

Dissertation



Thato Rapelang

**AN EVALUATION OF THE RIGHT TO “ACCESS TO ADEQUATE HOUSING”
IN JOE MOROLONG LOCAL MUNICIPALITY, SOUTH AFRICA**

by

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Property Development Management (Housing) degree in the faculty of Natural and
Agricultural Sciences, Department of Urban and Regional Planning at the University of
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DECLARATION

I declare that the dissertation hereby handed in for the degree Magister in Land and Property Development Management (Housing) at the University of Free State is my own independent work and I have not previously submitted the same work for qualification at/ in other university/ faculty. I furthermore cede copyright of the dissertation/ thesis in favour of the University of Free State.

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February 2014

ABSTRACT

Among the rights in the Bill of Rights contained in the South African Constitution is the right to access adequate housing. This right is bound up with other rights in the Constitution, including the right to have their human dignity respected, and the right to, *inter alia* water and health care. The right to adequate housing is also included in several international human rights declarations including the Universal Declaration of Human Rights by the United Nations. However, the right to access adequate housing is more than just shelter but includes a number of other elements such as security of tenure, and access to basic services and facilities. Housing must be affordable and accessible. It must be safe and habitable and be culturally acceptable. Moreover, adequate housing is well located with respect to economic and other opportunities.

The provision of housing and basic services has been the focus of the ANC-led government since 1994 and a major portion of municipal resources has been dedicated to providing water and sanitation to particularly the poorest households while over 1,5 million state-subsidised homes have been delivered. While the scale of delivery has been impressive, has it really impacted on the lives of people in remote communities?

Research conducted in the Joe Morolong Municipality in the Northern Cape Province regarding the realisation of the right to access adequate housing reveals that the right to adequate housing has at best, only been partially realised. In addition to interviews with office bearers and municipal officials, 120 households were interviewed (of which half were from self-built houses and half were residing in 'RDP' houses) regarding their interpretation and experience of the right to access adequate housing in the municipality. The study reveals that the structures do not meet the criteria for adequate housing and the provision of water and sanitation remains a challenge. Access to health and education facilities is poor, due to the low densities and vast distances between settlements. This paper will describe the study conducted and discuss the implications of the findings for the realisation of the right to access adequate housing in South Africa.

ABSTRACT

Among the rights in the Bill of Rights contained in the South African Constitution is the right to access to adequate housing. This right is bound up with other rights in the Constitution, including the right to have their human dignity respected, and the right to, *inter alia*, water and health care. The right to adequate housing is also included in several international human rights declarations, including the Universal Declaration of Human Rights by the United Nations. However, the right to access to adequate housing entails more than just a shelter, but includes a number of other elements such as security of tenure and access to basic services and facilities. Housing must be affordable and accessible. It must be safe and habitable and be culturally acceptable. Moreover, adequate housing is well located with respect to economic and other opportunities.

The provision of housing and basic services has been the focus of the ANC-led government since 1994 and a major portion of municipal resources has been dedicated to providing water and sanitation to particularly the poorest households, while over 1,5 million state-subsidised homes have been delivered. While the scale of delivery has been impressive, has it really impacted on the lives of people in remote communities?

Research conducted in the Joe Morolong Municipality in the Northern Cape Province regarding the realisation of the right to access adequate housing reveals that the right to adequate housing has, at best, only been partially realised. In addition to interviews with office bearers and municipal officials, 120 households were interviewed (of which half were from self-built houses and half were residing in 'RDP' houses) regarding their interpretation and experience of the right to access to adequate housing in the municipality. The study reveals that the structures do not meet the criteria for adequate housing and the provision of water and sanitation remains a challenge. Access to health and education facilities is poor, due to the low densities and vast distances between settlements. This paper will describe the study conducted and discuss the implications of the findings for the realisation of the right to access to adequate housing in South Africa.

ABSTRAK

Onder die regte beskryf in die Handves van Regte, soos vervat in die Suid-Afrikaanse Grondwet, is die reg tot toegang tot toereikende behuising. Hierdie reg hang ten nouste saam met ander regte in die Grondwet, insluitende die reg dat 'n persoon se menswaardigheid gerespekteer moet word, asook die reg tot, onder andere, water en gesondheidsorg. Die reg tot toereikende behuising is ook ingesluit in verskeie internasionale verklarings oor menseregte, insluitende die Universele Verklaring van Menseregte van die Verenigde Nasies. Die reg tot toegang tot toereikende behuising verwys egter na meer as net 'n blote skuiling. Dit sluit 'n aantal ander elemente in soos die sekuriteit van besittingsreg en toegang tot basiese dienste en fasiliteite. Behuising moet bekostigbaar en toeganklik wees. Dit moet veilig en bewoonbaar, asook kultureel aanvaarbaar wees. Verder is toereikende behuising goed geleë wat ekonomiese ander geleenthede betref.

Die voorsiening van behuising en basiese dienste is reeds 1994 die fokus van die ANC-geleide regering, en 'n groot deel van munisipale hulpbronne word aan die voorsiening van water en sanitasie gewy, veral aan die armste huishoudings, terwyl meer as 1,5 miljoen staatgesubsidieerde huise reeds voltooi is. Alhoewel die skaal van lewering indrukwekkend is, bestaan die vraag of dit regtig 'n impak op die lewens van mense in afgeleë gemeenskappe gehad het.

Navorsing wat in die Joe Morolong Munisipaliteit in die Noordkaap-Provinsie gedoen is insake die verwesenliking van die reg tot toegang tot toereikende behuising het aan die lig gebring dat die reg tot toereikende behuising ten beste slegs gedeeltelik verwesenlik is. Behalwe onderhoude met ampsdraers en munisipale beamptes, is onderhoude met 120 huishoudings gevoer (waarvan die helfte in selfvervaardigde huis en die ander helfte in HOP-huise woon) insake hulle interpretasie en ervaring van die reg tot toegang tot toereikende behuising in die munisipaliteit. Die studie toon aan dat die strukture nie voldoen aan die kriteria vir toereikende behuising nie en die voorsiening van water en sanitasie bly 'n uitdaging. Toegang tot onderwys- en gesondheidsfasiliteite is swak as gevolg van die lae digtheid en geweldige afstande tussen nedersettings. Hierdie referaat

beskryf die studie wat onderneem is en die implikasies van die bevindinge wat betref die verwesenliking van die reg tot toegang tot toereikende behuising in Suid-Afrika.

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ABBREVIATIONS AND ACRONYMS

ANC	AFRICAN NATIONAL CONGRESS
BNG	BREAKING NEW GROUND
COHRE	CENTRE OF HOUSING RIGHTS & EVICTION
COGTA	COOPERATIVE GOVERNANCE & TRADITIONAL AFFAIRS
COGHSTA	COOPERATIVE GOVERNANCE , HUMAN SETTLEMENTS & TRADITIONAL AFFAIRS
CIDB	CONSTRUCTION INDUSTRY DEVELOPMENT BOARD
ESTA	EXTENSION OF SECURITY OF TENURE ACT
HSP	HOUSING SECTOR PLAN
IHSP	INTEGRATED HOUSING SECTOR PLAN
IDP	INTEGRATED DEVELOPMENT PLAN
ICESCR	INTERNATIONAL COVENANT OF ECONOMIC, SOCIAL & CULTURAL RIGHTS
JTGDM	JOHN TAOLO GAETSEWE DISTRICT MUNICIPALITY
JTGD	JOHN TAOLO GAETSEWE DISTRICT
JM	JOE MOROLONG
JMLM	JOE MOROLONG LOCAL MUNICIPALITY
NBRA	NATIONAL BUILDING REGULATIONS ACT
NGO	NON-GOVERMENTAL ORGANISATION
OHCHR	OFFICE OF THE HIGH COMMISSIONER FOR HUMAN SETTLEMENTS
PHP	PEOPLE’S HOUSING PROCESS
PIE	PREVENTION OF ILLEGAL EVICTION
PTO	PERMISSION TO OCCUPY
RDP	RECONSTRUCTION & DEVELOPMENT PROGRAMME
UN HABITAT	UNITED NATIONS HABITAT
USA	UNITED STATES OF AMERICA
VIP	VENTILATED IMPROVED PIT LATRINE

CHAPTER 1

1.1 INTRODUCTION

Housing is important as it satisfies many different human needs. According to psychologist, Abraham Maslow, these include psychological needs, security or safety needs, social needs, self-esteem needs and self-actualisation needs (Newmark and Thompson, 1977: 8). Landman (2005: 127) states that a house is more than a shelter or a physical form that protects its inhabitants: it also represents an entry point into engagement with the immediate community, wider society and the broader city. She further describes a house as an extension of a person's body, a so-called "second envelope" (Landman, 2005: 135). Hartman (1998: 230) concurs with this by stating that "housing has a special character because it is the central setting for so much of one's personal and family life as well as the locus of mobility opportunities, access to community resources and societal status".

The right to adequate housing is contained in a number of international human rights laws. Amongst all the basic human rights, the right to adequate housing is considered the most important. Having shelter protects one from the elements and provides a place to eat, sleep, relax and raise a family (Smith, 2006: 6). The right to adequate housing is enshrined in the universal declaration of human rights and other major international human rights treaties such as the international covenant of economic, social and cultural rights. The right to adequate housing was reaffirmed in 1996 by the adoption of the Habitat Agenda at the second United Nations Conference on human settlements (United Nations, 2002: iii).

Section 26 (1) of the South African Constitution, 1996, states that everyone has the right to access adequate housing. Sub-section 26 (2) requires that: "The state must take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of this right". Sub-section 26 (3) requires that: "No one shall be evicted from their home, or have their home demolished, without an order of court made

after considering all the relevant circumstances. No legislation shall permit arbitrary evictions.

When the African National Congress (ANC) came into power in 1994, it introduced the Reconstruction and Development Programme (RDP) with the aim of addressing the legacy of separate development and improving the quality of life of all South African residents. This was to be achieved by providing adequate housing, socio-economic opportunities and spatial integration to the marginalized (Landman, 2005: 130). Several policies and legislations were introduced to ensure the realisation of the right to adequate housing. The Breaking New Ground policy makes it clear in its objectives that housing provision should address poverty alleviation, economic growth, improving the quality of life of the poor, creating an asset for wealth and ultimately developing sustainable human settlements (Charlton and Kihato, 2006: 257).

Like other municipalities, Joe Morolong Local Municipality is bound by the Constitution of South Africa to ensure that its residents have access to adequate housing. In fully realising the right to adequate housing, JMLM must ensure implementation of housing policies and legislation adopted by the state post- 1994.

1.2 BACKGROUND OF THE STUDY

The right to adequate housing was recognised by the United Nations during the drafting of the Universal Declaration of Human Rights which provides in Article 25 (1) that: "Everyone has the right to a standard of living adequate for health and well-being of himself (or herself) and his (or her) family, including food, clothing, housing and medical care and necessary social services". Housing rights are said to have been reaffirmed and reinforced by the United Nations since the adoption of the Universal Declaration in 1948. Several international covenants and conventions contain housing rights provisions in addition to the Universal Declaration. The International Covenant on Economic, Social and Cultural Rights is considered the most important instrument with respect to housing rights (UN Habitat, 2002: 1- 2).

The general Comment 4 on Article 11 (1) of the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), cited in Tissington (2011: 25), stipulates that 'housing should not be interpreted as merely having a roof over one's head or view shelter exclusively as a commodity. Rather it should be viewed as the right to live somewhere in security, peace and dignity'. Aspects that should be taken into account when defining the right to adequate housing are: legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.

Despite the focus that the global legal system has on the right to adequate housing, over a billion people across the world are inadequately housed (Office of the United Nations High Commissioner of Human Rights, 1991: 1). Furthermore, amongst economic, social and cultural rights, the right to adequate housing is, sadly, the most frequently violated (United Nations, 2003: iii). Tissington (2010: 11) states that 'it is evident that the South African government cannot deliver housing on the scale required at a sustainable rate'. She further states that 'it will be impossible for South Africa's current settlement policy to meet its Millennium Development Goals (MDGs) target to eradicate informal settlements by 2012' (Tissington, 2010: 11).

The ongoing lack of adequate housing and basic services, the growing unemployment rate and largely unresponsive state, particularly at local level, have led to service delivery protests across the country. During the community protests that occurred between 2007 and mid-2010, 36% of the protestors were complaining that they did not have access to affordable or adequate housing, 18% raised concerns about lack of access to clean water, 18% highlighted lack of electricity and 15% of the protestors complained about lack of adequate sanitation (Tissington, 2011: 15).

The capital subsidy is a housing delivery mechanism initiated to eradicate the housing backlog in the country. According to Huchzermeyer (2001: 306), this capital subsidy is the cornerstone of the South Africa housing policy, although it is but one of several housing programmes introduced by the state to address the supply of adequate housing.

These programmes include an individual housing subsidy, an institutional subsidy, the people's housing process, informal settlement upgrading, consolidation subsidy, project linked subsidy, rural housing subsidies, credit-linked subsidies and farm worker assistance (Sigudla, 2011: 1). Despite these efforts, mobilising private sources of finance for housing delivery is a challenge. The conventional mortgage loan system is inappropriate for the low-income market (Khan and Thurman, 2001: 12). Estimates by the Financial and Fiscal Commission (n.d.: 6) suggest that the backlog remains, even with housing delivery through housing subsidy schemes. The state subsidised housing provision is insufficient, inadequate and it is unlikely to work in future (Financial and Fiscal Commission, 2012: 6).

Housing delivery is failing to keep pace with demand and the houses delivered through state subsidy are developed in urban peripheries far from existing settlements, urban opportunities and social amenities. The housing subsidy provided by the state is inadequate for housing development on expensive, well located land (Bierman and Van Ryneveld, 2004: 2). The state is however committed to pursuing a more compact, urban layout to facilitate high densities (Department of Housing, 2004: 5).

The housing programmes are one of the state interventions that place assets in the hands of the poor (Charlton and Kihato, 2006: 254). The initial intention of the housing subsidy programme was to provide shelter to the poor, but later the concept that the houses should be assets was introduced (Gordon, Bertoldi and Nell, 2011: 7). Lemanski (2011: 57) states that 'property as other form of wealth, contributes to domestic inequality while some climb the 'property ladder' with increasing asset returns, others are stuck at the bottom of the rung'.

In South Africa, the notion of housing as an asset was influenced by the Peruvian economist, Hernando De Soto. This view was encapsulated in the government's new housing plan, Breaking New Ground (BNG), as well as in the Accelerated and Shared Growth initiative (Davies, Narsoo and Tomlinson, 2006: 7). The 2004 housing strategy, BNG, introduced the concept of housing as an asset and included it as part of the new

vision of ensuring property can be accessed by all as an asset for wealth creation and empowerment (Department of Housing, 2004: 1). According to De Soto, very little needs to be done to make capitalism work well in Africa, Asia and Latin America. The poor save money and have developed a variety of business skills. All they need is the means to increase their turnover. The key element required to convert them into successful business people is access to formal credit and by granting them legal title to their property and they will gain entry into the world of formal banking (Gilbert, 2002: 4). Cousins, Cousins, Hornyby, Kingwill, Royston and Smith are of the opinion that policy makers should resist the temptation to seek simplistic solutions to poverty of the kind offered by De Soto (Cousins, 2005: 5).

The poor quality of low-cost housing defeats the intention of the state to provide habitable housing to the citizens of South Africa. Common structural defects include roofs that are insecurely fitted to walls, doors that do not fit in door frames, cracked walls and foundations (CIDB, 2011: 9). Tomlinson argues that if government had not demanded a higher building standard than the subsidy could provide, people would have been provided with decent homes (Tomlinson, 2006: 92). According to the ministry of housing, more than 600 000 houses built for the poor since 1994 are substandard (Khan, 2001: 33).

Accessibility is one of the elements of the right to adequate housing. This implies that everyone including disadvantaged groups should have access to a house. Currently housing delivery takes place in a legal and social framework that result in inequality. An example of this is the fact that there is no coherent policy on special needs housing in the National Housing Code (Chenwi, 2006: 10). Tomlinson states that it is the responsibility of the municipality to take a leading role in determining the demand for housing and supplying housing across all income levels, as well as developing linkages to improve housing delivery. He further emphasises that the planning process should be carried out in a transparent manner (Tomlinson, 2011: 422). A national housing need register does not exist for John Taolo Gaetsewe District and the existing backlog figures are obtained from Statistics South Africa community surveys from 2001 and 2007. In the John Taolo

Gaetsewe Integrated Sector Plan it is stated that these figures are not a true reflection of housing demand as they are outdated and contradictory. The housing need is therefore not known, nor clearly defined in the district (John Taolo Gaetsewe, 2011: 66). The lack of a standard definition for housing needs may result in misinterpretation and improper planning by the municipality (Finance and Fiscal Commission, 2012: 25).

