

**Adequate & Affordable Housing for All**

Research, Policy, Practice

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# **Socio-political imperatives of land invasion and eviction: Revisiting the Bredell case, Johannesburg, South Africa**

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Land invasion is one of the alternative tactics that the poor, powerless and homeless people adopt to access land on which to build their shelter. Land invasion by the homeless people is a consequence of desperation for space to put up a shelter. It occurs spontaneously and is not disappearing in the city fabric. Land invasion continues unabated because the poor homeless people lack the resources to build their shelter formally and legally. Hence, they resort to non-formal and illegal means to access land to build their shacks. It is no longer possible to underestimate the pervasiveness of poverty in our human settlements with resultant invasion and re-invasion of land and buildings by the poor/destitute homeless people in the urban areas. Land invasion and eviction still remains a challenge for land, housing and planning policy makers.

This paper uses the Bredell invasion and eviction incidence in Johannesburg, South Africa. It discusses the socio-political imperatives of land invasion and eviction; and the responses by the relevant multiple players such as the homeless people, the government, the media, Faith Based Organizations and the Civil Society.

The paper argues that the often ignored powerful socio-cultural and political imperatives of accessibility to land and housing; coupled with the 'vested interests' of a number of players involved in the process of land invasion and eviction, often result into ineffective responses. The usual approach to land invasion remains to be eviction or relocation. An approach that de-emphasizes non-participation and manipulation is pertinent. Such an approach should be proactive, socio-politically correct and incorporate the interests of the relevant players in the land invasion and eviction issue.

Keywords: land invasion, homelessness, eviction, socio-political trends

**INTRODUCTION**

The 1996 Global report on Human Settlements indicated that between 100m and 1 billion people are homeless. UN-Habitat Global report on Human Settlements 2003 indicated that nearly 1 billion people are slum dwellers (one in six human beings) and it recognizes urbanization of pov-

erty as the locus of slum and homelessness. Against the backdrop of the World Social Forum (WSF) in Mumbai, India and the World Economic Forum in Davos, Switzerland in January 2004, many poor and homeless people in urban areas rely on illegal occupation of land to obtain and develop their shelter. The WSF indicated lack of proper policies, little or no planning to accommodate the slum dwellers or homeless or to provide them with services as contributory factors to slum increase.

In June 2001 there was an incident of land invasion/eviction by homeless people in a community known as Bredell in Johannesburg, South Africa. This paper presents the complex socio-political imperatives of the Bredell land invasion and eviction. Bredell land invasion and eviction was different due to the following:

- Safety/ Danger zone: the area of Bredell that was invaded was close to the power line. This is a danger zone because there is a planning regulation (servitude issues), which does not allow development or occupancy of land around certain distance from the power line grid.
- Health: The land occupied does not have water and sanitation and lack of these can constitute a health hazard like cholera outbreak due to unsanitary conditions associated with occupation. Probable risk of radiation, which could cause cancer, is also a factor locating close to heavy power grid lines.
- Economy: the invasion led to speculations that investors might be discouraged in coming to South Africa and also the currency, Rand, dropped slightly at the time of invasion/eviction.
- Politicization of the process: Political parties were said to have influenced the land invasion by offering money to the poor homeless people with the promise of a plot, water and sanitation services.
- International sentiments: speculations also tried to link the Bredell invasion to the ongoing land issues in Zimbabwe at that time.
- Multiple players with vested interests: The multiple players in the Bredell invasion/eviction process included the South African Council of Churches (SACC), international non-governmental organizations, political parties and the media. These multiple players played out their interests in the very swift reaction to the eviction process.

It could be argued that certain underlying attributes such as poverty, unemployment, location of land, quest for own space and insecure tenure makes homeless people invade land and more vulnerable to eviction. The informal and unorganized way of invasion raises questions as to whether land invasion is the best strategy/alternative to address homelessness? Or whether eviction or relocation a proper solution to deal with invasion?

## **LAND INVASION: SOUTH AFRICAN PERSPECTIVE**

Forced urban removals in South Africa was very prevalent in the 1930s basically because of the Mines Act of 1911 and the Land Act of 1913, which excluded Africans from holding jobs in certain categories and from owning land. This pushed men to be wage laborers, further perpetuating poverty. Other Acts such as the Development Trust and Land Act of 1936, the Native Urban Areas Act of 1923, Pass Laws and Group Areas Act of 1950, and the Influx Control Act as well as the migrant labor system entrenched divisions between families and marginalized many African households, particularly women and children. These acts enforced residential segregation whereby racial groups were separated, leaving the majority of the African population to live in inadequate housing until the 1990s. Arguably, the Acts propelled the unequal access to land, sys-

tematic exclusion and expulsion of Africans from the land; and these evictions were referred to as resettlement, relocations and removals in South Africa.

Royston (1998b) noted, community struggles around housing were an integral part of the broader struggle against apartheid, land invasions, boycotts against rent, service charges and bonds were strategies adopted by civic organizations in the ungovernability campaign intended to bring down apartheid. Land invasion on the periphery of established group areas emerged as an alternative strategy for ensuring land access. Illegal shacks built in the backyards of formal houses within existing black townships were the main form of homelessness in some parts of the country in the 1970s, until the advent of freestanding squatter settlements in the 1980s (Mashabela 1990).

