo Youth League, 2008). Abahlali's position in these negotiations reflects its position in relation to the Slums Act:

> *Poor people must be allowed to stay in the cities. We need upgrades and not relocations. It is the Slums Act that must go. It is evictions that must go. It is the Land Invasions Unit and the Red Ants that must go. It is the hatred of the poor that must go. It is the rule of money over the lives of people that must go. It is the selling of land that should be for the people that must go. It is the shooting and the bulldozers that must go.* (ibid)

In this press statement, Abahlali also sums up its experience in trying to oppose the Slums Bill and Act, from participating in hearings through to the High Court challenge. Pointing to the form of solidarity and support from the middle class that Abahlali is looking to, Abahlali in particular thanks 'the Centre for Applied Legal Studies at Wits for their support—on every step along this road they have talked to us, not for us. This is a living solidarity'

(ibid). This form of solidarity grew beyond CALS to incorporate faith-based organisations and sympathetic individuals, and came to play an important role as the struggle deepened beyond the High Court ruling. While the provincial government used the UN Special Rapporteur to legitimise the Slums Act, Abahlali embraced Miloon Kothari's solidarity, arguing that

> *the educated and the uneducated are all saying one thing on the Slums Act—shack dwellers, NGOs, university professors and even Miloon Kothari who came to visit Abahlali baseMjondolo when he was the United Nations Special Rapporteur on Housing are all saying one thing about this Act: it is a disgrace.* (ibid)

The approach taken in Kothari's mission report (UNHRC, 2008) was careful not to offend the South African government (which was evidently a great encouragement to the KwaZulu-Natal MEC). Kothari referred to his correspondence with the KwaZulu-Natal provincial government and summarised his own response to the 'extensive reply' which the government had submitted in response to his concerns. Kothari reported that he 'believes nonetheless that the consistency of [the KwaZulu-Natal Slums] Act with constitutional provisions, relevant Constitutional Court judgements, and international rights obligations should be examined further' (ibid: s.48). He raised concern about the possibility of 'a misunderstanding as to how to respect international commitments such as the [MDGs]' and 'that such legislative developments may weaken substantive and procedural protection concerning evictions and increase exemptions for landlords. They may even result in criminalizing people facing eviction' (ibid: s.49). Among his recommendations, the Special Rapporteur in particular

> *[called] for a halt in the introduction of new provincial bills regarding eradication of slums until all national, provincial and local legislation, policies and administrative actions have been brought into line with constitutional provisions, relevant court judgements, and international human rights standards.* (ibid: s.97)

Opposing interpretations of 'slum' eradication in the High Court and Constitutional Court

Abahlali's court experience in the Slums Act case and beyond was like a rollercoaster ride: defeat against the state and against 'slum' eradication in the High Court, then vindication in the Constitutional Court, but simultaneous punishment seemingly by the state and the ruling party on the ground. Justice Tshabalala's High Court judgement on 27 January 2009 was an

extension of the government's line of argument on the Slums Act. Tshabalala vigorously defended the Act and the government's position on the Act. While acknowledging that 'this is a very sensitive and important matter' (Tshabalala, 2009: s.27), his assessment was that Abahlali 'have come to the Court with the view that the Slums Act is evil and bad' (ibid: s.38). Further, the judge internalised the ANC and national government's intentions of replicating the Act in other provinces:

> *The province of KwaZulu-Natal must be applauded for attempting to deal with the problem of slums and slum conditions. This is the first province to have adopted legislation such as the Slums Act. The Slums Act makes things more orderly in this province and the Act must be given a chance to show off its potential to help deal with the problem of slums and slum conditions. This Court can not strike the Act down before it has even been properly implemented.* (ibid: s.39)

Further, '[t]he Slums Act is the first of its kind and other provinces are waiting to see how it functions in this province' (ibid: s.40). The High Court therefore dismissed Abahlali's application (ibid: s.41). Immediately after the hearing, S'bu Zikode announced to the 'huge media circus' which 'they [i.e. the state] [seemed to have] organised', that Abahlali 'would be taking this to the Constitutional Court and that it would be resolved there' (Pithouse, personal communication, 27 January 2009). Given the Province and eThekwini Municipality's caution while the Act was under judicial review, Abahlali considered it important to 'put the state back under critical gaze' as soon as possible (ibid). Abahlali's press statement on the same day declared: 'We are ready to take the next step on our journey to the Constitutional Court' (Abahlali baseMjondolo Movement, 2009). The statement also confirmed that '[i]t is the Movement's mandate to fight for the right to the cities'. Just over three months later, Abahlali announced their hearing in the Constitutional Court, set for 14 May 2009:

> *The road from the shacks to this court has never been an easy one. It takes a very strong shack dwellers organisation to stand firm for what we believe is right for the future of our cities. It takes a very humble, democratic and a caring government to understand the will of its citizens. A caring government would rather engage its citizens than turn them into its rivals. We believe that there was no need in the first place for the Slums Act. The only need was for the Department of Housing to table its worries to the shack dwellers themselves ... Abahlali baseMjondolo are determined to be part of the solution of any problem associated with the lives and communities of our members.* (Abahlali baseMjondolo, 2009)

One day before the hearing, church leaders collectively issued a statement in support of Abahlali, urging that the Act 'be rejected by all right-thinking and caring South Africans' (Zondi-Mabizela & Philpott, 2009). In a media article in *The Times* on the morning of the hearing, Pithouse (2009b) stressed the 'increasingly authoritarian discourse around eliminating or eradicating slums' which had 'led to a deliberate reduction in the provision of basic services to shack settlements and forced removals to out-of-town housing developments and prison-like transit camps'.

The media took an interest also in the literal journey from Durban's informal settlements to the Constitutional Court in central Johannesburg. *The Star* (Ngqiyaza, 2009) reported that '200 to 500 activists from Gauteng, KwaZulu-Natal and the Western Cape' had demonstrated 'their opposition' at the Court. *Mail and Guardian* journalist Niren Tolsi (2009b) accompanied the shack dwellers on the lively overnight bus journey. 'After Tshabalala ... "applauded" the Slums Act in his judgement, the sense that the struggle had picked itself up and kept walking was palpable' (ibid). In comparison with the 'somnambulist hearing on the matter' by Justice Tshabalala, the Constitutional Court was a '[d]uelling between legal minds ... at times, scintillating: Moseneke probed the matter like a surgeon, with Edwin Cameron, Sandile Ngcobo and Kate O'Regan the scalpel assistants' (ibid).

I was able to attend the hearing with some of my housing students from the University of the Witwatersrand. With greatest respect to the reasoning of the legal team (represented by Advocate Wim Trengrove), on the surface it seemed a pity that the legal challenge had been narrowed down to just two issues and, in terms of content, only to Section 16 of the Act. In dissecting the Act, some of the judges seemed repelled by so much more of its contents. Justice Sachs contrasted the 'rather stiff language of the statute' with the 'humane and concerned language of the Constitution and other statutes' (author's notes of the hearing). Justice Moseneke referred to the 'heavy obsession with the smashing of slums'. He felt that the last listed objective of the Act, namely 'to improve the living conditions of the communities' should be first on the list. Nevertheless Justices Yacoob and Ngcobo argued that the Act forced municipalities to face the problem of 'slums'. When questioned as to why the Act was needed, the counsel for the state (Advocate Jeremy Gauntlett SC) argued that 'PIE alone won't help you deal with the slum problem ... Progressive realisation of elimination of slums does not mean front-end loaders' (ibid). But Justice Sachs pointed to 'enormous ambiguity' in the Act, asking if one should not go 'back to the

drawing board and draft a clear statute'. The defence team pleaded that the Court should 'let the regulations first be drawn up', but Justice Moseneke's position was to ask: 'Can a statute be saved by regulations?', explaining also that the Court was 'seeing an increased number of abstract reviews' (i.e. legislation being reviewed before having been implemented) (ibid).

