



## **Report on the GGLN learning event hosted by Planact.**

### **“Urban Land: Space for the poor in the city” Workshop for community education and advocacy 6 September, 2008**

#### **1. Introduction**

Planact hosted a GGLN community education and advocacy learning event on the topic “Urban land: Space for the poor in the city”. The event was aimed at developing the capacity of community members to engage in advocacy strategies for more progressive land management practices and democratic governance that will benefit the poor, marginalized sectors of our society particularly those living in informal settlement conditions. The event was well attended with full participation. The registered participants were 44 in number. Eight communities sent representatives from Diepsloot, Ivory Park, Kliptown, Muldersdrift, Protea South, SolPlaatjies, Thembelihle and Zandspruit. Two GGLN representatives also attended the event.

#### **2. Background**

Planact, together with Wits University recently completed a research study on land management and democratic governance in the City of Johannesburg particularly focusing on the question: What might a land management system look like that takes seriously questions of inclusive citizenship, rights to land, and social vulnerability? The research clearly demonstrated that despite the progress that has been made in developing new ideals for post-apartheid planning, there is a lack of innovative thinking and practice around land management. As a consequence, South Africa's towns and cities continue to develop without an adequate framework for managing land in a way that supports the goals of democracy, equity, efficiency, and sustainability.

#### **3. Aims and goals of the learning event**

The research findings particularly emphasize that there is a need for local government to change its planning strategies as well as play its part by

prioritizing the needs of the poor in land management decisions, and take up its role in promoting meaningful participation by the poor, thereby strengthening local democracy and social stability. It is hoped that the dissemination of the research findings will influence local government to take forward the recommendations provided.

Planact is of the view that a dialogue with communities around the findings and recommendations of this research study, and providing a space to develop more effective advocacy strategies will contribute toward community members being able to access their citizen rights more effectively. It was also envisaged that the workshop would serve as a space for community members together with civil society organizations to develop their abilities to influence local governance policy and practice more effectively in terms of deepening the practice of public participation in local governance. On this note, Planact took the opportunity to gather communities involved in the research case studies and those it is in partnership with, to share effective strategies.

#### **4. City of Johannesburg geared up to upgrade informal settlements**

The City of Johannesburg (CoJ) was invited to the event to share its plans on the recent policy decision to upgrade and formalize an initial 60 informal settlements around the city. Mr. Peter Ahmed (from the Department of Planning and Development - CoJ) made a presentation on the situation and plans around the CoJ development and upgrading of informal settlements in the CoJ. A key issue in the presentation was how to address the informal situation by trying to make land available for building affordable houses. Shortage of land in the CoJ was singled out as the biggest challenge in the provision of affordable accommodation. The CoJ has 180 informal settlements with approximately 180 000 households and has identified 60 of these informal settlements to be upgraded and formalized.

In terms of building low cost houses, it was indicated that the land size required for recent RDP houses (250 square meters) meant that the land cost was too expensive and there is not enough land to meet the demand. The municipality is now looking at smaller stand sizes as a way of providing access to land and shelter for many more people, and also will be prioritizing in-situ upgrading of informal settlements where possible.

It was made clear in the presentation that in order to solve the problems related to informal settlements, the CoJ has to first recognize the presence of the informal settlements and then has to devise a regularization program so that it can work towards affordable housing solutions. To attend the problem the city has brought in an informal settlement upgrading policy which is a major boost to the poor informal settlement communities in the city's jurisdictional area. The city's informal settlement upgrading policy intends to upgrade the informal settlements that are safely located and not that will not

compromise the city's development objectives e.g. not on a servitude required for high priority road development. These settlements will be given some formal recognition, and also physically upgraded. The implementation strategy of this policy is in two folds, 1) the rezoning of informal settlements in terms of its own planning schemes and 2) by formalizing the settlements through the provisions of the Development Facilitation Act (DFA) No. 67 of 1995.

Apart from the availability of sites for upgrading informal settlements, the development framework requires government to look at all other community needs that will require land, e.g. space for clinics/health facilities, schooling, recreational facilities and agricultural space, which are all posing serious land challenges to the municipality. The upgrading policy will also have a package that will benefit people of these informal settlements – the whole process will adopt a consultative approach, the rezoning will recognize residents by issuing them with occupation permits that will indicate their dwelling on a detailed layout plan indicating land uses. The plan in the policy will also identify the social and community facilities, business services, access to the settlement, and density and minimum sizes for structures for human occupation. The cost of agricultural land was also pointed out as very expensive and would cost more than half the housing budget just to acquire.

In response to the City's presentation, community members raised some concerns and comments about the city's plans in the process of informal settlement upgrading including issues of land shortages; community consultation and participation; relocations and evictions; selling of municipal land; areas identified for upgrading and implications; and coordination between different levels of government.