The right to adequate housing is linked to several other cross-cutting rights, including the right to public participation (Tissington, 2010: 12). Section (2)1 of the National Housing Act 107 of 1997 states that "all spheres of government must (a) give priority to the needs of the poor in respect of housing development and (b) consult meaningfully with individuals and communities affected by housing development". In a study that was conducted in Diepkloof it was concluded that "community participation has the potential for negative outcomes such as entrenched mistrust in the government, disillusionment, conflict and fragmentation" (Mafukidze and Hoosen, 2009: 380). However, these two writers acknowledge that "community participation promotes inclusion, transparency, accountability and sustainable service delivery". The latter view is echoed by Lemanski, who recognises voicelessness and marginalisation as components of poverty and thus participation as an anti-poverty mechanism (Lemanski, 2008: 2).

1.3 STUDY AREA

This study assesses the realisation of the right to access adequate housing with reference to Joe Morolong Local Municipality. This document will outline constraints, failures, successes and areas that need improvement.

The Joe Morolong Local Municipality is the municipality formerly known as Moshaweng. The municipality falls under John Taolo Gaetsewe District Municipality (JTGDM). The district municipality comprises three local municipalities namely: Joe Morolong, Gamagara and Gasegonyana. Joe Morolong jurisdiction, where the research will be conducted, serves an area of 9477 km², with roughly 185 villages in 11 municipal wards. It is a category B municipality in terms of the South African Constitution and it is the most populous municipality in the district. John Taolo Gaetsewe is predominantly

rural and Joe Morolong serves a completely rural area with limited infrastructure. The non-urban villages typically have scattered layouts and lack formal planning. This makes the provision of services such as water, electricity, sewerage and roads costly and inefficient, negatively affecting service delivery (John Taolo Gaetsewe Integrated Housing Sector Plan, 2010: 5).

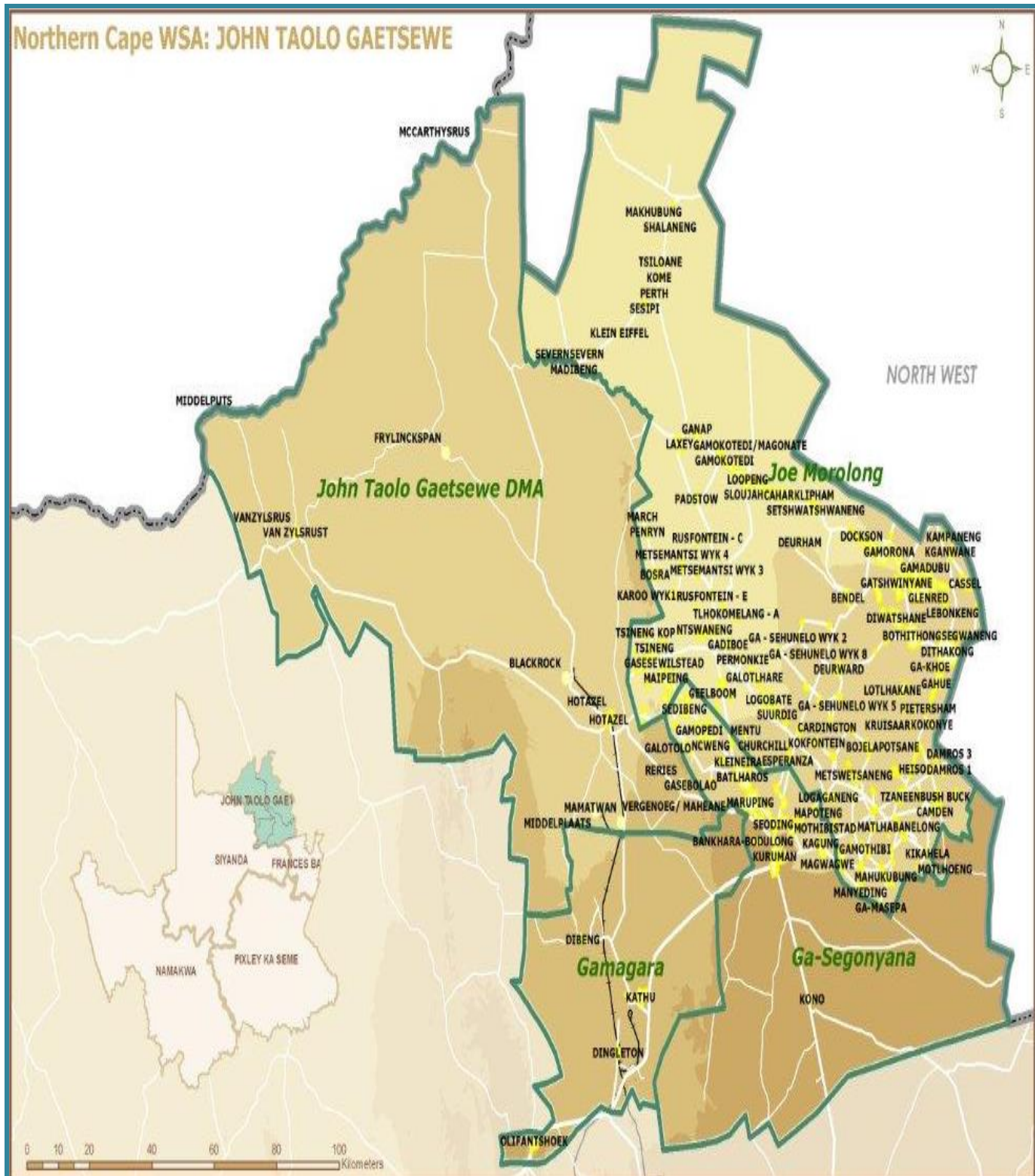


Figure 1: Geographical map of John Taolo Gaetsewe District

1.3.1 Income and poverty levels

Of the total population of JTGDM 52.5% residents of Joe Morolong LM are not economically active. The municipality is said to be over represented by 5.49% in the no income category given that 43.6% of the total population is resident in the Joe Morolong LM (John Taolo Gaetsewe District Municipality, 2012: 41- 42). Household income is one of the elements used to determine welfare and affordability in the region. The ability of the families to afford basic needs such as food, clothing, shelter and basic amenities is largely determined by the household income. Poverty is often defined as a lack of resources to meet the needs (John Taolo Gaetsewe IHSP, 2010: 15). It is estimated that as much as 81% of the Joe Morolong population lives in poverty. One of the legislated qualification criteria is that the household income must be less than R3 500 per month and of the 20 281 households recorded in 2001, over 95% would have qualified for housing subsidies (John Taolo Gaetsewe IHSP, 2010: 17-18).

1.3.2 Access to basic services

Below is information on provision of basic services:

Table 1A: Access to piped water

Piped water (tap) inside dwelling	6 687
Piped water on communal stand	44 466
No access to piped water	7 521

Statistics SA: 2011

Table 1B: Households with electricity for cooking, lighting and heating

Cooking	45 063
Lighting	76 695
Heating	29 538

Statistics SA: 2011

Table 1C: Access to sanitation facilities

Flush toilet	903
Pit latrine (VIP)	37 605
Bucket toilets	1 740
None	6 582

Statistics SA: 2011

1.3.3 Community services

The JTGDM has four hospitals. Two of these hospitals are situated in the Gamagara jurisdiction and two in the Ga-Segonyana jurisdiction. There are no hospitals in the Joe Morolong area, which constitutes approximately 72, 6% of the total land mass of the JTGDM, and in which 43.6% of the district's population resides. There are twenty clinics that are spread throughout the Joe Morolong at approximately two per ward and one mobile clinic. These clinics are not well resourced to adequately address the needs of the communities and this result in residents having to travel long distances to access proper health facilities.

With regard to education facilities in the JTGDM, there seems to be an abundance of primary schools. The quality of education offered at these schools, especially in the Joe Morolong LM with its large rural population, it is of high concern (John Taolo Gaetsewe District Municipality, 2012: 116). The educational profile of the JTGDM depicts the high levels of poverty and deprivation especially the Joe Morolong LM. The municipality has hundred and thirty two primary schools, three middle schools, twenty seven secondary schools and no further education (JTGDM, 2012: 116).

1.3.4 Planning for housing

The John Taolo Gaetsewe District Municipality Spatial Development Framework (2012: 92) indicates that JTG district has the higher percentage of households living in traditional dwellings than the other district municipalities in the country. This form of dwelling is especially concentrated in the more rural Joe Morolong LM, where 77.57%,

live in this type of dwelling. Those that build brick structures, build their houses without building plans and poor quality bricks made locally. From the outside, these houses may appear to be in a good condition, but on closer inspection the structural quality is poor (John Taolo Gaetsewe IHSP, 2011: 41).

With regard to planning, traditional leadership and the municipalities in the district have not managed to jointly agree on the manner in which land allocation and settlement development is to be carried out in the district or what the spatial development pattern of the district is and this is especially problematic in the Joe Morolong LM. This results in perpetuation of a fragmented, scattered settlement pattern without an internal spatial logic. The absence of real economic planning for the area lead to development and planning of settlements happening without link to an economic rationale or a viable economic base and this resulting in the municipality remaining as poor as it had been prior to 1994. The lack of integrated spatial and economic planning also impacts negatively on investment made by the municipality in infrastructure upgrading, social services and housing (John Taolo Gaetsewe District Municipality, 2012: 149). The map below illustrates density of dwellings in JTGDM.

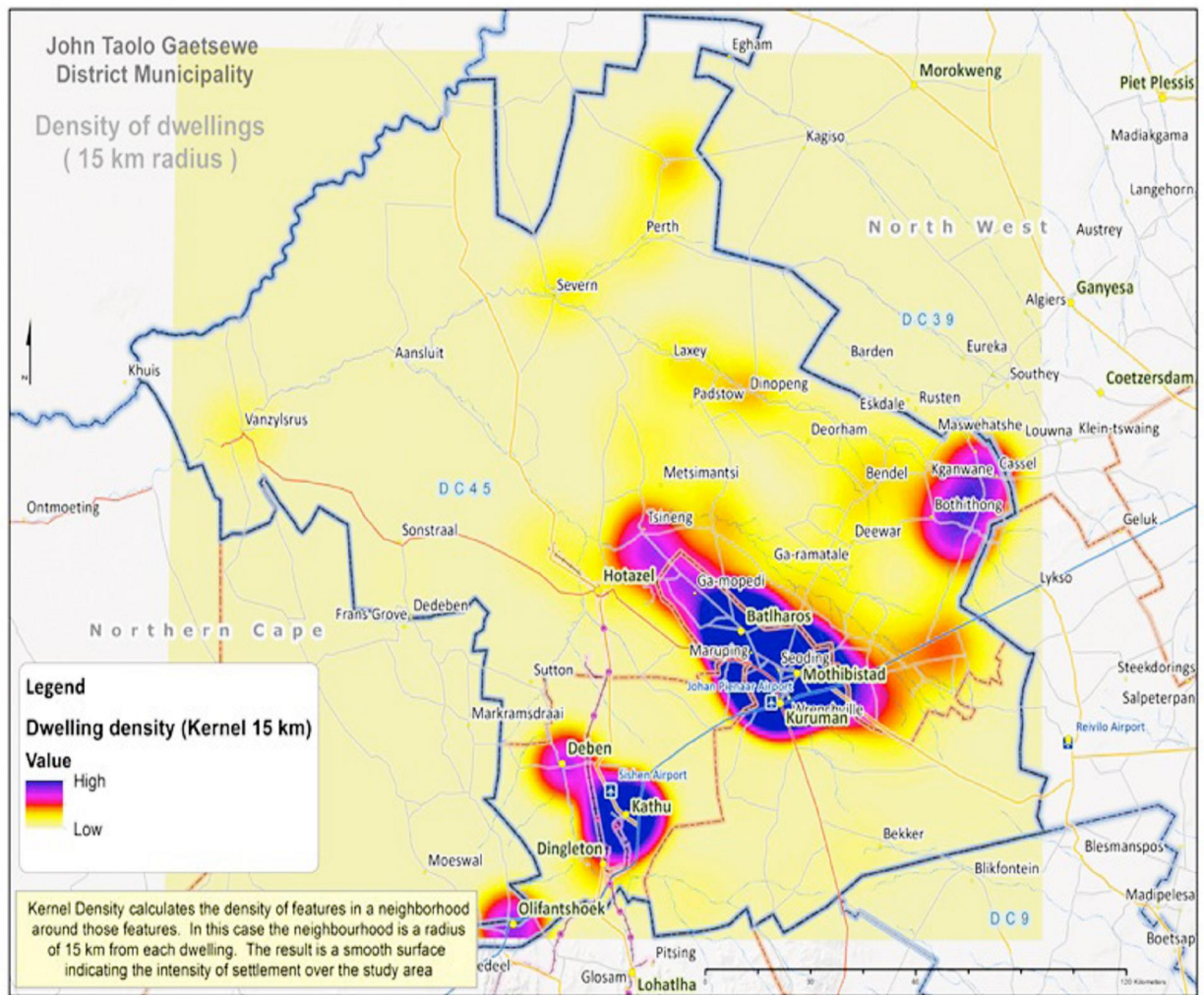


Figure 2: A map illustrating dwelling density in JTGDM

Statistics South Africa (www.statssa.gov.za) indicates that JTGDM has a population density of 7.0 persons per km². The Joe Morolong LM which encompasses 73.9% of the DM area has the lowest density at 3.75 persons and 0.86 households per km². The human settlements in this municipality are less concentrated and spread over approximately 185 villages and three small towns, and the densities in the southern-eastern parts of the area are relatively higher than in the rest of the municipality (John Taolo Gaetsewe District Municipality, 2012: 91).

The housing backlog is significant in Joe Morolong jurisdiction. Houses provided by the municipality are inadequate with a large proportion being structurally defective, poorly located and lacking services. Individuals who did not benefit by receiving houses from the state built their own homes (John Taolo Gaetsewe IHSP, 2011: 41). In 2005 the Department of Human Settlement approved 1100 subsidies for construction of houses. Low-cost houses were built in the following villages:

- 1) Glen-red (400 houses)
- 2) Bothithong (400 houses)
- 3) Camden (400 houses)

An additional 1000 subsidies were approved and the houses were allocated to 11 villages. Churchill was identified as one of the villages where the projects were to be implemented. The reviewed Integrated Development Plan for John Taolo Gaetsewe is a comprehensive document which presents contextual analyses of the district and local municipalities in a fair amount of detail. However, the document lacks sufficient details on strategic intent and the developmental and operational strategies the district municipalities should adopt (Consolidated Accreditation Report, 2012: 18).

Golay & Ozden (2007, 2) states that, despite the right to have access to adequate housing, there are still numerous homeless and inadequately housed people across the world. It is known that worldwide, over 100 million people are homeless, over a billion people do not have access to potable water, and 26 billion people do not have access to basic sanitation. Communities reside in unhealthy and unworthy conditions. Violations of housing rights include the following; lack of tenure, inadequate housing and lack of access to adequate basic services such as water, sanitation, schools, clinics, roads and other public facilities (Haki Zetu, 2010: 14).

The African National Congress (ANC) inherited a huge housing backlog when it came into power in 1994. A commitment was made by the government to provide adequate housing for all, and to make human settlements livable, equitable and productive

(Department of Housing, 2006: 1). Despite this commitment, inadequate housing is still prevalent in the country's urban and rural areas. Mubangize (2008: 131) states that protecting human rights is a daunting task in a country like South Africa. He further mentions that "this challenge should be seen against the background of South Africa's unique history which was characterised by gross violations of human rights, institutionalised racism, and denial of access to social and economic resources and political disenfranchisement of the majority".

1.4 PROBLEM STATEMENT

The constitutional right to access adequate housing was a major breakthrough for a country shaped by apartheid. Even 18 years after the adoption of the South African Constitution, a significant number of Joe Morolong residents have no access to adequate housing and basic services. Moreover, housing projects that were implemented by the municipality do not meet the criteria for adequate housing. This study will identify shortcomings in realising the right to adequate housing in the district and make recommendations to address them.

1.5 HYPOTHESIS

It is hypothesised that the right to adequate housing is not being realised in the Joe Morolong Local Municipality.

1.6 AIM AND OBJECTIVES OF THE STUDY

The aim of this study is to assess the realisation of the right to access adequate housing with reference to Joe Morolong Local Municipality over the past eighteen years. Furthermore, this study aims to evaluate the attitudes and perceptions of residents of Joe Morolong regarding housing delivery.

The study will focus on the following objectives:

- 1) To analyse implementation of housing policies and legislation by Joe Morolong Local Municipality.
- 2) To explore the barriers to housing delivery in the municipality.

- 3) To identify achievements and failures in housing delivery.
- 4) To draw conclusions and make recommendations regarding the progressive realisation of the right to adequate housing.