The location and quantity of land set aside for black South African occupants was tightly controlled through legislation such as the Black Communities Development Act and the Group Areas Act (Royston 1998a). Where land was released by the provincial authorities to serve the settlement needs of migrants and new generations of black urban dwellers, remote location and inadequate service levels led to conditions of extreme overcrowding in formal housing stock (Royston 1998a). Rapid migration in the 1980s linked to economic pressures in the homelands and the abolition of influx control, led to settlement close to the white urban periphery, in the black urban townships, in overcrowded public accommodation, backyard shacks and informal settlements. It could be inferred that the rapid migration perpetuated the urbanization of poverty, particularly among the poor black population. Also the segregated spatial planning that existed pre-1994 fostered the urbanization of poverty.

The location of informal settlements –mainly on the far peripheries of the metropolitan areas was influenced by the relative strength of the core city and weakness of the peripheral administrative structures such as the black local authorities and tribal authorities in some areas (Hindson and McCarthy 1995).

The issue of land invasion in South Africa could best be described as ongoing. This is underpinned by the record of land invasions in recent past years (table 1). It also underpins the desperate need for decent and affordable housing by the poor and landless people as well as the complexities involved eviction.

**Table 1: Reported Land Invasions in South African Provinces since 1999**

- 1999
  - Wallacedene settlement, Cape Town (Grootboom case), 1999
- March 2000:
  - About 50 people erected shacks on the planned Cosmo City mass housing development site north of Johannesburg; Security guards later relocated them to another area between Krugersdorp and Pretoria, from where they again face eviction
  - Court orders were issued against illegal squatters from Lawley Extension 2 near Ennerdale, South of Johannesburg. 1000 dwellings were demolished, although some people remained.
- June 2000

- About 1000 squatters invaded government-built homes in Stellenbosch, Western Cape, which costs R6m to build in 1996 but were never occupied.
- About 200 squatters settled on private land in Zandspruit, north of Johannesburg, after buying the Nooitgedacht farm from its previous owners. But the local council and private company went to court to get them evicted, claiming they contravened zoning laws.
- June 17 about 2000 defied court order and occupied vacant land in the posh suburb of Kloof, west of Durban.
- June 23, 2000, 19 people were arrested in Kuruman in the Northern Cape after they occupied land the previous day.
- July 2000
  - Over 5000 people were reported to have illegally occupied farmland in KwaDukuza, northern KwaZulu Natal.
  - More than 200 residents of Diepsloot occupied vacant land in the township.
- October 2000
  - 2 people died and nine were injured when security guards tried to stop new dwellings being built in a settlement near Atteridgeville, outside Pretoria.
- November 2000
  - Hundreds of people invaded and occupied 600 low-cost houses in Alexandra, Johannesburg.
- 2001
  - Alexandra, Johannesburg eviction of 6000 households residing at the banks of Jukskei River due to risks of flooding and cholera outbreak, February 2001
- 2002
  - Thembelihle, Johannesburg eviction, July 2002
  - Alexandra, Johannesburg eviction, October 2002

Sources: Personal observation, Donaldson and Jacobs (2001).

## **THE BREDELL STORY**

Bredell is located on the East Rand of Johannesburg (see map). It is located on what used to be a rural piece of land situated on the peri-urban fringes of Kempton Park, Johannesburg in the Gauteng Province. Gauteng Province (figure 1) has a population of about 7.3 million while Johannesburg has about 2 million population (SSA, 1996).

A 23 hectare piece of land located in Bredell area outside Kempton Park, Johannesburg was invaded by over 4000 homeless, poorly housed people in June 2001. The piece of land was partly state owned and partly privately owned. The landowners include the government, Transnet, a company called Groengras Eiendomme and servitude holder, ESKOM. The people interviewed indicated that they paid R25 for a 225m<sup>2</sup> plot, water and sanitation. There is a rail line and power lines that run through the invaded land. The government acting swiftly obtained an interim court order to evict the homeless people. This was instituted and eviction was carried out in July 2001 but was extended till August 2001 to enable the last batch of evictees who were still refusing to move to clear up their belongings. The evicted homeless some of whom (opportunistic settlers) returned to their previous locations or had to start looking for another place to pitch their shacks;

while the others (original settlers) who were left in the cold did not have a place to go. A few of the original settlers were accommodated in churches under the responsibility of the South African Council of Churches To these squatters, “*land is more important before houses*”. The homeless leaders who resisted the eviction were arrested based on the Trespass Act 6 of 1959.

Interviews were conducted among the Bredell original settlers found on the site, the evictees staying in a temporary location under the auspices of the SACC, councilors, church caretaker and community leaders.