Tolsi (2009b) describes the 'enthralled' atmosphere in the court room, which was

> *filled with shack dwellers in red T-shirts and clerics, including Anglican Bishop for KwaZulu-Natal Rubin Phillip ... Outside, meanwhile, Abahlali members watched on the television screen, joined by Gauteng's Landless People's Movement and [Western] Cape's Anti-Eviction Campaign.*

Directly after the hearing, Sbu Zikode addressed the crowd with a message of hope and confidence (Figure 8.1), before the members of the various grassroots movements returned to their buses for another long night's travel

Figure 8.1: Abahlali President S'bu Zikode addresses Abahlali, AEC and LPM members after the Constitutional Court hearing on 13 May 2009

Source: Author's photograph

back to their homes. Tolsi interviewed Abahlali members as they congregated around their transport. He quotes from one of these: 'Listening to the judges today made me feel like I was part of this democracy again' (ibid). As Buccus (2009) later commented, 'the kind of engagement that [Abahlali] has engaged in is the very stuff of democracy and is the right of any citizen, organisation or movement'. However, this view was evidently not shared by all in the ANC. In September, two weeks before the long-awaited ruling, with all signs that the Court would side with Abahlali, armed attackers descended late at night on Abahlali's office in Kennedy Road informal settlement, violently evicting the organisation from the premises, as well as evicting numerous Abahlali members from their homes in the settlement. It is estimated that 1 000 people fled the Kennedy Road settlement (Chance, 2010).[5] An ANC branch established itself immediately in the space that had been used by Abahlali. On the day of the attacks, Abahlali had met in this space with its legal team from CALS 'to discuss the Slums Act' and the pending judgement (ibid: 10). The Kennedy Road attacks sparked 'an incredible outpouring of civil support for [Abahlali] across South Africa and around the world' (Buccus, 2009). Despite the attacks, Abahlali members travelled to Johannesburg for the judgement. Among them was S'bu Zikode, who like others was living 'in hiding after the attacks on his Kennedy Road home' (Tolsi, 2009a).

The Constitutional Court gave its long-awaited judgement on 14 October. Reflecting tension between the positions of different judges during the hearing, the Court issued Justice Moseneke's majority judgement (Moseneke, 2009) as well as a dissenting judgement by Justice Yacoob (2009). Moseneke (2009: s.45) views 'section 16 of the Slums Act [as] inconsistent with section 26(2) of the Constitution and for that reason invalid'. To Moseneke, the 'narrow exercise confronting [the judges] is mainly interpretive' (ibid: s.95). Moseneke agrees with Yacoob's judgement on the point that the Slums Act deals with housing and therefore is within the competence of the provincial government (ibid: s.97), one reason being that 'slums' and informal settlements 'are places where people live and have their homes, and their homes are houses' (ibid: s.101). Regarding section 16 of the Act, Moseneke presents various possible interpretations and concludes that

> *[it] may be rendered consistent with section 26(2) of the Constitution and the applicable national legislation only by distorting its meaning or by reading into it numerous qualifications which cannot be readily inferred from the text under consideration. While the goal of the Slums Act may be a salutary one aimed at eliminating and preventing slums and at providing adequate and affordable*

> *housing, I cannot find that section 16 is capable of an interpretation that promotes these objects ... There is indeed a dignified framework that has been developed for the eviction of unlawful occupiers and I cannot find that section 16 is capable of an interpretation that does not violate this framework.* (ibid: s.121, 122)

An important point is hidden in a discussion about Justice Yacoob's interpretations in paragraph 114 of Moseneke's judgement. Moseneke clarifies that the national Housing Act and the National Housing Code require 'that the owner or municipality may only evict as a matter of last resort after having taken all possible steps to upgrade areas in which homeless people live' (ibid: s.114).[6] Further, 'no evictions should occur until the results of [a] proper engagement process are known. Proper engagement would include taking into proper consideration the wishes of the people who are to be evicted; whether the areas where they live may be upgraded *in situ*; and whether there will be alternative accommodation' (ibid). Stuart Wilson (2009), in a Centre for Civil Society e-mail list debate, clarified the significance of the reference to the Housing Code:

> *before [the Abahlali ruling], for the last resort principle to apply, there needed to be a prior decision to implement Chapter 13 of the national housing code. What [the Abahlali ruling] did was to "lift" that principle out of the housing code and give it a direct and binding legal application to all unlawful occupiers ... What [Moseneke] is in fact doing is making new law ... Before, the last resort principle did not have much application. Now it has almost universal application. On engagement ... [t]he court has now confirmed that it is required before a decision to evict is taken.*

In *The Mercury*, Costa (2009) summarised the ruling as meaning 'that the government can no longer compel anyone to evict squatters, rendering the act toothless'. In a media statement, CALS (2009: 2) summed up the implications of the judgement, namely that the Act 'is now inoperable and will not be replicated in other provinces'. Zikode commented that '[s]hackdwellers have been recognised as human by the Constitutional Court and its findings that there needs to be more engagement between government and the poor. Hopefully this judgement will also see an end to forced removals to transit camps and temporary relocation areas' (quoted in Tolsi, 2009a).

■ ■ ■ ■

As the ANC branch established itself in September 2009 in the building in Kennedy Road formerly used as a meeting space and office by Abahlali, the

state arrested several active Abahlali leaders and brought court proceedings against them. It alleged that Abahlali had instigated the violence in Kennedy Road. These proceedings were drawn out over almost two years. By June 2011 the state's case was crumbling under lack of any credible evidence, and on 18 July (coinciding with Nelson Mandela's 93rd birthday) the 'Kennedy 12' were acquitted (SERI, 2011a). However, as key leaders in Abahlali were anticipating the rebuilding of the movement from its base in Kennedy Road, provincial governments beyond KwaZulu-Natal were submitting copies of the KwaZulu-Natal Slums Act to their legislatures. The eradication logic, for instance in the Limpopo Prevention and Control of Informal Settlements Bill 2011, is the same. The Act is replicated almost word-for-word, save for 'Section 16'. Abahlali, as well as several individuals and organisations that coalesced around it during its action against the KwaZulu-Natal Slums Act, endorsed a comment to the Limpopo Provincial Administration restating the objections levelled against the KwaZulu-Natal Slums Act, as well as arguing that there was insufficient regard paid to the Constitutional Court ruling in the Bill (SERI, 2011b). While rights-based solidarity with informal settlement struggles peaked with the Constitutional Court ruling on the KwaZulu-Natal Slums Act and the almost simultaneous repression of Abahlali, this was not an end in itself. As the case discussed in the following chapter shows, the task of challenging, building support, expanding solidarity, convincing and winning over politicians and bureaucracies will require much more.

End Notes

1. At the workshop, Abahlali celebrated its success in accessing information through PAIA. In the evenings after the proceedings of this workshop, Abahlali and the Western Cape AEC strategised about their position in relation to a large Social Movements-driven Social Movements Indaba (gathering) in Durban which coincided with the housing rights workshop. The two grassroots movements felt that they had been sidelined by NGOs from the agenda-setting for the Social Movements Indaba. Their decision to boycott the gathering and stage a protest at its venue unleashed a ruthless attack from NGO activists (through the media) on Abahlali's Durban-based academics, whom they assumed to have devised the plan to disrupt and embarrass the participants in the event (Setsheni, 2006). This tension continued, with ongoing attacks on the integrity of these academics (Böhmke, 2010a, 2010b; Desai, 2010).
2. Walsh (2010) inaccurately comments that Abahlali (and other formerly 'radical movements') had turned 'towards the state, to quickly get tied up in the mechanisms of the courts and reformist concessionary battles'. Part of the same

group evidently intent on undermining Abahlali and the academics who support it, Böhmke (2010b) claims that '[t]he myth-makers of contemporary Abahlali seek to interpret and pawn off ... drawn-out court cases ... as the stuff of history'.

3. Having canvassed the views of 'the Gauteng-based Anti-privatisation Forum' (APF) and 'the Western Cape-based Anti-eviction Campaign' (AEC), both of which expressed their strongest opposition, Costa (2008) concluded that country-wide formulation of equivalent legislation would prompt 'threats of widespread civil unrest from community organisations in the Western Cape and Gauteng'.
4. Mbaya's (2009) statement sparked a number of other replies from within Abahlali's support base, republished by Pambazuka (2009) along with a call to 'oppose the "Slums Act"'.
5. Kennedy Road was estimated to be home to 7 000 families at the time (Chance, 2010).
6. The judgement contains the slight contradiction that on the one hand people living in informal settlements are said to have homes and houses and therefore the Act is about housing, yet it calls people living in informal settlements 'homeless' (Moseneke, 2009: s.101, 114).

