



Shaky structures on solid foundations

The impact of low-income state-subsidised housing on the realisation of the right to adequate housing in post-apartheid South Africa

Benjamin Rafferty

(RFFBEN001)

February 2016

Minor dissertation submitted in fulfilment of the partial requirement for the degree of MCom
(Economics) at the University of Cape Town

Supervisor: Prof. David Kaplan

The copyright of this thesis vests in the author. No quotation from it or information derived from it is to be published without full acknowledgement of the source. The thesis is to be used for private study or non-commercial research purposes only.

Published by the University of Cape Town (UCT) in terms of the non-exclusive license granted to UCT by the author.

Table of Contents

Abbreviations	5
List of Tables and Figures	6
1. Introduction	7
(a) Background to the study	7
(i) Context in which research takes place	7
(ii) Key participants or stakeholders	9
(iii) Aims and objectives of the study	9
(b) Chapter organisation	10
(i) Research Methodology (Chapter 2)	10
(ii) Review of policy development (Chapter 3)	10
(iii) The right to a housing product (Chapter 4)	10
(iv) Data Analysis and Discussion (Chapter 5)	10
(v) Conclusion (Chapter 6)	11
2. Research Methodology	11
(a) Research Methods: Qualitative, Quantitative and Mixed Methods	11
(b) Qualitative Research Methods for Low-income housing provision	12
(c) Data Sources	12
3. Review of policy development	14
(a) International practice	14
(i) John F.C. Turner (1960s-70s)	15
(ii) World Bank (1970s-80s)	16
(b) Domestic influence	17
(i) Urban Foundation (1976-1990)	17
(ii) Post-apartheid housing policy (1992 onwards)	19
(c) Conclusion	26
4. The right to a housing product	26

(a) Housing as a socio-economic right internationally	26
(b) The foundation of the right in South Africa (Section 26)	28
(c) Interpreting the State's obligations	29
(d) Core elements of adequate housing	30
(i) Accessibility	31
(ii) Affordability	32
(iii) Location	34
(iv) Availability of services, materials, facilities and infrastructure	34
(v) Habitability	35
(vi) Security of tenure	39
(e) Conclusion	42
5. Data Analysis and Discussion	44
(a) Introduction	45
(b) Sourcing the data	45
(c) State-subsidised housing delivery	46
(i) Delivery by tenure type	47
(ii) Transfer (and lack of transfer of) title deeds	52
(iii) Habitability of state-subsidised housing	53
6. Conclusion	55
(a) Research question	55
(i) Reviewing the development of housing policy	55
(ii) The right to adequate housing in South Africa	55
(iii) Core elements of adequate housing	56
(iv) Delivery of state-subsidised houses	57
(b) Implications for policy	58
(i) Continued emphasis on homeownership	58
(ii) Informal sale of RDP/BNG houses	58

(iii) Adequate housing cannot be realised through housing policy alone.....	58
(c) Recommendations for further research	58
(i) The adequacy of location for BNG houses constructed since 2009 (phase 2)	58
(ii) Potential for reducing standards to increase supply	59
(iii) Impact of use of emerging contractors and employment creation on habitability	59
(d) Final thoughts.....	59
Reference List	60
Appendices.....	75

Abbreviations

ANC	African National Congress
BNG	Breaking New Ground
COSATU	Congress of South African Trade Unions
DBSA	Development Bank of Southern Africa
DoH	Department of Housing
DoHS	Department of Human Settlements
GNU	Government of National Unity
HSS	Housing Subsidy Scheme
HWP	Housing White Paper
IDT	Independent Development Trust
IRDP	Integrated Residential Development Programme
MEC	Minister of Executive Council
MDM	Mass Democratic Movement
NHF	National Housing Forum
NP	National Party
PDoHS	Provincial Department of Human Settlements
RDP	Reconstruction and Development Programme
SANCO	South African National Civic Organisation
UF	Urban Foundation

List of Tables and Figures

Tables

Table 1: Subsidy per household by type of capital subsidy, 1994 - 2004	23
Table 2: IRDP subsidy by household income, 2004 - 2015	25
Table 3: Houses/units completed, by province, 1994 - 2004 & 2004 - 2015	47
Table 4: Types of tenure for RDP/BNG housing, 1994 - 2004 & 2004 - 2015	48
Table 5: 'Waiting list' by type of dwelling, by province, 2013	50
Table 6: Number of households living in shacks, 2003 & 2012	51
Table 7: Transfer of title deeds, by province, 1994 - 2015	52
Table 8: Poor or very poor roof and wall quality, by province, 2003, 2008 & 2013	54

Figures

Figure 1: Housing provision systems	15
--	----

1. Introduction

(a) Background to the study

(i) Context in which research takes place

Section 26 of the Constitution of South Africa, 1996, stipulates that ‘everyone has the right of access to adequate housing’, and it is the State’s obligation to implement ‘reasonable measures, within its available resources, to achieve the progressive realisation of this right’ (Republic of South Africa [RSA], 1996:chap2,s26). The Housing Act of 1997 expands on the Constitution and has established a legislative framework specifying roles and responsibilities of the three tiers of government (national, provincial and local), and the National Housing Code (2000 and 2009) establishes housing programmes to be implemented at the provincial and local level, in order give effect to this legislation. However, despite these seemingly reasonable and appropriate measures (legislative and policy), the realisation of the right of access to adequate housing is still beyond the reach of many low-income earning South African households.

Housing is both a product and a process (*Housing Act, No. 107 of 1997*, 1997). The process of providing low-income housing in post-apartheid South Africa has been financed through capital subsidies under two policy frameworks: the *Housing White Paper* of 1994 and the Comprehensive Plan: *Breaking New Ground* of 2004. Since 1994 nearly 3 million state-subsidised houses, of various types, have been delivered across the country. The delivery of these houses has brought with it many plaudits and critics, and indeed there have been notable successes but also failures in the delivery of these houses.

Successes of state-subsidised housing delivery

- The state-subsidised housing intervention is one of the few government programmes to place a tangible asset in the hands of the poor (Gilbert, 2004).
- The standardized housing product represents a considerable improvement for beneficiaries relative to their prior material conditions (Huchzermeyer, 2005).
- The housing delivery numbers have been significant. Since 1994 nearly 3 million completed houses have been delivered, which is ‘unparalleled internationally’ (National Treasury, 2007:68), to the relative size and wealth of the country. For example, in countries who have adopted the targeted capital subsidy programme, such as Chile and Colombia, 91 130 and 46 366 subsidies

were approved per annum between 1990 and 2000, respectively. While South Africa, approved 196 030 subsidies¹ per annum between 1994 and 2000 (Gilbert, 2004:25)

- The funding model (i.e. capital subsidy system) has permitted governments to limit its spending, keeping budgets in check (Gilbert, 2004:33). It has performed better than other important social areas, such as: education, health, and employment (Gilbert, 2004:33) and has established a great deal of legitimacy among the poor (Charlton and Kihato, 2006:254).

Failures of state-subsidised housing delivery

Those who regard state-subsidised housing delivery in a negative light generally emphasise three facets:

- Lack of end-user finance,
- Lack of settlement integration into the urban built environment, and
- The poor quality of the houses built.

Lack of end-user finance

Finance has not been sufficiently made available to the beneficiaries of state-subsidised housing. The main reason for this is that the attempts to incentivise private sector financial institutions to lend to low-income households has failed. Specifically, the 1994 Record of Understanding sought to ‘normalise’ the township housing market, due to the rent and bond boycotts of the early 1990s, rather than actively promote lending to the township housing market (Tomlinson, 1998b:3), (Khan & Thurman, 2001:11). As a result of the lack of available end-user finance beneficiaries of state-subsidised houses have been unable to incrementally upgrade their houses and the houses have failed to become ‘valuable assets’, as intended in the Housing White Paper of 1994 (Department of Housing [DoH], 1994); (Charlton & Kihato, 2006:255) (Huchzermeyer, 2003).

Lack of settlement integration into the urban built environment

The vast majority of state-subsidised houses have been located on the urban periphery. This lack of settlement integration into the urban built environment combined with the low-incomes and wealth of the beneficiaries has resulted in ‘ghettos’, or ‘indigent neighborhoods’ (Gilbert, 2004:31); (Gardner, 2003:21-22). The predominant reason cited for this lack of settlement integration is the low subsidy levels (Tomlinson (1999:290); Thurman (1999:4); Council for Scientific and Industrial Research [CSIR] (1999:64)).

¹ Note that the number of subsidies approved per annum does not equate to the number of houses built, as not all subsidies approved are allocated towards the construction of houses.

The quality of the houses built

There have been significant problems with the quality of the state-subsidised houses, highlighted by both independent researchers (Gardner, 2003:21) and government affiliated researchers (CSIR, 1999); (Public Service Commission, 2003).

Considering both the perceived and/or real successes and failures of the state-subsidised housing it is evident that, at the very least, it is unclear whether households have been left unreservedly better off as a result of the programme(s) (Tomlinson, 1999).

(ii) Key participants or stakeholders

The Constitutional Court has played an important role in determining and interpreting the obligations of the State in terms of the Section 26 of the Constitution: the right of access to adequate housing. This legislative foundation has been expanded upon by national government, in the Housing Act of 1997. The development of housing policy in South Africa has been influenced by a variety of stakeholders. Most notably, in terms of international best practice, was the work of John FC Turner (1976) who laid the foundations for the 'state-enabling' approach. His work was adapted by the World Bank (1980s) towards a more 'market-oriented' approach which significantly influenced domestic policy discourse in the 1980s and early 1990s. In South Africa, the Urban Foundation (1976-1990), influenced by the World Bank, successfully persuaded the apartheid government to think of a new approach to the housing problem. The Urban Foundation, through the creation of the Independent Development Trust (1990), which was funded by the NP government, developed and implemented a site-and-services scheme (1990-1992) that was brought to the negotiations at the National Housing Forum (1992-1994), where South Africa's first post-apartheid housing policy was developed, and used as an example of a 'efficient housing programme'. A variety of stakeholders from very different perspectives thrashed out a housing policy that would be adopted in the Housing White Paper in 1994. Since then the ANC-led government, and specifically the national and provincial departments of housing, has created and implemented a number of legislative and policy interventions. In terms of the delivery of housing between 1994 and 2001 houses were delivered by private-sector developers. Since 2001 provincial and local governments have assumed responsibility of the delivery of low-income housing.

(iii) Aims and objectives of the study

The main objective of the study is to analyse the impact of state-subsidised housing on the realisation of the right to adequate housing. In order to do this, it is important to:

1. Review the development of housing policy internationally and in South Africa.

2. Understand what the implications of section 26 of the Constitution are; in terms of housing as a right, the State's obligations from the right, and what full realisation of the right entails.
3. Review how legislation, policy and the implementation of policy have impacted on the realisation of the right to adequate housing and its six core elements: accessibility, affordability, location, availability of services and materials, habitability and security of tenure.
4. Examine the delivery of state-subsidised housing and its impact on tenure options, security of tenure and the habitability of the state-subsidised housing product.

(b) Chapter organisation

This paper has five chapters, not including the introduction. Chapter 2 is the research methodology, Chapter 3 is a review of policy development, Chapter 4 examines the right to a housing product, Chapter 5 is the data analysis and discussion, and Chapter 6 concludes.

(i) Research Methodology (Chapter 2)

The dominant research method chosen for this paper is the Mixed Methods approach, combining qualitative and quantitative data analysis.

(ii) Review of policy development (Chapter 3)

The development of housing policy is reviewed from international as well as domestic influencers. The review of housing policy in post-apartheid South Africa is divided into two main phases: phase 1 from 1994 to 2004, under the Housing White Paper (1994) national policy framework and phase 2 from 2004 to present day, under Breaking New Ground (2004) policy framework; with a focus on the housing subsidy scheme.

(iii) The right to a housing product (Chapter 4)

Chapter 4 examines housing as a socio-economic right, as conceived of internationally and domestically in terms of Constitution (1996). The state's obligations are then delineated and interpretations of the state's obligations are reviewed. The chapter then moves on to outlining the six core elements of adequate housing, and the impact of housing legislation and policy on these elements.

(iv) Data Analysis and Discussion (Chapter 5)

The Data Analysis and Discussion chapter takes a look at the delivery of low-income housing provided by the State, through the number of state-subsidised houses built since 1994, the type of tenure delivered, the transfer (and lack of transfer) of title deeds and the habitability of these houses, across the nine provinces.

(v) Conclusion (Chapter 6)

The paper is then wrapped up in the Conclusion chapter where the main findings are reiterated, policy recommendations are made and areas of future or further research identified.

2. Research Methodology

(a) Research Methods: Qualitative, Quantitative and Mixed Methods

In broad terms there are two distinct research paradigms: the quantitative research method and the qualitative research method. Broadly speaking the quantitative method utilises statistical procedures or other means of quantification as its method of research. Qualitative methods by implication are all the other methods not using quantitative measures.

The qualitative method is concerned with ‘understanding human behaviour’ from the perspective of the people involved, while quantitative method is concerned with ‘discovering facts about social phenomena’ (Winter, 2000). Each has different underlying philosophies and assumptions. In general, the philosophy underpinning quantitative research is positivism. Positivism proposes that only that which can be verified scientifically or through logical or mathematical proof can be recognised as knowledge. This philosophy assumes that there is an objective reality to social facts. While measurement and the identification of the particular variables may be problematic, the ‘process of measurement’ must be objective, quantitative and statistically appropriate. Qualitative research on the other hand may include a variety of philosophical assumptions, depending on the particular method employed. Because of this, the two research methods result in different kinds of knowledge. The credibility of the knowledge produced by quantitative research is based on the instruments the particular researchers create. While for qualitative research the researchers themselves are the instrument of credibility (Nahiduzzaman, 2012). In other words, in quantitative research the researchers attempt to remove themselves as much as possible from the research process, while quantitative researchers are necessarily tied to their research (Winter, 2000)

There is however a third way to research, often not represented by proponents of the qualitative versus quantitative method dichotomy. This is the mixed methods approach. Burke Johnson & Onwuegbuzie (2004) advocate for a mixed methods approach to complement the traditional qualitative and quantitative methods. Based on philosophical pragmatism this approach utilises both quantitative and qualitative research methods in order to best answer particular research questions.

This dissertation utilises the mixed methods research approach. This approach permits the use of a variety of methods, techniques and procedures best suited to the research questions. For example, an historical

approach is used to provide context to the state-subsidised housing policy and a legal analysis is used to lay a legislative foundation of the right of access to adequate housing.

(b) Qualitative Research Methods for Low-income housing provision

Nientied & van der Linden (1985) identify two main research paradigms to the study of low-income housing provision: the ‘liberal’² and the Marxist. Each paradigm has different ‘interpretations of the empirical situation leading to different definitions of the empirical situation’ (Nientied & van der Linden, 1985:315). For instance, the Marxist applies a distinction between ‘social appearance’ and ‘social reality’. In order to ascertain this social reality a number of theoretical concepts (e.g. abstract labour and value) must be used to explain the generation of the ‘phenomenal forms’. Implicit in Marxist research is that all non-Marxists deal with these ‘phenomenal forms’ – the realm of appearance. Each of these have different ‘underlying scientific methods’ and therefore no ‘mutually recognized terms of references’, making debate between the two impossible.

The ‘liberal’ paradigm is more nuanced and encompasses a number of different approaches in framing the issues related low-income housing provision. Two examples of approaches to framing the ‘housing problem’ in the liberal paradigm are the work of John FC Turner and the World Bank. Turner frames the ‘housing problem’ as ‘functions of the mismatches between household’s socioeconomic and cultural situations and their housing processes and products’ (1976:72). While the World Bank (of the 1970s and 80s) frames the housing problem in terms of the ‘housing deficit’. That is, in market-terms – the difference between demand and supply (Nientied & van der Linden, 1985). Both approaches are in agreement that the causes of the ‘housing problem’ are institutional in nature, but differ in their solutions. According to Turner (1976) the ‘users’ of housing should be in control of the housing process, while the World Bank argues that because demand for housing always exceeds supply focus should be on ‘supply restructuring’ (reducing the costs of provision). This approach by the World Bank lay the foundation for the state-enabling method of housing provision, and has significantly shaped South Africa housing policy discourse.

(c) Data Sources

For the historical analysis aspect of the policy section (chapter 3(b)(i) and (ii)) information was sourced entirely from secondary sources. This analysis examines the interpretations and analyses of particular events and particular stakeholders. The most notable event analysed is the National Housing Forum

² This research method has also been termed the Weberian or non-Marxist, by Nientied & van der Linden (1985)

(NHF) where, essentially, the first post-apartheid housing policy was developed. The most influential stakeholder was the Urban Foundation (UF) and the Independent Development Trust (IDT). The closest sources of secondary information for the NHF and UF are the authors who were either involved in the discussions or had close ties to participants of NHF or employees of the UF. For the NHF it was a detailed account of the development of housing subsidy policy produced by the National Housing Forum Trust (Rust & Rubenstein, 1996).

The problem with predominantly relying on sources that had an interest, either directly or indirectly, in the success of the NHF (for example) is that they are prone to unintentional bias at the very least or propaganda³ at worst. This is mitigated somewhat by the sourcing of research that is critical of these events. However, the problem remains that the critics of these particular events were not themselves party to the events, and so lack the ‘insider knowledge’ that those who were party to the events had. This is most evident in the analysis of the discussions and processes of the NHF.

The primary data sources for the review of policy development (chapter 3) include the Housing White Paper (1994) and the Comprehensive Plan: *Breaking New Ground* (2004). These two government policy frameworks represent the two national housing policy frameworks that have been implemented by the post-apartheid state. These two sources of information were important to ascertain the intention of the state in terms of its provision of adequate housing. Secondary data sources were used for the interpretation of housing policy and for the differences between policy intention and implementation. As was done for the legal analysis, tertiary sources (in the form of resource guides) are utilised as introductions to the housing policy basics. However, these are not referenced in depth.

The legal analysis utilises predominantly primary sources but includes, where appropriate, secondary and tertiary sources. There are two categories of primary sources used for this legal analysis: legislation and case law. The legislation is from both international and South African law. Internationally, the *International Covenant on Economic, Social and Cultural Rights* is examined and domestically, the *Constitution (1996)*, the *Housing Act (1997)* and the *National Norms and Standards (1999 and 2007)* are examined. In terms of case law two Constitutional Court judgments are of a particular importance: the *Grootboom (2000)* and *Joe Slovo (2009)* cases. These sources were chosen in order to attain a legislative understanding of the right to adequate housing, and its implications.

A variety of secondary sources were also utilised for the legal analysis. These include interpretations of the Constitutional Court judgments, comparisons of different obligations delineated in the Covenant and

³ Propaganda is understood here as information that is presented, in a biased or misleading manner, to promote a political perspective or ideology.

the Constitution, reviews of the development of the right to housing internationally and the defining of ‘adequate housing’. Tertiary sources are also utilised in the form of resource guides, predominantly as introduction to particular topics and are not used extensively in the analysis.

In terms of the core elements of adequate housing (chapter 4(d)) information was sourced entirely from secondary sources. This section conducts a quasi-literature review in order to detail some of the conflict and agreement in reference to the core elements of adequate housing.

For the Data Analysis and Discussion (chapter 5) numbers on the delivery of state-subsidised houses was sourced from information provided by the national and provincial departments’, in the form of Annual Reports and Annual Performance Plans. These were chosen as they were the only sources of information on delivery for all nine provinces. Where inconsistencies in values between sources arose, the value that was repeated most across the data sources was chosen or if few were available the values that appeared most accurate. Other data were sourced from the General Household Survey data sets (2003 to 2013). The purpose of the General Household Surveys is to measure the level of development and performance of a multitude of government programmes. Specifically, they have data on private households for the nine provinces relating to type of dwelling, type of tenure, quality of housing and access (and standard) of services, and so was relevant for this paper.