Two categories of settlers were identified in Bredell:

1. Original settlers (who indicated that they have been living on the land for more than six months); some of whom claimed that a farmer living in Pretoria allowed for 800 stands to be developed on the land, others claimed that the government under the defunct Transvaal Provincial Authority allowed them to stay on the land;

One of the leaders interviewed asserts,

“...The original settlers numbered about 250 some of whom belonged to the Transvaal Provincial Administration said they have been living on the land for 20 years while some indicated since 1994. Historically we were told that people used to live in Bredell in the olden days but due to urbanization they moved to Tembisa. We have asked the legal resources to check the historical facts and see whether people can reclaim their land based on the land Act”.

Another leader indicated,

“...My mother comes from Bredell”.

Some other original settlers indicted that:

“...I have been in Bredell since 1994”.

“...I am 22 years old and I came here from Pietersburg and I have been living here for a year”.

“...I had my children in Bredell and I have been on this land for over 15 years”.

2. Opportunistic settlers

- a. Those occupying backyard shacks or garages or shacks in townships
- b. Those renting from nearby shack farmers
- c. Those who are homeless or without a roof prior to invasion

As indicated by one of the interviewees

“...The opportunistic settlers were about 3000 who were referred to as land grabbers came as far as Benoni and Tembisa. They were regarded as ‘spoilers’ because they spoilt the case against the original settlers who were located far away from the danger zones occupied by the opportunistic settlers. They were those who capitalized on the invasion had nothing to loose after eviction other than to go back to their garages or backyard shacks in the townships. They exploited the situation and were the first to move when things blew out of proportion”.

## RESPONSES TO INVASION/EVICTION IN BREDELL AND SHORTCOMINGS OF EXISTING STRATEGIES

Bredell invasion attracted various forms of responses ranging from government, political, legal to planning.

### Government

In response to the Bredell invasion/ eviction, the South African Housing Minister announced new measures to amend the Prevention of Illegal Eviction and Unlawful Occupation of Land Act, to enable the government to criminalize any invasion of land and enable authorities to prosecute land dealers and anybody involved in invasion. *The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998* introduces procedures for dealing with illegal occupation of land that are 'just and equitable' and aims to ensure that eviction takes place in accordance with the law. It also outlaws the practice of individuals charging landless a fee for the opportunity to settle on land that is not that individual's land to offer.

It could be argued that Government efforts to stem land invasion by criminalizing the poor and landless people through the proposed amendment to the Prevention of Illegal Eviction and Unlawful Occupation of Land Act could further marginalize and exclude the homeless in their bid to access land for housing and have secure tenure. In as much as illegal land invasion cannot be condoned, zero tolerance seems not to be a sustainable approach to dealing with invasion/eviction.

The government said it would not tolerate land invasion or people who misled the landless by making false promises of land acquisition. The Public Works Minister asserted that the government would not allow political opportunism to mislead the poor people on false promises of possible land acquisition nor would the government tolerate any acts of land invasion that run contrary to the structured programme for land reform (The Star, 2001). The National Land Committee responded by indicating that the plan to make 'any invasion of land' an offence represents a draconian threat to further criminalize the desperately poor and landless (The Star, 2001b).

The various land and housing programmes of the government have yielded significant results. The government delivered about 1.4 million houses for ownership through its capital housing subsidy programme in 2002.

The land restitution programme has transferred for ownership of about 12,341 hectares of land since 1994 and about 377,000 old council houses have been transferred through the Discount benefit scheme for ownership to those households that have been in those houses for over 40 years (Minister for Housing, cited by Scheepers, 2001). The land tenure reform on the other hand, is aimed at establishing legally enforceable rights to land and to build a unified non-racial system of land rights and 22 laws and amendments have been passed to establish the legislative framework for land reform.

With regard to the land redistribution programme which is aimed at restoring land and compensating people disposed by racially discriminatory legislation and practice. 54000 claims were lodged (80% in urban land) only 4000 claims have been verified and 27 claims involving 167534 hectares have been finalized (Country Report, 2000). However, Lahiff and Rugege, (2002:48) noted that the "redistribution programme has largely consisted of the provision of grants and

other assistance to would-be landowners to acquire land through the market”. The principal mechanisms used to implement redistribution have been the Settlement/Land Acquisition grant (SLAG) and the Land Redistribution for Agricultural Development programme. The redistribution programme has recorded slow rate of delivery having transferred title more than 1% of total agricultural land by the end of 2001 due to the cumbersome systems for planning and approval of projects with the Department of Land Affairs, reliance on the open market to supply land and lack of coordination between the national department and other state institutions at provincial and local level (Lahiff and Rugege, 2002).

**Involvement of the justice system:** Bredell was invaded in June 2001, but the interim court order to evict came on 5 July 2001. Affidavits were collected from people who lived in Bredell for more than 20 years. The argument put forward by the Government lawyers was that the invaded land constituted a health hazard for the inhabitants because it lacked water, sanitation and other health facilities. Also that the fuel pipe, railway line and electricity pylons constituted potential hazards to any inhabitant.

The government lawyers indicated that the Constitutional Court judgments protecting homeless people should not be understood to encourage illegal land occupation with the aim of alternative accommodation.

Counsel for the squatters said the government had failed to demonstrate that the railway line and electricity pylons constituted imminent danger to the squatters.