***The response to the community members' concerns included the following comments:***

It was admitted that there are still challenges around the whole issue of land shortage and housing within the city.

On the concern about community consultation and broader participation, communities were advised to have a clear goal on the issue. It was indicated that the city should collaborate more intensively with communities, and must implement a new approach to engage with communities. The presenter emphasized that in addition to ward committees, CBOs and FBOs should also be utilized as a way of consulting with communities.

The shortage of land was acknowledged as a big problem and a sensitive issue. The city has adopted a land strategy recently approved by the Mayor which stipulates that land that is not being used or is being disposed should be used for housing. The city now has to see if the new system will work in

terms of its implementation. The frustrating point, according to the presenter, is that the disposed land is currently not being used for housing as a priority.

The effectiveness of the DFA was also questioned by the presenter in terms of the contrast between what the DFA promised to do and what the government has actually achieved. The presenter was also uncertain about why other channels were not being considered for use with the repeal of the DFA particularly also since the city is currently in a legal battle about the DFA.

In response to community members' call for a moratorium on the selling of municipal land to private developers (particularly where people are staying), the presenter indicated that currently there was no moratorium and that this would involve a process of first checking whether the land can be utilized for the City's objectives. It was also mentioned that the selling of municipal land involves a transparent tender process.

In terms of relocating people, it was indicated that the City's first option was not to relocate people unless it is for a very good reason such as hazardous location e.g. settlements located along flood lines, building under the electrical cables, etc. The impact and consequences of relocation such as effects on transport, jobs etc. should be taken into consideration. Previously the government used to do quick but poor relocations and now it has learnt from its mistakes.

On the issue of the dolomitic land in Protea South, according to the City's plans people in the whole area would be relocated because large portions of the land are unsafe. The major reason for relocation in areas such as Protea South (and also Tembelihle) is that the City does not want to risk and invest public money into a disastrous area which is not sustainable, and not because people are being discriminated against. The presenter acknowledged that private development has occurred on risky land areas through various arrangements such as building the foundation in a particular way and through less dense development, etc. It is therefore difficult to understand why such considerations seem not to have been taken into account by the City in areas such as Protea South. On Tembelihle specifically, the presenter indicated that he did not have all the facts and could therefore not comment.

In terms of developments in Sol Plaatjies, hostel upgrading will continue and criteria will be applied to check whether the surrounding informal settlement area is among the 60 settlements to be upgraded. Some support will be provided for those areas not qualifying such as securing the site, but this will not include support for top structures.

It was acknowledged that coordination between provincial and municipal levels of government remains a challenge. The CoJ will communicate its new plan and will seek administrative and financial support from Province.

The presenter clearly stated that the City does not support private evictions but rather, in some instances, attempts to support communities affected. The City is also starting to take action against landowners who engage in shack farming.

## **5. Planact's presentation**

Planact shared presentation in some of the findings and recommendation of the Land Management and Democratic Governance Research study as captured in the summary report, " Urban Land: Space for the Poor in the City". The major findings and recommendations of the study were highlighted as follows:

### *5.1 Some of the findings are as follows:*

- land scarcity inhibiting access by the poor,
- lack of economic opportunities for low income groups,
- land accessed through informal means,
- private development not contributing to public benefit,
- lack of community participation on governance issues, and
- problem of planning and coordination between spheres of government and government departments

### *5.2 Some of the recommendations highlighted by the study are:*

- Develop and drive city-wide strategy to allocate and acquire adequate land for settlement by the poor, with close attention to the need for well-located land - requires flexibility in terms of price on land purchases,
- Innovate higher-density settlement solutions accessible to the poor – requires consideration of operating subsidies (instead of once-off capital subsidies as only option),
- Accelerate access by the poor to land for settlement in proxy to economic nodes,
- Recognize the rights of current residents and where no imminent threat exists, institute in-situ upgrading wherever possible,
- Ensure that evictions do not take place without extensive consultation, development of alternative accommodation options, and due process,
- Improve systems to facilitate land/occupancy transfers, build in more flexibility into housing waiting list systems, and roll-out comprehensive education programmes,
- Service and regulate living environments where the poor live to uphold minimum safety and health conditions, invest in transport, policing, and social services,

- Backyard shacks, home businesses, and land for gardening help people to survive and should be supported,
- But, these uses need to fit into plans for upgrading over time,
- Improve city capacity to ensure private developers are acting within appropriate planning and development frameworks that encourage the balance between economic growth and improved living for all,
- Develop pro-poor policies that facilitate access to land, and monitor overall city progress in consultation with the poor.