3. Review of policy development

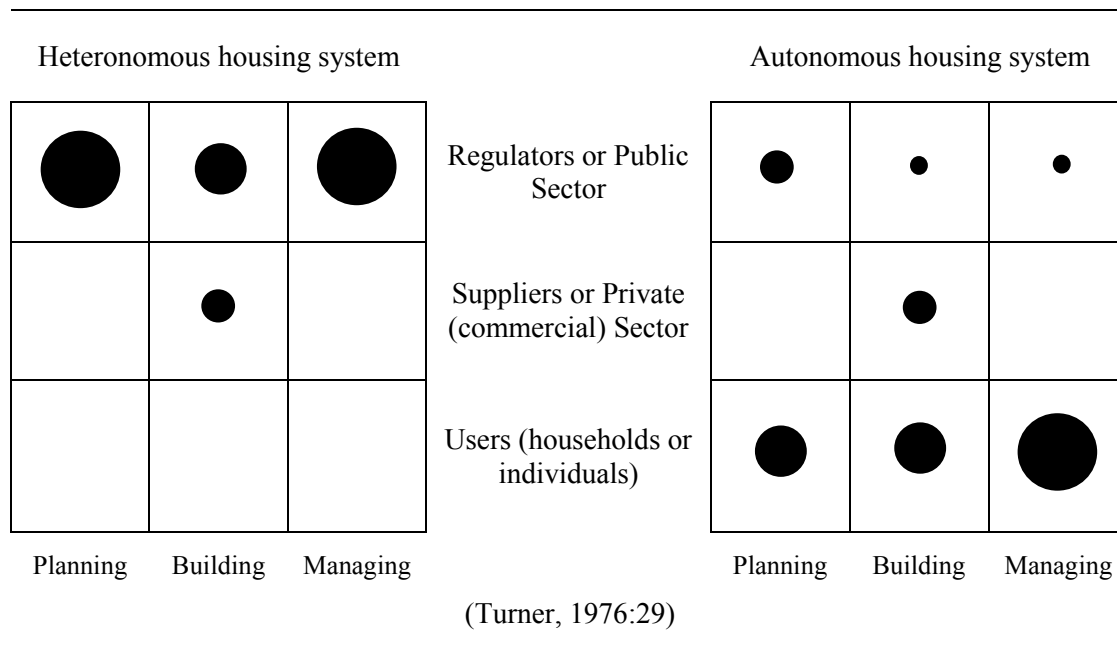
(a) International practice

Historically and internationally there are two main approaches to the provision of housing: the ‘conventional’ provision approach, and the ‘state-enabling’ approach. So-called ‘conventional’ provision typically involves the state taking responsibility and control of the ‘housing process’. That is, the state controls the planning, construction and management phases of the housing process. For example, public housing programmes where the State builds, owns and maintains housing leased to low-income households, often at subsidised rates. The ‘conventional’ approach to housing provision was popular in Western Europe, the Eastern Bloc, and apartheid South Africa post-World War II, until the ‘fall of communism’ and the rise of neoliberalism in the late 1980s and early 1990s. The ‘state-enabling’ approach shifts the responsibility of the ‘housing process’ away from the public sector towards the private sector and the ‘users’ of housing.

(i) John F.C. Turner (1960s-70s)

One of the most vocal advocates of the state-enabling approach during the late 1960s and 1970s was John FC Turner. Turner (1976) in his critique of ‘conventional’ state provision proposed that housing provision should be ‘user’ controlled, rather than state controlled. That is, he proposed that the housing provision system shifts from ‘heteronomous’ (i.e. conventional) to an ‘autonomous’⁴ system. **Figure 1** represents this visually:

Figure 1: Housing provision systems



In the ‘heteronomous’ housing system, shown on the left in **Figure 1**, control over the planning, building, and managing stages lies predominantly with regulators (or the public sector), with a little control of the building stage by suppliers (or the private sector). The ‘autonomous’ housing system, shown on the right in **Figure 1**, shifts this control towards the users (i.e. households), for all three stages⁵. Turner’s basic argument is that standardised (conventional) housing provision and products do not adequately meet the changing needs and priorities of households (the users). Therefore, households should be empowered to control each stage of the provision process so they can match their needs/priorities with the appropriate

⁴ Note that ‘autonomous’ housing provision is synonymous with the term ‘self-help’ housing.

⁵ While the user is in control of the ‘building’ stage they are not necessarily expected to physically build the house themselves.

housing product. This is facilitated through decentralised, local institutions rather than hierarchical and highly centralised institutions. The role of the State or government in the autonomous system is to:

1. Provide bulk infrastructure which cannot, or is not expected to, be provided by households (e.g. roads, sewerage treatment, water and electricity)
2. Legislate *proscriptive* laws (“thou shalt nots”) rather than *prescriptive* laws (“thou shalt”)
3. Provide and protect *access* to important elements of housing provision (e.g. land, laws, building materials, credit, knowledge, etc.)

It is this third point (providing access to important elements of housing provision) that is the most radical aspect of Turner’s (1976) work, and vital to the success of it. According to Nientied & van der Linden (1985:314) if his proposals were implemented at scale they would ‘shake the foundations of capitalist society’. For example, ensuring access to the element ‘land’ would require a strong redistributive policy. It was not therefore realistic to expect governments to implement Turner’s approach in full. As a result governments adopted his recommendations in part, focussing on particular aspects of ‘autonomous’ provision, most commonly ‘sites-and-services’⁶. International institutions, such as the United Nations (UN) and World Bank, put their weight behind this this new approach and by the late 1980s the state-enabling approach was entrenched as ‘best-practice’ (UN, 1988) (Keivani & Werna, 2001) (Angel et al., 1993:13).

(ii) World Bank (1970s-80s)

The World Bank’s approach was presented by the Bank as a combination of Turner’s proposals and a response to the empirical situation. However, the Bank’s approach is probably better understood as a reflection of ‘basic economic theory’ than Turner’s. The Bank conceived of the ‘housing problem’ in market terms. That is, the housing problem is measured in terms of the ‘housing backlog’, which is a function of demand less supply.

In the World Bank’s conception there will always be greater demand for housing than there is supply. The focus of government policy should be on reducing the constraints in supply. Given that there are limited available resources (i.e. scarcity), they argue that supply costs need to be reduced (termed ‘supply restructuring’) in order for more houses to be made available in the formal housing market. The three main components of supply that need restructuring are *land*, *services* and *finance*. In order to reduce the costs of *services* the Bank recommends that standards are *lowered*. The constraints in access to land and

⁶ A site-and-service scheme is where a parcel of land (with or without a top-structure) is provided with a level of bulk services (e.g. water, electricity and sanitation) and it is the responsibility of the ‘user’ to build (or incrementally upgrade) and maintain the dwelling.

finance are regarded as ‘institutional’ in nature. The cornerstone of the World Bank’s recommendations is that the financial burden associated with providing access to land, services, and finance be shifted from the State to the private-sector or the households themselves. This is accomplished through appropriate pricing policies, the mobilisation of the ‘energies and resources of the community’ (letting users build their own houses, and/or assume contractual and managerial responsibilities) and advocating incremental upgrading (World Bank, 1993).

This approach to low-income housing provision is markedly similar to the type of provision advocated for by the Urban Foundation (UF) and affiliates in South Africa during the 1980s and early 1990s (Blake, 2000:8). According to a former member of the UF interviewed by Gilbert (2002:1927) the ‘UF learned the World Bank story’ and while there is no explicit evidence that international practice informed the discussions in the National Housing Forum (NHF) (see: Rust & Rubenstein, 1996), the influence of the UF on the NHF is clear and substantial.

(b) Domestic influence

(i) Urban Foundation (1976-1990)

It is often cited that the June 16th 1976 Soweto Uprising and subsequent revolts and civil unrest sowed the seeds of mistrust in business circles for those in government to manage the conditions in South Africa’s urban townships (Smit, D., 1992:36); (Khan & Thurman, 2001:6). This loss in confidence combined with the renewed tide and mass demonstration against apartheid, both domestically and internationally, was quickly seen as an opportunity for the business community and private sector to increase their influence in the housing and urbanisation policy-making arena (Hill, 1983:73), (Urban Foundation, 1990).

In November 1976, Harry Oppenheimer (of Anglo American) and Anton Rupert (of the Rembrandt Group) convened a conference of white business leaders, academics and urban black leaders in order to seek ways to ignite the debate on socio-economic policy reform for the urban black population (Steyn, 1980). Former judge Jan Hendrik Steyn was integral in setting up the conference. The conference convened by JH Steyn culminated in the creation of the Urban Foundation (UF) by mid-December 1976. Chaired by Oppenheimer, with Rupert as deputy and led JH Steyn as Director, the UF began operations as a section 21 non-profit company in early 1977 (Smit, D., 1992:36).

In the 1980s, the policies proposed by the UF and the UF established Private Sector Council on Urbanisation⁷ were premised on the belief that the urban housing crisis (manifest in the shortage of

⁷ In November 1985 the UF formed the Private Sector Council on Urbanisation (PSC). Here the UF brought together six national employer organizations, important business leaders and several notable members of the black community to lobby for the abolition of influx control and to develop housing and urbanisation policies.

affordable and adequate shelter for the black population) was caused by ‘too much state intervention’ (Lombard, 1996:16) (Tomlinson 1998a:138). That is, in the UF’s view, the crisis could not be addressed by ‘conventional’ housing provision, but rather through the state-enabling approach, and specifically provision of site-and-services.

The cornerstone to the housing proposals of the UF was the emphasis on homeownership (especially black homeownership), over other forms of tenure (e.g. rental and communal). Homeownership was seen as a way to offer the opportunity for ‘self-reliance’ and promote ‘political stability’. In terms of political stability, the idea here, and the expectation among reformist white politicians and businessman, was that a black middle-class urban household who owned a house would be less swayed by radical political ideology, because home-ownership increases ones stake in society and an interest in its stability (Bond, 2000a:242) (Lombard, 1996:17) (Smit, D., 1992:37).

The UF succeeded in influencing policy of the National Party (NP) government, encapsulated in the 1986 White Paper on Urbanisation (Adler & Oelofse, 1996). However, despite this shift in policy the NP government continued with their complicated system of ‘conventional provision’⁸ as a means to co-opt the different race groups (Gilbert, 2002). In addition, the site-and-services schemes were focussed on the black middle class rather than as alternative strategy for low-income households, as was recommended by the UF and World Bank (Tomlinson, 1999).

Independent Development Trust (1990-1992)

In February 1990, a few months after President de Klerk entered office, the President ordered the Minister of Finance to telephone JH Steyn – head of the UF – to ask whether he would be able to ‘compile a memorandum on how the government could tackle a socio-economic upliftment programme’ (Nuttall, 1997:10). JH Steyn had four days to respond with his answer. JH Steyn accepted and over a weekend, he alone, compiled a document that was accepted by government three days later. The Independent Development Trust (IDT) was established to implement such a programme, headed up by JH Steyn, and supported by former colleagues from the UF (Khan & Thurman, 2001) (Nuttall, 1997). The IDT was allocated R2 billion⁹ by government for the purposes of supporting ‘education, housing, health services and business development projects in poor black communities’ (IDT, 2015). Of this R2 billion, R750 million went towards housing and specifically towards the implementation of a ‘site-and-services’ scheme.

⁸ The NP government financed public housing through an interest rate subsidy attached to a mortgage bond that could be accessed through a formal institution policy (Tomlinson, 1998a:138)

⁹ Part of this was raised by the selling off of strategic oil supplies stored during ‘the sanctions era’ (Adler & Oelofse, 1996:116)

Financing the site-and-services scheme

The site-and-services scheme would be funded through targeted¹⁰ capital subsidies. The idea to fund it through targeted capital subsidies came directly from the work of the UF. The UF chose capital based subsidies rather than interest-rate-based subsidies because capital subsidies were ‘part of the culture’ of the UF and according to one member interviewed by Gilbert it was ‘what [they] talked about’ (2002:1920). Support for capital subsidies came from the Development Bank of Southern Africa (DBSA), who were ‘strongly hostile’ to interest-rate-based subsidies (Gilbert, 2002:1920). Even a ‘rival of the UF’ was ardently against interest-rate-based subsidies because they were ‘a guaranteed way of bankrupting the country’ (Gilbert, 2002:1920).

The IDT’s subsidy programme allocated roughly 100 000 flat rate subsidies – as opposed to subsidies tiered by income level – of R7 500 each, to households who earned less than R1000/month. The subsidy would not be paid to the beneficiary directly, but to a private developer once a site was registered to a beneficiary (Nuttall, 1997:36-37). The capital subsidy could either be used for ‘greenfield development’ (development on land where no structure exists) or for the *in situ* upgrading of informal dwellings. The projects were predominantly undertaken in what would now be Gauteng, Kwa-Zulu Natal, and Eastern Cape (Nuttall, 1997); and were implemented between March 1991 and October 1992 (Lombard, 1996) (Adler & Oelofse, 1996). It was this programme of targeted capital subsidies for ownership (rather than rental) that was brought to the discussions at the National Housing Forum (NHF) and used as an example of an ‘efficient’ low-income housing intervention.

(ii) Post-apartheid housing policy (1992 onwards)

National Housing Forum (1992-1994)

In August 1992, two months prior to the conclusion of the IDT’s capital subsidy scheme, the NHF was formally established. The NHF was funded by the IDT, and so indirectly by the NP government. The purpose of the NHF, in contrast to the IDT, was specifically directed at the discussion and development of national housing policy. In the eyes of its proponents its so-called broad-based representation and consultative approach gave the NHF legitimacy and authority (see: Nell & Rust (1993); Rust (1996); Adler & Oelofse (1996) and Brüggé (1996)).

However, Bond (1995) blames the NHF for being overly technocratic and conservative¹¹ and Lalloo (1999) for its ‘accountable processes’. Bond (1995) argues that the Reconstruction and Development

¹⁰ ‘Targeted’ to ‘ownership’ rather than a rental-subsidy.

¹¹ These were criticisms from Bond’s (1995; 2000a; 2000b; 2003) ‘Marxist’ perspective.

Programme (RDP); developed by the mass democratic movement (MDM), comprised of the ANC, COSATU and SANCO, around the same period; was ‘far more democratic and representative’. Regardless of the criticisms laid at the NHF (founded or otherwise) the policy developed in the NHF would be adopted by the Government of National Unity (GNU) in the Housing White Paper (HWP) of 1994, and resulted in South Africa first post-apartheid housing policy.

Representation in the NHF fell broadly into six types: business, development, parastatal, civic, government and political; of which there were six business, six development, three parastatal, one civic, and six political (Lalloo, 1999) (Rust, 1996). A complete list of all the representatives in the NHF is available in **Appendix 1**.

From the research¹² of Gilbert (2002) three major influences on the NHF can be drawn:

1. The pressure of time and government,
2. The need for compromise, and
3. The ‘neoliberal imperative’.

Firstly, there was the influence of the limited amount of time. According to Gardner (1996:101) the discussions were ‘frenetic’. Compounding this was the pressure exerted by the newly appointed Minister of Local Government and Housing, Louis Shill (April 1993 – 11 May 1994). Shill, specifically appointed by de Klerk to ‘get the housing process on the road’, unilaterally allocated funding to the NHF to be used towards delivery, which placed ‘enormous pressure’ on members of the NHF to finalise arrangements (Adler & Oelofse, 1996:121).

Secondly, there was a need for compromise. Compromise was important because of the significant ideological differences between the stakeholders, and it was possible because of the ‘common enemy’ – the apartheid government (Gilbert, 2002:1923). According to an NHF member interviewed by Gilbert ‘the NHF was about compromise, it was not a housing decision ultimately, it was a political decision’ (2002:1923). However, compromise does not necessarily make for good policy. According to Tomlinson (1998a:144) consensus should have come from ‘hard bargaining’ rather than ‘fudging the vital differences’ between stakeholders. For instance, on the one hand there were those who favoured the state-enabling approach led by the private sector, while on the other there were those who favoured a ‘people-centred’ approach – where communities would be important stakeholders. The NHF chose both, despite their incompatibility.

¹² In his analysis on why it appeared that South Africa ‘leant so little from abroad’ (Gilbert, 2002:1921-1924).

Thirdly, there was the ‘neoliberal imperative’. Neoliberalism is understood here as a focus on reducing the government debt burden, increasing foreign direct investment and ultimately creating the right environment for economic growth. The ANC had to adapt to fiscal discipline because of the fiscal deficit it was going to inherit from the apartheid government; fears of civil war; and uncertainty over a new political dispensation. Therefore, a radical and extensive housing policy was simply not an option (Gilbert, 2002:124) and the housing budget was capped at 2% despite the MDM and others hoping for 5%.

The choice of capital subsidies to finance housing aligned with the ‘neoliberal imperative’. The advantages of capital subsidies, as opposed to interest-rate subsidies, is that the state knows exactly how much it is going to cost each year and can prepare accordingly. Capital subsidies also aligned to a policy based on homeownership rather than rental (Gilbert, 2002:1918).

Once consensus was reached on the use of capital subsidies¹³ for homeownership, debate in the NHF shifted to that of ‘width versus breadth’. That is, debating the trade-off between constructing more houses with a lower material standard *versus* building fewer houses with a higher material standard (Gilbert, 2004:23). However the ANC, would promise (as part of the Reconstruction and Development Programme) to build one-million houses over a period of five years (ANC, 1994). This commitment to providing one-million subsidies meant that the subsidy would not be large enough to cover the construction of a complete dwelling, and so could only provide ‘starter (core)’ housing. This policy of financing the provision of low-income starter (core) housing through capital subsidies would be adopted in South Africa’s first post-apartheid housing policy framework in April 1994: the Housing White Paper (HWP) of 1994.

Housing White Paper (1994-2004)

The HWP (1994) identified seven strategies in order progressively realise the right to adequate housing (DoH, 1994): stabilise the housing environment, mobilise housing credit, subsidies, support the People’s Housing Process, rationalise institutional capacities, facilitate the release of land, and coordinate state investment in development. However, it would be in the provision of starter (core) houses financed through capital subsidies that would be the cornerstone of the state’s housing policy from under the HWP (1994) from 1994 to 2004 (phase 1) (Tomlinson, 1995:5).

The starter (core) houses built during this period (1994 – 2004) are typically referred to as ‘RDP houses’, as the Reconstruction and Development Programme (RDP) was the overarching policy framework in

¹³ In August 1992, one month after the formal founding of the NHF (Rust, 1996:25).

place at the time of the HWP's (1994) conception. While the Growth, Employment and Redistribution (GEAR) policy framework replaced the RDP in 1996, the state-subsidised houses would continue to be referred to as 'RDP houses'. The term has continued in popular usage¹⁴ even past the introduction of the Comprehensive Plan: *Breaking New Ground* in September 2004, which officially replaced the 'RDP housing programme'. State officials now refer to the state-subsidised houses built after September 2004 as 'BNG houses' (Parliament. National Assembly, 2015).

So while the state-subsidised houses delivered under the HWP are called 'RDP houses' the contents of the HWP (1994) were informed by the discussions held in the NHF, as illustrated in the previous section, rather than the RDP (Khan & Thurman, 2001:9) (DoH, 1994), and the substantive policies in the HWP (1994) bear little resemblance to what was recommended in the RDP (Bond, 1995), except perhaps for the recognition in the HWP that housing is a 'basic human right'.

Under the HWP (1994) the role of the state is to create an enabling environment in order to support and facilitate the delivery of housing by the private sector or community based organisations (Charlton & Kihato, 2006:255). In order to create this enabling environment and facilitate the delivery of housing three programmes were implemented at the national level through which subsidies were allocated: the Discount Benefit Scheme (DBS), the Public Sector Hostels Redevelopment Programme (HRP) and the Housing Subsidy Scheme (HSS). The DBS encourages the occupants of state-subsidised rental housing, built by the NP government prior to 1994, to purchase these houses at discounted rates (Auditor General, 2006:3). The HRP allocates subsidies for the redevelopment of public sector hostels, also built by the NP government prior to 1994, into family rental accommodation. The HSS provides subsidies to institutions or low-income households to be used towards the funding of housing, land and/or bulk infrastructure (Gardner, 2003:19-20) (Public Service Commission, 2003:95). It is the HSS, then, through which construction of 'RDP houses' is financed. Within the HSS there were seven types of subsidies available to low-income households (categorized as households who earned less than R3 500/month): the 'project-linked', 'individual', 'consolidation', 'institutional', 'relocation assistance', 'People's Housing Process' (PHP)¹⁵ and 'rural'.

¹⁴ For instance, members of the Democratic Alliance, the 'official opposition' to the ANC, when asking the Minister of Human Settlements questions still, in 2015, referred to the state-subsidised houses as 'RDP houses' (Parliament. National Assembly, 2015:ref. NW3233&Q. No. 3235). However it was only in 2015 that the Minister corrected the other members of Parliament for referring to them as RDP houses rather than BNG houses (Parliament. National Assembly, 2014:Q. No. 1028).

