A DIALOGUE ON THE GENESIS OF HOUSING PROBLEMS IN SOUTH AFRICA

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Abstract A shallow synopsis of the current South Africa housing backlog crisis points straight at corrupt practices, the inefficiency and lack of capacity of the present and previous post-apartheid government to adequately address the maddening housing problem in the country. But a sincere overview will reveal that the present housing crisis has its origin in the 1913 Natives' Land Act that severely limited the land that those previously classified as natives in South Africa could own. The Native's Land Act, though now abolished, entrenched a land tenure system and limited the alienability of land to 13% for the natives who are the majority of the South Africa population. Today, millions of South African households live in slum housing patterns, hostels and crowded houses in marginalised townships and informal settlements awaiting access to government-availed land and houses because of consequences of the formerly enacted Natives' Land Act of 1913. Though the South African government and other stakeholders, since the attainment of democratic governance in 1994, have been creating and implementing various housing delivery programmes to speedily meet demand. This study is conducted with reference to existing theoretical literature, published and unpublished research. It is mainly a literature review on the role of the colonial edicts that fostered a culture of housing under-development and eventually an enormous housing shortage that the present government is battling to eradicate. Findings from the study reveals that since 1910 to the end of the segregation rule in 1994, various approaches were used to advance the inhumane idea to restrict a majority of South Africans from owning properties. With a particular emphasis to the Native Land Act 27 of 1913; this Act was concerned with land issues, and since land and housing issues are inextricably linked, this affected the provision of housing for Blacks and other disadvantaged ethnic groups. Further findings revealed that the enactment of the Native Land Act 27 of 1913, cemented housing policy issues in the apartheid era, which created the divide in housing issues which have not be completely reversed till date. However, apartheid policies alone cannot be held responsible for the housing backlog in South Africa, but equally no account of housing backlog and conditions can be credible if we do not take into account the history of South Africa and its colonial policies.

1. INTRODUCTION

The housing environment in South Africa (SA) is complex, in large part due to the deliberate policy and legislative framework of socio-economic and spatial exclusion and marginalisation created during apartheid. Also, the complexity of the housing process in SA is due to failures and lack of a full understanding of the problems created by the apartheid government and the inability of the post-apartheid state government to satisfactorily redress these problems since 1994 [1]. A superficial overview of the present South Africa housing problem and backlog crisis points straight at the inefficiency and lack of capacity of the present and other postapartheid government to adequately address the bugging housing problem in the country. But a sincere historic overview will reveal that the present housing crisis has its origin in the 1913 Natives' Land Act that severely limited the land South Africans could own to a very small percentage (eventually 13%) of the land in South Africa. Currently, SA experiences major shortages of low-income houses to adequately accommodate millions of its poor citizens. This social problem has its roots in the country's pre-1994 apartheid regime and is exacerbated by population growth, migration and slow housing delivery. The pre-1994 apartheid regime worked to entrench a land tenure system and limited the alienability of land. Today, millions of South Africa's poor black households live in shacks, hostels and crowded houses in marginalised townships and informal settlements awaiting access to government-availed land and houses [2]. Though the South African government and other stakeholders, since the attainment of democratic governance in 1994, have been creating, embracing and implementing various approaches to housing delivery to speedily meet demand. However, it must be genuinely acknowledged that the post-apartheid state governance has been actively involved trying to create a level playground for the previously disadvantage and also to repair the disadvantage condition created by the almost 42 years of the apartheid government. Simply put, it is easy to destroy than to create- so much so that the post-apartheid government has been faced with a situation that is not irreparable and manageable, but a situation that needs patience and a little firmness to address. Hence, as with other socio-economic rights, the legislative and policy framework created by the national government around housing is in fact quite progressive in addressing the situation on ground. However, implementation to date has been skewed and unable to address the land, housing and basic services needs of millions of poor South Africans who still lack adequate housing and access to water, sanitation and electricity [1].