### *5.3 Opportunities for participation to benefit the poor communities*

- Some informal settlements will get recognition of rights to occupy land through the new special zoning process of the CoJ. Community members need to get involved in decisions that will be made about the layout plans and the steps towards formalizing the settlement.
- Housing sector plans will be part of the Integrated Development Plans of the City - this is meant to create better coordination and allow for more community input.
- New funds are being made available to municipalities in urban areas for land purchase by the Dept. of Land Affairs (DLA):
  - the DLA has introduced a grant policy called Land Acquisition for Sustainable Settlements (LASS). The main objective of the grant is to provide funding to municipalities for the acquisition of land for the settlement of historically disadvantaged people and the poor. There are many reasons that led to the initiation of this policy: 1) housing development for the poor has been severely limited by the lack of available municipal land. Municipalities are selling well-located land to developers instead of ensuring its use to meet the needs of all residents, in particular the poor, 2) urban renewal and slum clearance initiatives need to go hand in hand with rapid land acquisition and release policies, 3) lack of coordination between programmes of the DLA and the Dept. of Housing (DoH) has meant that the DLA has undertaken projects in the past without regard for the municipal or DoH plans and 4) legislation providing for the DLA land acquisition grant has also stipulated that a beneficiary of one programme is excluded from benefiting from another e.g. if you get access to land through DLA process, you cannot get a housing subsidy. The DLA grant is geared towards addressing the problems stipulated above.
- A Housing Development Agency is being created to purchase and make land available to accommodate the poor,
- A new policy to improve the People's Housing Process is being developed to make sure communities can be directly involved in upgrading.

## **6. Communities' experiences on their right to land**

Some of the communities that Planact works with had the opportunity to make presentations to share their experiences on the struggle for land rights or to claim the urban space. The presentations were aimed at providing lessons that will promote and enhance our democracy. As a way to show and promote the maturity of South Africa's democracy, a few communities used the justice system as an advocacy strategy for their right to land and to influence policy.

Since South Africa approached the second decade of democracy the use of courts became popular among poor South African communities as another way to advocate their land rights. The use of the courts does not only benefit the concerned communities but it does enhance democracy.

It became clear that these communities experienced hard battles to register their presence and to access the urban space. However they fought tirelessly through legal means. All the communities who made their presentations in the learning event won their battles through courts of law. They proudly shared their experiences and challenged other communities to follow suit – to use the courts of law to defend their land rights.

Communities' experiences are summarized as follows:

### **6.1. Muldersdrift**

Muldersdrift is a community with a well organized approach to the land right struggle. This community organized itself with one mission: to buy land. Members contributed to savings which lasted for years in order to have sufficient money to buy land to use for housing purposes. They made a first attempt to buy a piece of land of which became a big challenge as some land owners around the area objected to this community establishing a settlement in this area. This was followed by a second similar attempt also marred by similar challenges by objectors. The community's struggle to acquire land was never deterred by the land objectors in the area. This community decided to fight for the land in a democratic way – it pursued the legal process. The matter for objecting to this poor community to buy land was taken to a tribunal court where the community finally won the case. Although they have won the case, the legal ruling came with some conditions. The communities' plan to build 300 houses for beneficiaries was curtailed, and plans for only 150 houses were approved.

The Muldersdrift community highlighted some of the difficulties encountered throughout their 12-year struggle, including the following: land owners opposing the purchasing of land by the community; challenges to raise enough funds to buy the land; lack of government policies to assist poor

communities to buy land; delaying tactics used by opposing parties; and divisions within the community that appeared due to becoming discouraged by the lengthy processes.

## **6.2 Diepsloot**

Diepsloot community was represented by a community based organization (CBO) called Motho Pele which represents residents and tenants of Diepsloot ward 95 and 96. This is an organization that deals mainly with issues of land and housing. It helps the evictees and backyards dwellers as well and advises landlords in their disputes with the renters.

In the presentation, this CBO shared its experience of fighting the evictions of renters on private land in Lanseria. The case presented related to people who were receiving illegal evictions orders from the land owners. Motho Pele maintained that the land owners used the old and irrelevant eviction order which was meant for another community not related to the targeted one. With the assistance from the Human Rights Commission (HRC), Motho Pele interfered in that eviction by taking the matter to the high court. As a result tenants won the case. The court ordered the landlords to rebuild the houses of tenants which were destroyed during the illegal eviction.

Some of the challenges highlighted in the presentation include the following: resources to access legal representation, lack of knowledge about institutions that can help poor communities to defend their rights, and poor communities' lack of knowledge about policies that are of value to them.

## **6.3 Protea South**

Protea South is an informal settlement community situated in South West edge of SOWETO. This community is facing eviction by the government from their current location with reasons cited that some parts of the area are dolomitic. The community was plunged into crisis when people received eviction orders without clear reasons, and without knowing what to do or how to handle the situation. The community could not even access the court representatives on the matter. As a community, the people decided to stand firm and defend their rights. The government decided to stop service delivery to the community which was regarded as a punitive measure in response to the community's attempts at resisting evictions.