1.7 RESEARCH METHODOLOGY

A qualitative research design was utilised in this study as it was considered the most appropriate method to gather data and answer the research question. Maree (2007: 257) defines qualitative research as a process where the researcher develops a complex, holistic picture by analysis of words and detailed reporting of the views of informants in a study conducted in a natural setting. On the other hand, Welman, Kruger and Mitchell (2005: 188) describe qualitative research as 'an approach rather than particular design or set of techniques'.

Data were gathered using unstructured in-depth interviews and group discussions. Respondents were selected from inhabitants of both self-built houses and Reconstruction Development Programme houses (RDP). Focus group discussions were conducted with housing officials from Joe Morolong local municipality, the district municipality and the Department of Human Settlements (regional office). Ward councillors were interviewed together with municipal officials.

Data from community members were collected by means of a face-to-face survey conducted by well-trained interviewers who visited the respondents. A stratified sampling method was adopted to ensure valid and reliable results as explained in Chapter 4. The sample surveyed was comprised of one hundred and twenty households. A stratified sampling method was applied to divide households into two groups (strata). One group comprised inhabitants of self-built houses and the second group, inhabitants of RDP houses. The method for the allocation of units was standardised. Four villages were identified at Joe Morolong local municipality where the survey was conducted.

Welman (2005: 213) states that 'words are 'fatter' than numbers and usually have multiple meanings'. Coding is used to preserve the meanings of these words while still

being able to analyse the data quantitatively. The original words are therefore used in conjunction with the words converted to numbers or symbols during analysis (Welman, 2005: 215).

1.8 ETHICAL CONSIDERATIONS

The following ethical considerations were accounted for by the researcher before starting with the survey:

- 1) **Autonomy:** Participants will be informed about the study and they will be allowed to decide whether they wish to participate or not. They will be allowed to withdraw at any time without penalty.
- 2) **Beneficence:** The researcher will do only good to participants and prevent harm.
- 3) **Justice:** The research will avoid exploitation and abuse of participants.

1.9 CONSTRAINTS

Joe Morolong is a vast area and the villages where the survey was conducted are far apart from each other. Financial resources were needed for travelling, printing of questionnaires and human resources to assist in capturing answers. Sufficient time was required to conduct the survey.

1.10 STUDY LAYOUT

The outlines of the chapters in the study are indicated below.

Chapter 1:

This chapter includes the background, research problem, aim of the study and research methodology.

Chapter 2:

Literature review: This chapter focuses on a review of the available literature regarding this study. The discussion covers the following;

- Definition of the right to adequate housing.
- Misconceptions about the right to adequate housing.
- History of the right to adequate housing.

- Discussion of the seven components of the right to adequate housing.
- Adequate housing provision in developing countries.

Chapter 3:

This chapter considers policies, legislations, jurisprudence and other legal issues pertaining to the right to adequate housing. The Integrated Development Plan, community participation and public engagement are also discussed in this chapter.

Chapter 4:

Chapter 4 details the research methodology that was used to gather and interpret data.

Chapter 5:

Chapter 5 outlines research findings and interpretation of data.

Chapter 6:

Synthesis of findings and recommendations are discussed in this chapter. Further research potential is also highlighted.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

The right to an adequate standard of living and the right to adequate housing are enshrined in several international human rights laws. Despite the core focus of this right within the global legal system, more than a billion people around the world do not live in adequate houses. Over a million people live in conditions that do not uphold the human rights that are contained in the international law instruments and national constitutions. Unhealthy conditions and overcrowded slums are common across the world (United Nations Office of the High Commissioner of Human Rights, 2009: 1). The right of access to adequate housing is said to be important in order to enjoy all other human rights. A house is considered fundamental for human dignity and for physical and mental health which are crucial for socio-economic development (Chenwi, 2007: 21). The preamble to the constitution of South Africa contains the commitment to 'establish a society based on democratic values, social justice and the fundamental human rights that lay the foundation for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law and improve the quality of life of all citizens and free the potential of each person' (Horsten, 2006: 1).

This chapter provides a definition of the right to adequate housing, outlines misconceptions regarding the right to adequate housing and the origins of the right to adequate housing, and includes a discussion of the seven components of the right to adequate housing and provision of the right to adequate housing in developing countries.

2.2 DEFINITION OF THE RIGHT TO ADEQUATE HOUSING

The International Human Rights Committee states that 'the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security peace and dignity'. This is said to be appropriate for two reasons. Firstly, the right to housing is integrally linked to other human

rights and to the fundamental principles upon which the covenant is premised. Thus, the basic dignity of humans, from which the rights in the covenant are said to be derived, requires that the term 'adequate housing' be interpreted so that various other considerations are taken into account. The most important consideration is that housing rights should be ensured for all persons irrespective of income or access to economic resources. Secondly, the reference in article 11(1) must be read as referring not to housing tout court but to adequate housing. The concept of adequate is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute 'adequate housing' for the purposes of the covenant (Hulchanski and Leckie, 2000: 27).

The International Covenant on Economic, Social and Cultural Rights (ICESCR) gives guidance to the meaning of the term 'adequate housing'. The ICESCR has given some attention to the meaning of the right to adequate housing in paragraph 8 of its General Comment No. 4. The elements of adequate housing are taken into consideration when determining whether a house constitutes 'adequate housing'. The seven key elements of adequate housing, as listed by the ICESCR, are interpreted below (Chenwi, 2007: 238-239):

1) Legal security of tenure

Everyone is entitled to some form of security of tenure that guarantees legal protection against forced evictions, harassment and other threats related to eviction.

2) Availability of services, materials, facilities and infrastructure

Housing should have amenities essential for health, security, comfort and nutrition. People who benefit from housing should therefore have access to basic services such as water, sanitation, energy for cooking, heating and lighting, food storage, refuse disposal, drainage and emergency services.

3) Affordability

Housing should be affordable. People must not be denied basic needs that enable them to pay for their housing. Furthermore, government must make housing subsidies and finance available to everyone who qualifies and protect people from unreasonable rent increases.

4) Habitability

For housing to be considered adequate, it must provide adequate space, be physically safe, offer protection from cold, damp, rain, heat or other threats to health for all occupants and guarantee the physical safety of occupants.

5) Accessibility

It is important that housing be accessible to all. Legislation and policy must especially cover the housing needs of the most vulnerable such as the homeless, the poorest of the poor, the destitute, elderly people, single mothers, the disabled, people who are mentally ill and people living with HIV/AIDS.

6) Location

Housing must be within close proximity to economic opportunities and social amenities such as schools, child care centres, health care services and recreational facilities. Housing should be located in a safe and healthy environment.

7) Cultural adequacy

The way houses are built and the type of material used must enable people to express their cultural identity. Modernisation in housing development should ensure that cultural aspects of housing are not sacrificed, while still providing modern technological facilities.

According to Tissington (2010: 28), 'formulating the definition of adequate housing is not easy'. What constitutes adequate housing depends on the specific context, circumstances and the needs and priorities of the individuals in the household. While adequate housing concerns more than providing shelter from the elements, it is difficult

or impossible to define the term exactly. Tissington further states that an homogenous definition does not apply although some essential principles may be common across cases. The United Nations Human Settlements Programme and the Office of the High Commissioner for Human Rights (2002: 14) emphasise the fact that the housing right should not be interpreted in a narrow or restrictive sense which equates it with the shelter provided by merely having a roof over one's head or view shelter exclusively as a commodity rather than norm. Housing should be seen as the right to live somewhere in security, peace and dignity.

2.3 MISCONCEPTIONS ABOUT THE RIGHT TO ACCESS ADEQUATE HOUSING

The United Nations Office of the High Commissioner for Human Rights (2009: 6-8) revealed the following key misconceptions about the right to adequate housing:

- 1) The right to adequate housing does not oblige the state to provide housing for the entire population.** Rather the right to adequate housing caters for the vulnerable groups, prohibits forced eviction, and ensures security of tenure for all addresses discrimination and guarantees that everyone's housing is adequate.
- 2) The right to adequate housing is not only a programmatic goal to be attained in the long term.** Instead, the state must within its available resources realise the right to adequate housing.
- 3) The right to adequate housing does not prohibit development projects which could displace people.** People sometimes believe that the protection from forced evictions prohibits development that entails displacement.
- 4) The right to adequate housing is not the same as the right to property.** The right to adequate housing addresses rights not related to ownership; instead it guarantees everyone a safe and secure place to live in peace and dignity.
- 5) The right to adequate housing is not the same as the right to land.** The right to land is only one of the elements of realisation of the right to adequate housing.

6) The right to adequate housing includes ensuring access to adequate services.

Adequate housing does not only mean the physical structure of the house, but also access to basic services such as water, energy and sanitation.

2.4 THE HISTORY OF THE RIGHT TO ADEQUATE HOUSING

The statements supporting the right to adequate housing came from religious treaties and bodies such as the United States (US) Catholic Bishops, the Massachusetts Episcopal Diocese's Episcopal City mission, the General Board of the American Baptist Churches and Pope John II. The statement made by the US Catholic Bishops during 1975 asserts that: "We begin with the recognition that decent housing is a right" and quotes the Second Vatican Council: "there must be made available to all men everything necessary to live a life truly human, such as food, clothing and shelter". A 1985 document released by the US Catholic Bishops mentions "The right to life, food, clothing, shelter, rest and medical care" "These economic rights are important to human dignity as they represent political and civil freedoms that take pride of place in the Bill of Rights of the US Constitutions. In the same vein the Massachusetts Episcopal Diocese's Episcopal City mission (1986) issued the following statement: "If shelter in decent, affordable housing is not a luxury. It is a necessity upon which access to other necessities and the development of healthy, productive families and communities most often depend. Nothing is more essential to the welfare of men, women and children. Nothing is tied more directly to the recognition of the dignity, worth and values of a person. Because housing is so closely related to the welfare of persons and to recognition of the values as persons, nothing is more basic than the opportunity, regardless of income or class, to live in that kind of housing which supports the welfare of the family and community. Whether persons of limited income have access to adequate shelter is thus for us at its heart both a question of justice and a religious and theological question of central importance" (Hartman, 1998: 227-228).

In December 1987 the resolution was taken by the General Board of the American Baptist Churches stating: "We proclaim that each person being created in the image and the likeness of God possess an inherent dignity from which stems a basic human right to

shelterö. Pope John II, in his 1997 Lenten message, states that öThe family as the basic cell of society has a full right to housing adequate to its needs, so that it can develop a genuine domestic communion. The church recognizes these fundamental rights and is aware of her obligation to work together with others in order to ensure that it is recognized in practiceö (Hartman, 1998: 228).

Until the end of the 1940s when human rights became internationalised, they were an issue kept strictly within national jurisdiction. The process of internationalisation implies recognising the importance of promoting and preserving human rights for the attainment of world peace. The United Nations formulated the principle that human rights are a matter of international concern and allowed international communities to discuss human rights through the 1948 Universal Declaration of Human Rights. This universal declaration is expressed through treaties, customary international law, general principles and other sources of international law. International human rights bind states to act in a particular manner in order to promote and protect human rights, freedom and peace of individual groups. The principle of universality of human rights holds a central place in international human rights law. Since this principle was emphasised in the Universal Declaration of Human Rights in 1948, it has been included in a number of international human rights conventions, declarations and resolutions (Kubisova, 2013: 25).

2.5 SEVEN CORE COMPONENTS OF ADEQUATE HOUSING

A number of conditions must be met before particular forms of shelter can be considered adequate housing. The seven core components that define adequate housing are important when developing housing. Notable problems with housing in South Africa include amongst others, low-cost houses and infrastructure of poor quality and low-cost houses that continue to be built in ghettos on the outskirts of urban areas far from job opportunities (Aigbavboa and Thwala, 2013: 17).

Due to these factors, people often sell or rent out their subsidised houses and move back to informal settlements closer to job opportunities (Aigbavboa and Thwala, 2013: 17). The North West Department of Human Settlements issued a statement in the media

stating that people turn RDP houses into tuck shops. This points to the failure of the current RDP system (Good governance and learning network, 2010: 2).

During a study that was conducted by Ross (2005: 633), participants revealed that they had hoped new houses might restore dignity to the daily lives of people undermined by poverty, violence, mobility and everyday humiliation, allowing them to become *õordentlike mense*¹ (decent people).

2.5.1 Legal security of tenure

Special rapporteur, Rolnik Raquel (2012: 3), acknowledges that there is critical tenure insecurity across the world. Access to secure housing and land guarantees human dignity and adequate standard of living, though millions of people live under the daily threat of eviction where their tenure status can be challenged at any time. Lack of security of tenure is an obstacle to the realisation of the right to adequate housing by governments. The denial of access to tenure security also hinders socio-economic development. Access to secure housing or land allows the potential for social and economic progress. This fact is recognised globally. Security of tenure is essential to families and individuals. It gives people the guarantee of ownership, what they can do with their land and homes and it guarantees them protection from eviction by others. It allows access to social amenities and economic opportunities. It also empowers women economically and protects them from violence (Raquel, 2012: 5).

1

¹ *Ordentlike mense* is an Afrikaans word meaning decent people.

² Tuck shop refers to small food selling retailer.

Tenure is derived from the French verb *tenir*, meaning 'to hold'. Raquel (2012: 6) defines land tenure as, 'the relationship, whether legally or customarily amongst people as individuals or groups, with respect to land'. The Committee on Economic, Social and Cultural Rights recognises legal security of tenure as one of the seven components of the right to adequate housing. The committee stressed that 'notwithstanding the type of tenure, all persons should have a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. State parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection in genuine consultation with affected persons and groups' (Raquel, 2012: 11).

Housing generates economic growth, creates wealth, creates employment and income and serves as a macro-economic stabiliser during periods of recession (Arku, 2006: 385). Legal security of tenure is considered the most essential aspect of adequate housing and has therefore been a subject of both policy and legislation in South Africa. The state is obliged to ensure a wide range of tenure options including individual and collective home ownership as well as rental. Sufficient affordable housing stock should be provided to low-income earners. The Prevention of Illegal Eviction from Unlawful Occupation of Land Act, Act 19 of 1998, (PIE Act) guarantees protection for groups and individuals living in informal settlements against forced eviction. Security of tenure is also said to be one of the areas in which gender discrimination is practised. For example, it was found that houses are often registered in a man's name even though the woman had built the house herself using her own money (Smith, 2006: 50).

2.5.1.1 Tenure and housing as an asset

In South African policies, the view of housing as an asset was influenced by the Peruvian economist Hernando de Soto. This view was encapsulated into the 2004 housing strategies, Breaking New Ground (BNG) and the Accelerated and Shared Growth initiative of South Africa (ASGISA) (Davis, Narsoo and Tomlinson, 2007: 7). The Breaking New Ground strategy recognises housing as an asset and formulated it as part of the new vision of 'ensuring property can be accessed by all as an asset for wealth

creation and empowerment (Department of Housing, 2004: 1). According to De Soto in Gilbert, very little needs to be done to make capitalism work well in Africa, Asia and Latin America. He further states that the poor save money and have developed a variety of business skills; all they need is the means to increase their turnover. The key element required to empower the poor and convert them into successful business people is access to formal credit. By granting them legal title to their property, they will gain entry into the world of formal banking that permit them to use their capital assets as collateral (Gilbert, 2002: 4).

Rust (2007:44) further explains the housing ladder, stating that title deeds given to beneficiaries when they receive their units gives them ownership of a housing asset that can be improved and later sold. He continues to explain that the profit from the sale will assist them to access mortgage finance on their next and better house. In this way, they can continue to climb the housing ladder, accessing progressively better houses in the process and maximising their asset value. Beneficiaries can also use the collateral value of the progressively more valuable houses to access business finance. Rust (2007: 44) identified numerous issues as being responsible for the breakdown in the housing ladder, for example that subsidy beneficiaries have little incentive to improve their houses and if subsidy beneficiaries do not invest in their houses, low-income housing areas will deteriorate while the residents' priorities remain investments in schooling, food, medical care and consumer goods.

De Soto, quoted in Tomlinson (2007: 17) states that the resources possessed by the poor are held in a defective form. For example, their land and housing rights to occupy are not properly recorded, making them difficult to trace and validate. As a result, these assets are dead capital and cannot be used as collateral for a loan or other financing. The BNG strategy acknowledges that owners of houses do not regard them as valuable assets for a variety of reasons. The study conducted by Ros, Bertoldi and Nell (2011: 26) reveals that low-income households tend to view their housing assets as social and cultural capital rather than financial assets. The following are reasons given for this phenomenon:

- 1) The view of housing as a family asset rather than individual assets limits the ability of the owner to sell the house.
- 2) There are social and cultural pressures not to sell in many households. Selling the family house when moving to a better neighbourhood can lead to family clashes because other household members do not benefit from the sale.
- 3) The house is considered a cultural rather than a financial asset. The cultural value holds more significance to the family than financial value.
- 4) A *township* house is said to allow an individual who has moved to a former white suburb to maintain a presence and a socio-cultural tie with the old areas.
- 5) Keeping the house is a sign of respect in memory of the parents and grandparents who struggled to gain ownership.
- 6) Possessing more than one house limits the risk resulting from being dependent on the unstable economic situation in a particular area.