Generally, the housing issue in South Africa has posed a great challenge to the post-apartheid government. Due to apartheid policies, South African human settlements are characterised by spatial separation of residential areas according to class and race; urban sprawl; disparate levels of service provision; low levels of suburban population density; and the concentration of the poor in relatively high-density areas in the urban peripheries and the wealthy in core and intermediate areas [3]. The post-apartheid government inherited an urban housing backlog of approximately 1.5 million units when it was formally inaugurated in 1994 [4]. The massive backlog was created by apartheid discriminatory administrations and laws (such as the Black (Native) Laws Amendment Act, No 46 of 1937 and the Black Communities Development Act, No 4 of 1984) along with rapid urbanisation during the post-apartheid period [2]. Hence in a bid to address past discriminating laws, the post-apartheid government

enacted policies that supported the institutionalisation of housing provision. Amongst these include the Housing Act of 1997, Rental Housing Act of 1999, Housing Consumer Protection Measure of 1998 and Home Loan and Mortgage Disclosure Act of 2000, all drawing from the South African Constitution of 1996 and enacted to redress the policies of the past. While the urban and rural spatial divide still remains pronounced in respect of access to socio-economic goods and services, the phenomenon of the inadequately housed urban poor is increasing. Redressing the inherited inequalities of the apartheid state has established a complex and challenging context for meeting basic needs in contemporary South Africa. Given the physical and political segregation of apartheid, meeting the demand for housing has been a central development challenge since 1994 [5]. However, apartheid alone cannot be held responsible for the housing conditions in South Africa but equally no account of housing policy and conditions can be credible if it does not take into account the history of South Africa and its colonial [6]. Therefore, this study present a historic overview of the housing backlog in South Africa and the roles of the colonial edicts in fostering a culture of housing under-development and eventually an enormous housing shortage that the present South Africa government is battling to eradicate more than two decades after the end of apartheid. The paper starts out by presenting an overview of the natives land Act 27 of 1913, followed by a conceptual review of housing backlog history in South Africa before findings are presented and conclusions are drawn.

2. THE NATIVES LAND ACT 27 OF 1913

On May 31, 1910, a new country came into existence called the Union of South Africa, consisting of four former British colonies: Cape Colony, Natal, Transvaal, and the Orange River Colony. A National Convention, with participation limited to white South Africans (21 percent of the total population) in 1908 and 1909, steered the writing of a new constitution which the British Parliament then passed as the South Africa Act of 1909 [7]. The new country was part of the British empire and hence recognised the authority of the British crown over certain of its affairs. Only whites lead the government and controlled political and economic decision-making power. The overwhelming majority of the population, mainly the native Africans, had virtually no voice in government. In April 25, 1913, the then minister of native affairs, Jacobus Wilhelmus Sauer (1850 - July 24, 1913) introduced the Natives Land Bill into Parliament. Though the Act was presented relatively late in the Parliamentary session, which had begun on January 24; the bill was only published in the Union Gazette Extraordinary on May 5 1913. The initial sentence of the Natives Land Act reads: Act to make further provision as to the purchase and leasing of land by Natives and other Persons in the several parts of the Union and for other purposes in connection with the ownership and occupation of land by Natives and other Persons. Thus, the public dissemination of the bill came late and limited the opportunity for debate. Unquestionably, critics of the bill protested the haste with which the bill was rushed through Parliament (Union of South Africa, House of Assembly, Debates in the Third Session, First Parliament, January 24 - June 16, 1913 [hereafter, Debates], C.P. Crewe (East London), May 9, col. 2281).