Chapter Nine

A challenge to the state's avoidance of upgrading: the Harry Gwala informal settlement

Delays in upgrading informal settlements is one of the most pressing problems in our country.
(Justice Kate O'Regan, Nokotyana hearing in the Constitutional Court, 15 September 2009, author's notes at the hearing)

There are so many obstacles in the way: 'can't do', 'not allowed', 'not mandated', 'not in the budget', 'not in the policy', 'not zoned', 'not this year', 'not enough', 'too many', 'too wet', 'too dangerous', 'too expensive' ... Our establishment does not easily entertain the informal.
(Adlard, 2008)

Abahlali's slogan 'From Shack to Constitutional Court' captures not only the litigation over the KZN Slums Act. It signifies Abahlali's solidarity with other struggles in informal settlements. I have already reviewed the litigation from the Joe Slovo informal settlement objecting to eviction within the N2 Gateway Project. Within a short period of time, another case reached the Constitutional Court from an informal settlement—the 'Nokotyana' case, brought first to the High Court by Johnson Nokotyana on behalf of the Harry Gwala informal settlement in Ekurhuleni Metropolitan Municipality. The Harry Gwala community had been struggling for many years for *in situ* upgrading of their settlement. Its representative committee is part of a larger movement, the LPM, which wages the same struggle for *in situ* upgrading in other informal settlements in Gauteng. The LPM has specifically demanded (and litigated for) the implementation of Chapter 13 of the Housing Code, the Upgrading of Informal Settlements programme, in two informal settlements, Thembelihle and Protea South, which the City of Johannesburg has long placed in the category 'Relocate' on grounds of dolomite and therefore the risk of sink holes. The City has persistently refused to consider the possibility of land rehabilitation measures enabled by the Upgrading of Informal Settlements programme. The struggle in Harry Gwala took a different route, as the municipality's various grounds for relocation could be refuted early

in the negotiations. Thereafter, a far more complex state rationale to resist *in situ* upgrading gradually exposed itself. This continued to unfold beyond the somewhat unhelpful Constitutional Court intervention, and remained unresolved at the time of writing.

Settlement formation, eviction threats and mobilisation

Harry Gwala emerged as an informal settlement adjacent to Wattville on the East Rand (today the Ekurhuleni metropolitan area) east of Johannesburg in the early 1980s, with authorisation from the municipal authority at the time. As a transit area, the settlement was initially named Tent-town. The Civic Committee has a letter from the Town Council dated 24 November 1993 stating that

> *[t]he Tent-town Residents Committee, led by Mr A. Kau, has the permission of the Wattville Council to develop Portions 29 and 68 for residents purposes. These two areas are situated on the eastern side of the Wattville Council.*[1] (Wattville Town Council, 1993)

On this basis, the Harry Gwala community never considered its members as illegal occupants (Figure 9.1) and opposed eviction with much indignation. In 2005, the Harry Gwala committee (then named the Simbumbene Civic Association) joined the LPM, which had emerged in 2001 out of the hardship caused to ordinary people by five years of government's self-imposed fiscal austerity in South Africa (Greenberg, 2006). In Gauteng the growth of the movement responded in particular to evictions from urban informal settlements. Along with the continued experience of lack of consultation and the punishment of communities who disagree with government officials' decisions, dealing with evictions or forced relocations remains central to the LPM's rationale (Mnisi, personal communication, 19 November 2010). The NGO National Land Committee (NLC) played a strong role in the formation of the LPM and 'was behind the poor people in informal settlements in terms of support and education, although the Landless People's Movement was trying to stand on its own as an independent movement' (ibid). The NLC disbanded its Johannesburg office in around 2003. At about this time, the seriousness of evictions led the LPM to be 'introduced to Webber Wentzel [a firm of attorneys] and that is where we met Moray Hathorn as [our] legal representative' (ibid). Given the persistence of eviction threats in settlements in Gauteng where LPM had an organisational presence, Moray Hathorn of the Pro Bono and Public Interest Law Department of Webber Wentzel

Figure 9.1: Established homes in Harry Gwala informal settlement

Source: Author's photographs (2008, 2009)

Bowen (WWB; now Webber Wentzel [WW]) provided sustained support to the movement for over half a decade.

When faced with eviction in July 2004, the Harry Gwala committee, still unaffiliated to the LPM, had planned resistance. This was reported in the media. The Chairperson of the Gauteng LPM, Maureen Mnisi, recalls:

> *I found the news paper* (Daily Sun) *on the street. I read the story of Harry Gwala. I noticed that they were facing eviction. I then sent members of LPM to find more*

> *information about the situation. But they were told by the executive committee that they wanted me to come by myself for more info. The following week, I went to Harry Gwala together with other members and that is where we introduced the Landless People's Movement. And the following day, I contacted Moray Hathorn and I told him about the problem of Harry Gwala. I then requested Moray to defend them and he agreed.* (ibid)

My own intermittent involvement with the Harry Gwala committee from 2005 onwards was in response to requests for policy advice through Moray Hathorn. This gave me the opportunity to meet with the committee, attend some of their meetings with municipal officials and at all stages draw attention to the ignored provisions in Chapter 13 of the Housing Code.

Despite the official consent of occupation, the municipality's plan was to remove the occupants from the land. Without consultation, the municipality had prepared a relocation site in Chief Albert Luthuli (Extension Four), 13 km to the north-east of the settlement. This, it argued, needed to be occupied to ensure the presence of sufficient people in the area for the municipality to apply to the Department of Education for the construction of the school on the designated site (Ekurhuleni Metropolitan Municipality, 2004). This argument took no consideration of whether *in situ* upgrading might be possible at Harry Gwala, and whether the relocation aligned with the livelihoods and social networks of the Harry Gwala residents. The municipality presented relocation as a planning necessity unrelated to the reality at Harry Gwala.

Persistent demand for *in situ* upgrading

The Harry Gwala committee's efforts to resist relocation and instead have the settlement upgraded *in situ* arose from discussion and strategising with other LPM settlement committees (Figure 9.2) and with their legal representative, and took the form of legal correspondence and formal meetings with their councillor and officials. This communication with the municipality revealed one groundless excuse after another not to consider *in situ* upgrading of the settlement. These included the proximity of a railway line which it was thought posed a safety risk for residents, a water servitude and an overhead electricity line crossing the land, proximity to (and informal drainage into) an environmentally sensitive and ecologically valuable wetland and water body, undermining of the occupied land, a mine dump on a portion of the occupied land, private land ownership, and lastly, a 'business decision to relocate' justified by economies of scale (meeting with Ekurhuleni

Figure 9.2: Harry Gwala Civic Committee meets with other LPM settlement committees—informal gathering (left); formal meeting with Harry Gwala committee chairperson Mr Johnson Nokotyana seated fourth from the left (right)

Source: Author's photographs (2010)

Metropolitan officials at Acton Library, 23 February 2005). The committee, through its legal representative, refuted each of these reasons, proposing instead an *in situ* upgrade according to the provisions of Chapter 13 of the Housing Code. This, they argued, could include rehabilitating the mine dump in phases, providing a protective barrier near the railway line, formalising the drainage so as to prevent pollution of the wetland, and accommodating all other constraints (water servitude and power lines) in the layout design through open spaces for urban agriculture (WWB, 2005b).

At a follow-up meeting on 21 May 2005, an official response from the Executive Director of Housing was handed to the committee. It contradicted every provision of Chapter 13 of the Housing Code, ignoring the funding mechanisms that apply under Chapter 13 of the Code which are tailored precisely to the reality that upgrading of most informal settlements would not be possible in terms of standardised housing subsidy mechanisms. The Executive Director's letter argued that development of the land 'would far exceed the cost of development covered by the housing subsidy' (Chainee, 2005: 2). It included the groundless argument that the 'engineering services' envisaged for the servitude 'would require future maintenance and/or upgrading, that would result in fruitless capital expenditures, once such maintenance and/or upgrading of services [presumably digging up pipes] takes place' (ibid: 1); most city pavements are on servitudes that are regularly dug up for maintenance! At this meeting, however, the municipality conceded that it 'could investigate developing' a small portion

of the land, but was unable to clarify land ownership and boundaries. The committee insisted on being shown the exact boundaries and ownership of the land portions they occupied. But the officials, signalling their outright disrespect for communication with the committee, closed the meeting by informing the committee that 'next week we will tell people when they will move [to Chief Albert Luthuli]. We will meet with resistance, but that is the only way' (author's notes of the meeting).