The Judge stated that emphasis should be placed on desperate people and he does not think Bredell squatters were. Also the Judge indicated that given the duration of illegal occupation as prescribed by the law<sup>1</sup>, the need to provide alternative land fell away, relieving the state of the responsibility of going beyond its available resources to provide alternative land (Scheepers, 2001). Furthermore, most of the evictees were on the waiting list in the Department of Housing. The court order for eviction was passed and private security that the evictees referred to as red ants forced the invaders out of the land within a week. The squatters indicated that they were given limited time (about 48 hours) to seek legal representation.

One of the leaders interviewed said:

“...The court case was mishandled. The opportunistic settlers messed us up. The opportunistic settlers have been on the housing waiting list since 1996 but missed out because of the irregularities in the process. Now they invaded the power line areas and that is what the government saw and decided to evict”.

Their appeal was dismissed in the interim judgment delivered on the 13 July and the land was supposed to be vacated within 48 hours. However, with the intervention of the South African Council of Churches, some of the original settlers were given till 31 August to vacate the land.

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<sup>1</sup> With regard to the *Extension of Security of Tenure Act 62 of 1998*, which provides occupiers of rural or peri-urban land (i.e. land that is not in proclaimed township) with a legal right to live on and use that land and protects them against eviction; the Act states that no person may evict an unlawful occupier who has been living on a property for six months, except on the authority of a competent court.

**Political influence:** Various reliable sources claim that there was significant political influence on the invasion process in Bredell. There are claims that some political parties encouraged some people to invade land in Bredell.

**Civil Society:** A march was organized by the Landless Peoples' Movement (LPM) to protest Bredell eviction. Landless Peoples Movement (LPM) is a non-violent, rights-based movement struggling for comprehensive land and agrarian reform for the country's 26 million poor and landless people. All the activities of the LPM are aimed at putting pressure on the government to speed up land redistribution through legislative and policy changes.

**Media, investors and international sentiments:** The Bredell incident was widely carried by the media. Huchzermeyer (2002) asserted that the media's concern about the squatters swayed investors' perceptions and this led to the fall of the Rand by 23 cents to the US\$ during that period. The land invasion in Bredell was also linked to the ongoing land problems in Zimbabwe. With regard to international sentiment, a global non-profit group formed by volunteers who strive to promote peace and positive action in South Africa proposed to launch a fund to buy land on which those evicted from Bredell can be accommodated and to open a squatters' fund whereby businesses could give donations. The South African Council of Churches (SACC) and independent auditors were supposed to manage the fund.

**Faith Based Organizations:** The South African Council of Churches (SACC) intervened mainly on religious and humanitarian grounds and with the intention of establishing a relief fund for the homeless evicted. They provided tents and food to the evictees on some church grounds in Tembisa (Anglican Church and the Lutheran Church). The Lutheran Church provided tents and food for the squatters and the women were responsible for cooking on a rotational basis. At the church premises there were three big tents and six small ones and a count of 76 people were made: 15 women, 47 men and 14 children. None of the church pastors or the homeless people was willing to talk. Excerpts from those staying in the tents in the Lutheran Church, Kathlempeng, Tembisa: "...We have been told not to talk to anyone because the press people have been coming to ask us questions".

The Anglican Church housed 20 homeless people while the Agape Worship Ministries housed 40 homeless people. In December 2001, some of the evictees about 50 families were allocated land by the SACC in some other parts of the East Rand, Johannesburg.

### **Invisibility of Planning Policy and Practice**

The existing planning policies and legislation were put to test during the Bredell invasion/eviction. Planning and planners played limited or rather invisible role in the Bredell invasion/eviction process.

For example, pre-Bredell, Development Planning in South Africa responded to the issue of tenure and illegal land occupation through the Development Facilitation (DFA) Act 67 of 1995. The DFA Act has as part of its sub-principles the *promotion of secure tenure and discouraging illegal occupation of land*. The DFA forms the foundation for the new, normative based planning

system for the country. This DFA principle<sup>2</sup> sought to change the primarily regulatory land development into a user-friendly, facilitative and management-based. Seeks to break the ‘them’ (those with power) against ‘us’ (powerless) mindset.

Specific clauses in the DFA Act relating to Bredell include:

*Principle 3(1) (a): “Policy administrative practices and laws should provide for urban and rural land development of formal and informal, existing and new settlements” (DPC 27/99:21-23).*

This principle draws an important distinction between illegal (negative) and informal (potentially positive) settlement processes (p.23). It noted that illegal land occupation is still a precursor of informal settlement processes.

*Principle 3(1)(b): “Policy, administrative practices and laws should discourage the illegal occupation of land, with due recognition of informal land development processes”.*

This principle seeks to discourage illegal occupation of land. It recognizes that the integrated and efficient development of settlement cannot occur when illegal occupation is a common settlement-formation process. The question then is how would planning practice accommodate the needs and re-integration of the landless, homeless population such as those in Bredell, in settlement forms and minimize or completely eradicate urbanization of poverty in peri-urban areas?