The Natives Land Act included a "Schedule of Native Areas," incorporating all the African

reserves that had been established in the various provinces prior to 1913. The Act carefully defined the boundaries of these reserved areas. The plan brought under the coverage of the Act about 22 million acres of land (just over 7 percent of South African territory) within the four provinces of the Union. The creation of a plan, defining the boundaries of the African reserves by national law, was a very important part of the Act, as this was necessary for the whites to gain a total control of the vast land in South Africa. The most important provision of the Act which brought about the restriction of the blacks and other ethnic groups in land related business for shelter creation, stated that Africans could no longer buy, lease, or in any other manner acquire land outside a scheduled area, except by acquiring that land from another African; while Europeans were prohibited from buying or leasing land from an African. Only Africans could buy land within the scheduled areas. However, the governor general was allowed to grant immunities from these provisions, but the parliamentary records show that few were given. Furthermore, the Act established a commission to study the impact of this legislation and to recommend to Parliament which additional land should be added to the scheduled areas for the African population. Because of the creation of the commission, members of Parliament and officials of the Native Affairs Department restated that the Act was a temporary measure which never was, but lasted over decades. However, exclusions or benefits were written into the Act for some provinces. The most important related to the Cape Province. This was because land ownership helped Africans meet the economic requirement for voting; hence the Act could not apply to those Africans whose right to vote might be affected by the law. The Department of Native Affairs inserted this section into the April 7 1913 of the Act draft because of concerns expressed by Justice Department lawyers that the Act contravened Section 35 of the South Africa Act, which entrenched in the Constitution the right to vote for Africans living in the Cape Province (Central Archives Depot, Pretoria [CAD], GG 333, 7/753, E. Matthews (Justice Department) to Stanley, April 7, 1913; Stanley to Lambert, April 23, 1913). Thus, the Act, in effect, was unconstitutional in the Cape Province and could not be enforced there. Despite the restriction, the practices in the Cape Province were not different from others.

According to Feinberg [7] the content of the Act and the new law was condemned by Africans because it attacked a key aspect of the African way of life, land, and allowed ownership rights in only 7% (until 1936 when it was extended to 13%) of the country. Eventually, the long term results were worse than anyone anticipated which is visible to the present day spatial planning in South Africa. Hence, rapid population growth among Africans and soil erosion in the reserves (partly due to over-grazing) seriously undermined African agriculture and advancement of shelter provision. After 1948, the reserves became the cornerstone of a key part of the apartheid system, the homelands.

3. HOUSING BACKLOG IN SOUTH AFRICA

The moment South Africa first emerged as a recognisable policy arena in the early 1920s, housing policy was greatly involved in the state's efforts to establish and maintain a particular social order, sometimes referred to as 'racial capitalism' [8] [9]. The housing space in South Africa has generally been a contentious issue since 1910. De Loor [10] refers to housing as

either or both emotional and a very personal issue in South Africa due to the history of the past. When South Africa was divided into four colonies (the Cape colony, Natal, Transvaal and the Orange Free State) in the colonial days; these division served as the basis in early urban developments and the emergence of segregated locations and the introduction of legislative measures to control urbanisation and housing in South Africa [9]. When the Union government was established in 1910, they developed several strategies in form of ACT (decrees) to control the movement of a majority of the country, especially in areas referred to as white urban areas. Since 1910 to the end of the segregation rule, various approaches were used to advance the inhumane idea. Most significantly from the literature was the drafting of the segregation policy, which was advanced at the national and provincial level of government.

Foremost in the Acts was the Natives' Land Act 27 of 1913 discussed above. This Act was concerned with land issues, and since land and housing issues are inextricably linked, this effected the provision of housing for the blacks [11]. The enactment of the Native Land Act 27 of 1913, cemented housing policy issues in the apartheid era, which created the divide in housing issues till date. This meant that houses could only be built where the land had been made available through proper government approval. As such, the Native Land Act 27 of 1913 had direct implications on the housing situation in the country since it specified the territorial separation of the races [12]. According to De Loor [10] and Morris [12], following the establishment of the Native Land Act 27 of 1913, the then Central Housing Board introduced the first housing policy documents in 1920, called the Housing Act 35 of 1920. The purpose of the Board through the drafting of the Housing Act was to have a control of the development of houses in local authorities, with a special control on the mechanisms of financing, which had a sinister motive to deprive the African population of any assistance to receive housing. De Loor [10] and Morris [12] further inform that during the first two decades of the Board's existence, expenditure was allocated to alleviating the housing plight of poor whites only without any extension to the Africans. Nonetheless, a broader evaluation of the Housing Act by Rodgers [13] indicates that the Housing Act only strengthened the policy of separate development. Besides, although these policies were introduced with good intentions such as developing communities based on their ethnic locations, it was later more evident that housing became an instrument for the implementation of the policy of separate development.