At one stage the community managed to get legal representation, with appeals for communication often ignored by government. Finally the court route forced the government to pay attention to the demands of the community. The court ruled in favour of the Protea South community. The court ordered the City of Johannesburg to make provision for some of the basic demands of the Protea South community.

The main challenges faced by the community included the following: the eviction problem divides the community as some easily obey the authorities without paying attention to what their rights are; the community never had space to engage with the city on alternatives to eviction; the community felt discriminated against based on their social status.

#### **6.4 Sol Plaatjies**

The Sol Plaatjies community members were originally forcefully evicted from their original areas in 2002 and were relocated to the current Durban Deep area. During their eviction, the City of Johannesburg promised the community better services including better accommodation in the new area. Unfortunately the City failed to keep its promises. The community of Sol Plaatjies then took the City to court to fight for their rights. Although it was not an easy struggle, the community finally won the battle through the court of law. The court ruled in favour of the Sol Plaatjies community. The City was ordered to fulfill its promises with tight deadlines.

Like other communities, Sol Plaatjies faced many challenges during the struggle. These included: the social effects of the process e.g. children dropped out of school, and teenage pregnancies increased in the new area as there is a lack of social activities for the youth; the government never showed any serious commitment to support the community; the community found it difficult to access information that could help it to get organized.

### **7. Common issues that cut across these communities**

Amongst the issues that emerged as challenges around access to land in these poor communities were:

- forced evictions and relocations without regard to the needs of the people;
- lack of information and knowledge on how to challenge the evictions and relocations and how to access legal representation;
- lack of consultation by government, and unfulfilled promises by government, and the use of divide and rule strategies by government to derail the process of accessing land;
- discrimination on the basis of race and social status;
- land policies that do not favour poor people to easily buy land
- delaying tactics by land owners and government to frustrate poor people in their attempts to acquire land.

**8. Community members formed different discussion commissions and made some of the following recommendations according to key questions posed:**

*In terms of the gaps in information/ education (from a community perspective) in terms of engaging with government to ensure positive development outcomes for informal settlements resident:*

- Communities encouraged each other to develop ways of accessing information so that they can have good grounds when they engage government. Better understanding of planning concepts, legal issues, economic trends and global development trends were highlighted as areas requiring more attention through capacity building workshops and accessing information through resources centres such as libraries as well as through the media (radio, TV).
- Government should engage communities and all representative structures within communities to participate in the development of these communities.
- More effective implementation of the roles of councilors and ward committee members was emphasized in relation to sharing information with community members and taking community members' concerns forward to the appropriate government structures. Councilors and municipal officials should be better informed about the legislation that promotes in-situ upgrading and other means for accessing land.

*In terms of considering ways for communities to take advantage of opportunities provided by government policies to work towards security of tenure and access to development by informal settlements:*

- Communities maintained that if they work together and network, they will be in a better position to use government policies towards security of tenure.
- Communities should also seek legal representatives that will help to interpret some legal documents and policies that might affect their ability to access security of tenure.
- Communities should continue their relationships with government so that they can have full knowledge and understanding of the policies that affect them. Government should not come to people with ready-made plans; people should participate and decide on suitable plans for their communities.
- Land policies should be revisited to ensure positive change.

*In terms of the limitations of government's approach that may continue to require legal intervention and keeping momentum after the legal decision:*

- Red tape and old apartheid legislation still act as a limitation, old apartheid legislation should be repealed.

- Policies are not harmonized as a result of poor coordination in government structures which results in much confusion for community members in particular.
- Community participation in term of consultation and communication around development planning and implementation is often limited by government and should be regarded as important.
- Once the legal battle is over, communities should continue to keep close relationships with legal representatives for advice on other bureaucratic processes.
- Success comes with challenges; communities should be in a position to manage further challenges.

*It was also emphasized that communities should use campaigns such as Habitat International Coalition's (HIC) Housing Rights campaign – Housing for all - to make their voices heard on housing issues.*

- Some suggestions put forward for particular actions include: building houses for those in need; media attention; raising awareness around housing issues through road-shows and workshops; mass mobilization on rights to adequate shelter; and using religious forums to get the message across e.g. church gatherings.

## **9. Conclusion**

In concluding the workshop, participants evaluated the event positively by emphasizing the importance of events such as this. They also commended Planact and GGLN for organizing the event which has served as an eye-opener for poor communities, particularly in terms of learning how to challenge government on certain issues. Participants appealed that the government should listen to the demands of land and accommodation for all poor people. The government was also requested to revisit the land policies that are preventing poor people to access land in the urban and peri-urban spaces.