¹⁵ The People's Housing Process (PHP) replaced the 'self-help' subsidy in 1998 and would allocate grants of up to R570 per subsidy (Public Service Commission, 2003:11). The PHP assisted in accessing the project-linked, consolidation, institutional or rural subsidies as well as technical and other forms of assistance in the house-building process (Auditor General, 2006:3)

The ‘project-linked’ capital subsidy provides access to a housing unit that is planned and built in an approved housing project for ownership by the beneficiary. The housing units delivered through the ‘project-linked’ subsidy are the *typical* ‘RDP housing’, that is, rows of the standardized four-room starter (core) housing units. The ‘individual’ capital subsidy provides finance to household for the acquisition of an existing house or a vacant serviced stand. This subsidy can be in the form of a loan (credit-linked) or grant (non-credit linked). The ‘consolidation’ capital subsidy provides finance to those who had received capital subsidies for serviced stands prior to this programme; either from the IDT or provincial/local government ‘site-and-services’ schemes; in order to improve their accommodation. The ‘institutional’ capital subsidy provides finance to an approved-institution who would provide accommodation on deed of sale¹⁶, rental, share block¹⁷ or other alternative tenure options to homeownership. Additionally, there was a clause that rental housing could be converted to ownership, after a period of four years (Auditor General, 2006:2) (DoH, 2000:170-171).

The capital subsidy amounts, for each type described above, from 1994 to 2004 is shown in **Table 1**. The value of the subsidy is changed in April of each year at the discretion of the provincial MEC (Minister of the Executive Council).

Table 1: Subsidy per household by type of capital subsidy, 1994 - 2004							
Household income (per month)	Subsidy amount (in <i>nominal</i> Rand)						
	April 1994	April 1995	Feb. 1998	April 1999	April 2002	April 2003	April 2004
Project-linked, Individual and Rural subsidies							
R0 – R800	12 500	15 000	15 000	16 000	20 300	23 100	25 800
R801 – R1 500		12 500					
R1 501 – R2 500	9 500	9 500	9 500	10 000	12 700	14 200	15 700
R2 501 – R3 500	5 000	5 000	5 000	5 000	7 000	7 800	8 600
Consolidation subsidies							
R0 – R800 (aged, disabled, indigent)	-	-	-	-	13 400	15 000	16 581
R0 – R1 500	7 500	7 500	8 000	8 500	10 900	12 521	14 102
Institutional							
R0 – R3 500	12 500	15 000	15 000	16 000	20 300	23 100	25 800
Source: Auditor General (2006)							

The HSS fulfilled a few of the principles of a ‘good capital subsidy’ recommended by Dewar (1993:24-25). It was ‘progressive’, the subsidy amount was larger for those with less income. It was relatively ‘easy to administer’. There were a number of tenure options available; for instance, a household could access

¹⁶ A deed of sale option essentially meant that a housing unit could be sold or transferred from the institution to a household

¹⁷ A share block unit refers to a residential unit (i.e. flat) on a property shared by other residents.

rental housing through the Institutional subsidy, or rural housing through the rural programme, or ownership through the individual or project-linked. The payment of VAT was exempt (from 1995 onwards). However, it failed to be 'flexible' as the subsidy was strictly for the development of residential units, rather than say public spaces or shared facilities. This aspect was improved upon with the introduction of the flexible Integrated Residential Programme (IRDP), discussed in the next section.

However, despite being appropriate in some instances the subsidy amounts were too small to ensure access to a *habitable* dwelling. For instance, according to an estimate made in 1990 a *serviced stand* costs between R12 860 and R14 000, without profit (Kok & Gelderblom, 1994:109). Therefore, the subsidy level for those earning between R1 501 and R3 500 was *lower* than an estimated cost of a serviced stand, and this subsidy was supposed to pay for starter (core) house.

Therefore, it was imperative that the subsidies be supplemented with an 'adequate system of credit' (Dewar, 1993:25). However, the HWP (1994) instead sought to stabilise the housing environment through the reincorporation of financial institutions into the low-income housing market¹⁸ (Tomlinson, 1998b:3). While the housing market was stabilised the interest rates on mortgages and bonds were too high for low-income households and financial institutions lacked the incentive to lend to low-income household at below market rates (Tomlinson, 1998b) (Blake, 2000). For instance in the early 1990s only 10% of the black population could afford to purchase home in the private market, according to Bond (2000a:246).

Between 1994 and 2001 the subsidies were allocated to private developers who planned and built the 'RDP houses'. Typically, private developers opted for the 'project-linked' capital subsidy¹⁹, in order gain the benefits of scale, and focussed on the lowest income earners (less than R1 500) in order to gain access to the largest subsidy (Thurman (1999:15); Public Service Commission (2003:83-94)). This resulted in the development of what Gardner (2003:21-22) calls 'indigent neighbourhoods'. As a direct result of this, national government shifted the responsibility²⁰ of low-income housing development from private developers to provincial governments (Tissington et al., 2013:14).

In 2003 the Presidency commissioned the 'Towards a 10 Year Review' report on in the implementation of all government programmes (Policy Co-ordination and Advisory Services, 2003). It was this report that informed the development of a new national housing policy framework (Department of Human Settlements [DoHS], 2009a:23). In September 2004 the Comprehensive Plan: *Breaking New Ground* (BNG) replaced the HWP (1994).

¹⁸ To this end the Record of Understanding was signed in October 1994 with the purpose of persuading to the public to resume payments on rents, services and bonds.

¹⁹ 76% of all subsidies allocated between 1994 and 2004 were 'project-linked'.

²⁰ As part of the Housing Amendment Act of 2001.

Breaking New Ground (2004-2015)

The intention of the BNG (2004) is to shift away from the emphasis on the *quantity* of houses delivered (during phase 1) towards improved *quality* and *choice* (DoHS, 2009a). That is, the intention was to build more habitable houses by increasing the size, settlement design and use of technology, while making available more housing options, in terms of tenure type and location (Charlton & Kihato, 2006).

In order to increase choice to low-income households sixteen new programmes were created at the national level to be implemented at provincial and local levels (see: DoHS, 2009a:13-57)). The most notable intervention developed at the national level was the Integrated Residential Development Programme (IRDP), which replaced the ‘project-linked’ subsidy. So while the project-linked subsidy provided finance for the development of a residential unit (‘RDP house’) the IRDP funded the residential house (‘BNG houses’), as well as the acquisition of land and servicing of stands for a variety of other uses; including commercial, recreational, schools and clinics (DoHS, 2009:13).

The use of capital subsidies to finance housing continued under BNG (2004). However, land is currently funded through a separate mechanism to the HSS: the ‘Housing Land Programme’, introduced in 2009 (DoHS, 2009c). The level of the subsidy allocated through the IRDP and in particular towards a dwelling construction and bulk infrastructure, between 2004 and 2015, is shown in **Table 2** below.

Table 2: IRDP subsidy by household income, 2004 - 2015										
Household income (per month)	Subsidy amount (in nominal Rand)									
	April 2004	April 2005	April 2006	April 2007	April 2007	April 2009	April 2010	April 2013	April 2014	April 2015
R0–R1 500	25 800	31 929	36 528	38 984	43 506	55 706	55 706	64 660	110 947	160 573
R1 501–R2 500 *	25 800	31 929	36 528	38 984	43 506	55 706	55 706	64 660	110 947	160 573
R2 501–R3 500 *	8 600									
Notes: * households earning between R1501 and R3500 are required to contribute R2 470 in savings										
Sources: KwaZulu-Natal DoHS (2010); DoHS (2014b); RSA (2015)										

As illustrated in **Table 2**, the subsidy amounts for the different income categories were brought in line with each other from April 2005, so all households earning less than R3 500/month would access the same subsidy amount²¹. The level of the subsidy has also increased dramatically; from R31 929 in 2005/06 to R110 947 by 2014/15; and most recently to R160 573 for 2015/16. This is in part to bring the

²¹ There is a slight difference in the amount received since the introduction of a ‘savings requirement’ in April 2002. Households earning between R1 501 and R3 500 are required to contribute a minimum of R2 479.

subsidy amounts in line with inflation (calculated as CPIX), but also to finance larger, more complete dwellings, as laid out in the Minimum Norms and Standards.

The availability of increased finance for housing is the result of an increased budget allocated for housing and human settlements by the National Treasury. According to the National Treasury (2001:71; 2005:70; 2006:72) the total fiscal expenditure on housing subsidies was R2,92 billion for 1997/98; R4,62 billion for 2004/05 and R16,97 billion for 2014/15. So while fiscal responsibility and the ‘neoliberal imperative’ limited the size and quality of houses built from 1994 to 2004, arguably it is less of a factor more recently.

(c) Conclusion

The development of housing policy post-apartheid has culminated in the adoption and implementation of an incremental housing policy. An incremental housing policy financed through capital subsidies under the HWP of 1994 and BNG of 2004. Under the HWP of 1994 starter (core) ‘NHF’/‘RDP’ houses were typically provided. Under BNG from 2004 more complete houses were provided with a focus on ‘integrated human settlements’. In order to ascertain whether this policy has resulted in an adequate housing product the next chapter focuses on housing as a right and specifically what constitutes an adequate housing product.

4. The right to a housing product

(a) Housing as a socio-economic right internationally

The right to adequate housing is a socio-economic right. Socio-economic rights are rights that give people access to particular basic needs that are necessary for people to live a ‘dignified life’ (Khoza, 2007). The first international document to recognise the ‘right to housing’ was the Universal Declaration of Human Rights, adopted in 1948. Article 25(1) of the Declaration states that ‘everyone has the right to a standard of living adequate for the health and well-being of himself and his family including the right to... housing’ (UN, 1948, art25.1).

In 1966 the United Nations (UN) General Assembly adopted the International Covenant on Economic, Social and Cultural Rights (ESCR). This ‘Covenant’, as it will now be referred to, obliged States party to it to recognise and progressively implement economic, social and cultural rights. These rights included the right to health, education, and an adequate standard of living, including housing (in Article 11 (1) of the Covenant (1966)). The Covenant came into force in 1976, however it did not have any mechanisms through which the obligations could be legally enforced.

In order to ensure the realisation of the right, State parties to the Covenant are obliged to, in terms of Article 2.1:

‘undertake... steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.’

(UN General Assembly, 1966:art2.1)

The Covenant represents, internationally, the most important legal foundation of the right to housing that can be found in human rights law. Its implementation is monitored by the Committee on Economic, Social and Cultural Rights, from here on referred to as the ‘Committee’. Currently 70 states are signatories to the Covenant and 164 have ratified²² the Covenant. While South Africa has been a signatory of the Covenant since October 1994, it has only recently (January 2015) ratified it. The fact that the South African state has only recently ratified the Covenant and is yet to domesticate²³ it, does not mean that it has not been important. The fundamental judicial reason why the Covenant has been influential, and used as tool for interpreting the right of access to adequate housing, delineated in our Constitution (1996), is due to section 39(1)(b) of the Constitution (1996) which states that:

- (1) *When interpreting the Bill of Rights, a court, tribunal or forum –*
- (b) *must consider international law*

(RSA, 1996:chap2,s39.1)

International law refers to both binding and non-binding law, as stated by former Chief Justice Chaskalson (*Government of the Republic of South Africa and Others v Grootboom and Others*, 2000:para26). Therefore, even international law that has not been ratified (such as the Covenant prior to January 2015) must be used as a tool to interpret the right of access to adequate housing in South Africa.

The Covenant was explicitly used as a tool for interpretation in the *Grootboom* (2000)²⁴ and *Joe Slovo* (2009)²⁵ Constitutional Court cases. It was not explicitly used in the *Kyalami Ridge* (2001)²⁶, *PE Municipality* (2005)²⁷, *Olivia Road* (2008)²⁸ and *Abahlali* (2009)²⁹ cases. However, *Grootboom* (2000)

²² To give formal consent to and make one bound to it.

²³ To incorporate into national legislation.

²⁴ *Government of the Republic of South Africa and Others v Grootboom and Others* (2000)

²⁵ *Residents of the Joe Slovo Community, Western Cape v Thubelisha Homes, Minister for Housing and Minister of Local Government and Housing, Western Cape* (2009)

²⁶ *Minister of Public Works and others v Kyalami Ridge Environmental Association and another* (2001)

²⁷ *Port Elizabeth Municipality v Various Occupiers* (2005)

was the first Constitutional Case dealing with the right of access to adequate housing. It was also arguably the most significant in establishing judicial precedent for this right. Thus, the Covenant has been influential in the Court's interpretation of the right generally and the South African State's obligations as a result.

(b) The foundation of the right in South Africa (Section 26)

The most important piece of legislation regarding the right of access to adequate housing is the Constitution, promulgated in December 1996. Section 26 of the Constitution of the Republic of South Africa (Act 108 of 1996), states that:

- (1) *Everyone has the right to have access to adequate housing*
- (2) *The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.*
- (3) *No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.*

(RSA, 1996:chap2,s26)

Section 26(1) refers to the socioeconomic right and sections 26(2) and 26(3) delineate the State's obligations. The State's obligations must be understood in terms of section 7(2) of the Constitution (1996), which states that:

- (2) *The state must respect, protect, promote and fulfil the rights in the Bill of Rights.*

(RSA, 1996:chap2,s7.2)

'Respect' and 'protect' are negative obligations, while 'promote' and 'fulfil' are positive obligations. Negative obligations usually refer to civil or political rights where the state must engage in restraint or non-interference with people's liberties. To 'respect' the right of access to adequate housing the state is not permitted to, either through legislative or administrative means, deprive people access to this right. While to 'protect' the right the state must create measures that restrict *others* from infringing on this right (Liebenberg, 2010:154).

²⁸ *Occupiers of 51 Olivia Road and 197 Main Street, Johannesburg v the City of Johannesburg and Others* (2008)

²⁹ *Abahlali baseMjondolo Movement SA v Premier of the Province of KwaZulu-Natal* (2009)

Legislation that allows unfair evictions (procedurally or substantively), as was the occurred in *Olivia Road* (2008)³⁰ and *Abahlali* (2009)³¹ cases, was rejected by the Constitutional Court as the proposed legislation failed to ‘respect’ the right against arbitrary or unfair evictions. In ‘protecting’ the right against arbitrary eviction the state has established measures such as the Extension of Security of Tenure Act 62 of 1997 and the Prevention of Illegal Eviction from Unlawful Occupation of Land Act 19 of 1998 (referred to as the ‘PIE Act’), which restricts others infringing on the right against arbitrary or unfair eviction. The PIE Act was integral to the judgments handed down in the *PE Municipality* (2005)³², *Joe Slovo* (2009)³³; and *Abahlali* (2009)³⁴. While the Court acknowledged that the Municipality may have been inconsistent with the PIE Act (1998) in the *Grootboom* case, it did not form the basis of either side’s arguments (2000:para90).

Positive obligations (‘promote’ and ‘fulfil’) on the other hand often refer to socio-economic rights where the state must actively take measures that promote and fulfil certain basic needs (Liebenberg, 2010:154). According to Budlender (2003) the obligation to ‘promote’ means the state must create an enabling environment which further advances the realisation of the right to adequate housing. That is, it is not just the responsibility of the state to provide houses but non-state actors as well as individuals themselves (*Grootboom*, 2000:para35).

(c) Interpreting the State’s obligations

The Committee is of the view that each State party to the Covenant must delineate a ‘minimum core obligation’ in order to ensure that a ‘minimum essential level of the right’ is met (UN CESCR, 1990:para10). According to the Covenant each State party to the Covenant must decide which measures are appropriate for them, however, the Committee has the ‘ultimate determination’ on the ‘appropriateness’ of a particular measure or measures (UN CESCR, 1990:para4). The inclusion of a minimum core obligation was considered in the *Grootboom* (2000) case. However, Chief Justice Yacoob rejected the minimum core argument on the basis that the needs of people (be they groups, households or individuals) are diverse and depend on the particular context in which they live (*Grootboom*, 2000:12). Therefore, it was inappropriate for the Court, in its view, to obligate the State to fulfil specific minimum core obligations. The Court did acknowledge, however, that in some cases a minimum core obligation

³⁰ *Occupiers of 51 Olivia Road and 197 Main Street, Johannesburg v the City of Johannesburg and Others* (2008)

³¹ *Abahlali baseMjondolo Movement SA v Premier of the Province of KwaZulu-Natal* (2009)

³² *Port Elizabeth Municipality v Various Occupiers* (2005)

³³ *Residents of the Joe Slovo Community, Western Cape v Thubelisha Homes, Minister for Housing and Minister of Local Government and Housing, Western Cape* (2009)

³⁴ *Abahlali baseMjondolo Movement SA v Premier of the Province of KwaZulu-Natal* (2009)

might be ‘possible’ and indeed ‘appropriate’ in order to determine whether measures taken by the State are ‘reasonable’ (*Grootboom*, 2000:27). While this paper does not argue that the South African state ought to abide by minimum core obligation, necessarily, the approach has been used to frame the delivery of state-subsidised housing in South Africa.

(d) Core elements of adequate housing

The UN CESR (1991:3-4) recommends specific elements that ought to be considered if specifying a minimum core obligation. These core elements are what ought to be considered when analysing whether a particular form of housing constitutes ‘adequate housing’ in any particular context. In brief these core elements are:

1. Accessibility

Housing should be accessible to all those who are entitled to it. Priority should be given to disadvantaged groups, such as the elderly, children, single mothers, the disabled, terminally ill and people living with HIV/AIDS.

2. Affordability

Housing ought to be affordable. The financial costs associated with the housing should not threaten or compromise access to other basic needs. Government should take the appropriate steps to ensure that housing is affordable, which may include housing subsidies and access to finance. In addition, tenants should be protected from unreasonable rent levels or unreasonable rent increases.

3. Location

Housing should be in a location that allows access to economic opportunities and social amenities, such as schools, health-care services, child-care services and recreational facilities. Housing should not be constructed on polluted sites or close to sources of pollution that endanger the health of the residents.

4. Availability of services, materials, facilities and infrastructure

An adequate house must have particular amenities essential for the health, security, comfort and nutrition of its residents. The residents of an adequate house should have access to basic services such as potable water, sanitation and washing facilities, energy for cooking, heating and lighting, washing facilities, a way to store food, refuse disposal, site drainage and emergency services.

5. Habitability

In order for housing to be considered adequate it need to be habitable. It must provide the residents with adequate space, protection from the cold, damp, rain, heat, wind or other threats to health.

6. Legal security of tenure

Everyone should have a form of tenure that guarantees legal protection against forced eviction, harassment and other threats.

(i) Accessibility

Housing should be accessible to all those who are entitled to it. Priority should be given to disadvantaged groups, such as the elderly, children, single mothers, the disabled, terminally ill and people living with HIV/AIDS. The promotion of accessibility for the most vulnerable is related to the type of provision advocated for by Chenwi (2007:3), termed 'special needs housing'. According to this type of provision housing should be tailored to suit the needs of people with disabilities (either physical or psychological). It therefore goes a step further than just giving the vulnerable priority, as stipulated for by the UN CESCR (1991). Vulnerability, according to Chenwi (2007:3-4) is most notably effected by housing sector conditions (e.g. marginalisation and exclusion from housing processes and decision making), as well as the availability, application and effective implementation of forms of legislation that guarantee equitable access to resources and opportunities.

Much of the international literature on accessibility focusses on the inequalities in access (to adequate housing) between genders. That is, it is women, and in particular female-headed households who struggle more than their male counterparts to access adequate housing (Kaijser (2007:4); UN Human Rights Council (2009:18); UN Human Rights Council (2011:3)). According to Venter & Marais (2006:69) who cite a number of sources, including Moser & Peak (1994) and Rakodi (1996), inadequate housing has a greater impact on women than men because women spend more time at home than do men. The availability of legislation informing equitable access to adequate housing is, in most countries, there. However, it is the application and effective implementation of the laws that inhibits gender parity in access (Kaijser, 2007:4).

In South Africa government housing policies, such as the Housing White Paper of 1994, have explicitly acknowledged the need to provide housing for the most vulnerable, and in particular the youth, disabled and elderly (DoH, 1994). In addition, the *Housing Act* of 1997 references the principle of providing for the most vulnerable. In Section 2(1)(a) of the Act government must 'give priority to the needs of the poor in respect of housing development' and in Section 2(1)(e)(viii, x) government must promote 'the meeting of special housing needs of the disabled' and 'marginalised women and other groups disadvantaged by unfair discrimination' (*Housing Act, No. 107 of 1997*, 1997).