Following the Land Act of 1913, Housing Act 35 of 1920, the Native Act of 1923 was also enacted. This Act lasted for more than 60 years, until the desertion in 1986 on attempts to enforce 'influx control' on African urbanisation. The key provisions of this legislation remained at the core of efforts to achieve, during the 1930s, 'total segregation' and, after the National Party government came to power in 1948, 'grand apartheid'. The 'Stallard principle' (1923 Natives Act) itself held that the right of municipal 'enfranchisement' should be denied to African urban residents only if they are given right to permanent residence in those areas [9]. This principle could only be enforced because the native land act of 1913 was in force. These policies directly withdrew the rights of black Africans to freehold tenure of urban land. Consequently, 'the natives' were to be permitted to enter the 'white' cities and towns only 'to minister to the needs of the white man and should depart therefrom (to return to the 'Reserves') when he ceases so to minister'. Thus Blacks Africans were considered as

'temporary citizens' in all areas outside their homelands. The brutal features of apartheid and the forced removals to less productive and less desirable areas, overcrowding in the so-called 'homelands', discriminatory policies affecting blacks who lived in or near cities, and the migratory labour system alienated people from their land and resources and contributed to inequitable access to environmental services, unjust land-use policies which fostered housing underdevelopment. As a result of this, South Africa continued to develop housing backlog which still continues till date. Inherent in all the enacted decrees was the policy of separate development propagated by the apartheid government to deceive the world into accepting apartheid policies as another developmental approach with no racial degradation pertinent to black South Africans [11].

On the other hand, it should be noted that a considerable numbers of Africans were already long established in the major urban centres, before the enactment of the Acts, with some already had acquired freehold on properties. The implementation of the "Stallardist, doctrine required that a comprehensive system of social control be established" [9]. Hence the first element of this system according to Hindson [14] eventually became a massive accretion, of "truly Kafkaesque complexity, of 'pass laws' and labour bureaux which, apart from their primary task of regulating the supply of African labour to the various sectors of the economy, could be used to control the movement of Africans to the 'white' urban areas". The second element of the system was the institutionalisation of the form of residential segregation known successively as the 'location' or 'township' which still plaque the urban landmark of South Africa till date. According to Wilkinson [9], the fundamental purpose underlying the prolonged and often cruelly contested efforts to segregate the African urban population into separate residential areas was to regulate the degree of permanence with which the African population could establish itself there. Thus, it is in relation to this strategy of 'containing' African urbanisation [15] through a cruel but highly developed combination of labour exploitation, shelter deprivation and racial oppression that the evolution of South African housing backlog must be understood.

Prior to 1920, the only efforts to regulate or improve the generally very poor housing backlog conditions of Africans living in the urban areas in South Africa were irregular ventures by the larger local authorities to clear so-called 'plague spots' and a few half-hearted efforts to establish municipal 'Native locations', invariably far removed from the rest of the city or town [14] [9]. In contrast to this the provision of barracks and 'compounds' to house single and domestic workers, usually migrants, was already well established. However, for Africans and, in general, the poorer sections of the population as a whole were left to cater largely for themselves, with many ending up in squalid, overcrowded and very unhealthy slum tenements or 'yards', thus growing the housing deficient in the country. However, Morris [12] posits that during this period, blacks and other tribes like the coloured people in the rural areas were accustomed to building their own traditional dwellings which were not enough to adequately house them.

