

Spatial Inequality

A review of the findings of the High Level Panel Report on the Assessment of Key Legislation and the Acceleration of Fundamental Change – December 2017

Spatial inequality emerged as a strong cross cutting theme across the three High Level Panel workstreams and is addressed directly in Chapter 5 of the HLP report¹. Different workstreams commissioned research² focusing on different aspects of spatial inequality³. Round tables and public hearings added a range of voices to bring home the lived experiences of spatial inequalities across rural and urban settings.

Key issues at a glance

Core problems	Principal HLP recommendations
<ul style="list-style-type: none"> ● The spatial form of the apartheid city has proved very difficult to redraw ● The RDP housing programme has largely concentrated on building on cheap land at the urban edge. ● Poor urban households have to spend a significant proportion of their earnings on transport and have reduced chances of finding work. ● It is estimated at 50% of people allocated RDP houses have not received title deeds. ● Little attention has been paid to upgrading of informal settlements despite this being a policy priority. ● Structural poverty in the former bantustans has deep roots and has proved hard to eradicate. ● A complete breakdown in rural land administration has facilitated land grabbing and undermined tenure security. 	<ul style="list-style-type: none"> ● Establish a co-ordinating structure (like National Aids Council) among all role-players in land, housing and urban development at national, provincial and local level chaired by Deputy President. ● Establish a permanent institution to make connections between planning legislation and land administration systems. ● Develop and pilot the proposed Land Records Act to recognise and administer a continuum of land rights. ● Obtain and release well-situated urban land to overturn the legacy of the apartheid city. ● Expropriate well situated private land held for speculative purposes in terms of Section 25/3 of the Constitution ● Urgent amendment of the Interim Protection of Informal Land Rights Act (IPILRA) and ensuring its proper enforcement and application to the

¹ HIGH LEVEL PANEL. 2017. *Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change* [Online]. Parliament of South Africa. Available: https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High_Level_Panel/HLP_Report/HLP_report.pdf [Accessed 16 December 2017].

² PHUHLISANI NPC 2016. *The Role of Land Tenure and Governance in Reproducing and Transforming Spatial Inequality. Report to the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change.* High Level Panel.

³ TUROK, I., SCHEBA, A. & VISAGIE, J. 2017. *Reducing Spatial Inequalities through Better Regulation. Report to the High Level Panel on the assessment of key legislation and the acceleration of fundamental change.* High Level Panel.

	<p>TLGFA, the MPRDA and Ingonyama Trust Acts.</p> <ul style="list-style-type: none"> • Development of a new framework law on land reform to consider both urban and rural land reform.
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Problem statement

Colonial and apartheid spatial planning resulted in a “deeply divided and inequitable distribution of people and economic activity”⁴. In the former Bantustans this has created a deep structural poverty that has proved difficult to eradicate as rural people experience levels of deprivation deeper than the national average.

The HLP report notes that “the legacy of spatial inequality appears intractable”⁵ despite the focus of the National Development Plan (NDP) and the Spatial Planning and Land Use Management Act (SPLUMA’s) on it. Spatial inequalities create racial divisions and deepen the social and economic divide within cities; between rural and urban areas, former Bantustans and commercial farmlands. Spatial inequality acts as a predictor of poverty and inequality in the future.

What is the research evidence?

Urban

Turok et al argue that “spatial inequalities have multiple dimensions - economic, social, environmental, institutional and psychosocial – and that these defy simple solutions”.⁶ They provide evidence of South Africa’s highly concentrated spatial economy highlighting “stark and systematic disparities between different regions and localities”.⁷

The geography of apartheid cities has remained largely unchallenged by post-apartheid policy and planning regimes. To date state investment in RDP housing has fuelled the extension of an inefficient urban sprawl that pushes the urban poor to the periphery.

*The mass RDP house-building programme - has had the paradoxical effect of exacerbating spatial inequality because it neglects the importance of the land market in shaping spatial development patterns.*⁸

It has also failed to advance security of tenure. At least 50% of those accessing RDP houses have not received title deeds and there is very little upgrading of existing informal settlements, despite this being a policy priority.”⁹

⁴ HLP Report (2017: 81)

⁵ Ibid

⁶ Turok et al (2017:1)

⁷ Ibid (2017: 31)

⁸ Ibid (2017: 22 – 23)

In the main metropolitan areas “the economy is much more concentrated geographically than the population, resulting in extensive unemployment and poverty for people living in the periphery, and imposing an imposing extra cost on their mobility (an ‘Apartheid tax?’)”¹⁰

Studies demonstrate how people living on poorly located land have reduced chances of finding work.¹¹ (P 454) Two-thirds of the lowest income earners resident on the urban fringe spend between 20 and 40% of their household income on transport.

Rural

In rural settings the ways in which land underpins the social fabric for many people is often inadequately addressed by research which tends to focus on the impacts of spatial inequality on poverty and inequality. The HLP report cites Gasas who observes that land is much more than property in the narrow sense of a material asset and is closely associated with “spirituality, ancestral connectedness, family solidarity, identity and dignity”.¹²

The poverty found in the former homelands is structural or ‘chronic’ in nature reflecting deep-seated causes that are hard to eliminate. These areas have persistently been burdened with “significantly higher levels of deprivation and poverty than the rest of South Africa”.¹³ Systems of patronage and political structures consolidated under apartheid have proved to be strongly resilient. Opportunities for local land grabbing and elite dealing have been amplified by the breakdown in land administration in former Bantustan regions where Permission to Occupy (PTO) and Quitrent registers are in disarray.