In contrast to the above discussion, Roysten (2007: 32) argues that 'De Soto's assumptions about the title are faulty unless an approach is adopted that segments the market or differentiates the poor. Such an approach reveals that the poorest households are still not catered for, although his proposal may be more appropriate for some households in the 'gap housing market'. This approach builds on the notion that the poor are not a homogenous entity, but it is also recognised that access to title has a place in some segments of the market which have historically been denied.

² Township refers to a racially segregated area in South Africa established by apartheid government for non-whites.

2.5.1.2 Communal land tenure

The CESCR has noted that tenure takes a variety of forms including, rental (public and private) accommodation, cooperative housing lease, owner-occupation, emergency housing and informal settlements, including occupation of land and property (Raquel, 2012: 13). In this study the most common land tenure is communal land tenure which is typical of many rural areas. "Customary" or "communal" land tenure in South Africa can be traced back to a centuries-old history of land dispossessions. In years gone by, the policies of segregation and apartheid allowed white people the right to take possession of most of the land in the country (Cousins, 2007: 238). Forced removals and evictions from farms led to considerable numbers of people being located on land occupied by others. These people were relocated in specially designated reserves or in areas of black group-owned land where they became either tenants or squatters (Cousins, 2012: 2).

Communal tenure implies joint or collective ownership and use of all land and natural resources, whereas most African systems include clearly defined individual or family rights to some types of land and land use, as well as common property resources. These systems involve the conferring of rights on the basis of accepted group control or supervision of land matter which "relativises" individual rights to a greater degree than in systems of private property" (Cousins, 2009: 2). Section 25(6) of the Constitution of the Republic of South Africa (1996) entitles persons of communities whose tenure of land is legally insecure as a result of past racial discriminatory laws or practices, to tenure which is legally secure. Section 25(9) commands Parliament to "enact legislation to provide for such tenure security". The White Paper on South African Land Policy of 1997 spells out principles related to security of tenure with specific reference to tenure security in the former homelands where African indigenous land tenure was held by the government that issued permits to black people in these homelands (Du Plessis, 2011: 54).

In 2004, new legislation was approved by government. The Communal Land Right Act, Act 11 of 2004, (CLRA) was passed to secure the land tenure rights of black South Africans. The CLRA seeks to transfer title of communal land from the state to a community. Individual members of this community are then issued with a title deed of

Communal Land Right, which can be upgraded later to a freehold title if the community agrees (Cousins, 2009: 12).

Controversies erupted around the CLRA when it was first introduced and it was debated at length before it was enacted. Central to the controversies was the power granted to tribal councils over land in rural areas. Presentations to Parliament by senior officials made it clear that communities would be defined as those people living within Tribal Authority boundaries where traditional councils would be recognised as land administration committees. These community groups and the NGOs saw this as 'undermining fundamental democratic rights'. Legal papers also view the CLRA as 'unconstitutional because the nature and content of new order rights are not clearly defined and the Minister of Land Affairs is given wide and sweeping powers to determine these rights on a discretionary basis. It was argued that the criteria for guiding the Minister's decisions are not clearly outlined by the Act and limited opportunities to participate in making these crucial decisions are created. Lack of consultation with rights holders on whether or not they desire a transfer of title was also identified. Some critiques were quick to point out that 'the Act reinforces particular versions of 'customary' land tenure that resulted from colonial and apartheid policies and that this will have the effect of undermining rather than securing land rights'. Another argument is that 'the transfer of ownership of communal land from the state to communities with the requirement that outer boundaries be surveyed and registered, conflicts with the nested and overlapping character of land rights in communal areas. As a result, implementation of the CLRA is likely to exacerbate existing tensions and disputes over boundaries and generate new tensions in areas which are currently relatively stable'. Cousins (2012: 14) views the CLRA as a complete betrayal of democracy, and argues that attempts to reconcile custom and democratic rights are inherently contradictory.

Further, the White Paper on Land Policy of 1997 identifies discrimination against women in many land tenure systems in rural South Africa, including communal tenure. Another cause of insecure tenure identified in the White Paper is non-implementation of land administration systems. Permissions to Occupy (PTOs) are no longer issued, sometimes

procedure followed is ad hoc and unclear, and registers of rights-holders are not updated on a regular basis (Cousins, 2012: 3).

Cousins (2012: 15) points out that it is difficult to recognise 'customary' land rights, as in the context of South Africa, private property dominates and security of tenure is equated with exclusive ownership. Chiefs however continue to be a significant political interest group, transferring private ownership to 'traditional communities' ruled by traditional councils, and without effective mechanisms for downward accountability, which appears to threaten rather than to secure land rights. He further states that the approach reinforces the custom that emerged during the apartheid era, lead to abuses of power and the customary land tenure to be problematic (Cousins, 2012: 15). Furthermore, Cousins (2012: 1) believes that even after the apartheid, the government still lacks a law aimed at securing the land rights of black South Africans who live in so called 'communal areas'. He proposes that the Bill of Rights in the Constitution requires that such a law be passed by Parliament and that it be put into practice.

2.5.2 Habitability

Rauh, Landrigan and Claudio (2008: 276) state that 'the housing in which we live embodies many elements including physical and material (location, density, building height, maintenance, air quality, sanitation, pests, hazardous exposure), social (e.g. threats to safety, noise) and psychological components (e.g. interpersonal conflict, sense of permanence)'.

Habitability is one of the components of adequate housing that should comply with health and safety standards. The habitability and the accessibility components are closely related to the issue of health as inadequate housing is generally associated with high rates of morbidity and mortality. Despite this, housing is not a priority on the list of societal needs in government. Adequate housing must provide shelter from health threats as well as diseases (Thiele, 2002: 712-713).

Govender, Barnes and Piepes (2010: 910) state that low-cost housing programmes in South Africa have been highly cost-inefficient and the present policies driving these initiatives are giving rise to a significant number of low income people experiencing threats to their health. Inappropriate construction techniques and low quality building material leads to cracks in walls and leaking roofs and windows, with the result that the physical structure remains damp and becomes mouldy. These conditions contribute to diseases like rheumatism, arthritis and respiratory infections (Erasmus, 2010: 29). In a study conducted by Scovronik and Armstrong (2012: 49), it was concluded that wealthier households have better protection from health hazards than low income households, with a notable increase in protection as one move from low-cost to middle class housing.

In research that was conducted by Emuze, Shakantu and Wentzel (2012: 1396-1397), most respondents were of the opinion that these houses do not offer sufficient privacy and do not offer enough space for movement. It was evident that these homeowners are not satisfied with the design of their low-income houses. According to the respondents, these design problems could be contributing significantly to health and safety issues experienced by the occupants. Many respondents, for example, observed that the occupants within the province suffer from long-term ailments and certain disabilities. These ailments which are many and varied reoccur particularly in the winter months. Comments made by the owners and occupants indicated that design changes and improved workmanship could alleviate certain aspects which cause such ailments.

Tomlinson (2006: 91-92) argues that the housing subsidy was not sufficient to allow more acceptable standards of housing, especially as the amount had not been increased to accommodate inflation and the value of the subsidy fell by almost half from 1994 to 1999. He argues that if the government had not demanded a higher standard than the subsidy could provide or if the subsidy had kept pace with inflation, and if quality control had been introduced from the outset, the private sector-driven approach would have been more successful and households would have been more satisfied with the product that was delivered. A study conducted at Braamfischerville by Moolla, Kotze and Block (2011: 142) confirms these findings. The authors conclude that although RDP housing

provides shelter for poor people who previously lived in shacks or in backyard dwellings, the conditions within these developments are far from ideal.

2.5.3 Location

Access to affordable land and housing is one of the major obstacles in South Africa today (Lall, Van der Brink and Dasgupta, 2007: 2). Huchzermeyer (2001: 319) acknowledges the zeal with which the South African government has gone about equipping itself legislatively for the task of rural land reform, notably redistribution, and correcting historically distorted spatial patterns. Inadequate housing is often the consequence of being barred access to land and common property resources. Lack of suitable land gives rise to interrelated problems that range from inadequate housing, lack of livelihood options, poor health, hunger and food insecurity, to acute poverty (Kothari, 2007: 10). Housing, land and property tend to be viewed as marketable commodities rather than as a human rights (Rolnik, 2008: 14).

Bierman and Van Ryneveld (2007: 2) point out that not only is delivery failing to keep pace with demand, but also the locality and form of delivery is not achieving objectives of spatial restructuring. Housing delivery has occurred mainly on the urban periphery, adjacent to existing low-income settlements rather than on more well located land in the more centrally lying areas, with better access to urban opportunities. This peripheral housing development, which is reinforcing the apartheid city spatial pattern development, where the poor are stranded on the peripheries, has been attributed to a number of policy and implementation factors but with the major underlying cause being cost. The subsidy amount is simply not sufficient for delivery on expensive 'well located' land in the more central areas even if higher densities are used to offset high land costs.

Porteous, Don, Franke and Rust (2005: 1) state that even after the introduction of democracy in South Africa, land issues remain politicised, complex and nuanced. Adebayo and Adebayo (2001: 4) also recognise the importance of well located land. The two writers state that workers are located on the outskirts of urban areas where land is cheap, but where job opportunities are limited. This type of location precludes easy

access to jobs. Moreover, inefficient transport systems also reduce access to economic opportunities. Other impacts identified are the development of enterprises that supply low income consumers with routine shopping needs, but at high prices to maximise their profit margin and take advantage of non-competitors. The price of better located land is however a prohibitive factor given the financial status of low-cost housing consumers, even with assistance. Adebayo and Adebayo indicate that, land informally settled on can be viewed as already identified and only needing formalisation. Venter (2006: 563) indicates that peripheral locations also impact on the cost of infrastructure and services provision, thus increasing the financial burden on government.

A study conducted by Urban Landmark (2006: 2) indicates that there are currently no mechanisms and policy in place in terms of which way the state can proactively acquire well located, high value land for affordable housing projects. The current land acquisition strategy can be considered reactive and demand driven. In addition, Todes, Pillay and Kronje (2003: 269) reveal that a more systematic approach to dealing with land and identifying and acquiring well-located land is required. They point out that municipal spatial frameworks need to be taken to a far greater level of detail in this regard. Poor location leads to people selling or renting out their subsidised houses and moving back to informal settlements closer to their economic activities and to reduce transport costs which are a major financial strain (Goebel, 2007: 4).

2.5.4 Availability of services, materials, facilities and infrastructure

During the apartheid era, massive inequality in services was prevalent in South Africa. White communities were well serviced while black communities received inferior or no service at all (Steytler, 2005: 184). Policy after 1994 introduced measures to address these inequalities. The Water Service Act, Act 108, was introduced in 1997 and gives a legal basis to the constitutional right of access to water and to an environment that is not harmful to human health (Muller and Jon, 2002: 2). The national water and sanitation programme aims at providing all households with a water supply of 20-30 litres per day within 200 meters of the dwelling unit, an adequate sanitation facility per household and refuse removal systems to those living in urban areas (Muller, 2008: 71). During the first

democratic elections in South Africa in 1994, it was estimated that 12 million South Africans did not have access to water, 21 million people did not have adequate sanitation, 10% of the population did not have access to a toilet of any kind and a further one third of South Africans had no form of refuse removal. More than 20 million people did not have access to electricity. Since the new government came into power there has been a major expansion of basic services and infrastructure. From February 2002, the South African government claimed to have provided seven million people with access to water and to have connected electricity to 3.5 million households. Despite these efforts, over six million South African are still without access to basic services. The government committed to providing basic services to all the remaining households by 2008 and 2012, but the bulk of the remaining water and electricity connections will be difficult to access by rural areas because of the lower population densities and long distances from electricity and water sources. These services will therefore take a long time to complete and will be costly to install (McDonald, 2002: 4).

The right to housing is one of the rights in the Constitution that directly refers to the right to basic sanitation or is fundamentally related to the enjoyment of this right (SERI, 2011: 19). Tissington (2011: 68) states that "access to adequate sanitation is fundamental to personal dignity and scrutiny, social and psychological well being, public health, poverty reduction, gender equality, economic development and environmental sustainability".

In rural areas, the ventilated improved pit latrine (VIP) is considered as the basic RDP standard for sanitation due to scarcity of water. On-site sanitation, low flush septic tank systems and pit latrines are currently becoming common in South Africa's peri-urban and rural areas (Still, 2002: 2). The VIP is the cheapest option for acceptable services. This dry sanitation system does not require the expense of water to dispose of urine and faeces (Gounden, 2006: 1).

Marais, Cloete, Matebesi, Sigenu and Van Rooyen (2010: 1342) view alternative sanitation systems as inferior, evidence of a lack of social justice, and the result of South Africa's neo-liberal Growth, Employment and Redistribution (GEAR) economic policy.

Such systems place lives and health continually at risk. They also threaten several human rights, including the right to adequate housing (Kothari, 2003: 18).

Bahagwan, Stil and Foxon (2008: 26) reveal the following shortcomings about the VIP system:

- 1) Once the toilet is full, it can no longer provide safe, hygienic and dignified sanitation.
- 2) Maintaining pit latrines is expensive.
- 3) When poor construction of pit latrines generates flies and odours, it constitutes health hazards rather than providing safe and dignified sanitation to owners.
- 4) Users cannot use disinfectants as they negatively affect stabilisation of the pit.
- 5) There is no policy in place allowing upgrading of on-site sanitation systems.

The free basic water policy has also been criticised as an instrument as it does not achieve social goals of redistribution efficiently due to errors of inclusion and exclusion (Muller, 2008: 85). McDonald (2002: 5) states that "access to basic municipal service is still a major concern in South Africa and will remain so for many years".

2.5.5 Affordability

Affordability of housing in South Africa is limited in numerous families. South Africa's unemployment rate rose to 25.3% in the third quarter of 2010 as opposed to 24.0% that was previously recorded in 2009. Currently, the number of individuals seeking employment stands at 4,300 million, up from 4,184 million (Aigbavboa and Thwala, 2011: 2). Of the 12 million households in South Africa, roughly 250 000 do not qualify for a mortgage (Warnock and Warnock, 2008: 14).

Housing affordability is a problem for most developed and developing countries (Azriyati, Aziz, Hafif and Singar, 2011: 259). Mayo, Malpezzi and Gross (1986: 191) state that only a few developing countries have widespread and successful systems of housing finance. Since its adoption in 1994, the housing policy has remained stable. It views the housing subsidy as a primary mechanism for mass housing delivery (Rust,

2003: 9). The scheme aimed at promoting delivery by replacing the previous government's interest rate subsidy targeted at first time home buyers able to afford a mortgage bond, with capital subsidy targeted at the poor (Tomlinson, 2006: 88). The policy adopted in 1994 was intended to deliver a starter house, which beneficiaries would expand over time. This incremental approach of achieving the right to housing was based on the assumption that beneficiaries would have access to loan finance which they would use to improve their houses (Charlton and Kihato, 2006: 254).

Since 1994, various means to extend the delivery of housing finance have been pursued. Housing finance institutions were established as a means of encouraging lenders to enter into the low-income housing market. In addition, various lending instruments (e.g. mortgage loans, pension, unsecured micro loans and saving-linked-to-credit) have been offered by a variety of banks and non-bank -alternative lenders. Despite the efforts, formal retail lenders have never met expectations (Tomlinson, 2005: 32). The record of understanding that was signed between government and the banking sector failed. The following explanations for failure were offered by the banking sectors: 'the bank has not perceived the township market to have normalised and the subsidy beneficiaries have lacked confidence in the conventional banking system, because of poor workmanship, there has been a tendency by end users to withhold bond payments and the cost and terms associated with conventional mortgages have also proved too complex and expensive for lower income groups'. Notwithstanding the many attempts to make conventional home loans viable for households qualifying for government subsidies, recent statements by both the banking sector and government suggest a broad acknowledgement that the conventional mortgage loan system is inappropriate for low income market (Khan, Thurman and Isandla Institute, 2001: 12). According to Tomlinson, the banks have not proved to be effective at doing business in the lower income categories of the formal economy. One of the major reasons for this situation is that the financial returns for doing business in this sector do not compensate for the increased risk and cost involved (Tomlinson, 1998: 10). On the other hand, Khan *et al.* (2001: 11) blame the Department of Housing for not mobilising savings, formal credit and private sector investment in a significant way to supplement the subsidy as was originally envisaged.

In the words of Raquel Rolnik (2012: 4), housing finance policies based on credit are inherently discriminatory against low-income households and at their best, increase housing affordability for upper and middle income groups. Current solutions often exclude the poor who are required to pay much higher prices for financial services, exposing them to financial risks inherent to global finance markets and indebtedness. Housing finance policies tend to focus solely on housing affordability while failing to address the broader aspects of the right to adequate housing.