Venter & Marais (2006:72) criticise South African housing policy for a lack of focus on gender parity, with the exception of Gauteng where there are gender related objectives in place. Similarly, Khan &

Thurman (2001:34) argue that the needs of women have not been sufficiently addressed or coordinated. However, it would appear that this was a problem for all beneficiaries during this period (between 1994 and 2001), not just women. Although women and women-headed households in particular, are typically more vulnerable than male-headed households and so are affected more.

There are currently two programmes that focus specifically on the vulnerable: the ‘individual’ subsidy for persons with physical disabilities (who earn less than R3 500/month), and the ‘social housing’ subsidy for persons with disabilities living with HIV/AIDS (DoHS, 2009a). However, there is no current national framework for special needs housing, as advocated for by Chenwi (2007).

(ii) Affordability

Housing is ‘affordable’ if the occupants can meet the financial commitments associated with the dwelling. These include both up-front costs and on-going costs. Up-front costs include the purchase price of the property and associated costs (such as a registration fee or down-payment). On-going costs refer to the day-to-day running costs associated with the house. These include expenses such as water and electricity, paraffin and rent (Smit, W., 2008:4-6).

The affordability of housing is a serious problem in South Africa, as it is in most other developing countries (Aziz et al, 2011:259). In South Africa the affordability problem is largely the result of the high numbers of unemployed in the country (24.9% in 2013), and the high incidence of income and asset poverty (Statistics South Africa, 2014b).

From the user’s perspective different kinds of accommodation offer different levels of affordability. Research conducted by Warren Smit (2008)³⁵ identified some of the up-front and ongoing costs associated with different housing options³⁶. He found the upfront costs for new state-subsidised housing (R350 for electricity installation) and backyard rental (R300 for a deposit) were very low. The upfront costs of a shack were higher (up to R2 000 for materials if newly constructed). The most affordable housing option in terms of ongoing costs were owning a shack in an informal settlement (free); while the least affordable were state-subsidised houses (between R200 and R400/month) (Smit, W., 2008:5).

The most common problem in terms of the ongoing affordability of state-subsidised housing has been the cost of rates and services. According to research conducted by Thurman (1999:27) in 11 out of the 12 case studies there was a problem with low rates of payments for rates and or services by state-subsidy

³⁵ Who interviewed residents living in townships and informal settlements in Ekurhuleni (former East Rand), eThekweni (greater municipality of Durban) and Cape Town

³⁶ The particular housing options in his study included: 1) shack in informal settlement (owned), 2) shack/backyard shack (rented) in informal settlement, 3) backyard shack (rented) in a township, 4) room (rented) in township, and 5) state-subsidised house (‘RDP house’)

beneficiaries. The Public Service Commission (2003:91) reported that, for *project-linked subsidies*, only 37% of recipients were paying their rates, while 44% were paying for water. The estimated median payment for rates and water were R80 and R50 per month, respectively. At a national level, according to estimates by the CSIR (1999:68), the level of payments for services was 68% in 1996, increasing to 71% in 1998. By the end of 1998 a total of R8.9 billion was owed to municipalities by residents.

The reasons for low-payments are a combination of 1) little to no income, largely due to lack of employment³⁷, 2) unfamiliarity with these kind of payments and so not part of budgetary practice, and 3) refusal to pay (Thurman (1999:28); Blake (2000); CSIR (1999:95-96)). According to Tomlinson (1998c:21) not enough attention was paid to how the beneficiaries of state subsidised houses were going to pay for services, and the architects overestimated the positive effect a subsidised dwelling would have on low-income household's budgets.

According to Dewar (1993) there are three types of finance that ought to be promoted by the state in order to improve upfront affordability: bridging finance, end-user credit, and subsidies. For low-income households, the South African government has provided capital subsidies. The targeted capital subsidy system has provided finance to low-income households for the purpose of construction of a dwelling, yet little finance (bridging or end-user credit) has been made available to improve or incrementally upgrade their homes.

In terms of ongoing affordability and the payment of rates and services, between 1994 and March 2004 low-income households paid a relatively higher percentage of the value of their property towards rates than wealthier households. Since 2004 and the introduction of the Local Government Municipal Property Rates Act No 6 of 2004 the amount paid is set at around 1% of the value of the property irrespective of property values (*Municipal Property Rates Act, No. 6 of 2004*, 2004). In terms of state-subsidised housing some municipalities do not require the payment of rates and services while others do, with the exclusion rates varying significantly across the country (Urban LandMark, 2009); as it stands there is currently no national policy position on the payment/non-payment of rates and services for state-subsidised housing beneficiaries.

³⁷ In terms of the *project-linked* capital subsidy recipients specifically (from the Public Service Commission (2003:87)) only 13% of adults had formal employment; while 24% were informally employed, with over 50% of adults *not employed*.

(iii) Location

The spatial structure of housing in South Africa is the direct result of our specific historical context (Ntsebeza, 2011:295). Apartheid legislation and policy, namely separated development, influx control and forced removals, have left a very particular spatial order in terms of the nature and access to housing (MERG, 1993:75) (Urban Foundation, 1990:8) (Surplus Peoples Project, 1987). The Apartheid state lay down a ‘systematic framework of conditions’ under which many of the older townships in existence today were formed³⁸. The State asserted control over the development of these townships through form. That is, the State stipulated where the townships could be developed, the town planning, and the design and standards of the houses in those townships (Mahajan, 2014:4). The post-apartheid reality of segregated townships, migrant hostels and sprawling informal settlements is a direct result of this legacy (Pieterse, 2009).

The general trend of state-subsidised housing built in post-apartheid is that they have been located on the urban periphery. There is acknowledgement by both independent (Tomlinson (1999:290); Thurman (1999:4); Seekings (2000:835); Huchzermeyer (2001)) and government funded (CSIR (1999:64); Karsen (1999:7); Public Service Commission (2003:16); HDA (2004:8)) researchers that state-subsidised housing projects have been developed in poor locations. That is, they have been located far from economic opportunities and social amenities.

There are three main reasons for the poor location of state-subsidised housing. These relate to financial issues, political issues, and physical form issues. Firstly, there has been a lack of available finance to pay for well-located land, due to the subsidy amount being too small. This is evident if you compare the level of the subsidy between 1994 and 2004 (see: **Table 1**) to the level of subsidy between 2004 and 2015 (see: **Table 2**). Secondly, there is a lack of ‘political will’ to subsidise well-located land. The ‘political will’ needed refers to, in part, the required effort to fight against the opposition that comes from local rate payers (often pejoratively referred to as NIMBYs, i.e. “Not in My Backyarders”). Thirdly, state-subsidised housing has taken the form of stand-alone housing units, which does not promote high enough densities, and contributes to urban-sprawl (Turok, 2001) (Tomlinson, 1999) (Pieterse, 2009).

(iv) Availability of services, materials, facilities and infrastructure

Access to basic services is fundamental to the realisation of the right to adequate housing. In 1994 the state inherited large backlogs in access to services; the majority of which were located in the black townships and rural areas. For instance in 1994 it was estimated that 12 million people did not have

³⁸ Examples include Soweto, Lenasia, KwaMashu, Mamelodi, Daveytown, Natalspruit, Thokoza and KwaThema (Nell et al., 2009:40).

access to potable water, 21 million people did not have access to adequate sanitation (ANC, 1994:29), 14% had no access to a refuse removal service (RSA, 1995:10), and over 20 million people did not have access to electricity (Department of Minerals and Energy, 1998:21). In order to reduce these backlogs, the government implemented a number of programmes. Most notable, were the national water and sanitation programmes which sought to provide all households with 20 to 30 litres of water per day to within 200m of their homes, and to provide adequate sanitation and refuse removal services for urban households (Muller, 2008:71). As a result of these interventions between 1994 and March 2004, 13.4 million people were provided basic water supply and 6.9 million were provided sanitation facilities (Department of Water Affairs and Forestry, 2004:19). However, the backlogs have remained high – in April 2008 5.7 million people did not have access to potable water, and 3.3 million did not have adequate sanitation. However, the use of bucket toilets was reduced from 238 000 in 2005 to 10 000 by 2008 (Still, 2009:5). In March 2013 it was estimated that 94.8% of the country had access to potable water (Department of Water Affairs, 2013:1) – therefore an estimated 2.76 million people did not have access to potable water. 1.4 million, typically rural, households still did not have any sanitation services and 3.8 million urban households had sanitary services but they did not meet the required standard (South African Human Rights Commission, 2014:13).

Therefore, there are still significant issues with a lack of potable water and inadequate sanitation provision. The most common type of sanitation provided is waterborne, on-site provision. However, there are also alternative sanitation systems (i.e. not waterborne), an example of which is the Ventilated Improved Pit (VIP) toilet which are often provided in rural areas. According to Marais et al (2010:1342) in remote dry areas, with little access to water these alternative sanitation systems may be appropriate. But in order to provide ‘long-term, safe and dignified sanitation’ to its users a number of general rules must be satisfied, which are outlined by Kothari (2003:26-27).

(v) Habitability

In order for housing to be considered adequate it needs to be habitable. It must provide the residents with adequate space, protection from the cold, damp, rain, heat, wind or other threats to health. Therefore, the availability of services, materials, facilities and infrastructure (core element previously discussed) affects the quality of housing and the degree of habitability. According to Rauh, Landrigan & Claudio (2008:276) housing encompasses three main groups of elements that affect an individual or families’ health: material, social, and psychological. The material refers to things like ‘location, density, building height, maintenance, air quality, sanitation, pests, and hazardous exposures’. The social refers to ‘threats to safety, noise, social networks, and cost’. While the psychological include things like ‘interpersonal conflict’ and ‘sense of permanence’.

Thiele (2002:713) asserts that ‘poor housing is always associated with high rates of morbidity and mortality’. Similarly, Rauh, Landrigan & Claudio (2008:276) purport that poor quality housing is linked to increased risk of many diseases. However, Govender, Barnes & Piepes (2010:900) note that most studies do not account for potentially confounding factors. Rather, it is income and poverty which are the most ‘consistent predictors of disease and premature death’ (Govender, Barnes and Piepes, 2010:909). Therefore, access to a habitable dwelling won’t improve the health of its inhabitants unless they have the means to attain the appropriate goods and services.

State-subsidised housing:

Space:

Between 1994 and 1999 state-subsidised housing was an open-ended concept, subject to wide variations in interpretation (Charlton & Kihato, 2006:254). Nationally, the average floor space was around 25m² and the houses had no partitions (Gilbert, 2004:29). In 1999 national minimum norms and standards were introduced, specifying a size of 30m², with exceptions allowed for construction on ‘sandy soil and excessive slopes’ (27m²) and ‘medium dolomite’ (24m²). In 2004, with the introduction of the BNG policy framework the size was increased to 40m² on a 250m² property (Gordon, Bertoldi & Nell, 2011).

Amenities:

In addition to specifying the size of state-subsidised houses the minimum norms and standards specified that each house be designed on basis of two bedrooms, a separate bathroom with toilet, a shower and hand-basin; a combined living area and kitchen with wash basin; and a ready board electrical installation if electricity is available in the project area (DoHS, 2009a:54). The DoH (2004:15) stated that the minimum norms and standards were introduced because of complaints over the small size and poor quality of the starter (core) houses.

Poor quality starter (core) houses:

For example, according to a case study conducted by Mehloimakulu & Marais (1999) in Pelindaba, Bloemfontein, 74% of respondents had negative perceptions of the overall quality of their starter (core) houses³⁹. Similarly, research conducted by Moolla, Kotze & Block (2011) on starter (core) houses built between 1996 and 2002 in Braamfisherville, Soweto, found that the majority of residents reported issues with the quality of their houses. In addition, Moolla, Kotze & Block (2011) citing Rosenberger (2003), state that a number of communities had lodged complaints regarding the safety of their starter (core) houses.

³⁹ The main problems identified were cracks in walls (78%) and roof leakages (58%).

Therefore, the introduction of the minimum norms and standards appears an appropriate response to the cases of poor quality houses of insufficient size. Arguably, this is a sufficient basis for the provision of a materially habitable dwelling, with adequate space, protection from the elements and amenities for the health, security and comfort of its residents.

In order to implement the minimum norms and standards the DoH required that all homebuilders (i.e. contractors) be registered with the National Home Builders Registration Council (NHBRC, 2014), and that state-subsidised houses be subject to the provisions laid out in Section 2 of the Housing Consumers Protections Measures Act 95 of 1998 (DoH, 2004:24-25).

However, despite the introduction of minimum norms and standards and registering contractors with the NHBRC, the quality of state-subsidised houses has remained a significant problem.

Poor quality (more complete) houses:

For example, according to a study conducted by Madzidzela (2008) in the Nyandeni Local Municipality in the Eastern Cape, 85% of respondents had some problem with the (more complete) state-subsidised houses they lived in. In quantitative research conducted by Zunguzane, Smallwood & Emuze (2012) in the Wentzel Park community in Alexandria in the Eastern Cape 47.5% of respondents thought their houses were of an inadequate standard⁴⁰. Furthermore, 71% of respondents perceived that ‘accidents or injuries due to defects constitute a major problem’.

State-affiliated reasons for poor quality houses:

The reasons provided by State authorities as to why the starter (core) houses were of an insufficient size and quality were because:

- 1) The size of the subsidy was not large enough for contractors to build big enough and of a high enough quality (Public Service Commission, 2003:96), (CSIR, 1999:46).
- 2) The prevalence of ‘unscrupulous’ building contractors, poor workmanship and the use of inappropriate materials (CSIR, 1999:70).

Therefore, the State believed that the quality of houses could be improved by the introduction and enforcement of minimum norms and standards and a larger capital subsidy. Despite the introduction of minimum norms and standards, and a larger capital subsidy, why were there still poor quality houses being built? Largely because of the continued prevalence of poor workmanship, inappropriate use of materials (and use of inferior materials), the use of emerging contractors, and the provision by some

⁴⁰ The major problems identified there were leaking water pipes (29%), problems with housing stability (27%) and cracks in walls (24%).

municipalities that contractors employ unskilled labour (Moolla, Kotze & Block, 2011:141); (Zunguzane, Smallwood & Emuze, 2012:28).

Tissington (2011:62,80) lays the blame for the continued prevalence of poor quality houses on state-regulators, and specifically a lack of sufficient regulatory oversight which allowed the ‘unscrupulous and corrupt’ housing contractors to take short-cuts and build poor quality houses. This appears a valid criticism, considering that, as of 2013 many municipalities had still not implemented the new national norms and standards (in place since 2007) and *refused* to do so (Parliament. National Assembly, 2013).

Rectification programme:

In response to the prevalence of poorly constructed starter (core) houses built between 1994 and 2002 the DoHS announced in 2010 that R1.3 billion, or 10% of the DoHS’s budget, would be used to demolish and/or rectify poorly constructed state-subsidised houses (Sexwale, 2010). It was estimated that 40 000 houses would have to be rebuilt (Tissington, 2010:74). As a result, the Rectification Programme was created and approved by the Ministers and Members of the Executive Council (MINMEC) in January 2012. The Programme is funded through the Human Settlements Development Grant (HSDG), with the total amount allocated to the Provincial Department of Human Settlements (PDoHS) of not more than 10% of the HSDG per annum. It is the PDoHS, then, who decide how and where funds are allocated (Parliament. National Assembly, 2012). As of July 2014, approximately R2.1 billion had been spent on the programme, R1.5 billion (or 71%) of which was spent in the Eastern Cape. According to the DoHS Minister, 26 459 houses have been rectified due to ‘poor workmanship’; and 89 contractors found to be responsible from 2011 up until April 2014. However, both numbers are likely to be significantly higher considering that the Eastern Cape and Free State DoHSs did not provide information⁴¹, and it is in the Eastern Cape that 71% of the funding for the Rectification Programme was spent (6% had been spent in the Free State) (Parliament. National Assembly, 2014:Q. No. 235).

As it currently stands, at the time of writing, contracted builders are given the opportunity to remedy the situation *before* the contract is terminated and/or they are blacklisted. Of the 89 contractors found to be responsible across the country (not including the Eastern Cape and Free State) 15 have been ‘paid in full’, 5 were still to be paid, 5 were requested to fix defects before being paid, and 7 have had their contracts terminated (blacklisted). No information is provided on the remaining 57 contractors (Parliament. National Assembly, 2014:Q. No. 1121).

⁴¹ For the Eastern Cape the ‘information is with the municipalities’ and for the Free State they had not conducted an audited report.

According to the Minister Human Settlements (DoHS, 2014a:3), the DoHS intends to ‘scrap’ the programme and instead ensure that the ‘onus is on each contractor to build properly or return to repair’. However, the department has not been forthright with any specific measures as of yet.

(vi) Security of tenure

Housing tenure can take a variety of forms. The two most common are tenancy (also termed leasehold) where rent is paid to a landlord, and owner-occupancy (also termed individual freehold tenure) where the inhabitant owns the property. According to UN CESR (1991) everyone ought to have a form of tenure that guarantees legal protection against forced eviction, harassment and other threats. More recently, the UN Habitat (2009:8) refers to security of tenure as the ‘subjective appreciation’ of the validity of a household’s tenure type. That is, legal security of tenure might not be necessary if the resident feels protected against forced eviction, harassment and other threats. In most instances however, legal security of tenure is preferable. It is for this reason that low-income urban households living in informal settlements typically lack security of tenure (Huchzermeyer, 2002:183). However, the degree of protection offered to informal dwellers depends on the public authorities’ position on the degree of illegality of the settlement. Usually informal settlements located on private land in desirable areas, as well as on or around hazardous sites, are most at risk of eviction (Durand-Lasserve & Royston, 2014).

State-subsidised housing

According to the HWP (1994) security of tenure is one of the foundations of the government’s approach to the provision of housing. In addition, the state-subsidised housing policy has been designed to accommodate a number of different tenure options. The HWP (1994) specifically rejects the elevation of private ownership (i.e. individual freehold tenure) above other forms of tenure. The principles, goals and strategies of the HWP (1994) were adopted as legislation in the Housing Act 107 of 1997. Additionally, the Development Facilitation Act 67 of 1995 states that land development should lead to security of tenure and provide for the widest possible types of tenure (Principle 3(1)(k)). Land policy in South Africa advocates that people should be able to choose the type of tenure that is most appropriate for their circumstance (*Housing Act, No. 107 of 1997*, 1997). Therefore, there is a policy framework in place that promotes a variety of tenure types and the importance of security of tenure (Royston, 2002:172-173).

Despite the recognition of the importance of security of tenure in legislation and policy, two main factors have negatively impacted on the security of tenure of households living in state-subsidised housing:

1. Transfer (and lack of transfer) of title deeds
2. Informal sale of RDP houses

Transfer of title deeds

Title deeds refer to the registration of ownership of fixed property. They are registered in the Deeds Registry Offices of the Department of Rural Development and Land Reform, headed by the Chief Registrar of Deeds. The transfer of ownership of a state-subsidised housing unit is managed by the housing project developer (the Provincial Department or the relevant municipality where the municipality acts as developer) (DoHS, 2009a).

According to estimates made in chapter 5(c)(ii) later, approximately one-million state-subsidised housing beneficiaries have yet to receive a title deed. In May 2012, then Minister of Human Settlements, Tokyo Sexwale, stated that the issuing of title deeds had been negatively affected by three main things (Parliament. National Assembly, 2012):

1. Delayed opening of township registers
2. The (lengthy) township establishment process
3. Non-availability of some title deed holders

Delayed opening of township registers

The KwaZulu-Natal DoHS (2011:46) cite the delayed opening of township registers as a major reason for the delay in transfer of title deeds. The causes of town planning not being approved and what is meant by 'environmental issues' is not provided by the PDHS.

The (lengthy) township establishment process

The Gauteng DoHS (2014:57) cite the lengthy township establishment process as a major reason but do not provide any indications as this is the case. Presumably due to the fact that many state-subsidised houses are greenfield developments on the urban-periphery, where bulk infrastructure is often lacking.

The non-availability of some title deed holders

The KwaZulu-Natal DoHS (2014:25) assert that the non-availability of title deed holders is *mainly* due to the concern of residents over the payments of rates. That is, those who are eligible for a title do not want one so they can avoid paying rates. This is 'despite the fact that the majority do not qualify to pay rates'. Which hints at a possible further reason why titles have not been transferred: many beneficiaries earn more than they claim to earn. However, adequate proof of income is required, as stipulated in the Housing Code (DoHS, 2009c). Therefore, this could be due to corruption in the system or that beneficiaries are not aware of the benefit of having a title deed.