The White paper on Spatial Planning and Landuse Management emphasizes land as a national resource and builds on the conceptual approach to land use and development reflected in the DFA. The White Paper emphasizes landuse premised on the consideration that rational planning of all uses of land in an integrated manner, linking social and economic development with environmental protection and enhancement. The principles and norms include: Sustainability, Equality, Efficiency, Integration, Fair and good governance.

## Comments

It could be inferred that the various attempts by the different levels of governments to avert land invasion are still not enough or still not focusing on the very needy target group of landless and homeless people. For instance, the Gauteng Provincial government’s policy is to reduce homelessness and improve the quality of life of people through the provision of secure tenure, installation of services and delivery of top structures. Also the Gauteng Provincial government’s policy of Rapid Land Development Programme (RLDP) is aimed at stemming urbanization of poverty. The City of Johannesburg Housing strategy 2000 acknowledges that Johannesburg metropolitan area has been consistently subjected to an ongoing process of illegal land and building invasions that are either politically or commercially driven but there are no statistics available in terms of

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<sup>2</sup> Five major concerns (DPC, 1999) underpin the DFA chapter one principles. These are the need to:

1. Create new forms and structures for South African settlements to improve performance;
2. Work harmoniously with nature by avoiding hazardous environments such as areas of geological instability, floods and dolomite;
3. Speed up the pace of development;
4. Promote a better planning system through Integrated Development Planning, Public participation, local decision-making, public private partnership; and
5. Promote security of tenure in urban and rural areas.

number, location and demographics of people invading land. The City through the Johannesburg Metro Police Department established a Rapid Response Unit to prevent land invasions during the early stages but they have capacity constraints. In the case of Bredell, it seems the invasion could not be prevented before it occurred due to capacity constraints.

Furthermore a Strategic Programme of Settlements Development in the metropolitan area was developed to rapidly release land for occupation by low-income residents; contain and prevent land and building invasions and upgrade or relocate existing informal settlements (GJMC 2000:6). Also, the Johannesburg 2030 plan was developed; the plan seemingly is too grandiose that it basically emphasizes economic development rather than an integrated development.

The various plans and policies appear to be too broad, fails to address the urbanization of poverty around the city or peri-urban areas and continue to exclude the homeless and landless people. Considering the rate of urbanization and urbanization of poverty, the attempt to make Johannesburg a shack-free city would be an illusion in the light of city plans that fail to incorporate the unemployed, homeless, landless and indigent population group who are fast colonizing the city fabric. It appears the land programmes are aimed at people in the informal settlements not the desperate, poor landless and homeless persons. Hence, their continued struggle to access land through invasion.

All the above policies relating to land invasion and eviction arguably criminalizes illegal land invaders. At the same time these policy statements fail to address the plight of the homeless and indigent population whose access to land and the issues of equity, integration, sustainability and efficiency still appears to be elusive in practice.

## **SOCIO-POLITICAL IMPERATIVES OF BREDELL INVASION/EVICTION**

The evictees' perceptions and reactions to the invasion/eviction process as well as the responses by the government and multiple vested interests groups are discussed here.

### **Perception of socio-economic rights**

The homeless in Bredell perceived their rights to be disrespected especially during the eviction partially because of their ignorance and circumstances as indicated by an interviewee below:

“...The money given cannot be substituted for our rights”.

The fact that the Habitat Agenda 1996 committed all Governments to “protecting all people from and providing legal protection and redress for forced evictions that are contrary to the law...” (UNCHS, 1997: paragraph 40.n) and UNCHS (1999d, para.30) report noted that, “homelessness represents the most obvious and severe manifestation of the unfulfilment of the human right to adequate housing...” it seems from the above that money cannot even replace people's rights to access adequate and decent shelter.

It has been perceived by the homeless people that the appeal process in the Bredell case failed because of politicization of the invasion process, lack of power and partly because of the non-consideration of the rights of the invaders, particularly the Rights stated in the South African Bill of Rights that “everyone has the right to have access to adequate housing”; and that “the state

must take reasonable legislative and other measures within its available resources to achieve the progressive realization of this right”; and that no one must 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” (Section 26, 1-3).

Some of the original settlers who have been living on the land for more than six months indicated that their rights were infringed upon.

Agenda 21<sup>3</sup> affirmed that ‘ people should be protected by law against unfair eviction from their homes or land’ (ch 7.9b). Referring to General Comment No. 7 of the United Nations (1997) (UN document E/C.12/1997/4), which strengthens the right not to be evicted; the document declares that ‘evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights’. In the Bredell case, their eviction rendered them chronic homeless and vulnerable as seen from the excerpts:

As noted by the interviewees:

“...Though some of us (original settlers) were given till August 31, 2001 to vacate the land and were given between R5000 and R15000 for resettlement but we didn’t know where to go or where to start from. Our houses were demolished; we were not given enough time to even search for alternatives. As people we have rights to speak up to unfair treatment too”.

“...We trekked from Bredell to Tembisa on the eviction day. We slept in the stadium and it was very cold...”.

“...We were left in the winter with the children”.