Five months later, the municipality handed a report on the development constraints at Harry Gwala to the settlement committee (Ekurhuleni Metropolitan Municipality, 2005). This still did not contain any map of the land boundaries and ownership or detail of the alleged undermining. In essence it was again a list of excuses not to further investigate *in situ* upgrading. This seemed outrageous at a time when a national policy had been adopted that required 'relocation as a last resort' (Department of Housing, 2004c: 35; Department of Human Settlements, 2009b: 9, 25, 32). This principle calls for an approach that considers every reason for and not against *in situ* upgrading and actively motivates non-standardised expenditure to the Province on that basis. Nevertheless, the municipality informed the Harry Gwala committee on 23 September 2005 that 'street lighting would be provided in the Harry Gwala Informal Settlement' (presumably as an interim measure) (WWB, 2005a).

Late in 2005, the ward councillor promised that he would meet the committee in January 2006 to 'discuss and reach an agreement on which area of Harry Gwala can be upgraded *in situ*' (WWB, 2006). By March 2006, this meeting had not materialised and WWB, on behalf of the Harry Gwala committee, again requested details such as the land boundaries and ownership (ibid). Given every evidence that the municipality was in no hurry to resolve the situation at Harry Gwala, the committee decided also to request clarity 'on the provision of interim services in respect of water, refuse removal and electricity, pending the upgrading *in situ* of the Harry Gwala informal settlement' (ibid: 2). In response to this communication, the municipality produced an aerial photograph with rough boundary lines showing a substantial portion of the occupied land in municipal ownership. In June 2006, the *Feasibility Report for the Development of Rietfontein 115 IR* [only the municipally owned portion of land] *in terms of the Essential Services Programme* (VIP, 2006) followed, produced by VIP Consulting Engineers. The provincial government had commissioned this report, which was for the development of 389 standardised residential stands on the municipally owned portion, with no regard for the existing layout of the informal settlement. The report estimated 2 000 households to be living on the land at the time

(ibid: 12). Even though the proposal was only to provide for 389 of these households, in effect displacing 1 611 households, the report professed to fulfil the 'Strategic Objective ... [t]o address the 600 000 units backlog on basic services and infrastructure by 2009 [in that it] will reduce the backlog directly by 389 stands' and '[t]o deepen the involvement of communities as decision makers in the housing delivery process' (ibid: 7). It further aligned itself with the political eradication campaign rather than entrenched upgrading policy. It professed to contribute '[t]o ensure the eradication of all informal settlements by 2004'. Under a heading '[c]ompliance with the New Comprehensive Plan for Integrated Sustainable Human Settlements' (BNG), VIP Consulting Engineers (ibid: 7) stated that 'VIP was to date unable to obtain the New Comprehensive Plan for Integrated Sustainable Human Settlements and is therefore unable to make a statement of compliance'. It must be added that VIP Consultants had been 'appointed by the Gauteng Department of Housing as Lead Consultant for the implementation of the Essential Services Program [sic] in Ekurhuleni Metropolitan Municipality's area of jurisdiction' (ibid: 1). Compliance with the BNG policy of 2004 was therefore not established for *any* subsidised development in that municipality, two years after adoption of the policy. Instead, reporting on 'informal settlement eradication by 2014' had become a standard item for this company, and evidently quite acceptable to the provincial government and Ekurhuleni Metropolitan Municipality!

The VIP (2006) *Feasibility Report* recommended that development of the 389 stands proceed under the Essential Services Programme and that the Province commission an EIA, as well as geotechnical, mining and other investigations. At this time, some residents had already conceded to relocation to Chief Albert Luthuli, in particular those occupying the mine dump, though with considerable tension and party-political interference (SAFM, 2006). All subsequent enquiries from the committee about *in situ* upgrading of Harry Gwala generated the response that the municipality was awaiting 'an in-depth feasibility study for *in situ* upgrading' (Mofokeng, workshop intervention, 11 June 2008). Concerned about the delay in a decision regarding the *in situ* development of Harry Gwala, and the municipality's failure to deliver on any of its promises, including street lighting, the then renamed Harry Gwala Civic Committee modestly proceeded through its lawyer to apply for interim services (seven additional taps, high-mast lights, refuse collection and sanitation) through the High Court. It set out a three-fold application based on constitutional rights, statutory rights (as set out in the Water Services Act) and policy (Chapters 12 and 13 of the Housing Code).

A request for interim relief through the High Court

At a meeting between the Harry Gwala committee and the municipality on 12 July 2008, the responsible official had no knowledge as yet that papers had been filed with the High Court. The municipality at this point was still attempting to facilitate relocation. At this meeting, without informing the Harry Gwala Civic Committee, the municipality had invited a rival committee from Harry Gwala, a committee with no constitution and of which the Civic Committee had no prior knowledge. The Civic Committee interpreted this as a divisive plot on the part of the municipality targeted against those seeking *in situ* upgrading. Trust between the Civic Committee and the municipality dwindled (author's notes of the meeting). Nevertheless, the Civic Committee's filing of papers proved to have a minor effect on the municipality's budgeting for Harry Gwala, as I show below.

According to the Regulations Relating to Compulsory National Standards and Measures to Conserve Water in terms of the Water Services Act, every household has to be within a 200 m radius of a communal tap. To meet this standard, an additional seven taps were needed in Harry Gwala. The same regulations are less clear on the minimum number of households that may share a basic sanitation facility. On grounds of basic health and safety, the committee's legal representatives argued that the lack of sanitation and lighting in Harry Gwala was unconstitutional, while also referring to Phase Two of Chapter 13 of the Housing Code, in terms of which interim services are provided when detailed feasibility studies (including the EIA) are also commissioned, and Chapter 12 of the Housing Code which provides for basic services under emergency circumstances.

The High Court hearing exposed the municipality's resort to excuses to justify considering neither *in situ* upgrading nor basic services for Harry Gwala. The municipality argued that Chapter 12 of the Code could not be invoked, as these households had lived in Harry Gwala for many years and could therefore not be experiencing an 'emergency'. Regarding Chapter 13, the municipality argued that feasibility needed to be established first, before interim services could be established. Nevertheless, the municipality arrived at the hearing with an offer to provide seven additional taps and to resume refuse collection. But in terms of sanitation and lighting, it argued that these had been provided at Chief Albert Luthuli and voluntarily refused by the households now still residing in Harry Gwala. In Harry Gwala, according to the municipality, these services could only be provided after formal township establishment. This disregarded the fact that the

post-apartheid state had provided high-mast lighting in many informal settlements after 1994. Since the political drive had begun to eradicate informal settlements by 2014, in most municipalities (with the exception of Cape Town (Graham, 2006)) this practice, along with the provision of electricity, had been crowded out by bureaucratic excuses and fears of attracting further land invasion.

The municipality indicated that in November 2006 it had asked for a second feasibility study to be commissioned by the Provincial Department of Housing for upgrading at Harry Gwala, but that the outcome was still awaited (it was also awaiting the feasibility studies for 15 other projects from the Province). Seeing that the municipality had been in a position to adjust its budgets for the water and refuse collection concessions that it made in Court, the High Court judge, Acting Justice Epstein, enquired whether it was not also possible to provide sanitation and lighting. He underlined the importance of these services to the households' health and also held that they might well have reasonable grounds to have refused relocation to Chief Albert Luthuli. However, he reserved judgement, ordering only that refuse collection and seven additional taps be provided by 2 January 2009 (author's notes from the hearing).