Rust (2006: 30) makes a similar argument, pointing out that the current housing supply by both the public and private sectors does not meet the housing demand. The housing that is currently available is not affordable to most middle and low income earners. One of the elements undermining South Africa's affordable housing programme has been a failure to link low-income housing with upper income housing in the 'housing ladder'. Pillay (2008: 127) views the government's vision to support the entire residential property market a considerably more ambitious agenda than the one in 1994 where the focus was simply to deliver a million units within five years to households having a monthly income below R3500.

2.5.5.1 Gap housing market

The 'gap housing market' is commonly described as housing for households that earn too little to qualify for a mortgage bond, but earn too much to qualify for an 'RDP' house or government subsidy. Ruiters defines the gap market as having significant price differences between RDP and affordable housing. This gap market can be attributed to three main dysfunctions in the affordable housing sub-market namely; affordability, demand and supply.

³ Gap housing market refers to housing for those earning more than the minimum salary to qualify for state subsidized low-cost housing but not earning enough to qualify for mortgage bond.

She further states that there is a substantial gap between affordable housing demand and supply as the demand for affordable housing far exceeds its supply. The substantial shortage of affordable housing in the market is exacerbated by competitive bidding which further increases the prices of these houses. The houses become unaffordable to households with an earning capacity of between R3500 and R9670 and limit their ability to move up or even get onto the housing ladder. It is estimated that 90% of South Africa's population cannot afford a house at a price higher than R250 000. There are no houses available in the market between R150 000 and R280 000 (Ruiter, 2009: 31-32).

Rust (2006: 30) concurs with Ruiter by saying that "housing supply and housing affordability suggests increasingly limited residential opportunities across South Africa. Large segments of the housing ladder remain un-supplied, while increasingly many of the more affluent markets are reaching the limits of households' affordability". She further states that the so-called "credit gap" seems to be widening, even in the face of apparently better access to credit, due to the inability to convert financial affordability into effective demand due to the lack of affordable accommodation options to purchase. Notably, the benefits of house price appreciation are significantly uneven across suburbs. According to Rust, the housing that is currently available does not, and in the near future is unlikely to support the affordability threshold of several identified sub-markets (Rust, 2006: 30).

The cost of the subsidy house delivered also defines the gap market. A household earning about R5000 per month could afford to purchase a subsidised house valued at about R140 000 through mortgage finance. However, as R140 000 houses are not available for sale. The developers and financiers fear market risks while borrowers expect better housing than that available for free to the subsidy target market (Financial and Fiscal Commission, 2012: 17).

Even the lower income households in the current environment can access credit. Households earning as little as R2000 per month qualify for credit cards and the Financial Sector Charter (FSC) grants loans to households earning over R1500 per month. This is however hampered by limited housing supply and the fact that loans don't cover

consolidation properties. Access to credit does two things: firstly it puts inflationary pressure on what housing is available for sale, undermining household affordability; secondly, households that are unable to access housing that they can afford are encouraged to invest elsewhere, often in consumer goods. Melzer (cited in Financial and Fiscal Commission) states that 50% of households earning between R3500 and R7000 per month have formal credit while only 3.4% have a mortgage. About one third of the population in this income bracket has liquid savings. When households spend their income on other goods, their ability to afford housing becomes limited (Financial and Fiscal Commission, 2012: 18).

2.5.6 Accessibility

Rolnik (2011: 3) states that women across the world do not yet enjoy the right to adequate housing. He further states that recognition and realisation of every woman's right to adequate housing is necessary to ensuring that every woman is able to live a life with dignity as women spend the most time at home. In support of the above statement, Miloon Kothari (2009: 18), also a Special Rapporteur, notes that lack of adequate housing and secure housing particularly impacts on women who are affected by poverty, homelessness, housing affordability problems, violence and discrimination in the private rental market. Women who leave abusive relationships are not given a priority status for subsidised housing either. With few housing options women normally return to abusive households.

There are laws in some countries that discriminate against women regarding home ownership. In most countries, however, men and women have equal rights. The problem in many cases is not the law itself but implementation. Gender-neutral laws may not be effective if structural gender discrimination affects implementation of the laws. Examples include, the practice of property being registered only in the husband's name, preventing women from having ownership rights, or where women's lower income denies them access to credit to purchase property and land (Kasijser, 2007: 4). The South African White Paper on Housing includes the need to support the role of women in the housing delivery process. However an evaluation of the housing subsidy scheme indicated that

policy on gender equity is neglected by most provinces (Venter and Marais, 2006: 72). In addition to the above, Khan *et al.* (2001: 34) also note that specific needs of women are not sufficiently addressed and coordinated. Specific concerns include the absence of formal mechanisms to promote consultation with groups of women and monitor impact to ensure that women are benefiting from the policy. Inadequate housing also impacts upon children. Gomez (2007: 112) states that every child deserves a safe place to call home. Today, it is estimated that there are some 150 million street children worldwide, ranging between three and eighteen years of age. About 40% of these children are homeless, often living alone without anyone to look after them. Homeless children are forced into a precarious existence on the streets. She further states that this does not only violate their right to adequate housing, but also threatens their rights to personal security, education, the highest attainable standard of health and in far too many cases even their right to life.

2.6 ADEQUATE HOUSING PROVISION IN DEVELOPING COUNTRIES

Buckley and Kalarickal (2005: 234) state that much has changed since the housing policy was reviewed about two decades ago in developing areas. First, developing country policy-makers now operate in a more open and generally stable policy environment. Second, most countries now rely on a public policy approach that supports and complements market processes rather than substitutes for them. Third, most developing economies now have more sophisticated and diversified economies and financial systems that often include emerging housing financial systems.

Despite this housing policy revolution an inability to provide adequate housing to the population remains prevalent in developing countries (Echeverry, Asce, Majana and Acevedo, 2007: 684). It is estimated that at least one fifth and perhaps as many as half of the population live in substandard housing, often in situations where national government is either unwilling or unable to make housing available. Housing is of vital importance to social welfare and to the development process as a whole. In the majority of megacities in the developing world, more than one million people live in illegally or informally developed settlements with little or no piped water, sanitation or services. Often the residents are unable to afford even the smallest or cheapest well constructed, legal house

with basic services and amenities. The majority of houses are designed and self-built by the residents (Potter and Evans, 1998: 137). This section specifically focuses on adequate housing provision in Latin America and Asia.

2.6.1 Adequate housing in Latin America

The Latin American region comprises 42 developing countries and 351 million inhabitants. The right to adequate housing is recognised by the constitutions of many countries including Argentina, Brazil, Colombia, Cuba, the Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, Venezuela, Chile and Bolivia. In some countries such as Ecuador, Uruguay and Mexico, the right to housing is recognised as an essential right by the state. In Bolivia, Colombia, Paraguay and Costa Rica, the right to housing is considered a state obligation. In the Colombian constitution, the right to housing is considered to uphold the dignity of people and in the Venezuelan document, the right to housing constitutes an obligation of both the state and the citizen. The Argentinian constitution offers one of the best examples of how the state can protect the right to adequate housing (UN Habitat Human Settlements Programme, 2005: 6).

The housing sector in Latin America has been driven by four powerful, global trends of the past two decades; urbanisation, democratisation, decentralisation and globalisation (Jha, 2007: 1). Thus the major parts of the urban areas are characterised by spontaneous urban growth or *barrios de chabolas* (De Bustillos, Bujanda, Torbay and Smith, 2002: 3).

Latin America faces a major challenge in providing shelter for its population. These include a shortage of housing units, lack of proper services, overcrowding and large number of informal settlements located in marginal areas with acute risks from floods, land slide and earthquakes. Despite an increase in production of state subsidised housing, the poorest of the poor are mainly excluded from government programmes. In addition, too much of the social housing is failing to provide decent living conditions. A main problem is that new housing developments occur in urban peripheries far from economic

opportunities, and lack adequate basic services and transport facilities. The governments are producing housing but not inhabitable cities. As in South Africa, home ownership is promoted by issuing title deeds, by extending mortgage loan systems and offering subsidies to the needy (Gilbert, 2011: 48- 49).

Most households in Latin American countries address their housing needs outside of formal markets and without reliance on mechanisms of the state (UN Habitat, 2011: 6). Households spend their savings, sweat equity, and other sources to develop their own homes over a long period. As in South Africa traditional mortgage finance in Latin America faces three basic dilemmas (Ferguson, 1999: 187):

- 1) Low-income and most moderate income households usually cannot afford the debt service required to finance the cost of a core minimum unit even under the best circumstances.
- 2) The characteristics of traditional mortgage finance poorly suit the conditions that low to moderate income households face.
- 3) Even when financial and other conditions allow, commercial finance institutions usually have little interest in and lend little to low and moderate income households, particularly when it comes to mortgages.

As in most parts of the world, housing policy in Latin America cannot be regarded as being highly successful. Official figures suggest that the housing deficit has not been reduced in recent years, and has in fact increased in many countries. Regardless of the strategy employed, (public housing construction, capital housing subsidies, slum upgrading or delivery of property titles) it has seldom managed to alleviate the problem. The task facing every Latin American country is enormous and the housing situation is further complicated by rapid urban growth and high levels of poverty. Thus, there are many failing in the proposed solutions of various housing policies (Gilbert, 2012: 79). De Bustillos *et al.* (2002: 4) concur, noting that attempts by Latin American governments to solve housing problems have failed; these authors describe such attempts as false proselytising efforts.

The provision of adequate housing faces a number of obstacles, many of which are common to all developing countries such as those of Latin America. One of the major obstacles is lack of sufficient resources. The development of shelters by individuals without technical guidance on land that is usually not ready or adequate for housing construction negatively affects both the families and the cities where these structures are built. This is a strong motivator for the employment of formal construction methods. Other obstacles include a fragmented and inefficient production chain, the scarcity of adequate land and financial risks (Echevery, 2007: 685).

2.6.1.1 Latin America and South Africa

Many aspect of the urbanisation process in Latin America and South Africa are very similar. In terms of economic and social implementation there are also strong similarities. For example, South Africa and many South American states have achieved middle-income development status and are highly urbanised, yet contain highly unequal societies. The South African housing situation certainly seems to be very different from those of its African neighbours. Recent events in South Africa have increased the similarities with Latin America in terms of urban development, land invasion, the growth of informal employment, rapid migration and political protests over service provisions that have arguably made South Africa's largest cities look much more like Lima, Mexico City or Rio de Janeiro. South African cities are also very comparable to most Latin American cities with a high proportion of their residents living in overcrowded and unsatisfactory housing conditions (Gilbert and Crankshaw, 1999: 2376).

2.6.1.2 Case study: Chile

The history of the Chilean housing policy started in 1906 and developed rapidly during the 20th century. A large set of laws were developed and transformed constituting milestones in the complex and rich legal history of the country. The sanction of large numbers of national laws related to housing is a symptom of a continuous effort of Chilean society to deal with this issue over a period that spans almost one hundred years. From records kept by Chile both at the beginning and end of the 20th century, it can be

regarded as the first country in America to sanction a national law about housing and the first country in Latin America to reduce its housing deficit (Rubio, 2003: 1).

The Chilean housing system is based on public-private synergies which by many standards have proven highly successful. For example in 1990, one out of every ten houses was overcrowded, while in 2006 only one out of every 10 houses was overcrowded. In 2006 the housing deficit stood at 410 thousand units, a small number if we consider that each year the public housing system provides around 100 thousand units. In terms of stability, the system successfully coped with international financial crises which were a major stress test (Micco, Parrado, Piedrabuena and Rebucci, 2012: 30).

Today Chile is seen as a positive example to the world since its microeconomic policies have proved to be solid and consistent and have provided undoubted economic growth to the country even at the times of serious crisis in the region. Not only is the overall economy successful, but innovative initiatives or policies have also been implemented like signing of free trade agreements, concessions contracts in public works, reforms in the pension system, education, wealth, amongst others (Paola, 2004: 2).

2.6.1.3 Housing provision strategy

While the Chilean housing policy has been a model for many other countries including South Africa, with valuable lessons that can be learned from the continued evolution of this policy, there are nonetheless a number of gaps in the policy. Most notably, the Chilean housing policy lacks an integrated development approach, urban upgrading and managed land settlement programmes. The Chilean housing policy also lacks provision of rented housing. Chile is known for the best example of a housing capital subsidy. It was replicated by Latin American countries like Costa Rica (1987), Colombia (1991), Paraguay (1992), and Uruguay (1993) after it was introduced in 1978. South Africa's housing subsidy scheme introduced in 1994 was also partially based on the Chilean model, although there are problems with the capital subsidy model. Generally it has been considerably more successful than the public provision of housing in the past. Thus the

capital subsidy model à la Chile and Costa Rica continues to represent best practice. The shortfall identified with capital subsidies has been that the motive behind choosing this type of subsidy instead of the open-ended subsidies is generally to restrict government expenditure. As a result, houses provided are inadequate. A few subsidies are allocated and these subsidies are not sufficient to provide good quality housing on well located land. Only in countries where housing is a priority and sufficient resources are allocated, as in Chile, has there been any success in minimising housing backlogs (Smith, 2006: 1).

The housing subsidy scheme in Chile is a system that aims at providing solutions for multiple housing needs. These needs include the poor and the middle-class, both supply side and demand side subsidies and both contractor-built housing and self-help housing. For lower income groups there is a supply-side subsidy linked to a mortgage bond. The state housing agency is largely responsible for developing houses through a rent-to-buy arrangement. In 1990 housing a programme was introduced for self-help incremental. In phase one, household is granted a subsidy that amount to 94% of the cost of serviced site and wet core and have to complete the house themselves. In phase two, the household is granted further subsidy to improve their houses. In 2002 self-help subsidy programme was introduced. This subsidy was aimed at organising poor households into groups and providing technical support from local authorities, NGOs or private companies. Demand-side subsidies are meant for higher income subsidised groups to enable them to access housing provided by private sector developers. Beneficiaries receive vouchers with an expiry date, which they can use to buy a house and mortgage loan from a private bank (Smith, 2006: 2).

The Chilean experience is also valuable because it confirms in practice some of the advantages theoretically attributed to Department of Human Settlements. The granting of explicit direct subsidies not only means transparency, but is also compatible with the principle of the subsidiary role of the state and the functioning of market economy and the establishment of objective criteria for the selection of applicants subject to ongoing review in the light of targeting criteria guarantees the credibility of the system (Gerardo and Gonzales, 1999: 149).

In 1988, Brazil undertook the process of democratisation that led to the promulgation of a new 'citizens' constitution, which included a chapter on urban policy. During this period Brazil experienced rapid urbanisation, the urban population climbed from 44% in 1960 to 84.3% in 2010 (Friendly, 2013: 158). Amongst others, the amended urban policy of 1987 recognised the following general principles: 'the autonomy of municipal government, the democratic management of cities, the social right to housing, the right to the regularisation of consolidated informal settlements, the social function of urban poverty and the need to combat land and property speculation in urban areas' (Friendly, 2013: 162). Despite the effort, 26 million people in Brazil have no access to clean water, 14 million are not served by rubbish collection and 83 million are not connected to the sewer systems. Due to high costs of public transportation, 52 million Brazilians walk to work. The national housing deficit is estimated at 7.9 million units. The estimates indicate that over 50% of the people living in urban areas have had access to land and housing through informal processes. The citizens construct a precarious, vulnerable and insecure habitat in *favelas*, irregular land subdivisions, irregular housing projects, front and back houses, on public land, steep hills, preservation areas, water reservoirs and riverbanks (Fernandes, 2007: 203).

2.6.2 Adequate housing provision in Asia

By combining both social and economic policy in most East Asian countries, the majority of people became home-owners. State intervention to ensure access to owner-occupied housing assets for working households has been evident in Asia. An increasing housing market provided the growing number of home-owning households an economic stake in the government's objectives, social safety-nets and public welfare services. The broad ownership of housing assets is argued to have been perceived by East Asian governments as a means to enhance the family basis of welfare provision (Ronald and Doling, 2010: 234).

Housing for the masses has become an engine for the growth of many Asian cities, such as Singapore and Hong Kong (Forrest and Chan, 2000: 7). Housing in East Asia is predominant in public policy and critical to the economy and welfare of citizens.

Singapore and Hong Kong, for example, have adopted intensive housing policy measures that supplement social security as well as shelter needs. However, this has been achieved in a very different way. In Hong Kong the massive public housing programme, which still accounts for almost half of all housing, has established a tenure-secure low rent safety-net for many families. State intervention in Singapore has been more extreme and has involved the public provision of owner-occupied dwellings for around 80% of the population. While housing policy is not unified across countries it does link developmentalist market intervention practices and productivist welfare approaches to the family in the welfare mix (Ronald and Doling, 2010: 236).