The General Comment<sup>4</sup> obliges States to explore ‘all feasible alternatives’ before carrying out any forced evictions. In the case of Bredell it seems these alternatives according to peoples responses were not explored fully. There was no available information, which indicated that alternatives were offered by the government and it could be inferred that the eviction subjected most of the homeless to chronic homelessness considering the very cold weather (eviction took place in the winter season) as indicated below:

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<sup>3</sup> Agenda 21 adopted at the UN conference on Environment and Development 1992

<sup>4</sup> The 8 prerequisites in the General Comment No. 7 (UN, 1997) that must be followed to prevent eviction are:

1. They must have an opportunity for genuine consultation
2. They must have adequate notice of the scheduled date of the eviction
3. Information about the proposed eviction and where applicable about the alternative purpose for which the land or housing is to be used, must be made available to them in reasonable time
4. Especially where groups of people are involved, government officials or their representatives must be present during eviction
5. All persons carrying out the eviction must be properly identified
6. The eviction must not take place in particularly bad weather or at night, unless the affected people consent
7. Legal remedies must be provided
8. Where possible legal aid must be provided to those who need it to seek redress in court.

“...It would have been more ideal for the government to provide us with an alternative place to live instead of kicking us out and leaving us without shelter, food or any belonging in the cold winter”.

“...Our children suffered most because we could not protect them from the harsh situation under which we lost our homes and belongings”.

The actions and responses in the Bredell land invasion and eviction process appears to go against the UN 1997 General Comments prerequisites and the evictees’ perception was that:

- There was no genuine consultation either with the homeless people prior to demolition of shacks or after and the notice given was inadequate. As indicated by one of the interviewees, “...We were just served with the eviction notice. The next thing we saw was bulldozers and red ants”;
- They lost their socio-economic rights including rights to decent shelter, health and other basic needs;
- The eviction order for Bredell was passed Thursday 5 July 2001, interim judgment was delivered 13 July 2001 dismissing the appeal and ordering the homeless people to vacate land within 48 hours. This period fell in between a weekend and most legal offices and the Legal Aid Board were closed on weekends.
- Eviction took place in bad weather (very cold winter period); and
- Legal representatives were not given the time to prepare the evictees case or seek redress.

### **Self-esteem, self worth and dignity**

Inspite of the fact that Chapter two of the South African Constitution contains the Bill of Rights and section 10 of the Bill of Rights deals with human dignity stating that, “ Everyone has inherent dignity and the right to have their dignity respected and protected”, the Bredell evictees perceived their circumstances as undermining their self worth, self esteem, dehumanizing and undignified, particularly in the eyes of the society.

Excerpts from the evictees below affirm the dehumanizing conditions they were subjected to:

“...I have lost everything and have nowhere to go. I am an old man, the Sheriff took all my belongings, my fridge, radio, everything”.

“...Now I just sleep anywhere and people would think you are a criminal when you hang around without a place to go”.

“...No protection, no property to call my own, no job, all gone. How do you think people would look at you? No respect or dignity. It is a hopeless situation”

“...We were not allowed to take anything. These are the only clothes I have (pointing to the clothes he was wearing. No shelter, no clothes, nobody would respect you or want to talk to you if you are dirty. It is like you don’t matter”.

### **Urbanization of poverty**

In the Bredell case, loss of employment means loss of income, which translates to limited or no ability to afford basic needs such as housing, food and clothing. Loss of employment and housing could lead to squatting or homelessness or even invasion, hence continued urbanization of poverty. In desperate situations people who find themselves in such circumstances become vulnerable and continue the vicious cycle of homelessness and poverty (Olufemi, 2000). With a

background of significant unemployment and poverty, evictees see their eviction as a loss of employment opportunities as shown below:

- “...Life in Bredell holds a brighter future, possible employment opportunities.  
“...We can get work across in the farms and Kempton Park is not far away but now we have nowhere to live and work”.  
“...With our homes destroyed it is not going to be easy getting a job wherever we end up and this is very disturbing”.  
“...I work as a domestic in Kempton Park and was able to send my children to school and eat from the money earned”.

Homeless people do not have access to basic needs and infrastructures. They live in shacks built from scavenged materials or cardboard boxes. The proliferation of shacks and informal settlements in South Africa continues unabated. Liebenberg (2000) estimated that about 45% of the population lives below the poverty line using an absolute measure of poverty, pegged at an income per adult of R353 per month in South Africa. Of these 10 million people live in ‘ultra poor’ households earning less than R193 per month, per adult. Poverty in South Africa has strong racial, gender, age and spatial dimensions according to. In South Africa, the poor live and exist in low-income subsistence environments and have a poverty culture (Schiller 1984: 100).

### **Disruption of social support and security**

The evictees also see their abode as a source of social support and security for their families. Once this social support is disrupted it causes multiple or ripple effects in other aspects of their subsistence as seen from the excerpts:

“...I am between 45 years old. I have been here for 20 years. I have children at home (Kwadebele) but I have 3 children with my new husband. The children used to attend school across the road but since eviction they have been unable to attend school. We do temporary jobs here. The Whites from the White townships come here weekends to fetch us for jobs. Now because we didn’t prepare ourselves for the eviction we don’t know where to go or work or how to take care of the family”.