In his judgement two months later, Acting Judge Epstein indicated that he believed the municipality's claim that it had submitted an application 'to the Gauteng Department of Housing ("GDH") in terms of chapter 13 of the Housing Code' (Epstein, 2009: s.11). A blind trust in this claim perpetuated itself into the Constitutional Court. As I show below, there never was any intention on the side of the municipality or the Province to apply Chapter 13 of the Housing Code to Harry Gwala. Acting Judge Epstein also believed the municipality's argument that interim services could only be provided under Chapter 13 of the Housing Code 'where it has been decided to develop an informal settlement *in situ*' and that the municipality 'has no obligation' to provide interim services 'until such time as it has been decided that the land in question is fit for development for residential purposes and the development process for the township is complete' (ibid: s.15ii). The Judge dismissed applicability of Chapter 12 of the Housing Code. Regarding Chapter 13 of the Code, he failed to check the actual wording of the Code and claimed that '[w]here interim services are to be provided it must always be undertaken on the basis that such interim services constitute the first phase of the provision of permanent services' (ibid: s.22i). The actual wording in Chapter 13 (Department of Housing, 2004c: s.13, 3, 4, 2) is that 'interim services should *first and foremost* be designed on the basis that it

could be utilised/upgraded for the permanent services infrastructure' (my emphasis). This wording clearly allows for exceptions to the ideal principle. Further, the Judge mentioned that 'as a result of shortcomings' in the existing (2006) feasibility study, the municipality had asked Province to commission 'a further feasibility study which will include a geotechnical investigation and an indication of the exact layout of the stands' (Epstein, 2009: s.26). It must be clarified at this point that geotechnical investigations comprise 'pre-planning studies' under Phase Two and not Phase One in terms of Chapter 13 of the Code. It is simultaneously in Phase Two (before the outcome of the pre-planning studies are known) that interim services are installed (Department of Housing, 2004c: 4). The state falsely claimed to be operating in terms of Phase One of Chapter 13. However, the Judge found no fault with the state, concluding that

> *in the present case, there is no suggestion, (nor could there be substance to such a suggestion), that the Municipality is not carrying out its obligations to take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to ensure that services are provided in a manner which is economically efficient.* (ibid: s.39)

Constitutional Court appeal and rollout of chemical toilets

Of the seven taps promised by the municipality at the High Court hearing, it provided only two (Moeng, 2009). During a visit to Harry Gwala in mid-2009, I was shown that the pipes for these two taps were so shallow that they had been damaged. The Harry Gwala Civic Committee repeatedly had to collect money among residents to hire a plumber to fix the pipes. Refuse collection had also fallen off after the general elections of that year (ibid). While frustrations lingered over the promised taps and refuse collection, the Harry Gwala Committee had decided to take its quest for high-mast lighting and sanitation to the Constitutional Court. The prospect of litigation at this level caused the municipality to revisit and adjust its budgeting more substantially. It developed a policy to provide one portable chemical toilet for every 10 informal settlement households across its jurisdiction. Due to the unreasonable delay in reaching a decision about whether to upgrade Harry Gwala, national and provincial government offered additional funding to allow one chemical toilet for every four households in this settlement only, shortly before the Court hearing on 15 September 2009. The Harry Gwala Civic Committee, with most of the community attending the hearing (Figure 9.3) rejected this offer, arguing that it was a more

Figure 9.3: Harry Gwala Constitutional Court hearing—LPM and ISN demonstrate their solidarity with Harry Gwala residents

Source: Author's photographs (2009)

cost-effective and safer solution, particularly for women after dark, to provide a ventilated improved pit latrine for every one or at most two households. According to Justice Moseneke, the 'crux of the case' was for the applicants to 'show what is irrational and unreasonable in the respondents' offer of chemical toilets' (author's notes from the hearing). Harry Gwala's legal team based its argument for one toilet per stand on the rights to equity and dignity in the Constitution and on the provisions of the White Paper on Basic Household Sanitation of 2001 and the Water Services Development Plan of the Ekurhuleni Metropolitan Municipality. The Court 'disregarded the Equity argument and rejected the Dignity argument' and argued that Harry Gwala's legal representatives 'had improperly sought to introduce this evidence on appeal and refused to have regard to it' (Hathorn, personal communication, 22 November 2010).

Although the drawn-out trajectory of the Harry Gwala committee's quest for access to services was before them, Justice Sachs and Justice O'Regan debated whether the Harry Gwala committee should not rather make their case to the City Council (and not the Constitutional Court) and 'put pressure on Council' (author's notes from the hearing). In effect, of course, the committee was putting rather effective pressure on Council through the litigation, having exhausted the avenues of engagement available to them, and short of staging protest action.

The Court, nevertheless, was concerned about bureaucratic delays. It welcomed an apology from the provincial government to the Harry Gwala community (those allowed into the relatively sparsely occupied courtroom by the police in attendance[2]) and to the Court for the three-year delay in securing a feasibility study that would determine whether Harry Gwala could be upgraded *in situ*. The Judges also questioned whether the chemical toilets would be an interim measure for more than one year. Province responded with an undertaking to investigate feasibility for upgrading under Chapter 13 of the Housing Code within one year. This satisfied the Court (author's notes from the hearing).

In the unanimous Constitutional Court judgement on 19 November 2009, Justice van der Westhuizen again legitimised the municipality and Province's incorrect reading of Chapter 13 of the Housing Code, ignoring the fact that geotechnical feasibility and interim services are accommodated in the same phase under Chapter 13, the one not being dependent on the other: 'As long as the status of the Settlement is in limbo, little can be done to improve their situation regarding sanitation, sufficient lighting to enhance community safety and access by emergency vehicles, as well as a range of other services'

(Van der Westhuizen, 2009: s.58). The word 'interim' was never clearly defined. As constitutional law expert David Bilchitz (2010a) demonstrates, there are many contradictions in what is referred to as the 'Nokotyana' ruling. The contradiction concerning 'interim' services is deepened by the indirect Court outcome of the provision of one chemical toilet per 10 households across Ekurhuleni's informal settlements, clearly an 'interim' service and a substantial expenditure on the part of the state. The Court had expressly refrained from adopting a position as to the reasonableness of this scheme (Hathorn, personal communication, 22 November 2010). Sanitation engineer and government advisor Mike Muller commented after the ruling:

> *While the desirable minimum form of sanitation will keep us all talking for a long time, I am surprised that there should be support for the use of chemical toilets, particularly in collective arrangements. The chemical toilet is simply a privatised bucket system with both infrastructure and operations provided by contractors—presumably one reason why it is so popular in some local councils in SA. Once they are shared, the problem of keeping them clean is difficult ... and the resultant health impact can be profoundly negative.* (Muller, 2009)

The Harry Gwala community did not reject the subsequent rollout of chemical toilets (Figure 9.4). But would the Constitutional Court have found it reasonable (had this aspect been under discussion) that a large part (at least one-third) of this lucrative Council contract went to Red Ants Security Services? The 'chemical toilet rollout' (Figure 9.5) is funded 'directly from Council' to the tune of 'R100 million per year until the problem is solved' (Mokgosi, personal communication, 13 July 2010). In July 2010, the rollout had not yet reached all informal settlements in Ekurhuleni. The municipality's Director for Human Settlements Property and Institutional Support explained that

> *[some] people thought the toilets were a substitute for a [subsidised] house. Often at the second information session people accept. [But there are also] divisions—some want them, some don't. In Ramaphosa [informal settlement] there was such a split and [the chemical toilets] were destroyed. So we wait till there's consensus [in an informal settlement, before rolling them out] ... There are some that opted not to receive them.* (ibid)

Bilchitz (2010b) summarised the Court's approach as not seeking 'to prescribe the exact details of what the government must do, or what the individuals can

Figure 9.4: Chemical toilets in Harry Gwala informal settlement

Source: Author's photograph (2010)

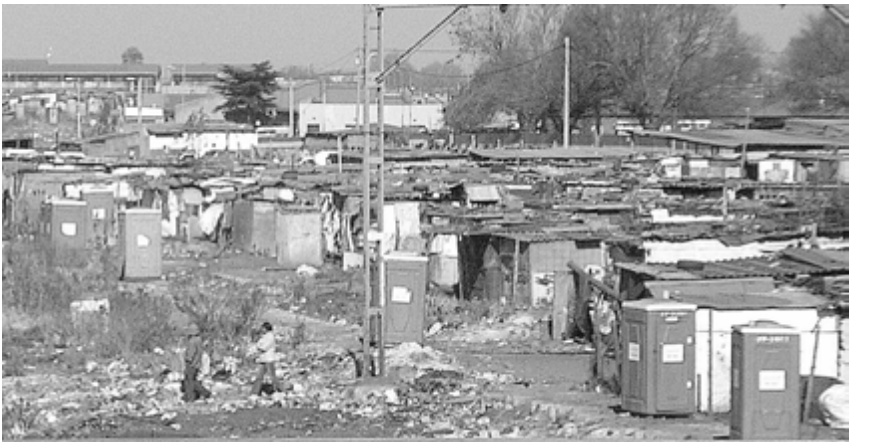

Figure 9.5: Chemical toilet rollout (but evidently no refuse collection) in an informal settlement in Ekurhuleni Metropolitan Municipality