There is evidence of corruption. In an audit and review into housing corruption conducted by the Auditor General (2008) it was found that subsidies were awarded to municipal employees by provincial

departments whose income was more than the subsidy threshold of R3 500/month. The reason for the approval of these subsidies, found by the Auditor General, was that municipal employees gave false affidavits on their subsidy application forms. In addition, a number of provincial departments could not provide the subsidy application forms in order to be audited. This type of failure, the report goes on, ‘could result in an environment that is conducive to the concealment of fraudulent activities’ (Auditor General, 2008:8).

In response to the ineffective transfer of title deeds the DoHS mandated the Estate Agency Affairs Board⁴² to create a strategy to reduce the backlog in title deeds. This proposal was to be completed by 30 June 2015 and piloted in two provinces prior to full roll-out for March 2018. The effectiveness of this remains to be seen.

Informal sale of RDP/BNG houses

Another factor that has negatively impacted on households’ security of tenure has been the informal sale of state-subsidised housing. Specifically, the security of tenure of the informal buyers of state-subsidised housing. As per legislation⁴³ enacted by the DoHS it is illegal for a state-subsidised housing beneficiary to sell (or abandon) their house for at least 8 years. This controversial piece of legislation was intended to prevent speculation on RDP housing and so-called ‘downward raiding’⁴⁴ (Huchzermeyer, 2005). If subsidy beneficiaries want to move and sell their house they are required to ‘sell’ it back to the provincial or local government who initially provided them with the house. In this process they do not receive any monetary return but are placed back on the housing ‘waiting list’ to be allocated another house in the future. Unsurprisingly, there have been no reported cases of beneficiaries ‘selling’ the house they owned back to the government. Instead there seems to be a significant amount of houses sold informally, that is, illegally. According to the General Household Survey 2009, approximately 76% of households, nationally, who reside in state-subsidised housing were the original recipients and about 22% were not. Therefore, approximately 22% of all the state-subsidised houses built from 1994 to 2009 were sold, either informally (prior to 8 years of construction) or formally (if more than 8 years). Of this 22% of households who were not the original beneficiaries: 19.6% of the houses were built between 2005 and 2009; 31.8% between 2000 and 2004; and 27.8% between 1990 and 1999.

⁴² The EAAB’s legislative mandate is to ‘regulate and control certain activities of estate agents in the public interest’ (DoHS, 2015:21).

⁴³ 10A of the *Housing Amendment Act* of 2001

⁴⁴ ‘Downward raiding’ refers to the practice where low-income household’s houses are bought by middle-income individuals or households (Thirkell, 1996:71).

Therefore, about 50% of households who were not the original beneficiaries reside in houses less than or equal to 9 years old. So, slightly less than 50% of all those who weren't the original recipients *must* have bought them informally. If 11% (half of 22%) of all state-subsidised houses/units completed have been sold informally⁴⁵, and 2,209,917 houses/units were completed as of March 2009 (as estimated in the next chapter) then approximately 240 000 houses/units have been sold informally. Implying that around 240 000 households do not have secure legal tenure due to purchasing their homes informally.

However, according to the DoHS's own estimates only 3 411 state-subsidised houses have been sold informally, across the country (Parliament. National Assembly, 2015:Q. No. 1942). The Minister did not provide a source or means by which this was figure was calculated. The number is so low, presumably, because the DoHS simply does not have access to this kind of information, precisely because the trades are *informal*. According to Jacobson (2003), who undertook research on the Joe Slovo Park project in Cape Town, 5 years after the completion of the project an estimated *thirty percent* of the houses had been sold informally.

If the 240 000, estimated in the GHS 2009, is combined with the roughly one million outstanding title-deeds, previously mentioned, the sheer magnitude of the problem is striking. And remember, according to the UN CESR (1991), security of tenure is integral to the realisation of the right to adequate housing and typically possession of a title deed providing legal security of tenure is preferable and the most secure. Therefore, this paper takes the position that the 8 year sales restriction is an inappropriate legislative intervention because it fails to 'respect' the right of *access* to adequate housing, and so should be scrapped.

(e) Conclusion

This chapter has reviewed housing as a socioeconomic right and the core elements of adequate housing. The approach taken in this chapter has been informed by the UN CESR (1991) and their minimum core argument. The six core elements of adequate housing (accessibility, affordability, location, availability of services, habitability and security of tenure) have all been impacted on in various ways by the state-subsidised housing policy and programmes.

In terms of promoting access to housing for the most vulnerable there were two subsidy measures available: the individual subsidy for persons with physical disabilities and the social housing subsidy for persons with disabilities living with HIV/AIDS. However, there was no national framework for special

⁴⁵ This approximation of 11% is also estimated by the Urban LandMark for houses built between 2005 and 2010 (Tissington et al, 2013:69).

needs housing. In relation to affordability, housing policy focused on capital subsidies reducing the upfront costs for formal housing provision. While ongoing costs have been managed by a reduction in the relative amount charged to low-income households for rates and services. In terms of location, in general, state-subsidised houses have been located on the urban-periphery, far from economic opportunities and social amenities. In relation to the habitability of housing there have been significant problems with the quality of houses constructed. Lastly, the security of tenure has been negatively affected by the lack of transfer of title deeds and the informal sale of RDP/BNG houses.

This is a qualitative understanding of the impact of the state-subsidised housing legislation, policies and programmes on the realisation of the right to adequate housing. What of the quantitative impact of state-subsidised housing on the realisation of the right to adequate housing?

5. Data Analysis and Discussion

The UN Committee on Economic, Social and Cultural Rights ('Committee'), whose role it is to implement the International Covenant on Economic, Social and Cultural Rights ('Covenant'), as introduced in the previous chapter recommends statistical information and other data that ought to be considered when analysing the realisation of the 'right to housing' (Leckie, 1989).

Some of the information Leckie (1989:556-557) recommend using include:

1. Current housing stock in total units, number of units built annually, private and public sector construction data, and person to dwelling ratio.
2. The percentage of persons living in social rental housing, private rental housing, owner-occupied housing, and squatter housing.
3. The number of homeless households, but preferably the number of *persons* homeless and the number of *persons* inadequately housed.
4. The percentage of the population without shelter, with temporary shelter, with sub-standard urban shelter, and with sub-standard rural shelter.
5. The number of persons waiting for adequate accommodation ('waiting list'), the length of the waiting period, and the assistance given to those waiting.
6. The percentage of houses without adequate services by service.

However, the above recommendation relates to the right to housing, broadly speaking. The focus of this paper is on the impact of the state-subsidised housing programmes on the right to housing in South Africa. For this reason, this chapter analyses the following sets of statistical information, in terms of delivery.

1. Number of state-subsidised houses delivered since 1994.
2. The types of tenure of the houses delivered since 1994.
3. The number of households living in free-standing and backyard shacks.
4. The transfer (and lack of) transfer of title deeds, as this is tied to ownership.
5. The habitability of state-subsidised housing, in terms of the quality of roofs and walls and the level and quality of services provided.

(a) Introduction

This section examines the supply of state-subsidised housing since 1994. In terms of the number of state-subsidised houses delivered in general and then in terms type of tenure (ownership, rental, rural). There are two types of delivery figures provided by national and provincial departments:

1. *‘houses/units completed’*, and
2. *‘houses/units completed or under construction’*.

The second includes houses/units completed as well as the number of *sites serviced*. A ‘serviced site’ is a parcel of land (with or without a dwelling on it) provided with a level of bulk services (e.g. water, electricity, sanitation). The numbers provided by the Departments’ combine ‘houses’ and ‘housing units’. ‘Houses’ typically refer to residential dwellings constructed through the project-linked, IRDP, individual (credit and non-credit linked), consolidation and rural subsidy programmes. ‘Housing units’ on the other hand typically refer to flats and other residential dwellings built through the Community Residential Unit (CRU), Hostel Redevelopment (HRDP), Social and Rental Programmes (DoHS, 2015:8).

Depending on the type of delivery one chooses, as the indicator of output, one will have very different numbers. Referring to *‘houses/units completed or under construction’* will give you much higher numbers than referring only to the number of *‘houses/units completed’*, especially since 2004, with the dramatic increase in serviced sites compared to between 1994 and 2004.

(b) Sourcing the data

The DoHS does not provide complete numbers for each of the nine provinces in each year since 1994. In order to ascertain the numbers for the provincial level this section has examined the available DoHS and PDoHS Annual Reports, PDoHS Annual Performance Plans, the National Treasury’s Intergovernmental Fiscal Reviews, and questions answered by the DoHS Minister in Parliament. From this reading complete data on the number of *‘houses/units completed’* and *‘houses/units completed or under construction’* have been constructed. While incomplete data was sourced and used to estimate the number of houses/units completed for each type of tenure (for phase 2), estimations are made, and the details of these are discussed in **Appendix 4**.

Where inconsistencies between different sources have arisen the value that is most repeated across data sources is chosen, or if few are available the numbers that appear most accurate considering other years, the PDoHS and DoHS Annual Reports. In general, the numbers appear to be consistent in all the provinces, except in Gauteng. Gauteng exhibits significant variation between sources, from 2009 to 2012/13. The most recent data for the numbers of *houses/units completed* in the province, provided by the

Minister of Human Settlements (Parliament. National Assembly, 2015:ref. NW3232) and the numbers in the DoHS Annual Reports are significantly *less* than the numbers provided by the Gauteng DoHS Annual Reports for the same periods. The exact reason for this is unknown, but could be symptomatic of the reported corruption in the provincial department over this period (Tissington et al., 2013:72-77).

(c) State-subsidised housing delivery

Between April 1st 1994 and March 31st 2015 a total of 2 930 485 houses/units have been *completed* across the country. Under the HWP (1994), between April 1st 1994 and March 31st 2004 (Phase 1), a period of 10 years, a total of 1 467 399 houses/units were completed. Under the Comprehensive Plan (BNG), between April 1st 2004 and March 31st 2015 (Phase 2), a period of 11 years, a total of 1 463 086 houses/units were completed. A detailed delivery table, for each year in each province is available in **Appendix 2**.

Between April 1st 1994 and March 31st 2015 a total of 3 916 139 houses/units were *completed or under construction*. During Phase 1 a total of 1 635 981 houses/units were *completed or under construction*. While in Phase 2 a total of 2 280 158 houses/units were *completed or under construction*. A detailed delivery table, for each year in each province is available in **Appendix 3**.

During Phase 1 the number of *houses/units completed*, 1 467 399, was not that far off the number of *houses/units completed or under construction*, 1 635 981. This is because the majority of house/units built were starter (core) houses, with relatively few sites-serviced.

During Phase 2 the number of '*houses/units completed*', 1 463 086, was significantly less than the number of '*houses/units completed or under construction*', 2 280 158, because more sites were serviced during Phase 2 than Phase 1. Therefore, depending on which metric is chosen the delivery numbers can vary greatly. The DoHS, unsurprisingly, prefers to cite the larger, second metric, the number of '*houses/units completed or under construction*', which they refer to as the number of '*housing opportunities*' provided (DoHS, 2015:49). The rest of this section focusses on '*houses/units completed*' rather than '*housing opportunities*' as it is this output that more accurately represents the State's delivery of an 'adequate housing' product.

One cannot get an accurate picture of the delivery of state-subsidised housing in post-apartheid South Africa without differentiating between the nine provinces, as delivery varies greatly across the country. **Table 3** below shows the number of houses delivered, by province for each phase, as well as each provinces 'rank' in terms of output.

Table 3: Houses/units completed, by province, 1994 - 2004 & 2004 - 2015

Province	Delivery (1994 - 2004)		Rank	Delivery (2004 - 2015)		Rank	Total delivery (1994 - 2015)		Rank
Eastern Cape	196 185	55%	3	160 150	45%	3	356 335	12%	3
Free State	102 682	48%	8	113 321	52%	7	216 003	7%	8
Gauteng	347 257	52%	1	319 706	48%	1	666 963	23%	1
KwaZulu-Natal	254 146	48%	2	275 819	52%	2	529 965	18%	2
Limpopo	118 223	46%	6	141 063	54%	6	259 286	9%	6
Mpumalanga	110 356	50%	7	109 377	50%	8	219 733	7%	7
Northern Cape	33 456	45%	9	40 151	55%	9	73 607	3%	9
North West	120 852	43%	5	158 203	57%	4	279 055	10%	5
Western Cape	184 242	54%	4	157 073	46%	5	341 315	12%	4
South Africa	1 467 399	50%	-	1 463 086	50%	-	2 930 485	100%	-
Sources: DoH (2006); DoHS (2011; 2012; 2014b); National Treasury (2003; 2005; 2007:68).									

The greatest number of ‘houses/units completed’, between 1994 and 2015, has been in Gauteng (666 963), followed by KwaZulu-Natal (529 965), Eastern Cape (356 335), Western Cape (341 315), North West (279 055), Limpopo (259 286), Mpumalanga (219 733), Free State (216 003) and Northern Cape (73 607). More houses/units were completed in phase 1 than during phase 2 in Gauteng (347 257 compared to (±) 319 706), Eastern Cape (196 185 ± 160 150), Western Cape (184 242 ± 157 073) and Mpumalanga (110 356 ± 109 377). More houses/units were completed in phase 2 than phase 1 in KwaZulu-Natal (275 819 ± 254 146), North West (158 203 ± 120 852), Limpopo (141 063 ± 118 223), Free State (113 321 ± 102 682) and the Northern Cape (40 151 ± 33 456).

(i) Delivery by tenure type

So while the numbers above tell us the distribution of delivery across the provinces it says nothing of the *type* of delivery. In order to see the type of delivery, and specifically the type of tenure, we now categorise the output numbers of the different housing programmes into three categories: ‘Ownership’, ‘Social & Rental’, and ‘Rural’.

For Phase 1, the National Treasury (2005:74) provides data on the number of subsidies *approved* by programme between 1994 and 2004. ‘Ownership’ includes the ‘Project-linked’, ‘Individual (credit & non-credit)’, ‘Consolidation’ and ‘Emergency housing’ programmes. ‘Social & Rental’ includes ‘Institutional’ and ‘Hostel Redevelopment’ programmes. ‘Rural’ includes ‘Informal land rights’ programme.

For Phase 2, the PDoHS Annual Reports provide *some* data on the number of ‘houses/units completed’ through the different types of subsidies. During this phase new programmes were introduced at the national level. For ‘Ownership’ the programmes include the ‘Project-linked’⁴⁶, ‘Integrated Residential Development Programme’ (IRDP), ‘Individual (credit & non-credit linked)’, ‘Consolidation’, ‘Emergency Housing’, ‘Upgrading of Informal Settlements Programme’ (UISP), ‘Peoples Housing Process’ (PHP), and ‘other interventions’ (which include ‘Provincial Priority Projects’, ‘Urban Renewal Programmes’, ‘Military Veterans Houses’, ‘Temporary Relocation Units/Relocation Assistance’). For ‘Social & Rental’ the types include ‘Rental housing’, ‘Social Housing’, ‘Community Residential Units’ (CRU), and ‘Institutional’. While ‘Rural’ includes ‘Rural Housing’ and ‘Farm Worker Housing’.

The results from my estimations (see **Appendix 4** for the workings) for South Africa as a whole, show that the 87% of the subsidies allocated during phase 1 were for homeownership, 9% for Social & Rental, and 4% for Rural. During phase 2 there continues to be an emphasis of homeownership, but slightly less, dropping to 81%. While Social & Rental dropped to 6% and Rural increased to 14%.

Table 4: Types of tenure for RDP/BNG housing, 1994 - 2004 & 2004 - 2015						
Province	Ownership		Social & Rental		Rural	
	1994-2004	2004-2015	1994-2004	2004-2015	1994-2004	2004-2015
Eastern Cape	97%	95%	2%	1%	0%	4%
Free State	98%	91%	1%	9%	1%	0%
Gauteng	83%	82%	17%	16%	0%	1%
KwaZulu-Natal	89%	44%	7%	2%	4%	52%
Limpopo	64%	75%	1%	3%	35%	25%
Mpumalanga	95%	95%	4%	3%	1%	1%
Northern Cape	98%	82%	2%	8%	0%	10%
North West	88%	n/a	1%	n/a	11%	n/a
Western Cape	96%	97%	4%	3%	0%	0%
South Africa	87%	81%	9%	6%	4%	14%
Sources: Eastern Cape DoHS (2009; 2012); Free State DoHS (2014); Gauteng DoHS (2009; 2010; 2011; 2013; 2014; 2015); KwaZulu-Natal DoHS (2009; 2010; 2011; 2012; 2014); Limpopo DoHS (2008; 2009; 2010); Mpumalanga DoHS (2012; 2013; 2014); National Treasury (2005, 74); North West DoHS (2006; 2008; 2010; 2013); Northern Cape DoHS (2013; 2014); Western Cape DoHS (2011; 2012; 2013; 2014).						

The state-subsidised housing policy has been designed to accommodate a variety of tenure options; and the HWP of 1994 specifically rejects the elevation of private homeownership over other forms of tenure. However, **Table 4** illustrates that there has been a continued emphasis on homeownership as a form of tenure over other types (except in KwaZulu-Natal and Limpopo). This especially the case in the Eastern

⁴⁶ Despite the fact that the IRDP officially replaced the ‘project-linked’ subsidy in 2004, most provinces continued with the ‘project-linked’, phasing is out around 2008/09.

Cape, Free State, Mpumalanga, and the Western Cape, where over 90% of the houses/units completed were for ownership between 2004 and 2015. Whereas in provinces with less of an emphasis, for instance in Gauteng, the role of ‘Social and Rental’ tenure options have continued to play a significant role, 17% in phase 1 and 16% in phase 2, predominantly through the Hostel Redevelopment Programme. There has been an increase in Social & Rental tenure options for the Free State (1% to 9%) and the Northern Cape (2% to 8%), which is encouraging. However, the drop in Social & Rental tenure in Eastern Cape (2% to 0%) and KwaZulu-Natal (7% to 2%) especially and to a lesser degree in Mpumalanga (4% to 3%), and Western Cape (4% to 3%) is a cause for concern.

In addition to housing delivery being focused primarily on homeownership, rather than other forms of tenure (rental, communal etc.) the state has sold off a massive amount of public rental housing, inherited in 1994. The programme, called the Discount Benefit Scheme (DBS), has been relatively cheap to administer and has given ownership to 413 298 households between 1994 and 2004 and at least 60 000 more since 2008/09, according to the Provincial DoHS Annual Reports⁴⁷.

Ideally we want a variety of tenure options. We do not want an overemphasis of one form of tenure over another. According to Statistics South Africa (2004), in 2003, 70.7% of households nationally who lived in a ‘formal dwelling’ were homeowners, 18% were renters and 11.3% fell into an ‘other’ category (the vast majority of which is ‘occupied rent free’). These figures remained relatively consistent between 2003 and 2012 (Statistics South Africa, 2003-2013), however, a shift towards rental housing is reported in the General Households Survey 2013; with 65.4% homeowners, 24.1% renters and 10.5% ‘other’ (Statistics South Africa, 2014a). According to the HDA (2013:16-17) the shift towards rental housing is due in large part to the contraction in mortgage lending, that has happened since 2007, in line with the slowdown in the national and global economy.

This distribution of tenure options could be regarded as the ideal. However, this would be incomplete without coming to some sort of understanding or measurement of the ‘need for housing’. There are various ways to understand the need for housing (WCDHS, 2015:12):

1. Registered demand, as per the provincial housing demand databases, and
2. With reference to types and conditions of the dwellings in which people live.

Unfortunately, access to the provincial housing demand databases is unavailable. However, a proxy is: the number of households ‘with at least one member’ on the housing ‘waiting list’ from the General

⁴⁷ Complete data for the number of public rental houses/units transferred under the eeDBS is not available.

Household Survey 2013 (Statistics South Africa, 2014a). **Table 5:** shows the number of households with at least one member of the ‘waiting list’, by the type of dwelling, by province for 2013.