“...I am 40 years old and I have 8 children. I have a boyfriend here that I have been staying with. I come from Czaneen and my children are there because I don’t have enough space here in the shack for them. I send some money home for the upkeep of these children. Now I cannot do that because I have lost my job on the farm here and cannot keep up with supporting my family again”.

“... We were doing fine before the invasion, now things are not the same and no security because there is nothing left for me, I have lost everything I have lived and worked for in the past 10 years including my wife and children”.

Eviction in Bredell led to the disruption of jobs, family dislocation, loss of access to school for the children, loss of income coupled with lack of safety nets; all these makes the poor homeless people more vulnerable and insecure in their circumstances.

## **NUANCES OF ACCESS TO LAND, SECURE TENURE AND EXPLOITATION BY LAND SHARKS**

### **Need to access land**

Land invasion arguably seen to be a symptom of the slow land reform process would predictably continue to lead to invasions and re-invasions. Some of the evictees noted:

“...As long as the government do not give us land we can call our own, we would continue to invade any available land”.

“...Give us land and see what wonders we will do with housing.”

“...We need decent houses that we can call our own. Look at the 82 year old woman she is going to die homeless”.

Royston (2002: 174) affirmed, “in the land reform programme, tenure security is primarily directed at preventing eviction and giving people the right to have a say in access to and the use of land they occupy”.

South Africa’s Communal Land Rights Bill indicated that title deeds to land would be vested in the ‘community’, which is expected to establish a land administration committee to decide who gets land. This Bill has been criticized heavily as having a close resemblance to the apartheid land legislation, being unconstitutional, discriminatory and further depriving women access and rights to land (Ahmed, 2004). If the Bill goes through then the poor, powerless, landless and homeless people are further marginalized and excluded in their access to and use of land.

### **Need for secure tenure**

Secure tenure and adequate housing gives people a sense of belonging and serves as a catalytic point for success in all other endeavors in life, especially health, social, cultural, economic and investment in housing. Excerpts from some of the interviewees below illustrate the frustration of the homeless in experiencing insecurity regarding their shelter:

“...Our children need a place to feel secure and call their home but this cannot be possible in a shack and on piece of land that belongs to somebody else”.

“... For about three years I have been on the housing waiting list, waiting hopelessly to get a secure and decent house for my family”.

“... When you have a decent house you can call your own and you don’t have to fear the shack landlords, then you can have secure tenure because you will be free from harassment”.

“...My friend how can you have secure tenure in a shack? How can you have secure tenure when the government keeps on evicting when you think now you can settle on this land? It is fear all the time because you don’t know when you will be evicted”.

“...I can’t even talk of secure tenure because I don’t have an identity document (ID) and it is very difficult to obtain one. Without ID, I can’t register for housing or benefit from the subsidy”.

For the landless and homeless in South Africa, the issue of secure tenure is still unresolved and this is manifested in the high incidence and continual land and building invasions which continues to undermine planning for housing delivery both in the inner city and peri-urban areas.

The homeless people are inclined towards non-formal tenure/informal tenure, which are often illegal, irregular and insecure because of their lack of property/land rights. The absence of a stable, decent, adequate and affordable housing seemingly reinforces the exclusion of the homeless people from the formal housing market. Homeless people are highly transient or spatially mobile sub-population group and they constitute a greater proportion of the people without secure tenure to land and/or housing.

It could be observed from the Bredell case that there is no strategy or means to identify invaders or the land sharks on a 24hour basis. The land sharks are often invisible capitalize on the powerlessness, vulnerability and inability of the homeless people who are in desperate need of land and shelter. They are involved in the sale of government land and plots and oftentimes neither delivers the land/services promised nor return the money.

### **Exploitation by land sharks**

The exploitation of the poor, homeless people by land sharks as well as the commodification of land by the government further limits the chances of the homeless in accessing land to build houses. The 'willing buyer willing seller' approach makes the poor, landless and homeless people more vulnerable to exploitation by land sharks/mafia/grabbers and shack landlords. "There are the political and financial interests served by the existing system, they will either seek to prevent change or ensure that it happens in ways that do not threaten their interests" (Mitlin, 2003:183).

The demand led or market based and supply led or state based approach to land reform is contentious. According to Mitlin (2003: 183) "the inability of formal land market and land allocation systems to serve the poor continues because it benefits certain powerful groups. It allows the wealthy to secure land and others to earn income from the shelter need of the poor". What this adds up to is a system, which if not designed, then at least is adapted to facilitate the exploitation of the poor (McAuslan, 2002).

As Mitlin (2003) rightly pointed out the powerful political and economic interests present in the city land market limits agreement on the best strategies for ensuring more secure tenure for low-income households; therefore providing titles to land for squatters appears to be an attractive option but it can be problematic.

## **THE OUTCOMES OF THE BREDELL INVASION/EVICTION**

### **Outcomes**

It could be inferred that the Bredell invasion/eviction process appears to have been marred by political interference. Seemingly, the multiple players' interests overshadowed real issues of homelessness.