Furthermore, the formation of the very first Central Housing Board (CHB) in terms of the 1920 Housing Act was a direct consequence of public concern about the impact of the devastating influenza epidemic of 1918. The formation seems also to have reflected a growing uneasiness, which subsequently underpinned the codification of the 'Stallard principle' in the

1923 Urban Areas legislation within the white population about the accelerated influx of Africans into the urban and industrial heartland during the First World War [16]. The CHB provided the somewhat limited means to enable black access adequate housing, while the Urban Areas Act had the objective, of the programme of residential segregation of the African population, which gradually unfolded during the 1920s and 1930s in the larger centres. For the most part, the initiation of 'slum clearance' schemes and the building of municipal 'locations' were hindered during the period between the World Wars by the continuing unwillingness and the limited capacity of the local authorities to bear the costs involved in fulfilling their statutory obligations [9]. The central government, on the other hand, prevented any extension of its financial responsibilities for executing residential segregation in the urban areas, which devolved essentially to making subsidies available for the provision of very basic 'sub-economic' houses by the local authorities [9].

According to Wilkinson [9], when the National Party took over government, efforts to set up an 'emergency Native housing scheme' and to institute a more favourable formula for subsidised loans obtained from the National Housing Fund failed to stimulate any significant response from the 'beleaguered' local authorities. The largest of them was the Johannesburg City Council which out of desperation resorted to a policy of 'controlled squatting' and totally abandoned its programme of housing construction in the municipal 'locations'. Moreover, the adoption of the first South Africa housing code in 1964 purposed to assist local authorities in their task of meeting the housing needs in areas of their jurisdictions. While the functions of the Group Areas Act 77 of 1957 and the Groups Area Development Act 69 of 1955 was not exhaustive in the code. However, auxiliary chapters dealing with separate developmental issues based on race were intended to be incorporated into the code at a later stage. Just like the current housing code, it (the Housing Code of 1964) was detailed in describing where, how, when, by whom and for who and why houses should be built, which indicates that most of the current policy are direct opposite of the formerly enacted policies and their wordings are reflective of the common divide associated with the Housing situation. Other aspects that the Housing Code of 1964 dealt with includes the National Housing Fund, to facilitate the funding of public housing, acquisition of land and the construction of houses by the local authorities, town planning, approval of new building methods in schemes financed with housing funds amongst others [13]. Furthermore, Hart [17] argues that the release of political prisoners and the subsequent commencement of the democratic negotiations during 1990 brought about a new direction in the housing situation, especially through the appointment of the De Loor [10] Commission of enquiry in 1991. The Commission was tasked to investigate the status quo regarding housing matters and to advise on the new housing policy and strategy in order to overcome the disadvantages of the past. The new housing policy and strategy, generally viewed as the housing vision, was intended to encompass principles such as adequate shelter for all, security of tenure, equitable access to potable water, sanitary facilities and refuse removal as well as access to energy sources including electricity [10]. Despite the comprehensive nature of the vision, overcoming the housing backlog in South Africa is like an illusion due to factors beyond the control of the Human Settlement Department (such as urbanisation, rural urban migration amongst others). The estimated housing backlog of 1.5 million in 1994 has now extended to 2.1 million after seventeen years despite the provision of 3.0 million housing units; which is proving as a daunting task for the Department of Human

Settlement to overcome.