*These weaknesses facilitate land grabbing by powerful individuals and corporate interests, and create an institutional vacuum, enabling the use of communal land for personal gain. In urban areas, there are no official record systems to administer rights in informal settlements. The lack of clarity about land rights and the collapse of administration systems restrict the potential for sustainable and equitable investment and development.*¹⁴

The property rights of an estimated 60% of South Africans remain off-register outside the Deeds Registry system. The HLP report notes that there is “a fundamental correlation between vulnerable forms of tenure and the geography of spatial inequality and poverty” (p 258). The HLP report draws on commissioned research¹⁵ to provide a sharp critique of titling:

As noted by the World Bank title deed systems remain institutionally onerous and unaffordable for poor households, so even if titles are registered on the handover of a house, they are seldom formally transferred to record further transactions on the property. Indeed, many state subsidised houses are sold informally, despite legal prohibitions on their sale,

⁹ HLP (2017: 447)

¹⁰ Turok et al. (2017: 2)

¹¹ HLP (2017: 454)

¹² Gasas in HLP (2017: 468)

¹³ Noble and Wright, 2013; Noble, Zembe and Wright, 2014 in HLP (2017: 465)

¹⁴ HLP (2017: 480)

¹⁵ See [Mtero](#) in Phuhlisani NPC 2017 on international perspectives on land tenure, development and spatial inequality

*leading to a rapid breakdown in the integrity of the deeds system and fruitless state expenditure.*¹⁶

Rather than develop coherent tenure reform policy to address these disparities in practice there has been “something of a return to a dualistic paradigm of titling in urban and peri-urban contexts, and reversion to traditional leadership controls in rural communal contexts” .¹⁷

There are also important gender dimensions to spatial inequality¹⁸ which need to be urgently addressed. The vulnerability of female headed households in rural and urban area is of significance which requires that the impacts of legislation need to be assessed from a gender perspective.

Voices from hearings

During public hearings concerns were raised that “post-apartheid legislation on traditional leadership resuscitates the apartheid geography of the former Bantustans in rural areas, resulting in divided citizenship and economic inequality between rural and urban areas”¹⁹ thereby deepening spatial divides.

What government is proposing to address problem (draft legislation, ANC resolutions)

Government has developed the National Development Plan (NDP) and the Spatial Planning and Land Use Management Act (SPLUMA) which seek to address spatial inequality. The NDP lists spatial justice as one of its overarching principles for spatial development “to ensure that the needs of the poor are addressed first rather than last” .²⁰ However, the HLP report finds that “the resistance to urban transformation and its key drivers is an intractable problem despite this focus” ²¹in planning and law and critiques the siloed approach to the development of legislation.

At the 54th ANC Conference the Legislature and Governance Committee was reported as resolving to issue title deeds to “transfer ownership of 13% of the land back to communities under traditional leadership” . These would include “restrictions which would determine conditions for land use to avoid it lying fallow” .²²

HLP recommendations

HLP recommendations²³ seek to address barriers that continue to deny secure property rights to the majority and marginalise them from the core economy:

¹⁶ HLP (2017: 478)

¹⁷ Phuhlisani NPC (2017: 47)

¹⁸ Mnisi-Weeks in HLP (2017: 473)

¹⁹ HLP (2017: 492)

²⁰ Phuhlisani NPC (2017: 27)

²¹ HLP (2017: 455)

²² MAHLAKOANA, T. & MAILOVICH, C. 2017. *Land reform: Detail on ANC shifts in policy scarce* [Online]. Business Day,. Available: <https://www.businesslive.co.za/bd/politics/2017-12-21-land-reform-detail-on-anc-shifts-in-policy-scarce/> [Accessed 12 February 2018].

²³ HLP (2017: 460 et seq)

- Establish a co-ordinating structure (like National Aids Council) to be established among all role-players in land, housing and urban development at national, provincial and local level chaired by Deputy President.
- Establish a permanent institution such as the South African Law Commission or an inter-ministerial commission to make connections between planning legislation and land administration systems.
- Amendment of SPLUMA by Parliament to allow for greater flexibility so that decision-makers and regulators can be more responsive to diverse realities (e.g. in townships versus suburbs), including exemptions or fast-track arrangements in particular situations, such as informal settlements
- Develop and pilot the proposed Land Records Act to recognise and administer a continuum of land rights and provide people living in informal settlements, backyard accommodation and inner-city buildings with greater security and enable them to gradually regularise their status, invest in upgrading the property, and start a formal enterprise
- Release of well-situated urban land to mitigate the legacy of the apartheid city.
- Expropriate well situated private land held for speculative purposes in terms of Section 25/3 of the Constitution
- The urgent amendment of the Interim Protection of Informal Land Rights Act (IPILRA) and its proper enforcement and application to the TLGFA, the MPRDA and Ingonyama Trust Acts
- Development of a new framework law on land reform to consider both urban and rural land reform

Conclusion

Spatial inequality is a foundational issue with deep historic roots. It contributes to tenure insecurity and is a key driver of social division and structural poverty. It requires a co-ordinated approach in policy and law in order to build a more just and equitable society.

References

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