The outcomes of the eviction of the homeless from Bredell was a mixed bag as seen below:

- For the invaders/evictees their immediate and urgent need was to satisfy the basic need for shelter. This was short-lived because of eviction thereby plunging the homeless into a situation of hopelessness and helplessness, particularly in a situation where the evictees don't have anywhere to relocate; they end up being worse off. This reflects a policy failure to address the antecedents of homelessness, plan adequately to prevent land invasion before it occurs and meet the basic needs of the poorest and vulnerable.
- For the government, eviction was successful in the sense of being able to use its power to act swiftly through the judicial system. The government's action further reinforces the fact that illegal land invasion would not be condoned especially when the health and security of the evictees is being threatened.
- For the larger society there is still the image and perception of the homeless as people you don't want in your backyard (NIMBY); the perception that the homeless are societal outcast and criminals who invariably are seen as a threat to the security of other citizens.
- For the multiple interests/influencers such as the Faith Based organizations, media, political parties and the civil society, they would continue to fight for equity and would continue to use the language of compassion and sentiments to pursue the poor landless and homeless people, especially in fulfilling their own vested interests.

These outcomes have implications for future approach to tackling invasion/eviction. It is apparent that planners, policymakers and professional have to take cognizance of the possible complex problem with multiple players interests; the fact that a simple approach e.g. legislation or political party partisanship has its limitations; forced eviction have proved to be temporary; and that a multifaceted approach based on the antecedents and consequences of homelessness as well as active involvement of the homeless and dealing with the root causes of homelessness, would be more relevant. The apparent societal perception of the homeless people in Bredell as not in my backyard (NIMBY) from observation reinforces the ostracization, and stigmatization of the homeless people. This perception further aggravates their homelessness i.e. perceived loss of self-esteem, denial of physical, psychological and societal rejection.

### **Emerging Issues**

The following issues emerged in the Bredell invasion/eviction process:

- Sophistication and organization of invasion
- Implications of multiple major players and the headline (media overkill)
- Positive/negative roles that polity could take in dealing with the problem of homelessness;
- Formal legal approach to eviction yet no such for tackling homelessness;
- Invisibility or aloofness of planning and housing professionals in the Bredell case.

### **Gaps identified**

The following gaps were identified in the processes of invasion/eviction in Bredell:

- Lack of understanding of housing as a social phenomenon with its devastating psychological characteristics
- Obviously skewed and slow land distribution process e.g. informal/squatter settlements side by side with planned neighborhoods in the cities
- Perceived inertia or lack of appropriate response by policymakers and influencers
- Homeless people interpreting things in their world and designing effective strategies including invasion to overcome their circumstances/needs

- Sustainability of invaded land versus satisfaction in isolation of the larger society
- Greater impact on urban planning and demand on planners initiatives and involvement
- Role of CBOs, NGOs etc as umpires between government and invaders
- Gap in the contribution to the body knowledge from academic and social research organizations in dealing with the social menace

## CONCLUSION

The issues of land invasions are real and ongoing; the antecedents still remain homelessness, space strapping, and desperation for adequate shelter. The process of dealing with invasion effectively is still elusive. Land invasion seems to be a reactive process, which requires its antecedents to be managed effectively as prevention.

Future issues or questions arise regarding the action, reaction and outcome that emerge from the process of invasion/ eviction in Bredell. These are:

- The socio-economic development in most parts of developing countries has apparently modified the definition of poverty and homelessness. It is ascertained that some of the invaders in the case of Bredell have backyard shacks or live in garages in informal settlement (opportunistic settlers), but they still claim to be homeless and hence their invasion. Therefore, who is an illegal invader? Is it the homeless without tenure to housing or land or is it the homeless without tenure to land but owns a shack? Or is it the displaced homeless? From whose perspective should illegality be defined?
- At what stage can the government justify that they acted fairly if the government has a responsibility to provide land through land restitution and redistribution; and housing through the various housing subsidies and programmes?
- At what stage does the enforcement of law and order becomes undermining peoples human and socio-economic rights?
- Is the government approach reactive or corrective? Preventive or curative?

Constructive engagement and dialogue with all interests groups represented (role players and stakeholders) in land invasion and eviction should be emphasized for a more effective outcome. Taking cognizance of the fact that the pervasiveness of poverty and its consequences in the society continues to be underestimated, poor people in our human settlements have an inherent social force that requires constant input in terms of research, meetings, deliberations and continuous monitoring and evaluation of occurrences. Bredell has demonstrated this through the significant involvement of the Police, Private security, the Law, the Church and politicians in resolving land invasion/eviction.

Invasion and eviction are powerful socially driven processes involving all facets of the society. Hence, an approach that de-emphasizes non-participation and manipulation of the homeless is pertinent because the socio-economic impact of eviction is very devastating and a lot of homeless people never get out of it. Such an approach should be proactive, socio-politically correct, and incorporate the interests of the relevant players in the land invasion and eviction issue and embrace:

- Proactivity
- Social design or response seen as 'fair'
- Incorporation of vested interests

- Division of roles/actions and activities
- Education/awareness
- Research
- Policy/legislation

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