Table 5: ‘Waiting list’ by type of dwelling, by province, 2013									
Province	Formal		Backyard shack		Free-standing shack		Traditional		Total backlog
Eastern Cape	97 727	36%	7 918	3%	43 724	16%	118 475	44%	267 844
Free State	42 032	48%	12 580	14%	27 197	31%	5 621	6%	87 430
Gauteng	323 118	53%	86 984	14%	197 319	32%	3 851	1%	611 272
KwaZulu-Natal	237 633	54%	8 847	2%	43 222	10%	148 196	34%	437 898
Limpopo	107 882	84%	542	0%	10 097	8%	10 445	8%	128 966
Mpumalanga	89 330	58%	897	1%	39 133	25%	25 377	16%	154 737
Northern Cape	17 519	42%	1 771	4%	21 069	51%	925	2%	41 284
North West	76 725	58%	7 213	5%	44 469	33%	4 411	3%	132 818
Western Cape	81 896	46%	33 505	19%	62 818	35%	0	0%	178 219
South Africa	1 074 005	53%	160 312	8%	489 135	24%	313 448	15%	2 036 900
Source: Statistics South Africa (2014a)									

The total backlog across the country, in terms of this proxy, is 2 036 900. The backlog is greatest in Gauteng (611 272) and KwaZulu-Natal (437 898) and smallest in the Northern Cape (41 284) and Free State (87 430) which reflect the delivery numbers in each of the provinces. That is, the delivery numbers have been the highest in provinces with the greatest ‘need’ for housing. It should be noted that the number of households with ‘at least one member on the waiting list’ does not equate to the number of households on the ‘waiting list’. Nor does it tell us the number of individuals that are on the ‘waiting list’. However, according to Statistics South Africa (2014a), 89% of the households ‘with at least one member on the waiting list’ only have one member on the ‘waiting list’, with 9% having two members on the ‘waiting list’. Therefore, the estimates in **Table 5** are a slight underestimation of the number of *individuals* on the ‘waiting list’. The majority of those on the ‘waiting list’ live in ‘formal dwellings’ (53% nationally), followed by ‘free-standing shacks (24%), then ‘traditional’ (15%) and ‘backyard shacks’ (8%).

This implies that a reduction in the ‘housing backlog’ will not lead to an equal reduction in the number of informal settlements. That is, indicatively speaking, the delivery of 100 complete houses/units will reduce the number of free-standing shacks by 24 and the number of shacks in backyards by 8. Which provides an indication as to why despite the provision of 2 930 485 complete houses/units, and 3 916 139 ‘housing opportunities’, since 1994 the ‘housing backlog’⁴⁸ has not decreased. On the contrary the number of households living in ‘free-standing shacks’ has risen from 1.1 million in 2003 to 1.3 million in 2012; and the number of households living in ‘backyard shacks’ has risen from 311 000 to 730 000 (Statistics South

⁴⁸ The housing backlog is often estimated by Municipalities as the number of ‘free-standing shacks’.

Africa, 2004; 2013). **Table 6** shows the number of households who reside ‘free-standing shacks’ and ‘backyard shacks’ in 2003 and 2012.

Table 6: Number of households living in shacks, 2003 & 2012				
Province	Free-standing shacks		Backyard shacks	
	2003	2012	2003	2012
Eastern Cape	124 062	109 766	20 534	32 783
Free State	94 858	64 321	15 426	56 228
Gauteng	371 094	461 398	195 088	398 688
KZN	145 275	207 081	24 960	27 794
Limpopo	53 940	41 482	2 772	16 008
Mpumalanga	75 266	84 973	23 890	14 688
Northern Cape	15 670	18 147	1 652	2 525
North West	65 646	179 563	16 197	70 499
Western Cape	174 346	134 701	18 372	113 330
South Africa	1 110 189	1 303 622	311,164	733,013
Sources: Statistics South Africa (2004; 2013)				

The number of households living in free-standing shacks has decreased in the Eastern Cape, Free State, Limpopo and Western Cape from 2003 to 2012. There has been a slight increase in the number of free-standing shacks in Mpumalanga and Northern Cape, and a larger increase in Gauteng and KwaZulu-Natal. The largest increase in free-standing shacks, relatively, has been in the North West.

The number of backyard shacks has increased in nearly every province (except Mpumalanga) from 2003 to 2012. A dramatic increase in the number of backyard shacks is evident in the Free State, Gauteng, North West and Western Cape. While there has been a still significant increase in the number of backyard shacks in the Eastern Cape and Limpopo; with a smaller relative increase in KwaZulu-Natal and the Northern Cape. Mpumalanga is the only province that has seen a decrease in the number of households living in backyard shacks.

As there has been a relatively larger increase in the number ‘backyard shacks’ (than ‘free-standing shacks’) and those who reside in ‘backyard shacks’ are typically renters (nationally: 15% own, 61% rent, and 24% occupy rent free, according to Statistics South Africa (2014a)) it would suggest that not enough rental tenure has been provided. In other words, a significant reason for this dramatic increase in backyard shacks could be the overemphasis on homeownership (over rental) across the country during phase 1 and phase 2.

Backyard rental shacks are attractive to the urban poor because they are affordable and are in relatively decent locations compared to formal housing. However, the material quality of these backyard shacks are poor and they do not provide sufficient protection against threats to inhabitants’ health. The emphasis of

Social and Rental housing has not been on low-income households, but on those earning between R3501 and R7 500. Therefore, until public rental options are made affordable for the urban poor or until the economic conditions of these urban poor improves there will be a continued growth in backyard shacks.

The general emphasis on homeownership across the country, as shown in **Table 4** earlier, requires the effective transfer of title deeds, as security of tenure is an important element to the realisation of the right to *adequate housing* (as illustrated in **chapter 4(d)(vi)**).

(ii) Transfer (and lack of transfer of) title deeds

A total number of 2 930 485 houses/units have been completed, across the country, since 1994. Of this number approximately 2 432 303 houses/units have been completed for ‘Ownership’, based on the estimations made earlier. According to the Minister of Human Settlements (Parliament. National Assembly, 2015:Q. No. 367), as of February 2015, 1 403 748 of the total houses/units completed had been registered at the deeds office.

Therefore, approximately 1 028 555 houses/units completed have not been legally transferred, in title deed, to the beneficiaries. **Table 7** below shows the number of houses/units completed, the number of houses/units completed for ownership (i.e. the number eligible for a title deed), the number of properties registered at the Deeds Office and the resulting number and percentage of houses/units completed that have not been provided with a title deed, by province between 1994 and 2015.

Table 7: Transfer of title deeds, by province, 1994 - 2015					
Province	Houses/unit completed (April 1994 – March 2015)	No. of households eligible for title deed*	No. of properties registered at Deeds Office (Feb 2015)	No. and % of houses/units completed not provided with a title deed	
Eastern Cape	356 335	338 518	238 862	99 656	28%
Free State	216 003	204 123	155 843	48 280	22%
Gauteng	666 963	550 244	395 765	154 479	23%
KZN	529 965	352 427	173 890	178 537	34%
Limpopo	259 286	173 722	34 710	139 012	54%
Mpumalanga	219 733	208 746	74 254	134 492	61%
Northern Cape	73 607	66 246	41 538	24 708	34%
North West	279 055	245 568	80 034	165 534	59%
Western Cape	341 315	329 369	208 852	120 517	35%
South Africa	2 930 485	2 432 303	1 403 748	1 028 555	35%
* Number of households eligible for a title equates to the number of houses/units completed for ‘ownership’					
Sources: PDoHS Annual Reports (houses/units completed); Parliament. National Assembly (2015:Q. No. 367); and own estimations (no. & % of houses not provided with title deed)					

The title deed backlog appears to be greatest, relatively speaking in Mpumalanga, with 61% of houses/units eligible for a title that have not received one; while in relative terms the Free State has the fewest (22%) followed closely by Gauteng (23%). In absolute terms Kwa-Zulu Natal has the largest title deed backlog of 178 537; while the Northern Cape the lowest at 24 708; unsurprisingly because it is the smallest province, in terms of delivery and population. The reasons for the lack of transfer of title deeds was discussed earlier, they were:

1. Delayed opening of township registers
2. The (lengthy) township establishment process
3. Non-availability of some title deed holders

The government's recent intervention to reduce the backlog, namely the Estate Agency Affairs Board strategy, has a lot of work to do reducing the approximately 1 million title deed backlog across the country, and in so doing ensuring the legal security of tenure which will a long way in improving low-income households' right to adequate housing.

(iii) Habitability of state-subsidised housing

Shifting our mind back to **chapter 4(d)(v)** where the element of habitability in the realisation of the right to 'adequate housing' was discussed and where we discovered that despite minimum norms and standards the *quality* of many state-subsidised houses has been poor. This section analyses the quality of the roofs and walls of state-subsidised housing as reported in the General Household Survey 2003, 2008 and 2013, as well as the level and quality of the services provided, as indicators of the *habitability* of state-subsidised housing.

The quality of roofs and walls are important to provide protection against from the weather, as well as an indicator of comfort and the overall quality of the dwelling. **Table 8** below indicates the percentage of households who for 2003 and 2008 had received a state-subsidy and for 2013 who lived in a state-subsidised house. In South Africa as a whole 12.9% of households reported their walls to be sub-standard in 2003, increasing to 21.7% in 2008, and dropping to 15.7% in 2013. While 13.1% of households reported their roof to be sub-standard in 2003, increasing to 21.1% in 2008, and dropping to 15.2% in 2013. Most disconcerting is that around *one-third* of households reported substandard walls and/or a roof in Eastern Cape and the Western Cape in 2008. By 2013, the Eastern Cape reported the most substandard dwellings (28%), with Gauteng reporting the least worst at 7.7% and 5.9%.

Table 8: Poor or very poor roof and wall quality, by province, 2003, 2008 & 2013

	2003		2008		2013	
	Walls	Roof	Walls	Roof	Walls	Roof
Eastern Cape	21.7%	22.8%	32.9%	33.9%	28.6%	28.8%
Free State	13.0%	13.2%	21.4%	18.4%	18.2%	16.0%
Gauteng	8.9%	9.0%	13.2%	11.7%	7.7%	5.9%
KwaZulu-Natal	16.9%	13.7%	20.9%	17.9%	14.1%	13.2%
Limpopo	8.2%	6.4%	22.0%	24.4%	13.3%	15.7%
Mpumalanga	7.0%	7.2%	19.8%	22.4%	12.1%	15.0%
Northern Cape	19.1%	20.6%	21.7%	22.5%	21.9%	22.4%
North West	13.5%	13.9%	16.9%	18.1%	14.6%	11.8%
Western Cape	10.5%	12.9%	36.2%	34.9%	23.3%	23.2%
South Africa	12.9%	13.1%	21.7%	21.1%	15.7%	15.2%
Sources: Statistics South Africa (2004; 2009; 2014a)						

These are troubling figures and illustrate the extent and impact of unscrupulous building contractors, poor workmanship and the use of inappropriate material used. The state responded by implementing the Rectification Programme in 2010 to rebuild and fix poorly constructed houses that were built between 1994 and 2002. This reflects the fact that the majority of the reports of sub-standard walls and roofs were between 1993 and 2003 (Statistics South Africa, 2014a)

In terms of access to services subsidised housing has provided essentially complete access to mains electricity supply and near complete access to clean, drinkable water. However, access to a flush toilet (sanitation) has not been fulfilled in all the provinces. Gauteng and the Western Cape have provided extensive access to a flush toilet, at 98% and 99% respectively. However, the North West (77%), Eastern Cape (75%), Free State (75%) leave a lot to be desired; while KwaZulu-Natal (58%) and Mpumalanga (53%) are greater causes of concern; however, it is in Limpopo, where only 25% of households who reside in state-subsidised houses have access to a flush toilet, according to the GHS dataset (2013).

The responsibility to ensure a *minimum level of basic municipal services* lies with the municipality, as per the *Municipal Systems Act, No. 32 of 2000* (2000). Therefore, a local government analysis of the reasons for the poor level of delivery, in terms of sanitation, needs to be taken, especially for municipalities in Limpopo. This level of delivery is unacceptable because according to the White Paper on Basic Household Sanitation (2001) each house, inter alia, must have at least one toilet (Department of Water and Sanitation, 2001:14).

6. Conclusion

(a) Research question

This study's main objective was to assess the impact of state-subsidised housing on the realisation of the right to adequate housing in South Africa. In order to grapple with this, the paper has focussed on a number of main points:

1. Reviewing the development of housing policy in South Africa.
2. The meaning of the right to adequate housing and the obligations of the state in this regard.
3. Understanding the core elements that constitute adequate housing and reviewing how policy and practise have impacted on these elements.
5. Examining the delivery of state-subsidised housing and its impact on tenure options, security of tenure and the habitability of the state subsidised housing product.

(i) Reviewing the development of housing policy

The incremental housing provision adopted in the HWP (1994) was shaped by a number of forces. Historically the World Bank introduced the state-enabling approach which significantly influenced the policies adopted by the UF. The UF successfully influenced the NP government in terms of policy in the 1980s, culminating in 1990 with the head of the UF being asked by President de Klerk to create a new socio-economic programme for the country, which included housing provision. As a result, the IDT was formed and the site-and-services scheme was implemented and brought to the NHF to be used as an example of an 'efficient housing programme'. The use of targeted capital subsidies emphasising homeownership was advocated for by 'development' and 'business' interests in the NHF, and was established as core housing policy 1 month into the 2 year NHF negotiations. The use of capital subsidies emphasising homeownership has continued since 1994 and is the cornerstone of housing policy.

(ii) The right to adequate housing in South Africa

The right to housing is a socioeconomic right recognised in international law; specifically, in the Covenant on Economic, Social and Cultural Rights. South Africa has been signatory of the Covenant since 1994, and has recently ratified it, but is yet to domesticate it. Nevertheless, the Covenant has been used by the Constitutional court in assessing the state's obligation with regards to this right; which is enshrined, domestically, in section 26 of the Constitution (1996). The right to adequate housing in this paper has been significantly informed by the UN CESCR (1991), which informs the core elements of adequate housing.

(iii) Core elements of adequate housing

There were six core elements of adequate housing reviewed in this paper: accessibility, affordability, location, availability of services, habitability and security of tenure.

Accessibility

There were two programmes that targeted vulnerable households: the individual subsidy for persons with physical disabilities and the social housing subsidy for persons with disabilities living with HIV/AIDS. However, there was no current national framework for special needs housing.

Affordability

The affordability of formal housing for low-income households remains a serious issue in South Africa. In order to improve access to adequate housing the state has allocated funding for a starter (core) house during phase 1 and a more complete house during phase 2. In order to improve the ongoing affordability for low-income households, government has reduced the relative cost of rates and services. In addition, many municipalities do not charge rates and services for beneficiaries of state-subsidised housing, further improving affordability for these beneficiaries.

Location

State-subsidised houses, built during phase 1, have typically been located on the urban periphery, far from economic opportunities and social amenities. The main reasons for this were the low subsidy amounts, a lack of political will and the stand-alone physical nature of the RDP housing units. Low-income housing provision then, has done little to de-segregate South Africa's apartheid cities.

Availability of services

Since 1994 significant progress has been made in the provision of basic services and reducing backlogs. However, substantial backlogs remain. In 2013, around 2.76 million people still did not have access to potable water, 1.4 million rural households lacked access to basic sanitation and 3.8 million urban households had inadequate sanitation.

Habitability

The most significant policy measure introduced by the DoHS in terms of habitability has been the Minimum Norms and Standards. Despite these norms and standards many houses have been poorly built. This was predominantly the result of poor workmanship, inappropriate materials and arguably too low a housing subsidy. In addition, the hiring of 'emerging contractors' and the push by some municipalities to

hire unskilled labour may have played a significant role. As a result of the problems in construction, as of July 2014, R2.1 billion had been spent through the Rectification Programme.

Security of tenure

South Africa's approach to tenure provision has emphasised the need for various tenure options (as seen in the HWP of 1994). However, despite this, the implementation of subsidy programmes has emphasised homeownership over other forms of tenure generally. This emphasis on homeownership and perspective of viewing housing as an asset, requires, at a minimum, the effective transfer of title deeds – in order for households to have legally secure tenure. The fact that so many title deeds are yet to be transferred is alarming.

(iv) Delivery of state-subsidised houses

Since April 1994 a total of 2.9 million houses/units have been completed across the country. Between 1994 and 2004 approximately 87% of the houses/units completed were for homeownership, 9% for Social & Rental, and 4% for Rural. According to estimates made in chapter 5(c)(i) between 2004 and 2015 approximately 81% of the houses/units completed were for homeownership, 6% for Social & Rental, and 14% for Rural.

Therefore, there has been a slight shift away from homeownership and Social & Rental towards Rural housing; largely the result of the increase in Rural housing in KwaZulu-Natal. The decrease in the number of Social & Rental houses/units completed, seen in phase 2, may have contributed to the increase in the number of backyard shacks across the country, especially in the more urbanised provinces of Gauteng and the Western Cape.

The housing backlog has risen, arguably, because the housing provided has not sufficiently met the needs of households. The growth in backyard shacks, in particular, is evidence that households have wanted a different type of house to the standard RDP/BNG houses most commonly provided.

The continued emphasis on homeownership as a form of tenure requires the effective transfer of title deeds. Based on this paper's estimates approximately 1 million households do not have access to secure legal tenure in the form of a title deed – combine this with the 240 000 households estimated to have sold their homes informally and approximately 1,25 million households who live in state-subsidised houses (RDP/BNG) do not have access to secure legal tenure.

(b) Implications for policy

(i) Continued emphasis on homeownership

This continued emphasis on homeownership over Social & Rental housing has occurred despite a number of new programmes offered under the BNG policy framework offering alternative tenure options. Therefore, the policy and programmes are available, however it appears that they have not sufficiently been implemented. Implementation should focus on upgrading the backyard rental shacks, as these have grown significantly in recent years, particularly prevalent in the urbanised provinces of Gauteng and Western Cape.

(ii) Informal sale of RDP/BNG houses

The fact that approximately 240 000 houses have been sold informally raises questions around the appropriateness of the 8 year sales restriction. Besides being an impediment to a functioning housing market, the restriction negatively impacts the informal buyer's security of tenure. This is an inappropriate legislative intervention constitutionally, this paper argues, because it fails to 'respect' the right of an individual or household to access 'adequate housing', of which security of tenure is an important element.

(iii) Adequate housing cannot be realised through housing policy alone

Because adequate housing encompasses more than just a house, and full realisation of adequate housing cannot be achieved by the state alone (other actors are important too), there needs to be coordination between actors and stakeholders across sectors and departments. For example, an adequate house requires a basic level of services, an obligation which lies with the municipality and not the provincial human settlements department.

(c) Recommendations for further research

(i) The adequacy of location for BNG houses constructed since 2009 (phase 2)

More recent research ought to be conducted on the impact of the increased subsidy amount and the separate funding mechanism for land on the *location* of state-subsidised houses. Because the IRDP emphasises 'integrated human settlements' and the subsidy amount has increased to R160 573 (as of April 2015) it is expected that the location of state-subsidised housing has improved. Is this actually the case? Considering that there are other impediments to decently location low-income housing; namely: opposition from local rate payers (linked to a 'lack of political will') and exposure to land-markets.

(ii) Potential for reducing standards to increase supply

The value of the subsidy has increased dramatically since 2009, and it currently stands at R160 573. In order for there to be any hope of eliminating the backlog the cost of provision cannot rise much higher. The World Bank (1993) recommends that standards of services be lowered in order to realise cost reductions. With the minimum norms and standards being relatively high, comparatively to other developing countries, it would be insightful to ascertain whether reducing the minimum norms and standards might be appropriate in order to increase supply without negatively impacting on the habitability of state-subsidised housing.

(iii) Impact of use of emerging contractors and employment creation on habitability

There appears to be evidence that the use of emerging contractors and the emphasis on job creation in the Eastern Cape (in particular) might be correlated with poorer quality construction. A study on this would be insightful and could shed some light on whether housing policy should have any emphasis on employment creation.

(d) Final thoughts

The realisation of the right to adequate housing in South Africa is a complex problem to which there is no straightforward solution. The impact of the state-subsidised housing programme on the realisation of this right is nuanced and varies from project to project and beneficiary to beneficiary. Nevertheless, there are particular measures that the state can take to better enable the realisation of this right. These measures should above all focus on the well-being of the users of housing, rather than other non-state/state actors (e.g. building contractors), as it is the users that have to bear the harsh realities of inadequate housing.