Source: Author's photograph (2010)

claim from the government: [the Court] is simply the arbiter of whether the government's actions are reasonable'. He emphasised that the Harry Gwala residents 'were simply requesting the most basic hygienic conditions for their dwellings. The Court here fails to embrace an opportunity to use social rights to uplift the poor rather than entrench their disadvantage'. Elsewhere, Bilchitz (2010a) criticised the Court for dismissing demands for access to basic needs, in particular sanitation. According to another legal expert, the Court had rejected the 'minimum core' approach to basic rights and instead embraced 'the reasonableness test for socio-economic rights ... almost making inevitable the most restricted conception of socio-economic rights as "reason" allows' (Hathorn, personal communication, 22 November 2010). With regard to the reasonableness of the government's action, the ruling was concerned with Chapter 13 of the Housing Code and bureaucratic delay. Hoping to provide clarity, Justice van der Westhuizen ordered that the MEC 'reach a decision' on the feasibility of upgrading Harry Gwala in terms of Chapter 13 of the Housing Code 'within 14 months' (Van der Westhuizen, 2009: s.57) and on grounds of the Province's delay also ordered that 'the MEC should pay the applicants' costs' (ibid: s.61).

Beyond the chemical toilet rollout: no intention to investigate feasibility of *in situ* upgrading

In a pattern already mentioned in the previous two chapters, the ruling party's annoyance with the Harry Gwala Civic Committee's emancipation through litigation against the state seemingly expressed itself in the arrest of Harry Gwala Civic Committee chairperson Johnson Nokotyana in June 2010. A community member 'apparently connected to the local ANC councillor' had laid unfounded charges (Sacks, 2010: 12). The community believed the real reason for the arrest to be the ward councillor's discontent with the popularity of the Harry Gwala Civic Committee (LPM, 2010), which had won some concession through the courts, perhaps most significantly the order that the Province investigate suitability of upgrading according to Chapter 13 of the Housing Code within 14 months.

In October 2010, 11 months after the Constitutional Court judgement, the environmental consultant Envirolution provided Harry Gwala Civic Committee's legal representative, Moray Hathorn, with a copy of a 'Draft EIA' for comment. The provincial government's lead consultant, VIP Consulting Engineers, had subcontracted Envirolution Consulting to conduct the impact assessment. The Draft EIA is not for *in situ* upgrading but for 'high

density subsidy linked housing, which will consist of three storey mixed walk up centres' (Envirolution, 2010: ii) containing a total of 500 units, with the explicit intention of marketing the majority of these units to people across Gauteng (ibid: 67). The EIA is very clearly not for an *in situ* upgrade. It also investigates only the constraints to development on the municipally owned land, and not on the other two portions of land (owned by the railways parastatal and the Iron and Steel Corporation (ISCOR)) on which Harry Gwala is located—yet nowhere in the Court proceedings was Harry Gwala narrowed down to include only those households occupying municipal land. Considering vegetation, reptiles, heritage and agriculture in the greatest detail, the EIA completely ignores the human habitation on the site, not even counting the dwellings on an aerial photograph, let alone considering the impact of the proposed development on the residents' lives. For all intents and purposes, the Draft EIA treats the land as uninhabited. When reporting on the public participation that forms part of the EIA process, it responds as follows to the Harry Gwala committee's concerns as to why *in situ* upgrading is not considered: 'the municipality should engage and negotiate with all affected parties should any relocation/resettlement be applicable for any reason' (ibid: 38).

The Constitutional Court very clearly understood the Province to have made an undertaking that, within 14 months, it would reach 'a final decision on the Ekurhuleni Metropolitan Municipality's application in terms of Chapter 13 of the National Housing Code, published in terms of section 4 of the Housing Act 107 of 1997, to upgrade the status of the Harry Gwala Informal Settlement' (Van der Westhuizen, 2009: s.62). However, three months before this deadline, there was no application for upgrading in terms of Chapter 13 of the Housing Code or its successor, Volume 4 Part 3, no investigation into the feasibility of *in situ* upgrading, and certainly no evidence that, according to the principles of Chapter 13 of the Housing Code, relocation was being treated as a last resort. In effect, the City and Province were attempting to replicate the N2 Gateway model of redeveloping the municipally owned portion of the occupied land with higher-income housing, so far with the blessing of the Constitutional Court. While having ordered that the Gauteng MEC 'take a final decision' based on the municipality's 'application in terms of Chapter 13 ... within 14 months', the Court did not commit itself to reviewing or monitoring whether such a decision would actually be based on any application of Chapter 13.

The municipality's real intention for the land occupied by the Harry Gwala informal settlement, namely to develop it with attractive-looking

higher-income units, is revealed not only in the Draft EIA. In 2009, in the build-up to the 2010 FIFA World Cup, the City undertook a costly landscaping or place-marketing exercise at the entrance to the Harry Gwala settlement which is, incidentally, on the tourist route to the nearby grave of former ANC President Oliver Tambo in the Wattville cemetery. City branding signs at the traffic intersection read 'City of Ekurhuleni 2010 Legacy Project' (Figure 9.6). No doubt multi-storey mixed-income housing fits more comfortably with the city's vision for this area than a haphazard informal settlement, even if it is upgraded *in situ*. Even without taking into account the wider context of the Nokotyana litigation and the persistent avoidance of upgrading Harry Gwala *in situ*, Bilchitz (2010a: 591) condemns the Constitutional Court's role as 'wasting away the rights of the poor'. From the perspective of the Harry Gwala residents, it is hard to differentiate the role of the Constitutional Court from the bureaucratic state machinery that is geared towards denying them *in situ* upgrading. With a

Figure 9.6: '2010 Legacy Project'—Ekurhuleni's costly landscaping and city branding project at the entrance to the Harry Gwala informal settlement

Source: Author's photograph (2009)

large measure of realism, a committee member at one of the many meetings with the municipality had summed up the residents' experience as being on the 'wasting list' for housing (Ntombela, comment at municipal meeting, 21 May 2010).

■ ■ ■ ■

In mid-2011, dust having settled after the hosting of the 2010 FIFA World Cup, the Provincial Department of Housing had seemingly retreated from its N2 Gateway-type plan for 500 mixed-income or higher-income, multi-storey housing units, which the Harry Gwala Civic Committee had objected to in their comments on the EIA. Though this was only communicated through the ward councillor, the Province seemed to have returned to the 2006 proposal (by VIP Consulting Engineers) of developing 389 standardised plots to replace the informal settlement (a layout plan had, again, been commissioned for this). These plots were to be made available to a small portion of the current households. A new undertaking was to accommodate the remaining households on 'three sites within close proximity of Harry Gwala' (Hathorn, personal communication, 8 June 2011). The Harry Gwala Civic Committee perceives this undertaking as 'a quantum leap forward'. Its members appreciate 'the general thrust of the provincial government's intentions, and have indicated their wish to engage on outstanding issues of detail in the [pending] Social Impact Assessment' (ibid). They now have a 'cordial' relationship with the ward councillor, await the proposed layout plan and Social Impact Assessment and 'hope for no unpleasant surprises' (ibid).

Requests might still be made from within Harry Gwala to model the layout plan on the existing settlement pattern as far as possible, rather than obliterate all the individual and collective human creativity that signifies this settlement. However, at this point the Province appears to be handling the settlement within the category of 'formalisation' and not as an *in situ* upgrading project. This is despite a national upgrading target, a National Upgrading Support Programme, conditions within Harry Gwala that are favourable to *in situ* upgrading, a statement in the Abahlali ruling that relocation of any informal settlement be treated as a last resort, and an order from the Constitutional Court that a decision be reached on the feasibility for upgrading in terms of Chapter 13 of the Housing Code, the Upgrading of Informal Settlements programme. As in Abahlali's challenge to the KZN Slums Act, the state's resistance to change remains an almost insurmountable obstacle, with only a minimum of concessions made to legitimate demands

from within informal settlements. Yet the Harry Gwala Civic Committee's struggle over seven years for the informal settlement to be recognised and improved, as much as Abahlali's struggle against the KZN Slums Act, is an important claim for a right to the city.