Hong Kong is said to have overcome three phenomena regarding housing; high land prices, high housing prices and high rent. The private developers launched urban redevelopment projects in the old urban areas to meet the high demand for private flats. The developers demolish old low-rise buildings of low rent to give way to high-rise, expensive and furnished apartments. This leads to displacement of low-income residents. This means urban redevelopment can incur both gains and losses. The urban sociologists view this housing provision mechanism as a way of substituting unused land with more favourable and suitable buildings or housing. The process of urban redevelopment also affects poor, elderly people whose rights are disregarded (Chui, 2001: 158).

In Japan, the housing policy introduced in the 1950s directed resources to the provision of a housing ladder that families could climb. This policy afforded communities the opportunity to procure their own plots of land where they could construct their homes (Ronald and Doling, 2010: 238). Many of Japan's problems are similar to those of the older industrialised countries of Europe and the USA, such as an ageing society, rising unemployment rates and a relatively slow growth rate after a rapid economic expansion. This situation is referred to as the two-tiered nature of Japanese housing policy, in which public housing is confined to a marginal minority with the majority encouraged to fend for themselves via the market also shaped the housing recovery policy. One of the results has been increased segregation of lower income households to the urban periphery (Forrest, 2000: 9).

2.6.2.1 Case study: Hong Kong

Hong Kong is regarded a developing country. The welfare provision in Hong Kong is residual. The Hong Kong government maintains the ideology of neo-liberalism and the philosophy of positive non-intervention and laissez-faire. The primary concern of the government is the creation of wealth rather than welfare redistribution. Therefore tax rates in Hong Kong have always been kept to a minimum and only to support essential public expenditure that was kept as modest as possible. The degree of stratification in Hong Kong is high. The majority of social services such as public rental housing and social security are provided by means tested (Pui Yuen, 2008: 1). Hong Kong has been faced with unstable property market over the past decade for numerous reasons. A shortage of housing and a down-turn in housing prices have both been experienced in Hong Kong. The shortage of housing led to prolonged escalating housing prices. Citizens of Hong Kong are very concerned with the housing market, specifically housing prices, in their country, and expect the problem be addressed to prevent recurrence (Hui and Hu, n.d.: 1). The secretary for transport and housing in Hong Kong is currently responsible for formulating, coordinating and monitoring the housing policy. The government's housing policy is based on the following principles (Hong Kong: The facts, 2012: 1);

- 1) The government's subsidised housing policy intends to benefit low-income families who cannot afford private rental housing provided through the rental housing programme.
- 2) The primary focus of the government is to supply land.
- 3) To ensure sustained and healthy development of the private property market, the state is obliged to maintain fair and stable operating environments.
- 4) To meet the demand, the government must ensure adequate supply of land with adequate infrastructure.

Public housing in Hong Kong has gone through a number of transitional stages during the past fifty years. In the 1950s and 1960s, public housing was only provided as emergency housing to resettle fire victims: it served as relief to those who were in need. With the progress of society in 1970s, the housing policy was changed with a view to providing

permanent housing to citizens. Thus, old resettlement housing estates were converted and redeveloped and more permanent public rental housing estates were built. With the aspirations of the citizens to improve their living environment, government policy in public housing changed again to provide quality housing. New public housing estates were built and facilities such as shopping centres were included to provide better services to the tenants (Ping Yan, 2011: 9).

The public housing system in Hong Kong shows potential to deliver housing, in contrast to the public housing approach adopted by the United States and many countries in Europe. Public rental housing is associated with poverty, crime, and unemployment and is disadvantageous to children. Despite the efforts of the Hong Kong government to provide a decent standard of living for the lower income earners, problems of high unemployment and other social issues have escalated making housing unaffordable (Monkkonen, 2011: 1).

2.7 CONCLUSION

Despite recognition of the right to access adequate housing in international, national and regional instruments, billions of people around the world are homeless or live in inadequate houses. Houses provided by the government do not always contain the components required of adequate housing. Such houses are normally of poor quality, located in areas far from economic facilities and with substandard or no infrastructure. Slow housing delivery and poor administration also prohibits the government from realising the constitutional right to adequate housing.

CHAPTER 3

POLICY REVIEW

3.1 INTRODUCTION

The right to adequate housing is contained in numerous international instruments that bind countries across the world to realise this right. Governments are required to develop legislative measures in order to realise this right. Since 1994, the South African government has passed legislation and policies with the intention to fulfill the right to adequate housing. Special Rapporteur, Miloon Kothari (2008: 2) acknowledges the legislation achievements of South Africa. He notes that South Africa has developed several progressive legislative measures and policies in order to fulfill the right to adequate housing. This chapter outlines the right to adequate housing under international human rights law, the right to adequate housing under the South African Constitution, legal obligations of housing rights, obligations by the state to realise the right to adequate housing, a range of South African housing policies and legislations and discussion of court cases since the inception of housing policies and legislation.

3.2 THE RIGHT TO ADEQUATE HOUSING UNDER INTERNATIONAL HUMAN RIGHT LAW

The right to adequate housing is contained in a number of international human rights instruments. Housing rights are not seen as a new development within the human rights field, but have long been regarded as essential to ensuring the well being and dignity of human beings. Housing rights are integral to human rights as a whole and have been included in the most authoritative international statements regarding human rights (UN-Habitat and OHCHR, 2003: 2). Amongst the international instruments are: the Universal Declaration of Human Rights, the Covenant on Economic, Social and Cultural Rights, Section III of the Vancouver on Human Settlements (1976) and the Habitat Agenda (1996). On 10 December 1948 the General Assembly of the United Nations adopted the Universal Declaration on Human Rights (United Nations, 1948: 1). The United Nations Universal Declaration of Human Rights (1948), article 25(1) states that: "Everyone has the right to a standard of living adequate for health and well-being of himself and his family, including food, clothing, housing and medical care".

On 13 December 1991 Article 11(1) of the covenant was adopted at the sixth session of the committee on Economic, Social and Cultural Rights (Office of the High Commissioner for Human Rights, 1991: 1). Pursuant to the Article,

“the state parties to the present covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. Section III (8) of the Vancouver Declaration on Human Settlements (1976) states that “adequate shelter and services are a basic human right which places an obligation on government to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action.”

The Second United Nations Conference on Human Settlements (Habitat II) was convened at Istanbul in June 1996. This conference was on realisation of the right to adequate housing (United Nations and Office of the High Commissioner for Human Settlements, 2004: 44). The Habitat Agenda (1996) included a commitment by state to:

“the full and progressive realisation of the right to adequate housing as provided for in international instruments. To that end seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families (UN Habitat, 2006: 2).

The following are other international human treaties that recognise the right to adequate housing (Office of the United Nations High Commissioner for Human Rights, 2009: 11):

- 1) “The 1951 Convention relating to the Status of Refugees (art. 21).
- 2) The International Labour Organisation’s 1962 Convention no. 117 on basic aims and standards of social policy (art. 5 (2)).
- 3) The 1965 International Convention on the Elimination of all Forms of Racial Discrimination (art. 5(e) (iii)).
- 4) The 1996 International Covenant on Civil and Political Rights (art. 17).

- 5) The 1979 Convention on the Elimination of all Forms of Discrimination Against Women (arts. 14 (2) and 15 (2)).
- 6) The 1989 Convention on the Rights of the Child (arts. 16 (1) and 27 (3)).
- 7) The International Labour Organisation's 1989 Convention no. 169 concerning indigenous and tribal people in independent countries (arts. 14, 16 and 17)
- 8) The 1990 International Convention on the Protection of the Rights for all Migrant Workers and Members of their Families (art. 43 (1) (a)).
- 9) The 2006 Convention on the Rights of Persons with Disabilities (arts. 9 and 28).

3.3 THE RIGHT TO ADEQUATE HOUSING UNDER THE SOUTH AFRICAN CONSTITUTION

The right to adequate housing is contained in the South African Constitution of 1996. Section 26(1) of the South Africa Constitution stipulates that:

Everyone has the right to have access to adequate housing. Sub-section 26 (2) requires that: The state must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right. Sub-section 26 (3) requires that, no one shall be evicted from the home, or have their home demolished, without any order of court made after considering all the relevant circumstances. No legislation shall permit arbitrary evictions.

When the ANC came into power in 1994, there was a huge housing backlog in the country. To minimise the backlog, the state committed to build one million houses during the first term (South African Human Rights Commission, 2004: 1). An adequate house provides a secure place to live, human dignity, healthy conditions, well-being and quality of life. Housing plays a significant role in providing basic services like access to water and sanitation facilities (Kabir, 2002: 98). Human rights are said to be interdependent and interrelated. This implies that, the violation of the right to adequate housing may affect the enjoyment of other human rights (United Nations Office of High Commissioner Human Rights, 2009: 9). In the words of Smith (n.d.: 2), the right to adequate housing has not been adequately fulfilled in South Africa.

3.4 LEGAL OBLIGATION OF HOUSING RIGHTS

The ICESCR imposes obligations of progressive realisation by all governments and these obligations have been referred to in various general comments. These obligations are guarantees that the rights contained in the ICESCR will be undertaken without discrimination (Chenwi, 2010: 16). Further, the obligations bind the state and its organs, the executive, and the judiciary (Mabizara, 2006: 4).

Section 7 of Chapter 2 of the Constitution of South Africa obliges the state to “respect, protect, promote and fulfil” the rights contained in the Bill of Rights. Tissington (2011: 42) states that the obligations to respect and protect place negative duties on the state, while the obligations to promote and fulfil place positive duties on the state. Chenwi (2010: 16) describes negative obligations as “abstention-bound and resource barren and positive obligations as fulfilment bound and resource-dependent”. “The constitution places the obligation to **“respect”** upon the state, other entities and persons not to prevent or impair a person’s constitutional right i.e. to refrain from interfering directly or indirectly with the enjoyment of the right. The state violates this obligation when, through legislative or administrative conduct, it deprives people of the access they enjoy to any socio-economic right such as housing. The obligation to *protect* the right to housing requires the state to take measures that prevent third parties i.e. individuals, groups from interfering in any way with the enjoyment of this right. The obligation to *promote* constitutes another positive duty that requires action to further or advance the right to housing. This obligation appears to require the state to create an enabling environment that will advance the realisation of the right to adequate housing (Tissington, 2011: 42). The obligation to *“fulfil”* requires the state to adopt reasonable legislative, administrative, budgetary, judicial, promotional and other measures within its available resources to achieve the progressive realisation of socio-economic rights” (Chenwi, 2010: 17).

3.5 PROGRESSIVE REALISATION OF THE RIGHT TO ADEQUATE HOUSING

Sub-section 26 (2) of the Constitution of South Africa requires that, "the state must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right". It is the duty of the state to provide enjoyment of the rights even when faced with resource constraints. In case of vulnerable and marginalised groups, the state must take positive action to reduce inequality and give them preferential treatment. Furthermore, progressive realisation binds the governments to utilise available resources, both within a state and those available through international assistance and cooperation (Chenwi, 2010: iii).

3.6 HOUSING LEGISLATION AND POLICIES IN SOUTH AFRICA

To fulfil the right to adequate housing in South Africa, the government developed a number of housing policies and legislations. Below is a discussion of the weaknesses and strength of policies and legislations in place.

3.6.1 The Housing Act, Act No 107 of 1997

The Housing Act is a firm policy on principles outlined in the 1994 White Paper on housing (Tissington, 2011: 14). At the heart of the Act is the aim to "provide for the facilitation of sustainable housing development processes". This Act describes in detail the powers and the duties of the various spheres of government and the way they should cooperate in order to give effect to section 26 of the Constitution (McLean, 2003: 164-165). Below are the roles and responsibilities of all three spheres of government.

1) Functions of national government

It is the duty of the Minister to determine national policy and national norms and standards on housing development; set national housing delivery goals, monitor performance of national, provincial and local governments, assist provinces to develop the administrative capacity, promote consultation and promote effective communication.

2) Functions of provincial government

Every provincial government is required to develop provincial policy, ensure adoption of provincial legislation, strengthen the capacity of municipalities, coordinate housing development in the provinces, support municipalities in exercising their powers and performing their duties and to prepare a multi-year plan.

3) Functions of local government

Every municipality must ensure that its inhabitants have access to adequate housing, that they remove conditions unsuitable for health and safety, that they provide services and infrastructure and determine housing delivery goals and that land for housing development is available.

Charlton and Kihato (2006: 263) point out that the introduction of the Housing Act paved the way for local government involvement in housing development and that in 1998 the government changed what was termed the 'procurement regime' to enable the local government to be developers of low-cost housing projects from April 2002. The Director General in the Department of Housing labelled this 'a fundamental departure' signifying the shift away from the public-private partnership approach of the National Housing Forum to a more state-centred, state-driven approach.

Pottie (2003: 137) identifies the following key challenges that local government is facing in addressing the delivery of low-cost housing: accessing resources for development of housing and infrastructure, capacitating local government to administer development, meeting housing needs and coordinating housing development with limited state resources. These challenges have not diminished in the past decade.

In support of the above statement, McLean (2003: 170) points out that the Housing Act is unclear on the financial responsibilities of local government. Many local governments feel that they have been left with the bulk of the work and argue that for local government to participate in housing development amounts to unfunded mandates. This was confirmed by Mokoena and Marais (2007: 325) in research that they conducted at

Mangaung Local Municipality that, despite the good intentions of municipalities involved in housing development at local level, local governments bear the brunt of potentially bad consequences.

3.6.2 “Breaking New Ground”: A comprehensive plan for the development of sustainable human settlements (2004)

Ten years after the Department of Housing released its 1994 White Paper on housing which set out a new national housing vision, policy and strategy, the cabinet approved a new document entitled “Breaking New Ground (BNG): a comprehensive plan for the development of sustainable human settlements”, which laid out the government’s approach to housing delivery for the next five years. The Department of Housing stated that the new document should not be viewed as a fundamental change from the 1994 policy but rather as an enhancement of the previous housing policy (Tomlinson, 2006: 85).

The BNG is said to “reinforce the vision of the Department of Human Settlements, to improve the achievement of a non-racial, integrated society through the development of sustainable human settlements and quality of housing”. The following objectives were set by the department in order to meet its vision (Department of Housing, 2004: 1):

- 1) “Accelerating the delivery of housing as a key strategy for poverty alleviation.
- 2) Utilising provision of housing as a key strategy for poverty alleviation.
- 3) Ensuring that property can be accessed by all as an asset for wealth creation and empowerment.
- 4) Leveraging economic growth.
- 5) Combating crime, promoting social cohesion and improving quality of life for the poor.
- 6) Supporting the functioning of the entire single residential property market.
- 7) Utilising housing as an instrument for the development of sustainable human settlements in support of spatial restructuring”.

There are mixed opinions about the BNG policy. Some say that it has made a radical departure from the previous policy and presents fundamental rethinking of the approach to housing delivery. Others contend that the approach contained in the BNG, while signalling shifts in emphasis, does not fundamentally break with the past policy. In particular, the lack of clarity in addressing key weaknesses in existing policies is noted. Another problem identified is that the state is focusing on the number of houses built and the budget, ignoring the programmes developed to achieve holistic, comprehensive, sustainable human settlements (Charlton, 2009: 308).

According to Pithouse (2009: 1) there has been a systematic failure to implement the contents of BNG. Most of the subsidised units built thus far have not been viewed as valuable assets to the poor (Roysten, 2007: 34). Choguill (2007: 149) is of the opinion that in order for BNG to be successful, constraints such as low incomes of the economically weaker sectors should be taken into consideration when attempting to meet housing needs. He emphasises that sustainability in housing cannot be viewed as an end in itself. Furthermore, he states that there is no chance for success without rethinking housing policies and basing them on sustainability criteria, i.e. 'meeting the needs of the present without compromising the ability of the future generations to meet their own needs'. In support of the above statement, Goebel (2007: 300) asserts that the distance to economic opportunities is a priority to the poor.

3.6.3 The Prevention of Illegal Eviction Act, Act 19 of 1998 (PIE Act)

The PIE Act is a piece of legislation that gives effect to Section 26(3) of the South African Constitution. The Act provides for prohibition of unlawful evictions, procedures for the eviction of unlawful occupiers, and to repeal the Prevention of Illegal Squatting Act of 1951 and other obsolete laws and to provide for matters incidental thereto. The eviction of people from their homes and the demolition of those homes impair enjoyment of constitutional rights, including the right to dignity, security of the person, privacy, health and access to housing. The General Comment no. 7 on forced evictions indicates that 'eviction also disproportionately affects vulnerable individuals and groups, including women, people living with disabilities, the elderly and frequently children. Forced

evictions are a reflection of unjust socio-economic circumstances in which communities experience widespread homelessness and there are deep inequalities in access to land and housing (Liebenberg, 2005: 1).