Reference List

- Abahlali baseMjondolo Movement SA v Premier of the Province of KwaZulu-Natal*, 2009 SA 31 (CC) 31
- Adler, T. & Oelofse, M. 1996. The housing subsidy scheme. In *A Mandate to Build: Developing consensus around a national housing policy in South Africa*, K. Rust & S. Rubenstein, Eds. Johannesburg: Ravan Press. 109-137.
- African National Congress (ANC). 1994. *The Reconstruction and Development Programme*. Johannesburg: Umyanyano Publications.
- Angel, S., Mayo, S. & Stephens, W. 1993. *The Housing Indicators Program: A report on progress and plans for the future*. Housing and the Built Environment. 13-48.
- Auditor General. 2006. *Findings identified during a performance audit of the approval and allocation of housing subsidies at provincial housing departments*. Pretoria: Published by Authority.
- Auditor General. 2008. *Performance audit of the allocation of housing subsidies to municipal employees and the administration of low-cost housing projects by certain provincial housing departments*. Pretoria: Published by Authority.
- Aziz, W., Hanif, N. & Singaravello, K. 2007. Affordable housing within the middle income households in Malaysia: challenge to enter homeownership. *Australian Journal of Basic & Applied Science*. 5(8): 258-267.
- Blake, M. 2000. *Housing for all in South Africa : A review of the meaning of the right to adequate housing, with specific reference to the government's national housing subsidy scheme*. Cape Town: National Association of Democratic Lawyers (South Africa).
- Bond, P. 1995. Undermining the RDP: A reply to Barry Pinsky. *Southern Africa Report Archive* 10 (5): 23
- Bond, P. 2000a. Transitional Housing Policy Discourses. In *Cities of Gold: Essays on South Africa's New Urban Crisis*. P. Bond, Ed. Africa World Press. 231-258.
- Bond, P. 2000b. Do "Blacks like Shacks"? In *Cities of Gold Townships of Coal: Essays on South Africa's new urban crisis*. P. Bond, Ed. Africa World Press. 259-293
- Bond, P. 2003. The degeneration of urban policy after apartheid. In *Confronting fragmentation: Housing and urban development in a democratising society*. P. Harrison, M. Huchzermeyer & M. Mayekiso, Eds. Cape Town: UCT Press.

- Brügge, K. 1996. Building the mandate: Developing housing policy. In *A Mandate to Build: Developing consensus around a national housing policy in South Africa*, K. Rust & S. Rubenstein, Eds. Johannesburg: Ravan Press. 69-85.
- Budlender, G. 2003. *Justiciability and the right to housing – the South African Experience*. Cape Town: Legal Resources Centre.
- Burke Johnson, R. & Onwuegbuzie, A.J. 2004. Mixed methods research: A research paradigm whose time has come. *Educational Researcher*. 33(7):14-26. Available: <http://edr.sagepub.com/content/33/7/14.full.pdf+html>
- Charlton, S. & Kihato, C. 2006. Reaching the Poor: An analysis of the influences on the evolution of South Africa's housing programme. In *Democracy and Delivery: Urban Policy in South Africa*. by U. Pillay, R. Tomlinson & J. du Toit. Cape Town: HSRC Press. 252-282.
- Chenwi, L. 2007. Housing rights. In *Socio-economic rights in South Africa: a resource book*. S. Khoza, Ed. Cape Town: Community Law Centre.
- Council for Scientific and Industrial Research (CSIR). 1999. *The State of Human Settlements in South Africa 1994 - 1998*. Pretoria: Report prepared by the CSIR for the Department of Housing.
- Department of Housing (DoH). 1994. *White Paper: A New Housing Policy and Strategy for South Africa*. Pretoria: Department of Housing.
- Department of Housing (DoH). 1995. *Implementation Manual: Housing Subsidy Scheme and other Housing Assistance Measures*. Pretoria: Department of Housing.
- Department of Housing (DoH). 2000. *National housing code*. Pretoria: Department of Housing.
- Department of Housing (DoH). 2004. *Technical guidelines: Part B technical provisions*. Pretoria: Department of Housing.
- Department of Housing (DoH). 2006. *Annual Report for 2005/06*. Pretoria: Department of Housing.
- Department of Human Settlements (DoHS). 2009a. *National housing code, 2009*. Vol. 1, Simplified guide to the national housing code: the policy context. Pretoria: Department of Human Settlements.
- Department of Human Settlements (DoHS). 2009b. *Enhanced Extended Discount Benefit Scheme*. Part 3, Vol 3 of the national housing code, 2009. Pretoria: Department of Human Settlements.
- Department of Human Settlements (DoHS). 2009c. *Technical and general guidelines*. Part A of the national housing code. Pretoria: Department of Human Settlements.

- Department of Human Settlements (DoHS). 2011. *Annual Report for 2010/11*. Pretoria: Department of Human Settlements.
- Department of Human Settlements (DoHS). 2012. *Annual Report for 2011/12*. Pretoria: Department of Human Settlements.
- Department of Human Settlements (DoHS). 2014a. *Speech of the Minister of Human Settlements as part of the Govan Mbeki Awards 2014*. Pretoria: Department of Human Settlements, South Africa.
- Department of Human Settlements (DoHS). 2014b. *Enhancement to the national norms and standards for the construction of stand alone residential dwellings and engineering services and adjustment of the housing subsidy quantum*. Pretoria: Department of Human Settlements. Available: <http://greencape.co.za/assets/Uploads/WC.pdf>
- Department of Human Settlements (DoHS). 2015. *Annual Report 2014/15*. Pretoria: Department of Human Settlements.
- Department of Minerals and Energy. 1998. *Draft White Paper on the Energy Policy of the Republic of South Africa*. Pretoria: Government Printers.
- Department of Water Affairs. 2013. *Annual Performance Plan for the fiscal years 2013/14 to 2015/16*. Available: <https://www.dwa.gov.za/documents/Other/Strategic%20Plan/2013/Annual%20performance%20plan%20draft%20-12%20Mar%202013.pdf>
- Department of Water and Forestry. 2004. *A history of the first decade of water service delivery in South Africa 1994 to 2004*. Republic of South Africa, Pretoria. Available: <https://www.dwaf.gov.za/documents/Publications/firstdecade.pdf>
- Department of Water and Sanitation. 2001. *White Paper on Basic Household Sanitation*. Available: <https://www.dwa.gov.za/Documents/Policies/SanitationReviewPolicy.pdf> [2016, May 21]
- Dewar, D. 1993. Submission to the De Looor Task Group Inquiry into a New National Housing Policy and Strategy. In *The de Looor Task Group Report on Housing Policy for South Africa: Some Perspectives*. D. Dewar, Ed. University of Cape Town: Faculty of Fine Art and Architecture. 3-30.
- Durand-Lasserve, A. & Royston, L. 2014. *Holding Their Ground: Secure Land Tenure for the Urban Poor in Developing Countries*. Earthscan Publications Limited.
- Eastern Cape Department of Housing. 2009. *Annual Report for 2008/09*. East London: Eastern Cape Department of Human Settlements.

- Eastern Cape Department of Human Settlements. 2012. *Annual Report for 2011/12*. East London: Eastern Cape Department of Human Settlements.
- Eastern Cape Department of Human Settlements. 2014. *Annual Report for 2013/14*. East London: Eastern Cape Department of Human Settlements.
- Free State Department of Human Settlements. 2014. *Annual Report for 2013/14*. Bloemfontein: Free State Department of Human Settlements.
- Gardner, D. 1996. Roles, institutional frameworks and statutory funds for housing in South Africa. In *A Mandate to Build: Developing consensus around a national housing policy in South Africa*, K. Rust & S. Rubenstein, Eds. Johannesburg: Ravan Press. 86-108.
- Gardner, D. 2003. *Getting South Africans Under Shelter: An overview of the South African Housing Sector*. Johannesburg: Housing Finance Resource Programme.
- Gauteng Department of Housing. 2009. *Annual Report for 2008/09*. Pretoria: Gauteng Department of Housing.
- Gauteng Department of Human Settlements. 2010. *Annual Report for 2009/10*. Pretoria: Gauteng Department of Human Settlements.
- Gauteng Department of Human Settlements. 2011. *Annual Report for 2010/11*. Pretoria: Gauteng Department of Human Settlements.
- Gauteng Department of Human Settlements. 2013. *Annual Report for 2012/13*. Pretoria: Gauteng Department of Human Settlements.
- Gauteng Department of Human Settlements. 2014. *Annual Report for 2013/14*. Pretoria: Gauteng Department of Human Settlements.
- Gauteng Department of Human Settlements. 2015. *Annual Report for 2014/15*. Pretoria: Gauteng Department of Human Settlements.
- Gilbert, A. 2002. 'Scan Globally; Reinvent Locally': Reflecting on the Origins of South Africa's Capital Housing Subsidy Policy. *Urban Studies*. 39(10): 1911-1933.
- Gilbert, A. 2004. Helping the poor through housing subsidies: lessons from Chile, Colombia and South Africa. *Habitat International*. 28(1): 13-40.
- Gordon, R. Bertoldi, A. & Nell, M. 2011. *Housing Subsidy Assets: Exploring the Performance of Government Subsidized Housing in South Africa*. Johannesburg: Shisaka Development Management Services.

- Govender, T., Barnes, J. & Pieper, C. 2010. Living in low-cost housing settlements in Cape Town, South Africa – the epidemiological characteristics associated with increased vulnerability. *Journal of Urban Health: Bulletin of the New York Academy of Medicine*. 87(6):899-911. doi: 10.1007/s11524-010-9502-0
- Government of the Republic of South Africa and Others v Grootboom and Others*, 2001 (1) SA 46 (CC)
- Hill, C.R. 1983. Business Pressure Groups. In *Change in South Africa: Blind Alleys or New Directions?* C.R. Hill, Ed. London: Rex Collings Ltd. 57-77.
- Housing Act, No. 107 of 1997*. 1997. Available:
http://www.saopf.org.za/sites/default/files/your_rights/Housing%20Act,%20Act%20No.%20107%20of%201997.pdf [2016, May 20].
- Housing Development Agency (HDA). 2013. *South Africa: Informal Settlements Status (2013)*. Research Report published by the HDA. Johannesburg, South Africa. Available:
http://www.thehda.co.za/uploads/images/HDA_South_Africa_Report_lr.pdf
- Housing Development Agency (HDA). 2004. *Breaking New Ground policy document*. Available:
http://www.thehda.co.za/uploads/images/BREAKING_NEW_GROUND_DOC_copy-2_1.pdf
- Huchzermeyer, M. 2001. Housing for the poor? Negotiated housing policy in South Africa. *Habitat International*. 25(3): 303-331.
- Huchzermeyer, M. 2002. Evaluating tenure intervention in informal settlements in South Africa. In *Holding their Ground: Secure Land Tenure for the Urban Poor in Developing Countries*. A. Durand-Lasserve & L. Royston, Eds. London: Earthscan. 182-194.
- Huchzermeyer, M. 2003. Low income housing and commodified urban segregation in South Africa. In *Ambiguous restructurings of post-apartheid Cape Town*. C. Haferburg & J. Oßenbrügge, Eds. Hamburg: Lit Verlag.
- Huchzermeyer, M. 2005. Housing Subsidies and Urban Segregation: A Reflection on the Case of South Africa. In *Desegregating the City: Ghettos, Enclaves, and Inequality*. D.P. Varady, Ed. New York. State University of New York Press. 213-220.
- Independent Development Trust (IDT). 2015. *Who We Are*. 2 March. Available:
<http://www.idt.org.za/who-we-are/>
- Jacobsen, I. 2003. *Privatisation and individualisation of land rights in urban areas: The cases of Imizamo Yethu and Joe Slovo Park in Cape Town*. Development Action Group.

- Jenkins, P. 1999. The role of civil society in the development of housing policy; some lessons from Southern Africa. *Third World Planning Review*. 21(1): 177-200.
- Kaijser, A. 2007. *Women and the right to adequate housing: an introduction to the central issue*. Habitat International Coalition (HCI) General Secretariat. Available: <http://www.hic-gs.org/document.php?pid=2887>
- Karsen. 1999. *Presentation to National Department of Housing on "Strategies identified to address policy gaps"*. Johannesburg: National Housing Conference on 'Housing Strategy for the New Millenium'.
- Keivani, R. & Werna, E. 2001. Modes of housing provision in developing countries. *Progress in Planning*. 55(1): 65-118.
- Khan, F. & Thurman, S. 2001. *Setting the Stage: Current Housing Policy and Debate in South Africa*. Isandla Institute.
- Khoza, S. 2007. *Socio-economic rights in South Africa: A resource book*. Community Law Centre, University of the Western Cape. Available: <http://hdl.handle.net/10566/254>
- Kok, P. & Gelderblom, D. 1994. *Urbanisation: South Africa's Challenge: Volume 2: Planning*. Pretoria: HSRC Publishers.
- Kothari, M. 2003. Privatizing human rights - the impact of globalization on adequate housing, water and sanitation. *Informe Anual*, Social Watch Report.
- KwaZulu-Natal Department of Human Settlements. 2009. *Annual Report for 2008/09*. Pietermaritzburg: KwaZulu-Natal Department of Human Settlements.
- KwaZulu-Natal Department of Human Settlements. 2010. *Annual Report for 2009/10*. Pietermaritzburg: KwaZulu-Natal Department of Human Settlements.
- KwaZulu-Natal Department of Human Settlements. 2011. *Annual Report for 2010/11*. Pietermaritzburg: KwaZulu-Natal Department of Human Settlements.
- KwaZulu-Natal Department of Human Settlements. 2012. *Annual Report for 2011/12*. Pietermaritzburg: KwaZulu-Natal Department of Human Settlements.
- KwaZulu-Natal Department of Human Settlements. 2014. *Annual Report for 2013/14*. Pietermaritzburg: KwaZulu-Natal Department of Human Settlements.
- Lalloo, K. 1999. Arenas of Contested Citizenship: Housing Policy in South Africa. *Habitat International*. 23(1):35-47.

- Leckie, S. 1989. The UN Committee on Economic, Social and Cultural Rights and the Right to Adequate Housing: Towards an Appropriate Approach. *Human Rights Quarterly*. 11(4):522-560. Available: <http://www.jstor.org/stable/762090>
- Liebenberg, S. 2010. Socio-Economic Rights Adjudication under a Transformative Constitution. Cape Town: Juta Publishers.
- Limpopo Department of Local Government & Housing. 2008. *Annual Report for 2007/08*. Polokwane: Department of Local Government & Housing.
- Limpopo Department of Local Government & Housing. 2009. *Annual Report for 2008/09*. Polokwane: Department of Local Government & Housing.
- Limpopo Department of Local Government & Housing. 2010. *Annual Report for 2008/09*. Polokwane: Department of Local Government & Housing.
- Lombard, J.J.G. 1996. *Housing Strategies and the Urban Poor in South Africa*. Working Paper No. 80.
- Macro-Economic Research Group (MERG). 1993. *Making Democracy Work: A Framework for Macroeconomic Policy in South Africa*. South Africa: A report to members of the Democratic Movement of South Africa from the Macro-Economic Research Group.
- Madzidzela, L. 2008. An analysis of factors affecting housing delivery in the Nyandeni Local Municipality with specific reference to the extension 4 housing project: A case study of ward 21 in Ngqeleni. MA. Thesis. Nelson Mandela Metropolitan University.
- Mahajan, S. 2014. Overview. In *Economics of South African Townships*. S. Mahajan, Ed. Washington, D.C.: World Bank. 1-27
- Marais, L & Krige, S. 1997. The Upgrading of Freedom Square Informal Settlements in Bloemfontein: Lessons for Future Low-Income Housing. *Urban Forum*. 8(2):177-194.
- Marais, L., Cloete, J., Matebesi, Z., Sigenu, K. & Van Rooyen, D. 2010. Low-income housing policy in practice in arid and semi-arid South Africa: policy lessons and implications. *Journal of Arid Environments*. 74(1):1340-1344.
- Mehlomakulu, T. & Marais, L. 1999. Dweller perceptions of public and self-built houses: Some evidence from Mangaung (Bloemfontein). *Journal of Family Ecology and Consumer Sciences*. 27(2):92-102.
- Minister of Public Works and others v Kyalami Ridge Environmental Association and another* 2001 (3) SA 1151 (CC).

- Moolla, R., Kotze, N. & Block, L. 2011. Housing satisfaction and quality of life in RDP houses in Braamfischerville, Soweto: A South African case study. *Urbani izziv*. 22(1):138-143. DOI: 10.5379/urbani-izziv-en-2011-22-01-005
- Moser, C & Peake, L. 1994. *Seeing the invisible: women, gender and urban development*. Urban research in the developing world. Major Report No. 30. Center for Urban and Community Studies. University of Toronto.
- Mpumalanga Department of Human Settlements. 2013. *Annual Report for 2012/13*. Mbombela: Department of Human Settlements.
- Mpumalanga Department of Human Settlements. 2014. *Annual Report for 2013/14*. Mbombela: Department of Human Settlements.
- Muller, M. 2008. Free basic water – a sustainable instrument for a sustainable future in South Africa. *International Institute for Environment & Development*. 20(1):67-87.
- Municipal Property Rates Act, No. 6 of 2004*. 2004. Available:
http://www.saflii.org/za/legis/consol_reg/lgmpra6o2004rangnr1036897/ [2016, May 20].
- Municipal Systems Act, No. 32 of 2000*. 2000. Available:
http://www.saflii.org/za/legis/num_act/lgmsa2000384.pdf [2016, May 20].
- Nahiduzzaman, K. 2012. *Housing the Urban Poor: An Integrated Governance Perspective. The Case of Dhaka, Bangladesh*. Doctoral Thesis. Stockholm. Royal Institute of Technology.
- National Home Builders Registration Council (NHBRC). 2014. *A Guide to the Home Building Manual*. Available: <http://www.nhbrc.org.za/wp-content/uploads/2014/11/A-Guide-to-the-Home-Building-Manual-Rev-3a-G1.pdf>
- National Treasury. 2001. *Intergovernmental Fiscal Review (IGFR): Chapter 6 Housing, roads and transport*. Pretoria: Republic of South Africa. 73-85. Available:
<http://www.treasury.gov.za/publications/igfr/2001/IGFR.pdf>
- National Treasury. 2003. *Intergovernmental Fiscal Review (IGFR): Chapter 9 Housing*. Pretoria: Republic of South Africa. 159-180. Available:
<http://www.treasury.gov.za/publications/igfr/2003/chp09.pdf>
- National Treasury. 2004. *Intergovernmental Fiscal Review (IGFR): Chapter 9 Housing*. Pretoria: Republic of South Africa. 119-132. Available:
<http://www.treasury.gov.za/publications/igfr/2004/default.aspx>

- National Treasury. 2005. *Intergovernmental Fiscal Review (IGFR): Chapter 5 Housing*. Pretoria: Republic of South Africa. 67-78. Available:
<http://www.treasury.gov.za/publications/igfr/2005/prov/08.%20Chapter%205%20-%20Housing.pdf>
- National Treasury. 2006. *Intergovernmental Fiscal Review (IGFR): Chapter 5 Housing*. Pretoria: Republic of South Africa. 67-78. Available:
<http://www.treasury.gov.za/publications/igfr/2007/prov/default.aspx>
- National Treasury. 2007. *Intergovernmental Fiscal Review (IGFR): Chapter 5 Housing*. Pretoria: Republic of South Africa. 63-72. Available:
<http://www.treasury.gov.za/publications/igfr/2007/prov/default.aspx>
- Nell, M. & Rust, K. 1993. *The National Housing Forum: Consensus Based Policy Making During Political Transition in South Africa*. Housing Finance International.
- Nell, M., Meintjies, F., Gordon, R., Campbell, M., Andrews, A & Heyns, R. 2009. *Township Transformation Timeline*. Pretoria: Co-operative Governance & Traditional Affairs.
- Nientied, P. & van der Linden, J. 1985. Approaches to low-income housing in the third world: some comments. *International Journal of Urban and Regional Research*. 9(3):311-329.
- North West Department of Housing. 2006. *Annual Report for 2005/06*. Mmabatho: Department of Housing.
- North West Department of Housing. 2008. *Annual Report for 2007/08*. Mmabatho: Department of Housing.
- North West Department of Human Settlements. 2010. *Annual Report for 2009/10*. Mmabatho: Department of Human Settlements.
- North West Department of Human Settlements. 2013. *Annual Report for 2012/13*. Mmabatho: Department of Human Settlements.
- Northern Cape Department of Co-operative Governance, Human Settlements & Traditional Affairs. 2013. *Annual Report for 2012/13*. Kimberley: Department of Co-operative Governance & Traditional Affairs.
- Northern Cape Department of Co-operative Governance, Human Settlements & Traditional Affairs. 2014. *Annual Report for 2013/14*. Kimberley: Department of Co-operative Governance & Traditional Affairs.