End Notes

1. Mr Kau served on the committee representing Harry Gwala up to 2009 when he passed away. His sudden death was a great loss to the settlement, since he was a significant repository of its history.
2. The police claimed that the Chief Justice insisted on an evacuation strategy that was not applied in the far more packed courtrooms and foyers for both the Joe Slovo and Abahlali hearings. Nonetheless, LPM provincial convenor Maureen Mnisi managed to sway the police captain to permit access for a further 20 community members. As a recognisably middle-class visitor, the police and security allowed me to enter the 'People's Court' late with no questions asked.

Chapter Ten

Towards a right to the city

Urban life has yet to begin.
(Lefebvre, 1996 [1968]: 150)

The victims of anti-urban policies have become the strongest defenders of urbanism.
(Angotti, 2006: 695)

The challenge for social movements—and the 'experts' that work with them—is to come up with new ways of talking about needs and of demanding their satisfaction in ways that bypass the rationality of development with its 'basic needs' discourse. The 'struggle over needs' must be practiced in a way conducive to redefining development and the nature of the political.
(Escobar, 1992: 46)

In this book, I have drawn on literature, debates, processes and struggles in the new millennium, addressing a particular urban condition that is intensifying globally. For the African continent, I have tried to place a (non-quantitative) understanding of the reality of informal settlements within the context of relatively recent pressure for urban competitiveness. This context forms the backdrop and to a large extent the justification for informal settlement eradication drives in several African countries. The book has provided a more detailed analysis of the South African situation, focusing on both the state's approaches to informal settlement eradication and the struggles or initiatives that confront repressive eradication measures. On critical aspects of these processes the book has provided parallels to urban policies and programmes of other African countries. In so doing, it seeks to balance a tendency to see South Africa as an exception to the remainder of the African continent, and more specifically to counter the inaccurate portrayal to other African countries of South African 'success' in stabilising its 'slum' population and upgrading its informal settlements, as is prevalent in the publications of global agencies such as UN-HABITAT or Cities Alliance. But beyond this, what does the notion of a right to the city add to existing efforts to confront informal settlement eradication? In this concluding chapter, I explore the meaning of a right to the city in which

informal settlements are prevalent, I interrogate the notion of urgency in relation to urban competitiveness, and point to the need for a wider and cross-class campaign for a right to the city.

A right to the city in the presence of informal settlements

In situ upgrading of informal settlements, as promoted under South African housing policy, requires the state to exhaust all possibilities for permanently securing and improving an existing informal settlement before resorting to alternatives that involve relocation. However, state decisions not to upgrade informal settlements *in situ* but rather to seek their demolition, their relocation or at best their complete replacement with standardised housing, are not merely technical. Mostly, the local or even central political order perceives an organised struggle for self-definition or emancipation in the 'development' process, for *in situ* upgrading and against externally defined relocation projects, when articulated from within informal settlements, as a threat. Voices from within informal settlements have often unleashed intensified attempts at forcing relocation. The political sentiment complements and aligns itself with a similar insecurity within officialdom. Officials tighten control in their quest to maintain the technocratic superiority they have learnt to assume. The pressure to achieve urban competitiveness has been convenient both to politicians and to officials. In South Africa, new directives to create higher densities and mixed-income developments also provide convenient rationales for removal of well-located informal settlements, even once land is proven suitable for on-site development. Whether in the N2 Gateway Project in Cape Town or Harry Gwala informal settlement in Ekurhuleni, the recent rationale or pressure has been to replace these settlements with higher-density mixed-income housing.

The South African example examined in the previous chapters may be instructive for other African countries, given the pervasiveness of informal settlements that exist in the tension between necessity or quest for urban life and exploitation coupled with rejection by decision-makers in the city. Agendas for urban competitiveness, too, have become pervasive, as have transnational actors such as Cities Alliance who would, for instance, promote upgrading without challenging the repressive prevention of informal settlement formation, through criminalisation, through the militarisation of space or through legislative regression.

Whether consciously or not, informal settlement communities resisting relocation, or mobilising to confront repressive legislation, are fighting for

a right to the city in all three dimensions: firstly, the right to long-term habitation of the city and to spatial centrality; secondly, a right to voice or participation, through access to central decision-making; and thirdly, a right to the *oeuvre*, the creative making of public spaces in the city after one's own desire, and without consideration for their productive utility—in the post-millennial context, utility for urban competitiveness. These three are not separate rights. They need to be achieved together. Yet the pressures on urban land, urban space aesthetics and corporate-friendly decision-making through the urban competitiveness agenda undermine all three components of the right to the city. In Africa's colonial past and South Africa's more recent apartheid history, policies backed by a racist paranoia crowded out all these aspects of the right to the city. In South Africa, important legislative changes after 1994 restored this right in part. However, a new attack on it must be traced to the economic agenda which gives the need to achieve urban competitiveness an unquestioned priority and urgency, allowing it to be intertwined with elite politics and persistent technocratic determinism. This new attack is paralleled in cities across the African continent. It happens to coincide with the MDG project; focusing on symptoms rather than causes, MDG Seven Target 11 has allowed itself to be shaped and indeed perverted by the urban competitiveness agenda.

Lefebvre conceived of the right to the city in the 1960s, reflecting on the way the industrial revolution had shaped European cities both spatially and socially. It had displaced a city which itself was an '*oeuvre*, a feature which contrasts the irreversible tendency towards money and commerce, towards exchange and *products*' (Lefebvre, 1996[1968]: 66, emphasis in the original). In contrast to the exchange value of urban space as product, the *oeuvre* involves the unproductive use of public space in the city as a celebration (ibid).

Lefebvre's conceptualisation of a right to the city does not engage with informal settlements or informality, nor with the pressures of urban competitiveness. However, his reflections are 'eminently suitable for thinking through the transformations taking place in cities and their relationships with the wider world' (Kofman & Lebas, 1996: 53). While questions of participation and of the need for well-located low-income housing have long been on the mainstream 'development' agenda, Lefebvre's concept of the '*oeuvre*' is much ignored. And yet it has critical relevance to our cities today. When Lefebvre asks '[w]here can be found this precious deposit, this sense of the *oeuvre*?' (Lefebvre, 1996[1968]: 180), the answer for contemporary cities in Africa is, on the one hand, in pre-colonial urban settlements which,

as Njoh (1999: 51) shows, were 'guided by indigenous cultural ideals'. On the other hand, for Africa's 'cities with slums' as well as its 'slum cities', as UN-HABITAT (2010b: 38) would have it, it is found (without romanticisation) in the informal, that which the proponents of the competitive city would wish away. These parts of the city emerge out of a necessity and desire for urban life, yet their inhabitants are in constant, sometimes periodic conflict with the centres of decision-making which reject their existence. These unplanned and seemingly haphazard areas are a hindrance to the realisation of commodity value in the aspirant competitive city.

Reflecting on the urban competitiveness agenda for the global city region in Gauteng in South Africa, including the slum eradication drive, Greenberg (2010: 125) has asked:

> *What alternatives present themselves? Instead of orienting outward, desperately looking for the solution in a global system in crisis, is there no possibility of orienting towards the people themselves, their energies, their desires and needs, building on what they have and what they do every day ... ?*

In this sense, promoting a right to the city today is far more difficult than in the context from which Lefebvre was writing. In many African cities in the new millennium, it is a struggle against the destruction of (incomplete) rights to urban life, not only in the iconic case of Zimbabwe's Operation *Murambatsvina*, but in the persistent quest by the state, for instance in South Africa, to change legislation in a way that reduces fairness in eviction procedures, to criminalise those desperately seeking urban life (and survival) through informal means, to intensify the militarisation of land invasion control, to divide informal settlements into desired/suitable and undesired/unsuitable categories, and to treat *in situ* upgrading not as a right (with exceptions) but as an exception.

Disguising the urban problem with urgencies

Lefebvre provided us with '[t]wo groups of questions and two orders of urgency [that] have disguised the problems of the city and urban society' (Lefebvre, 1996[1968]: 177). For the post-millennial context, I have translated these into urban competitiveness, on the one hand, and minimal catering to basic needs, in response to internal political commitments or to the MDGs, on the other. Targets, though able to focus government responses on urgent basic needs, also have the potential to displace real and diverse needs, as urgency leads to standardised delivery. Achieving urban competitiveness

and meeting basic needs appear as two separate drives. In policy terms, they remain within two separate discourses. Government decisions and budgetary allocations on urban competitiveness are seldom exposed to public scrutiny, and are treated as urgent necessities that are not open for discussion. Catering to basic needs, in turn, receives much political attention, discussion and seeming transparency, though lower priority in budgetary allocations. Basic needs have also enjoyed much support from the 'development' sector. Commenting on the vast literature on 'methods and policies that work, the successes and "best practices"', Milbert (2006: 311) finds that 'one might leap to the conclusion that most slums are now covered by basic services'.