Pithouse (2009: 1) states that he has never come across one incident where the state has acted in accordance with the law in terms of Section 21 of the Constitution and the PIE Act. He further states that not one instance is known where the city has evicted with a court order. The practice acts in flagrant breach of the law. A recurring theme with these evictions is the simple callousness with which they are carried out. They are carried out in an authoritarian and high-handed manner against the most vulnerable people in our society, especially poor black women, old people and the unemployed.

There are acts that are used by the municipalities to oppose the PIE Act. PIE affords some protection to desperately poor tenants while on the other hand the National Building Regulation and Building Standards Act, Act 103 of 1997 (NBRA) justifies eviction on the basis of the occupiers' health and safety. The NBRA is an apartheid era law granting a municipality the statutory power and duty to prevent dangerous living conditions within its jurisdiction. Under section 12 (4) (b), a municipality can order the occupiers to vacate any building that is considered unsafe or unhealthy. This section is regularly used in Johannesburg to clear inner city slums or other 'bad buildings'. Unlike PIE, the NBRA provides no list of relevant circumstances to be considered by the court before granting of an eviction order (Chenwi, 2006: 13).

3.6.4 The Housing White Paper (1994)

The White Paper on Housing was released in December 1994. The following vision for housing is outlined in the White Paper: 'the establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities and to health, educational and social amenities in which all citizens and permanent residents of the Republic will, on a progress basis, have access to permanent residential

structures with secure tenure, ensuring internal and external privacy and providing adequate protection against the elements, and portable water, adequate sanitary facilities, and domestic energy supply.

The White Paper on Housing also provides a framework for the development of one million subsidised houses, as outlined in the African National Congress Reconstruction and Development Programme (RDP). A cornerstone of the housing policy during this period was National Housing Subsidy Scheme (NHSS), which provided capital for qualifying beneficiaries (Tissington, 2011: 21).

This subsidy is meant for purchasing land, ensuring secure tenure, provision of infrastructure services and starter houses for those who meet the legislated criteria. The aim of the subsidy was also to meet the African National Congress (ANC) objectives of housing for all. Though the subsidy amount is increased every year, it has not kept up with inflation. The nature of the basic house has been contested since the inception of the policy. When the housing policy was introduced in 1994, the state implemented the incremental housing delivery approach to achieve the right to housing. With this approach, beneficiaries were provided with a starter house that they could improve over time. The assumption was that they would be able to extend their houses through loan assistance from a bank (Charlton and Kihato, 2006: 254). Pottie (2003: 132) notes that the state of South Africa's finances prohibits the government from realising the right to adequate housing. The Housing White Paper acknowledges that the key constraint facing subsidy beneficiaries is affordability. Another critique about the Housing White Paper is that its housing approach resulted in a single-minded focus on quantity while ignoring quality. The policy did not take into account factors such as accessibility to social amenities and job opportunities (Tomlinson, 2006: 96).

Dr Karina Landman (2004: 16) argues that amidst all the positive spin-offs, instead of becoming more actively involved to help the poor, the government is standing back. She criticises the Housing White Paper for adopting a market-centred approach, which had several unfortunate outcomes for low-income housing, including:

- 1) an inequitable allocation of funding between different low-income groups.
- 2) a low rate of delivery.
- 3) the deconstruction of existing housing construction capacity.
- 4) communities being displaced.
- 5) a reluctance on the part of the private sector developers to be involved in conflict-ridden areas. and
- 6) the reproduction of apartheid-style ghettos.

3.6.5 The National Housing Code (2009)

The BNG policy makes provision for a National Housing Code which was introduced in 2009. The two documents are aligned to ensure implementation of the set goals. The National Housing Code is developed to accommodate changes that emerged from the year 2000 and to make the National Housing Programmes more flexible and serve as guidelines. The code spells out the policy principles, guidelines and norms and standards which apply for various housing assistance programmes. The code is reviewed annually to ensure that it keeps pace with policy changes. The following varieties of housing programme are contained in the code; The National Housing Programme includes the individual subsidy programme, the operational capital subsidy programme, the consolidation subsidy programme, the social and economic facilities, the emergency housing programmes, the integrated residential development programme, the enhanced people's housing process, the informal settlements upgrading programme, the community residential unit programme, the institutional subsidy programme, the social housing programme, communal land rights: the rural subsidy programme, the farm and the resident housing assistance programme (Tissington, 2010: 53-54). The national housing subsidy programme is considered to be the cornerstone of the National Housing Policy that was designed to address social demands, the prevalent housing backlog in South Africa, fiscal constraints and financial sector market distortions (Khan, Thurman and Isandla Institute, 2001: 3).

In a report on public hearings by the Financial and Fiscal Commission (2012: 3) it is stated that despite the efforts exerted to deliver three million fully subsidised houses to

low-income households, it is evident that current housing policies are not working optimally. They are financially unsustainable, do not deliver on the scale required and distort the housing market. It is estimated that it would cost over R300 million to eradicate the housing backlog of 2.2 million units (at R140 000 per unit), a sum that is far beyond the fiscal capacity of the state. Even if the state were to issue land for free and combine the housing and infrastructure subsidies, there would still be a budgetary shortfall. With the current global economic situation, the chance of increase in revenue to sufficiently accommodate the necessary budgetary growth is low. It is also unrealistic that South Africa will be able to raise sufficient debt capital to address the housing backlog at such a high scale (Financial and Fiscal Commission, 2012: 21).

Corruption in the allocation of low-cost housing processes is also said to be a contributing factor to slow delivery of houses. In the research that was conducted by Rubin (2011: 481) the respondents mentioned that the housing allocation process in Johannesburg is carried out in an unfair and corrupt manner. The accusations included nepotism, bias favouring comrades and companions, bribery and inducement and political interference. Unfair practices seem common in the country. The findings of the research that was conducted by Oldfield and Zweig (2010: 149) in Cape Town also revealed corruption in housing allocation. On the other hand, Del Mistro and Hensher (2009: 334) criticise the housing subsidy programme for encouraging individuals to sit back and wait for government to deliver.

3.6.6 Social housing Act, Act 16 of 2008

In 2008 the Social Housing Act, Act 16 of 2008, was passed. The Act aims to establish and promote a sustainable social housing environment, to define the functions of national, provincial and local governments in respect of social housing, to provide for the establishment of the Social Housing Regulatory Authority in order to regulate all social housing institutions obtaining or having obtained public funds.

The social housing delivery model was influenced by countries such as the United Kingdom, Norway, Netherlands, Canada and the European Union. These countries also

had an influence in South Africa by providing a significant amount of multilateral aid and technical support. Internally, the trade unions have been vocal in demanding a form of social housing delivery, promoting the creation of a public housing agency to develop an own formal rental stock (Charlton and Kihato, 2006: 266). A rental housing scheme was not included in the initial post-apartheid housing policy. Backyard dwellings were viewed as interim accommodation that would disappear once people were provided with low-cost houses. However, the 2009 statistics indicated that more than 20% of South Africans live in rented accommodation in backyard dwellings (Lemanski, 2009: 4).

Increasingly, social housing is seen to be the solution to critiques that the RDP housing programme reinforces urban sprawl and a spatial form of the apartheid city. The complexities of the financial model have however meant that social housing has a limited impact in terms of number of units delivered, accounting for only about 1.5% of housing production by 2003. Social housing has only been able to reach a very narrow target group at the upper end of the main subsidy income qualification limit of R3 500 per household, relying as it does on capital subsidy from government and not operating subsidy. Thus this has had a fairly limited reach to the poor and until recently it was not considered an effective housing solution for very low-income beneficiaries. A massive rental programme was not possible, given the scale of the backlog. This was influenced by an understanding of the need to grow the economy so that housing should not become a financial drain (Charlton and Kihato, 2006: 266). Cross (2006: 15) states that "any kind of public rental housing is not easy to manage, especially for the poor in a high-rise format as management of maintenance and rent collections are often challenging".

3.6.7 Rental Housing Act, Act 50 of 1999

The Rental Housing Act, Act 50 of 1999, is a piece of legislation that defines the responsibility of government in respect of rental housing property; creates mechanisms to promote the provision of rental housing property; promotes access to adequate housing through creating mechanisms to ensure the proper functioning of the rental housing market; makes provision for the establishment of Rental Housing Tribunals; defines the functions; lays down

general principles governing conflict resolution in the rental housing sector; provides for the facilitation of sound relations between tenants and landlords and for this purpose to lay down general requirements relating to lease; repeals the Rent Control Act, 1976; and provides for matter connected therewith.

3.6.8 People's Housing Process (1998) (PHP)

To address some of the shortcomings of the housing subsidy scheme and the needs of the poorer group among low-income families, who were refused housing loans and credit through private financial institutions, the South African government launched another programme in 1998 to support self-help by the poor. The pilot program called the People's Housing Process (PHP) is a component of the new housing policy and this housing provision mechanism approaches housing differently (Miraftab, 2003: 233).

The PHP was identified as one of the seven strategies of the White Paper on Housing in 1994, but was only officially launched as a programme in 1998. The programme entails support for sweat equity. In spite of the PHP programme and other initiatives aimed at promoting aided self-help housing, there has not been a large uptake in numerical terms. This raises a number of questions: is self-help housing not appropriate or relevant in post-apartheid South Africa or is the process too difficult to implement or manage? Are there other options for low-income households that are more viable and sustainable, including unaided self help? These questions remain unanswered. The controversy on the merit and demerits of aided self-help housing in South Africa has still not been settled (Landman and Napier, 2010: 299-300). Another critique about self-help housing is that the quality of self-help housing is often very poor and that the state is not able to purchase and develop sufficient land to satisfy the massive demand for low-cost housing (Bredenoord and Van Lindert, 2010: 281).

The most commonly cited success of PHP is that houses are larger and better designed with a greater diversity in housing types when compared to mass-built houses (Napier, 2003: 331). A quality product is produced when the beneficiary is in control of the design, construction, and management of his own house (Harris, 2003: 248). By being

involved in the design and production of facilities poor people would feel more responsible for the maintenance (Berner and Phillips, 2003: 1). Self-help housing is severely criticised for making inefficient use of under-utilised labour (Harries and Giles, 2003: 176).

3.7 INTEGRATED DEVELOPMENT PLAN (IDP)

From the late 1970s the reformist wing of the post-apartheid state underwent experimentation with various forms of integrated development planning to find a solution for growing political and economic crises. The most important influence on post-apartheid policy was the township based Civic Movement during the mid-1980s. The movement mobilised community activism around issues like housing and transportation. By the late 1980s academics and development professionals formed part of the struggle and provided intellectual support. The 1994 official policy was shaped by the ideas of progressive planning and development of Non Governmental Organizations (NGOs). Around 1992 and 1993 the idea of this network was being fed into the policy negotiations taking place in the Local Government Negotiation Forum. During this time, ideas of integrated urban development and of post-apartheid planning were developed (Harrison, 2006: 193).

After the failure of socialism, the ANC adopted the Reconstruction and Development Programme (RDP). This approach was presented as an integrated, coherent, socio-economic policy framework. To implement this programme in a coordinated manner, the RDP office adopted integrated development planning as a potential instrument. The Interdepartmental Forum, which was set up by the RDP office to produce planning approaches, defined IDP as a 'participatory approach to integrate economic, sectoral, spatial, social, institutional, environmental and fiscal strategies in order to support the optimal allocation of scarce resources between sectors and geographical areas and across the population in a manner that provides sustainable growth, equality and the empowerment of the poor and the marginalized' (Harrison, 2006: 194).

During October 1994, the state stressed the importance of local government in the implementation of the RDP and the local authorities' responsibility for development, physical planning as well as the preparation of a five-year infrastructure investment programme. When the Local Government Transitional Act was drafted in November 1996, it required that all transitional metropolitans, districts and local councils prepare an IDP that is incorporated into the legislation (Harrison, 2006: 195).

A number of legislations and policies relating to local government were introduced between 1998 and 2000. Amongst the legislations that were introduced is Municipal Systems Act, Act 32 of 2000. The purpose of this Act was to construct a new planning framework for developmental local government. Chapter 5 of the statute requires that each municipality council must, within a prescribed period after the start of its elected term, adopt a single, inclusive and strategic plan for the development of the municipality which:

- a) links, integrates and coordinates plans and take into account proposals for the development of the municipality;
- b) aligns the resources and capacity of the municipality with implementation of the plan;
- c) forms the policy framework and general basis on which annual budgets must be based;
- d) compiles with the provision of this chapter; and
- e) is compatible with national and provincial development plans and planning requirements bidding on the municipality in terms of the legislation.

The IDP is the 'principal strategic planning instrument which guides and informs all planning, budgeting, management and decision making in a municipality' (Department of Housing, n.d.: 8). The housing chapter or the housing sector plan is a summary of the housing planning undertaken by a municipality and should be part of the five year IDP and reviewed annually. It is therefore not a comprehensive, stand-alone plan resulting from a separate planning process. The housing chapter is sometimes referred to as the

housing sector plan. According to this chapter, municipalities are required to determine housing needs and demands across all income levels, build linkages across housing delivery, negotiate for well-located land and plan spatial restructuring and transport. These processes are to be carried out in a transparent manner (Tomlinson, 2011: 422).

In the period between 1996 and 2000 the IDPs seemed to be shopping lists instead of being frameworks and strategic long-term visions for the development of municipalities (Hofisi, 2012: 69). The Department of Housing identified the following shortcomings in local government (2004: 4):

- 1) There are situations where certain national and provincial sector departments do not provide sufficient funding and support to local government to execute its role and responsibilities.
- 2) The departments lack capacity and expertise to execute their responsibilities and support other spheres of government.
- 3) IDPs are not settlement management tools. There is a need to clarify the relationship between the integrated development plan and the proposed settlements management tools.
- 4) In some cases IDPs are considered merely as a technical exercise.

Houses built on separate stands dominate in all three municipal areas, giving the impression that the housing situation within John Taolo Gaetsewe (JTG) municipal area is rather good. The JTG seems to be one of the districts with the smallest percentage of informal dwellings in South Africa (JTGDM IDP, 2012: 27). On the other hand, it is stated in the Integrated Housing Sector Plan of JTG that residents of Joe Morolong reside on traditional land, building their houses mostly of locally-made bricks. From the outside, these houses may appear to be in a good condition but on closer inspection the quality of construction is very poor.

3.8 CONSTITUTIONAL JURISPRUDENCE ON THE RIGHT TO HOUSING

South Africa is internationally renowned for its modern and progressive Constitution and policies. Though the country is praised for its progressive housing policies and legislations, forced eviction still persists. Forced evictions are still implemented daily, however, on a smaller scale than with prior legislation and policies on eviction (Du Plessis, 2005: 126). One of the main issues in the debate and development of the justifiability of social and economic rights is the question of the extent to which a court may review, reverse and squash decisions and policies decided upon by democratically legitimate bodies, i.e. government and parliament (Coomans, 2005: 168).

The Constitution of South Africa, 1996, offers a degree of peace, security and consultation to those whose security of tenure is threatened. Everyone must have access to legal remedies in case their right to housing is violated. This will also enable the state to realise the right to adequate housing. The courts have the power to grant relief for constitutional violations. However, it is unclear whether the courts' remedies have been effective in providing adequate relief for victims (Serie, 2009: 100).

Section 7 of Chapter 2 of the Constitution obliges the state to 'respect, protect, promote and fulfil' the constitutional rights. Any law that allows unfair evictions would be considered a failure by the state to respect housing rights. Two legislations that were adopted to ensure the protection of the right to housing are the Extension of Security of Tenure Act, Act 62 of 1997 (ESTA) and the Prevention of Illegal Eviction Act (PIE). These Acts were implemented to ensure realisation of Section 26(3) of the Constitution. The obligation to promote requires the state to make decision which favours the realisation of the right to housing. The obligation to fulfil binds the state to 'adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right' (Tissington, 2011: 42-43).

This section outlines three housing rights cases that have reached the Constitutional Court since 1995: Grootboom, Joe Slovo and City of Johannesburg. This section also outlines

the findings of each court case and how these findings affected South African housing policies and the right to adequate housing.

3.8.1 Grootboom

Mrs Iren Grootboom was one of four thousand residents living in an uninhabitable area called Wallacedene. The occupants of the area were extremely poor with a high unemployment rate. Of four thousand residents, one quarter of the households was not employed and more than two-thirds survived on less than R500 per month. The area lacked services such as water, sewerage, refuse collection and only 5% of the households had access to electricity. Most residents had been on the housing waiting list for about seven years. Despite the desperate situation the residents were living in, the government failed to respond to their situation. Consequently the residents moved their home to a nearby vacant plot, which they called 'New Rust'. Unfortunately this was private land and had been ear-marked for low-cost housing. (Wickeri, 2004: 14).