Not only is South Africa characterised by a swiftly growing population that is becoming more and more urbanised, but it also has to deal with highly unequal and racially stratified settlement patterns, resulting from its apartheid legacy. This legacy has caused the confinement of the majority of black South Africans to certain areas, usually located on the periphery of urban centres, excluded from service delivery, infrastructure and work opportunities. As a result of the above, the South African housing policy has frequently been criticized for fostering an urban sprawl by locating housing delivery on the peripheries of urban areas. Hence, Goebel [4] identifies four major obstacles to sustainable housing in urban South Africa. Among those obstacles identified are: Neoliberal macro-economic conditions; enduring historical legacies of race and class and the extent and rate of contemporary urbanisation. For instance, the Neo-liberal macroeconomic policies of the ANC government, especially since 1996 with the introduction of the Growth, Employment and Redistribution (GEAR) Programme have become one of the root failures in addressing sustainable habitats agenda in urban areas. Goebel [4] bases this argument on the view that neo-liberal economic policy deepened the marginalization and the poverty of the already poor, causing for example very high rates of unemployment. Huchzermeyer [18] argues that government has struggled with its dual commitment to fiscal responsibility and the need to uplift the historically disadvantaged. Neo-liberal policies limited funds available for public and welfare-orientated programmes, meaning that the low-cost housing programmes are underfunded, which results in delays in delivery and provision of housing that is of poor quality, built on cheap land on the urban peripheries.

4. FINDINGS

Findings emanating from this study revealed that housing in South Africa is a highly contested issue partly due to the deliberate policy and legislative framework of socioeconomic and spatial exclusion and marginalisation created during apartheid. Also, the literature studied revealed that since 1910 to the end of the segregation rule, various approaches were used to advance the inhumane idea to restrict Africans from owning properties and with a particular emphasis to the Native Land Act 27 of 1913. This Act was concerned with land issues, and since land and housing issues are inextricably linked, this also has affected the provision of housing for the blacks. Further findings revealed that the enactment of the Native Land Act 27 of 1913, cemented housing policy issues in the apartheid era, which created the divide in housing issues till date. The literature also revealed that the formation of the very first Central Housing Board (CHB) in terms of the 1920 Housing Act was a direct consequence of public concern about the impact of the devastating influenza epidemic of 1918 and not an effort to overcome the housing backlog in the country. Likewise, CHB provided the somewhat limited means to enable blacks access adequate housing, while the Urban Areas Act had the objective, of the programme of residential segregation of the African population, which gradually unfolded during the 1920s and 1930s in the larger centres

Further findings revealed that the complexity of the housing process in SA is due to failures

and lack of a full understanding of the problems created by the apartheid government and the inability of the post-apartheid state government to satisfactorily redress these problems since 1994 in a bid to address past discriminating laws. Furthermore, in order to overcome the housing backlog created over time, the post-apartheid government enacted policies that supported the institutionalisation of housing provision. Amongst these include the Housing Act of 1997, Rental Housing Act of 1999, Housing Consumer Protection Measure of 1998 and Home Loan and Mortgage Disclosure Act of 2000, all drawing from the South African Constitution of 1996 and enacted to redress the policy of the past. Also revealed is that while the urban and rural spatial divide still remains pronounced in respect of access to socioeconomic goods and services, the phenomenon of the inadequately housed urban poor is increasing. Despite the comprehensive nature of the vision, overcoming the housing backlog in South Africa is like an illusion and currently, the estimated backlog of about 1.5 million in 1994 has now extended to 2.1 million after seventeen years; which is proving as a daunting task for the Department of Human Settlement to overcome. However, the release of political prisoners, democratic negotiations during 1990 and the eventual democratic and none racial regime has brought about a new direction in the housing situation.

5. CONCLUSION

In conclusion, the sincere historic overview of the present South Africa housing problem and backlog crisis in South Africa reveal that the present housing crisis has its origin in the 1913 Natives' Land Act and other Acts that severely limited the land that black South Africans could own to a very small percentage (13%) of the land in South Africa. Despite the housing problem has its roots in the country's pre-1994 apartheid regime, but it is currently being exacerbated by population growth, migration and slow housing delivery. Hence, apartheid alone cannot be held responsible for the housing conditions in South Africa but equally no account of housing policy and conditions can be credible if it does not take into account the history of South Africa and its colonial legacy of the past. Apartheid legacies and persistent inequalities are major impediments to housing backlog eradication, as the legacy of segregated communities is still alive in South African cities.

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