Before its deterioration into a 'slum eradication target', the intention of MDG Seven Target 11 was to improve the lives of 'slum' dwellers. In South Africa, a renewed commitment to rolling out interim basic services to informal settlements represents delayed but nevertheless important advancement in this direction. Until very recently, informal settlement communities were told that it would be a waste of resources to spend money on interim servicing before and unless suitability of permanent development was proven. However, the new urgency of the interim services rollout has largely prevented any bottom-up definition of what might be considered appropriate levels and forms of interim services, and any consideration of whether communities could be involved in their implementation. This is most starkly illustrated by municipalities that outsource their interim servicing to poorly trusted security/eviction companies. But even where municipalities undertake to install and maintain these services themselves, the real danger is that once basic servicing is achieved, along with some form of interim tenure security, decisions over permanent recognition and upgrading are postponed indefinitely. In the light of the bleak future promised by the drive to achieve urban competitiveness, the demand for permanent rights to remain on the land will seldom be guaranteed to informal settlement dwellers. Permanent upgrading remains a hard-won exception.

In terms of the basic tenets of the developmental state, as aspired to in South Africa, the economic agenda is to capture urban resources competitively, increasingly through the way cities are shaped, for the 'development' (or basic needs) agenda. I argue that a particular (visible and orderly) approach to basic needs, in turn, is considered essential to this overarching economic agenda. The two are mutually reinforcing. In South Africa, the preparations for hosting the 2010 FIFA World Cup brought this interdependence into the public domain. In the official political discourse, the urgent pouring of public resources into stadiums and precinct regeneration became as much a

necessity as that of eradicating unsightly informal settlements and building façades of attractive-looking housing in preparation for this event. The state promised economic spin-offs to investors as much as to shack inhabitants or evictees, though less convincingly to the latter.

The two orders of urgency, intensified by the hosting of the 2010 FIFA World Cup and the subsequent agenda to continue the accelerated development, have mutually reinforcing consequences. They focus the state squarely on symptoms rather than causes. As already mentioned, they squeeze out the possibility of 'the realization of urban society' (Lefebvre, 1996[1968]: 178) and therefore make it even more difficult for ordinary people in informal settlements in South Africa, whether members of organisations like LPM, AEC, Abahlali, APF, SANCO, FEDUP, SAHPF or ISN, to access their right to the city.

Who can bring about a right to the city?

Lefebvre speaks to the realities and challenges of the working class in European cities in the 1960s, and not to people living in informal settlements, organised into formations such as those mentioned above that represent their shared needs and struggles. But there are parallels here with Lefebvre's concern with the spatial segregation of the working class, and its exclusion not only from spatial centralities but also from centres of decision-making. He interprets the contrasting classes as 'rivals in their love of the city' (ibid: 67), and expands on this by arguing that

> *violent contrast between wealth and poverty, conflicts between the powerful and the oppressed, do not prevent either attachment to the city nor an active contribution to the beauty of the oeuvre. In the urban context, struggles between fractions, groups and classes strengthen the feeling of belonging.* (ibid)

Lefebvre ascribes a central role to the excluded groups, imbuing them with the ability to 'defeat currently dominant strategies and ideologies' (ibid: 154). He calls for '[a] leap forward of rationality', which '[neither] the State nor private enterprise can provide', requiring instead a 'social and political force' which is able to put the 'social needs' of 'urban society ... into *oeuvres*', (ibid: 178). His concept of 'the *oeuvre*' was intended as a means to 'overcome divisions' (Kofman & Lebas, 1996: 20). 'Capitalism and modern statism' had 'both crushed the creative capacity of the *oeuvre*' (ibid). A pervasive exchange value had displaced it. Lefebvre's vision was that 'the *oeuvre* as an objective' would restore use value, indeed a form of utopia, but one which he believed was possible

(ibid: 21). He therefore expressed concern about 'the loss of the feeling that there is an ability to achieve the possible', a loss that was making 'the possible impossible' (ibid). Yet, '[w]ho would not hope that the city becomes again what it was—the act and *oeuvre* of a complex thought?' (Lefebvre, 1996[1968]: 154). In South Africa today, a demand such as the following signals a hope that what is seemingly impossible in terms of an urban competitiveness agenda is indeed possible: 'We need an Act that will open the cities and protect the poor' (Abahlali baseMjondolo Youth League, 2008). Abahlali voiced this demand during its struggle against the regressive KZN Slums Act. This kind of normative contestation is important—in it, the full utility of 'slum-free city' agendas must be exposed. As Abahlali's president, S'bu Zikode, puts it, '[i]n fact we have to work very hard and be very clever just to find a place for ourselves in this world that the rich have made for themselves' (Zikode, 2007). But increasingly it is not 'the rich' that have made this world for 'themselves'. The urban world is made for investors. Even the rich (though with exceptions) get second-best, confined as they are to commodified collective spaces or to individualised life behind fake Tuscan façades and electric fences (increasingly exported from South Africa or Brazil to elite enclaves in cities across Africa). They too have no access to meaningful 'urban life', though they are largely blinded to the existence of such an alternative, understanding it as being undermined in the first instance by urban criminality. Harvey (2005: 185) captures the limits of 'urban life' for those confined to commodified consumption of the neoliberal city:

> *those thoroughly incorporated within the inexorable logic of the market and its demands find that there is little time or space in which to explore emancipatory potentialities outside what is marketed as 'creative' adventure, leisure, and spectacle. Obliged to live as appendages of the market and of capital accumulation rather than as expressive beings, the realm of freedom shrinks before the awful logic and the hollow intensity of market involvements.*

The increasing 'contradictions within neoliberalism', Harvey (ibid: 203) argues, pose 'a serious political problem that can no longer be swept under the rug as something "transitional" on the way to a perfected neoliberal world', and should therefore be exploited. They may form the basis for 'mass movements voicing egalitarian political demands and seeking economic justice, fair trade, and greater economic security' through 'an entirely different bundle of rights' from 'those held sacrosanct by neoliberalism' (ibid: 203–204). These 'contradictions within neoliberalism' are experienced perhaps most directly in the shape of our cities and the limitations this places

on meaningful urban life. The 'right to the city' captures the bundle of urban rights relevant to this endeavour, which, Harvey (ibid: 204) argues, requires 'an alternative social process within which such alternative rights can inhere'. And as pointed out by Escobar (1995: 216), 'changing the order of discourse is a political question that entails the collective practice of social actors and the restructuring of the existing political economies of truth'.

The 'contradictions within neolibralism', increasingly apparent across classes, suggest that real space exists for widening cross-class solidarity towards attainment of a right to the city, collectively challenging the discourse and chiselling away at the 'existing political economies of truth'. In Brazil, this has required of the middle class that they accept 'the fact that ... residents of slums are capable of producing knowledge—of organizing and systematizing their thoughts and thus producing interpretations that may contribute greatly to the way in which middle-class professionals evaluate society' (Valla, 1999: 95). High-profile actions from within informal settlement organisations, such as Abahlali's challenge of the KZN Slums Act, have the potential to awaken such awareness. In this sense, 'direct action', as Pieterse (2008: 95) puts it, 'potentially shakes up the middle-class lack of interest in life beyond the suburb'. Alongside this hopeful vision, however, an uncomfortable ethical question remains for those in the middle class who resent being beneficiaries of public expenditure that is intended to boost urban competitiveness, and aspire to a meaningful and widely shared right to the city. Given the harsh attacks on poor communities that have taken up litigation, should it not be formations of the middle class (financially and legally more cushioned) that, in proper solidarity with poor people's movements, take on more of the risks? This would relate not only to direct action, but also to a widening of the normative contestation over the urban future well beyond the dominant professional and middle-class ideas of aesthetically appealing mixed income eco-friendly developments. A far deeper questioning is needed on the meaning of a right to the city in contexts characterised by the inequalities, divisions, spatial and political exclusion, hardship as well as human resolve and creativity that are displayed by the presence of informal settlements.

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