- Ntsebeza, L. 2011. The Land Question: Exploring Obstacles to Land Redistribution in South Africa. In *After Apartheid: Reinventing South Africa?*. I. Shapiro & K. Tabeau, Eds. Charlottesville: University of Virginia Press. 294-308.
- Nuttall, J. 1997. *The First Five Years: The Story of the Independent Trust*. Independent Development Trust.
- Occupiers of 51 Olivia Road and 197 Main Street, Johannesburg v the City of Johannesburg and Others*, 2008 (3) SA 208 (CC)
- Parliament. National Assembly. 2012. *Questions to the Minister of Human Settlements*. May – October. Cape Town: Parliament. Available: https://pmg.org.za/question_reply/367/
- Parliament. National Assembly. 2013. *New housing norms and standards & provincial and local response: Department of Human Settlements briefing*. 11 June. Cape Town: Parliament. Available: <https://pmg.org.za/committee-meeting/16006/>
- Parliament. National Assembly. 2014. *Questions to the Minister of Human Settlements*. June - September. Cape Town: Parliament. Available: https://pmg.org.za/question_replies/
- Parliament. National Assembly. 2015. *Questions to the Minister of Human Settlements*. February - September. Cape Town: Parliament. Available: https://pmg.org.za/question_replies/
- Pieterse, E. 2009. *Post-Apartheid Geographies in South Africa: Why Are Urban Divides So Persistent?*. Interdisciplinary Debates on Development and Cultures: Cities in Development—Spaces, Conflict and Agency. Leuven University, Belgium.
- Policy Co-ordination and Advisory Services. 2003. *Towards a 10 Year Review*. Synthesis report on the implementation of government programmes: Discussion document. Pretoria: The Presidency.
- Port Elizabeth Municipality v Various Occupiers*, 2005 (1) SA 217 (CC).
- Public Service Commission. 2003. *Report on the Evaluation of the National Housing Subsidy Scheme*. Pretoria: Republic of South Africa. Available: <http://unsdsn.org/wp-content/uploads/2014/02/121015-Profile-of-Extreme-Poverty.pdf>.
- Rakodi, C. 1996. Women in the city of man: recent contributions to the gender and human settlements debate. *Gender and Development*. 4(1):57-59.
- Rauh, V., Landrigan, P. & Claudio, L. 2008. Housing and health: intersection of poverty and environmental exposure. *New York Academy of Science*, 1136(1):276-288. doi: 10.1196/annals.1425.032

- Republic of South Africa (RSA). 1995. *Municipal Infrastructure Investment Framework*. Pretoria: Government of South Africa
- Republic of South Africa (RSA). 1996. *Constitution*.
- Republic of South Africa (RSA). 2015. *Minister Lindiwe Sisulu: Media briefing on Human Settlements Budget Vote 2015/16*. Republic of South Africa. Available: <http://www.gov.za/speeches/minister-lindiwe-sisulu-media-briefing-human-settlements-budget-vote-201516-7-may-2015-0000>
- Residents of the Joe Slovo Community, Western Cape v Thubelisha Homes, Minister for Housing and Minister of Local Government and Housing, Western Cape*, 2009 SA 16 (CC)
- Rolnik, R. 2012. *Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. Human Rights Council. New York: United Nations.
- Royston, L. 2002. Security of Urban Tenure in South Africa: Overview of Policy and Practice. In *Holding their Ground: Secure Land Tenure for the Urban Poor in Developing Countries*. A. Durand-Lasserve & L. Royston, Eds. London: Earthscan. 165-181.
- Rust, K. 1996. *The National Housing Forum: 1991-1995*. In *A Mandate to Build: Developing consensus around a national housing policy in South Africa*, K. Rust & S. Rubenstein, Eds. Johannesburg: Ravan Press. 3-34.
- Rust, K. & Rubenstein, S. 1996. *A Mandate to Build: Developing Consensus around a National Housing Policy in South Africa*. Johannesburg: Ravan Press.
- Seekings, J. 2000. Introduction: Urban Studies in South Africa after Apartheid. *International Journal of Urban and Regional Research*. 24(4): 832-840.
- Sexwale, T. 2010. *Address by the Minister of Human Settlements, Tokyo Sexwale MP, on the occasion of the Human Settlements Budget Vote, National Assembly Cape Town*.
- Smit, D. 1992. *The Urban Foundation: Transformation Possibilities*. Transformation.
- Smit, W. 2008. *Analysis of Qualitative Survey on Accessing, Holding and Trading Land: Synthesis Report*. Urban LandMark. Available: http://www.urbanlandmark.org/downloads/Additional_Qualitative_Analysis.pdf
- South African Bureau of Standards. 2010. *The application of the National Building Regulations: Part C: Dimensions*. Available: <https://law.resource.org/pub/za/ibr/za.sans.10400.c.2010.html>

- South African Human Rights Commission. 2014. *Report on the Right to Access Sufficient Water and Decent Sanitation in South Africa: 2014*. South African Human Rights Commission.
- Statistics South Africa. 2004. *General Household Survey 2003* [Dataset]. Statistics South Africa. ID: zaf-statssa-ghs-2003-v1.3
- Statistics South Africa. 2009. *General Household Survey 2008* [Dataset]. Statistics South Africa. ID: zaf-statssa-ghs-2009-v1.3
- Statistics South Africa. 2013. *General Household Survey 2012* [Dataset]. Statistics South Africa. ID: zaf-datafirst-ghs-2012-v2
- Statistics South Africa. 2014a. *General Household Survey 2013* [Dataset]. Statistics South Africa - Ministry of Planning, Government of South Africa. ID: zaf-statssa-ghs-2013-v1
- Statistics South Africa. 2014b. *Poverty Trends in South Africa: An examination of absolute poverty between 2006 and 2011*. Pretoria: Statistics South Africa. Available: <http://beta2.statssa.gov.za/publications/Report-03-10-06/Report-03-10-06March2014.pdf>
- Steyn, J. 1980. *The Role of the Urban Foundation in South Africa*. Occasional Series: Paper 1. The Graduate School of Business: University of Cape Town.
- Still, D. 2009. *Water and Sanitation backlog reduction*. MSB III Mid-Term Review for the Department of Water and Sanitation. Available: https://www.dwa.gov.za/masibambane/documents/structures/mcc/25may10/background_paper_1_backlogs.pdf
- Surplus Peoples Project. 1987. *The Surplus People: Forced Removals in South Africa*. Johannesburg: Ravan Press.
- Thiele, J. 2002. The human right to adequate housing: a tool for promoting and protecting individual and community health. *American Journal of Public Health*. 92(5):712-715.
- Thirkell, A. 1996. Players in urban informal land markets; who wins? who loses? A case study of Cebu City. *Environment and Urbanization*. 8(2):71-90.
- Thurman, S. 1999. *An evaluation of the Impact of the National Housing Policy in the Western Cape*. Cape Town: Development Action Group.
- Tissington, K. 2010. *A Review of Housing Policy and Development in South Africa since 1994*. Socio-Economic Rights Institute of South Africa (SERI).

- Tissington, K. 2011. *A Resource Guide to Housing in South Africa 1994 – 2010. Legislation, Policy, Programmes and Practice*. Socio-Economic Rights Institute of South Africa (SERI).
- Tissington, K., Munshi, M., Mirugi-Mukundi, G. & Durojaye, E. 2013. *'Jumping the Queue', Waiting Lists and other Myths: Perceptions and Practice around Housing Demand and Allocation in South Africa*. Socio-Economic Rights Institute of South Africa (SERI).
- Todes, A. 2003. Housing, integrated urban development and the compact city debate. In *Confronting fragmentation: Housing and urban development in a democratising society*. P. Harrison, M. Huchzermeyer & M. Mayekiso, Eds. Cape Town: UCT Press.
- Tomlinson, M. 1997. *Watchdog or Lapdog? National and Provincial Legislators' View of the New HSS*. Johannesburg: Centre for Policy Studies.
- Tomlinson, M. 1998a. South Africa's New Housing Policy: An Assessment of the First Two Years, 1994-96. *International Journal of Urban and Regional Research*. 22(1):137-146
- Tomlinson, M. 1998b. *Mortgage Bondage? South Africa's Financial Institutions and Low-cost Housing Delivery*. Housing Finance International.
- Tomlinson, M. 1998c. *Looking to the Local: Local Governments and Low-Cost Housing Delivery*. Johannesburg: Centre for Policy Studies.
- Tomlinson, M. 1999. South Africa's housing policy: Lessons from four years of the new housing subsidy scheme. *Third World Planning Review*. 21(3):283-296. DOI: 10.3828/twpr.21.3.n72w4p14881v7221
- Turner, J.F.C. 1976. *Housing by People: Towards Autonomy in Building Environments*. New York: Pantheon Books.
- Turok, I. 2001. Persistent Polarisation Post-Apartheid? Progress towards Urban Integration in Cape Town. *Urban Studies*. 38(13): 2349-2377. Available: <http://usj.sagepub.com/content/38/13/2349.full.pdf+html>
- Turok, I. & Watson, V. 2001. Divergent development in South African cities: Strategic challenges facing Cape Town. *Urban Forum*. 12(2):119-138.
- United Nations (UN). 1948. *Universal Declaration of Human Rights*. New York: United Nations. Available: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

- United Nations (UN). 1988. *Global Strategy for Shelter to the Year 2000*. 83rd Plenary Meeting of the General Assembly. 20 December 1988. Available:
<http://www.un.org/documents/ga/res/43/a43r181.htm>
- UN CESCR. 1991. *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, United Nations Committee on Economic Social and Cultural Rights. 13 December. Available: <http://www.refworld.org/docid/47a7079a1.html>
- UN General Assembly. 1966. *International Covenant on Economic, Social and Cultural Rights*, 16 December. Available: <http://www.refworld.org/docid/3ae6b36c0.html>
- UN Habitat. 2009. *The Right to Adequate Housing*. Geneva, Switzerland: United Nations High Commission for Human Rights. Available:
http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf
- UN Human Rights Council. 2009. *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context*. Available: <http://www.refworld.org/docid/49b7af2c2.html> [2016, May 21]
- UN Human Rights Council. 2011. *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context*. Available: <http://www.refworld.org/docid/4f3937282.html> [2016, May 21]
- Urban Foundation. 1990. *Urban Debate 2010 (6): Tackling Group Areas*. Policies for a New Urban Future. The Urban Foundation.
- Urban LandMark. 2009. *Municipal rates policies and the urban poor – How can municipal rates policies promote access by the poor to urban land markets?* Johannesburg: South African Cities Network. http://www.urbanlandmark.org.za/downloads/municipal_rates_policies_urban_poor.pdf
- Venter, A. & Marais, L. 2006. Gender and housing policy in South Africa: Policy and practice in Bloemfontein. *Journal of Family Ecology and Consumer Sciences*. 34(1):69-79.
- Western Cape Department of Human Settlements. 2011. *Annual Report for 2010/11*. Cape Town: Department of Human Settlements.
- Western Cape Department of Human Settlements. 2012. *Annual Report for 2011/12*. Cape Town: Department of Human Settlements.

- Western Cape Department of Human Settlements. 2013. *Annual Report for 2012/13*. Cape Town: Department of Human Settlements.
- Western Cape Department of Human Settlements. 2014. *Annual Report for 2013/14*. Cape Town: Department of Human Settlements.
- Western Cape Department of Human Settlements. 2015. Annual Performance Plan for 2015/16. Cape Town: Department of Human Settlements.
- Winter, G. 2000. A Comparative Discussion of the Notion of ‘Validity’ in Qualitative and Quantitative Research. *The Qualitative Report*. 4(3/4). Available: <http://www.nova.edu/ssss/QR/QR4-3/winter.html>
- World Bank. 1993. *Housing Enabling Markets to Work: A World Bank Policy Paper*. DOI: <http://dx.doi.org/10.1596/0-8213-2434-9>
- Zunguzane, N., Smallwood, J., & Emuze, F. 2012. Perceptions of the quality of low-income houses in South Africa: Defects and their causes. *Acta Structilia*. 19(1):19-38

Appendices

Appendix 1: Representation in the National Housing Forum

Table A1: Representation at the different stages of the National Housing Forum (1991 - 1994)				
<i>Organisation</i>	<i>Affiliation</i>	<i>Core group</i>	<i>Working Committee</i>	<i>NHF</i>
Consultative Business Movement (CBM)	Business	✓	✓	✗
Urban Foundation (UF)	Business	✓	✓	✓
Independent Development Trust (IDT)	Development/Business	✓	✓	✓
Development Bank of Southern Africa (DBSA)	Development/Business	✓	✓	✓
Kagiso Trust	Development	✓	✓	✓
South African National Civic Organisation (SANCO) *	MDM	✓	✓	✓
Deputy Minister of Constitutional Development	Government (NP)	✓	✗	✗
SA Housing Advisory Council (de Loor Commission)	Government (NP)	✓	✗	✗
Institute for a Multi-Party Democracy	Independent	✓	✗	✗

South African Housing Trust Limited (SAHT)	Development/Business	✗	✓	✓
Inkatha Freedom Party (IFP)	Independent	✗	✓	✓
African National Congress (ANC)	MDM	✗	✓	✓
Congress of South Africa Trade Unions (COSATU)	MDM	✗	✓	✓
Azanian Peoples Organisation (AZAPO)	PAC/AZAPO	✗	✓	✓
Pan Africanist Congress (PAC)	PAC/AZAPO	✗	✓	✓
Small Business Development Corporation (SBDC)	Development/business	✗	✓	✗
Department of Local Government and Housing	Government (NP)	✗	✓	✗
SA Department of Planning, Provincial Affairs and Housing	Government (NP)	✗	✓	✗
Western Cape Hostel Dwellers Association	Independent	✗	✓	✗
National Council of Trade Unions (NACTU)	Independent	✗	✓	✗

Association for Community Housing and Reconstruction	Business	✗	✗	✓
Association of Mortgage Lenders (AML)	Business	✗	✗	✓
Building Materials Suppliers Consortium	Business	✗	✗	✓
Business South Africa	Business	✗	✗	✓
The Construction Consortium	Business	✗	✗	✓
Life Offices Association (LOA)	Business	✗	✗	✓
Non-Profit Housing Delivery Sector	Development	✗	✗	✓
The Democratic Party of South Africa	Independent	✗	✗	✓

Notes: * the precursor to SANCO was the National Interim Civics Committee (NICC)

Sources: Rust (1996:7, 8, 11, 12); Lalloo (1999:38)

Appendix 2: Delivery of complete state-subsidised houses, since 1994

Table A2: Number of houses/units completed, by province 1994 - 2015

Prov/Year	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
Eastern Cape	5,752	7,037	12,217	19,765	30,659	20,345	30,503	10,816	37,972	21,118
Free State	4,372	5,349	9,287	15,023	21,079	7,177	14,425	7,005	5,926	13,041
Gauteng	17,594	21,525	37,373	60,459	29,695	45,384	34,562	46,723	15,758	38,184
KwaZulu-Natal	11,332	13,864	24,072	38,942	54,896	28,997	25,595	14,379	15,849	26,218
Limpopo	3,169	3,877	6,731	10,890	23,671	12,401	18,825	16,667	9,679	12,312
Mpumalanga	3,630	4,441	7,711	12,474	17,406	4,808	14,755	14,584	14,014	16,534
Northern Cape	1,822	2,229	3,869	6,259	3,501	2,600	3,719	2,588	3,920	2,949
North West	4,988	6,102	10,595	17,141	18,986	12,944	12,650	13,885	15,396	8,164
Western Cape	8,162	9,985	17,337	28,047	35,741	26,916	15,897	16,634	13,270	12,253
South Africa	60,820	74,409	129,193	209,000	235,635	161,572	170,932	143,281	131,784	150,773
C. Total (since 1994)	60,820	135,229	264,422	473,422	709,057	870,629	1,041,561	1,184,842	1,316,626	1,467,399

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Eastern Cape	25,595	16,874	9,345	7,465	18,424	18,965	10,784	14,498	12,084	12,646	13,469
Free State	11,218	17,635	11,119	7,346	13,854	20,232	5,136	9,070	5,477	6,920	5,313
Gauteng	19,100	23,409	43,568	53,493	40,288	33,654	25,117	22,521	21,220	22,352	14,984
KwaZulu-Natal	25,056	21,601	21,653	20,289	36,068	23,639	20,991	22,119	25,940	29,151	29,312
Limpopo	11,264	21,973	13,351	11,165	16,868	19,978	15,647	13,619	12,009	3,080	2,109
Mpumalanga	12,278	14,389	6,023	9,752	17,626	7,800	9,860	7,702	7,571	8,126	8,250
Northern Cape	2,454	5,293	2,194	5,112	4,914	4,463	4,620	3,683	2,820	2,464	2,133
North West	6,846	14,445	26,563	11,739	15,912	16,557	16,816	16,333	14,424	9,362	9,206
Western Cape	8,019	2,040	19,558	20,104	31,011	16,566	12,908	11,065	13,534	11,835	10,434
South Africa	148,253	134,023	153,374	146,465	160,403	161,854	121,879	120,610	115,079	105,936	95,210
C. Total (since 2004)	148,253	282,276	435,650	582,115	742,518	904,372	1,026,251	1,146,861	1,261,940	1,367,876	1,463,086
C. Total (since 1994)	1,615,652	1,749,675	1,903,049	2,049,514	2,209,917	2,371,771	2,493,650	2,614,260	2,729,339	2,835,275	2,930,485

Sources: Department of Housing (2006); Department of Human Settlements (2011; 2012; 2014b); National Treasury (2003; 2005; 2007:68).

Appendix 4: Types of tenure estimations, by province

Unfortunately, complete data is not available for all '*houses/units completed*' in the nine provinces through the various programmes, for phase 2. Therefore, estimations of the proportions of houses/units completed in terms of the three types of tenure (Ownership, Social & Rental, and Rural) were made.

In the Eastern Cape types of tenure is approximated, as the average of the numbers, from the Eastern Cape DoHS (2009; 2012):

- For 'Ownership' these were estimated as 93% and 98%, respectively
- For 'Social & Rental' these were estimated as 2% and 2%, respectively
- For 'Rural' these were estimated as 7% and 0%, respectively

In Free State from the Free State DoHS (2014)

In KwaZulu-Natal the KwaZulu-Natal DoHS (2009; 2010; 2011; 2012; 2013; 2014) provide data for the number of '*houses/units completed*' through the various programmes:

- For 'Ownership' they are: 66%, 42%, 34%, 37%, 36%, and 49%
- For 'Social & Rental' they are: 0%, 0%, 0%, 1%, 7%, 2%
- For 'Rural' they are: 26%, 52%, 66%, 62%, 57%, 49%

In Limpopo they were approximated as the average of the numbers provided by Limpopo DoHS (2008; 2009; 2010):

- For 'Ownership' they were 82%, 79%, and 49%
- For 'Social & Rental' they were 4%, 2%, and 0%
- For 'Rural' they were 14%, 19%, and 51%

For Mpumalanga they are approximated as the numbers provided by the Mpumalanga DoHS (2012; 2013; 2014).

- For 'Ownership' these were: 100%, 97%, and 89%
- For 'Social & Rental' these were: 0%, 0%, and 10%
- For 'Rural' these were 0%, 2% and 1%

In the North West the North West DoHS (2006; 2008; 2010; 2013) do not differentiate between the numbers delivered through each of the programmes. Therefore, no estimations or approximations of the types tenure delivered can be made.

In the Northern Cape the numbers are approximated from the Northern Cape DoHS (2013; 2014) with these two Reports the only available with sufficient data.

- For 'Ownership' these were: 77%, and 87%
- For 'Social & Rental' these were 3% and 13%
- For 'Rural' these were 20% and 0%

In the Western Cape they were approximated from the Western Cape DoHS (2011; 2012; 2013; 2014).

- For 'Ownership' these were: 93%, 99%, 96% and 98%
- For 'Social & Rental' these were: 7%, 1%, 4%, and 2%
- For 'Rural' these were: 0% all through.

For South Africa as a whole, the data does not exist in order to calculate the exact number or proportion of houses/units completed through the various programmes, between 2004 and 2015. What we do have, however, is estimates on the total number of houses/units completed for each province from 2004 to 2015. Taking these numbers and attaching a weight to each province, equal to the proportion of houses/units completed in that province relative to the country as a whole we can estimate the percentage of houses/units completed for the three tenure types in South Africa. Where no data was available, as in the North West, the estimation was based on the figures from phase 1. With the North West constituting 11% of total delivery of completed houses/units the impact of not using recent figures would not be too significant.