Three months after the residents moved onto this land, they were served with an eviction order. The community was forcibly removed and their houses were destroyed. The original plot at Wallacedene was already occupied by another group of people and the community was forced to take shelter on the Wallacedene sports ground field and in a local community hall. On 31 May 1999, the community filed an urgent application in the Cape Good Hope High Court, seeking the state to provide them with 'adequate and sufficient basic temporary shelter and/ or housing' until they could obtain permanent adequate housing, social amenities and basic services. This was the first case regarding the right to access adequate housing in South Africa (Wickeri, 2004: 14-15).

3.8.1.1 Discussions and outcome of the case

In the Grootboom case, the court developed its reasonableness test. In an analysis of section 26(2), the court explained its approach to evaluate whether legislative and other measures in the housing policy of the government were taken into account and the situation of the squatters in the case under review were reasonable. The Constitutional Court took advantage of the fact that section 26(2) requires the state to take reasonable

legislative and other measures to achieve progressive realisation of socio-economic rights and settled on the term 'reasonable' (Wesson, 2004: 287).

The court laid down the following criteria or elements of a reasonable test (Coomans, 2005: 175-176):

- 1) A reasonable programme must allocate tasks and responsibilities amongst different spheres of government and provide them with the necessary financial and human resources to carry out their respective obligations created by (housing) legislation.
- 2) Legislation must be complemented by policies and programmes that are reasonable in conception and implementation. Such policies must be capable of facilitating the realisation of the right.
- 3) Reasonable measures must take into account the social, economic and historical context and background of the situation which the policy aims to address.

During the court case hearing, the lawyers for the Grootboom community explained to the judges the uninhabitable conditions in which the community was living. Two judges of the high court stated that there had been no violation of section 26 (right to access to adequate housing). The state had limited resources and section 26 only requires the government to take measures within available resources to progressively implement the right to access to adequate housing. The judges believed that the housing policy was implemented to an extent that the government did not have the resources to support. However, the judgment breached section 28(11) (C) which grants children the right to basic shelter. Where parents are unable to provide shelter for their children, the court said, this became the obligation of the state. The court ordered the state to immediately provide children and their parents with temporary shelter with basic services, until parents were able to provide accommodation for their children. The government was ordered to report back within three months of the decision (Wickeri, 2004: 15).

The government appealed but when the oral arguments were due to be heard in the Constitutional Court, the Western Cape provincial government and Oostenberg Municipality made an offer in the interests of humanity and pragmatism to the Grootboom community which was accepted. The arrangement was that the provincial and local governments would provide temporary accommodation consisting of a roof, sanitation and water until housing could be made available through the provincial housing programme. Four months after the agreement had been reached the community made an urgent application to the court alleging that the agreement had been breached. The ruling was challenged by the municipality at the High Court (Wickeri, 2004: 16).

The judge found the government housing programme to be invalid as it failed to make provision for those in desperate need of housing. The primary focus of the programme is to construct permanent structures, and not to provide interim shelter for the desperate. In the words of the court, 'the nationwide housing programme falls short of obligations imposed upon national government to the extent that it fails to recognise that the state must provide relief for those in desperate need' (Wesson, 2004: 288).

Geoff Budlender of the Legal Resources Centre was appointed to analyse the case. In his analysis, Budlender questioned the government's excuse that meeting the housing needs of those living under the worst conditions would deflect resources from the medium-to-long-term housing delivery programme. He further noted that the government had not determined the housing need and therefore did not know the actual cost to address the immediate housing needs. In contrast to the High Court ruling, Budlender argued that the scale of the housing backlog was no excuse for no response by the state over the past three years. Instead Budlender argued that the government should have prioritised the most desperate and vulnerable (Huchzermeyer, 2003: 87). On the other hand, Budlender argued that 'the Grootboom community was only part of a much larger class of homeless people or people in crisis. Why should they be given an order for immediate relief which would privilege them above so many other people similarly placed? Is this a right that can be enforced on demand?' (Budlender, 2003: 13). Ray (2010: 242) states that 'courts are ill equipped to deal with complex policy issues raised by these rights and lack the

demographic legitimacy of the political branches when making the inevitable tradeoffs among competing priorities required when setting socio-economic policy.

The Deputy Chief Justice, Dikgang Moseneke, suggested that the amici were correct by intervening to suggest that the parties talk to each other and advise the court on a 'just and equitable' solution. The effort to solve the issue through negotiations failed and the court issued its decision in June 2009. The decision was based on different opinions and all opinions by the judges agreed that both section 26 of the Constitution and the PIE Act protects the residents from eviction. They also concurred that structured eviction processes, that include engagement with the residents to determine reasons for eviction and relocation, were necessary (Ray, 2010: 410).

Only in June 2002 did the national department advertise a tender for policy proposals on emergency housing. The municipality responsible for Wallacedene also developed plans for the Wallacedene settlement (Huchzermeyer, 2003: 88-89). As noted in the above discussion, the court on its own cannot make changes in policies, and that 'political activism' is required (Huchzermeyer, 2003: 102). Section 26(3) requires the courts 'to exercise a broad equitable jurisdiction'. This requires a court to make value judgment but it must not do so in a vacuum. Interpreting section 26(3) must 'promote the values that underlie an open and democratic society based on human dignity, equality and freedom where the interest of the people should be paramount' (Oduke, 2013: 242).

3.8.2 City of Johannesburg V. Rand Properties

Thousands of poor people occupy abandoned and unsafe buildings in the inner cities of Johannesburg and Pretoria. The Applied Legal Studies and the Centre for Human Rights and Evictions revealed that 'occupiers of 'bad buildings' are desperately poor people forced to illegally occupy unsafe building because they cannot afford accommodation on the private residential housing market nor access the urban social housing'. The City of Johannesburg continues to evict informal settlement residents in response to health and safety issues. The eviction of the people from 'bad buildings' without alternative accommodation does not reduce the eruption of informal dwellings (Chenwi, 2006: 13).

Occupiers of 'bad buildings' have challenged the municipality regarding forced evictions (Chenwi, 2006: 13). On one hand, the Extension of Security of Tenure Act (Act 62 of 1997) and the Prevention of Illegal Eviction Act (Act 19 of 1998) protect poor tenants while on the other the National Building Regulations and Building Standards Act (Act.103 of 1997) (NBRA) 'justifies' eviction on the basis of the occupier health and safety. The NBRA is an apartheid statute granting a municipality power to prevent dangerous living conditions within its jurisdiction. Relying upon this Act, the city of Johannesburg evicted over 300 people from 'bad buildings'. The municipality contended that the eviction would promote public health and safety and reverse inner city decay (Chenwi, 2006: 13).

3.8.2.1 Discussions and outcome of the case

The occupiers opposed the eviction. Justice Mohamed Jajbhay led the case and handed judgment on 3 March 2006. The argument was based on section 26 of the Constitution; 'the right to access adequate housing'. The outcome of the discussion was that it was deemed unnecessary to address the other argument advanced by the occupiers. The judge dismissed the municipality's eviction application and found that municipality's housing programme did not comply with its constitutional and statutory obligations of providing shelter for those in need. The court further ordered the municipality to develop and implement a comprehensive and coordinated programme in order to realise the right to adequate housing for the poor. Finally, an interdict was issued against the municipality from applying for eviction until they had provided adequate shelter for the desperate (Chenwi, 2006: 14).

The judge of the Constitutional Court stated that the City of Johannesburg is bound by the Constitution to ensure that everyone has access to adequate housing. He further stated that: 'the city must provide services to communities in a sustainable manner, promote social and economic development, and encourage the involvement of communities and community organisations in matters of local government. It also has the obligation to fulfil the objectives mentioned in the preamble to the constitution to improve the quality of life for all citizens and free the potential of each person. Most importantly it must

respect, protect, promote and fulfil the rights in the Bill of Rights. The most important of these rights for present purposes are the right to human dignity and the right to life. In the light of these constitutional provisions a municipality that ejects people from their homes without first meaningfully engaging with them acts in a manner that is broadly at odds with the spirit and purpose of the Constitutional obligations set out in this paragraph (Constitutional Court of South Africa, 2008: 11).

In addition, the judge stated that the process of engagement will work only if both sides act reasonably and in good faith. The people who might be rendered homeless as a result of an order of eviction must, in their turn, not content themselves with an intransigent attitude or nullify the engagement process by making non-negotiable or unreasonable demands. People in need of housing are not, and must not be regarded as, a disempowered mass. They must be encouraged to be pro-active and not purely defensive (Constitutional Court of South Africa, 2008: 13-14).

During the fact finding mission which was conducted by the team of African and international experts that was put together by the Centre on Housing Rights and Eviction (COHRE), they found that the municipality's policy of 'closing down bad buildings' is obviously successful in precluding the possibility of any criminal activity being carried out inside them and breaching of municipal by-laws. However, not only is this approach of questionable legality; it also offers no lasting solution to the problem of the housing crisis of the inner city. With no readily available, well managed, affordable alternative accommodation, they found that many occupiers of 'bad buildings' move into other slums or become homeless rendering them even more vulnerable than they were while living in the 'bad building' (COHRE, 2005: 43).

3.8.3 Joe Slovo v. Thubelisha Homes

The case involved an attempt by the Western Cape government to evict a group of 20 000 informal settlement dwellers. The reason for eviction was to implement one of the BNG programmes, upgrading of informal settlements. The government's plan was to replace the informal structures with adequate and affordable houses. At first, the residents were

satisfied with the plan, but the government failed to adhere to their commitment of allocating 70% of the houses to residents of Joe Slovo, and planned to move them to an area far from economic opportunities. The government offered houses to people who were already on the housing list in Cape Town. During the hearing in the Western Cape High Court, the government maintained that they had complied with the eviction requirements. The judgment favoured the government and granted the eviction order (Serie, 2009: 104-105).

3.8.3.1 Discussions and outcome of the case

The residents of Joe Slovo argued that they had consented to live in the Joe Slovo area and that their eviction was unjust. The residents further asserted that the government had failed to comply with the provision of the Prevention of Illegal Evictions and Unlawful Occupation of Land Act during the eviction. On the other hand the government argued that the residents of Joe Slovo were illegal squatters, and there was no agreement that the residents of Joe Slovo would benefit by houses in the new development. The decision by the Constitutional Court favoured the residents of Joe Slovo since the government had not fulfilled its promise of allocating houses. The court handed down the judgment, stating that the government had denied community members access to adequate housing. Furthermore the Constitutional Court ruled that the residents of Joe Slovo were to vacate the area, but the government should provide them with adequate alternative shelter. The judgment held that government engage with the residents of Joe Slovo on dates of removal and fulfil its commitment of allocating 70% of the new houses to the residents of Joe Slovo (Serie, 2009: 105).

Regarding this case the court was faced with two issues. Firstly, whether the applicants were properly evicted in terms of the PIE Act and secondly, whether the state had acted reasonably in seeking the eviction of the applicants. On the first issue, the majority agreed that applicants were unlawful occupiers. On the second issue the majority agreed that the state had been reasonable in applying for eviction (McLean, 2013: 224). Regarding the issue of consent, the judge found that the residents did not possess written

consent from the municipality. In contrast, Chief Justice Dikgang Moseneke, found that the actions of the municipality gave the applicants tacit consent (Mc Lean, 2013: 226).

Chenwi and Tissington (2010: 18) state that “meaningful engagement” expresses the dignity of the citizens in South Africa. In the Joe Slovo case, the Constitutional Court said that the requirement of engagement flows from the need to treat residents with respect and care for their dignity. Engaging communities enables the government to understand the needs and concerns of individual households so that, where possible, it can take steps to meet their concerns. If meaningful engagement occurs before an eviction, it can prevent dissatisfied people from having to go to court. This means that the government and communities are having a meaningful conversation about the situation e.g. the possibility of *in situ* upgrading or alternatively, relocation to a nearby site.

In support of the above statement, Oduke (2013: 242) states that before eviction notice must be given to communities who will be affected. Public meetings on the proposed plans and proposed comprehensive resettlement plan should be held. Reasonable time must be allowed for deliberation and the raising of objections, if any, to the proposed plan. Affected groups must be permitted a chance to challenge the eviction decision and raise their proposal regarding their needs. In situations where eviction must be executed, there must be total disclosure of interest and status of all people that will be involved from the different sectors including independent international or local observers for the purpose of transparency and accountability.

The judge states that through meaningful engagement disputes can be resolved and understanding can be increased if both the community members and state are willing to participate in the process. Those facing eviction may be so vulnerable that they may not understand the importance of engagement and may refuse to take part in the process. If this happens, the municipality should make efforts to engage the community and only if these efforts fail then a municipality may proceed without engagement (Constitutional Court of South Africa, 2008: 10-11).

3.9 COMMUNITY PARTICIPATION

Section (1) of the Municipal Systems Act, Act 32 of 2000, requires that the municipality must develop a culture of municipal governance that complements formal, representative governments with a system of participatory governance and must for this purpose:

- a) encourage and create conditions for the local community to participate in the affairs of the municipality;
- b) contribute to building the capacity of local community; and
- c) use its resources and annually allocated funds in its budget appropriately for the purpose of implementing paragraphs (a) and (b).

Chenwi and Tissington (2001: 7) state that although people have socio-economic rights on paper, in practice it is not always possible to realise them. This is partly because there are few opportunities to participate and engage meaningfully in the government's decision-making process which affects the provision of services. They further state that government officials often make decisions in a centralised way without involving local communities.

In 2009, the Department of Cooperative Governance and Traditional Affairs (COGTA) did a national assessment of local governments to view the extent of the problems it has on delivering services. Despite initiatives and programmes developed by the government, challenges such as poor communication and relationships with communities, lack of accountability and weak civil society formations persist (COGTA: 2009, 4). According to Du Plessis and Landman (2002: 68) more recent policies do not give significant recognition to the issue of community participation and either mention it without describing efficient methods to enforce it, or do not mention it at all. They further state that without sufficient community participation, self-determination cannot be achieved sufficiently and this may hamper the sustainability of human settlements in a very significant way.

Lizarralde and Massyn (2008: 1) also acknowledge that participation is crucial for the performance of low cost housing projects. They believe that the users make the most appropriate decisions about their own housing solutions and that they know what is best for them. However, in the study that was conducted by the two writers, the following unexpected negative consequences about community participation were revealed:

- 1) Community participation does not determine the performance of low-cost housing projects.
- 2) Some of the strategies of community participation need to be revised. They also suggest that the desires of a community cannot legitimise a wrong decision, particularly if the desires of a group negatively affect people who live in urban areas and the city at large.

A study that was conducted by Mafukidze and Hoosen (2009: 394) also revealed that community participation has negative effects if not carried out in a proper manner. The collective decision-making approach to the housing shortage in Diepkloof resulted in negative output. The negative results identified in the study were social tension, disillusionment, conflict and societal fragmentation. Bradlow, Bolnick and Shearing (2011: 268) state that "when it comes to people development, particularly in terms of housing in South African cities, there has been so much knowledge, so much policy, so much agreement on what needs to be done and so little to show for it. Within the terrain that we refer to as 'human settlements', real people's participation has remained a hope rather than reality".

In line with the discussion thus far, Mathekga and Buccus (2006: 13) state that "the government has not done enough to educate citizens about participatory government vis-à-vis. corresponding structures that are in place to facilitate the process. Ward committees established to ensure that citizens participate in local government process have not been fully executed".

3.10 PUBLIC ENGAGEMENT

Public participation is one of the most essential mechanisms for promoting democracy and good governance. Public involvement set the platform for communities to inform government about their needs and how these needs can be met. Unlike the apartheid government, the new democratic government promotes the need for engagement between itself and its citizens. Public participation hold a central place in the South African constitution which clearly states that "people's needs must be responded to, and the public must be encouraged to participate in policy making" (Public Services Commission, 2008: ii).

The Constitution of South Africa obliges local government to encourage the involvement of communities and community organisations in the matters of local government. The Municipal Systems Act, Act 33 of 2000, places an obligation on the municipalities to encourage the involvement of communities in municipal affairs and the whole Chapter 4 of the Act is dedicated to public participation. Chapter 2 of the Act covers the following: (i) the rights and duties of municipal councils; (ii) the rights and duties of members of the local community; and (iii) the duties of municipal administrations. The councillors, municipal officials and community members have a crucial role to play in public participation (Republic of South Africa, 2007: 5).

Public participation is defined as "an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making". It is further defined as "a democratic process of engaging people, deciding, planning, and playing an active part in the development and operation of services that affect their lives" (Republic of South Africa, 2007: 15). The definition of public participation by the World Bank states that "participation is a process in which stakeholders influence and share control over development initiatives and the decisions and the resources that affect them" (Buccus, Hemson, Hicks and Piper, 2007: 6). Tyler (2000: 117) states that the community members tend to accept decisions when they feel that the decision-making procedures are fair. People evaluate fairness primarily through this criterion: whether there are opportunities to participate, whether the authorities are

neutral, whether people trust the motives of the authorities and whether people are treated with dignity and respect during the process. However, Mattes (2002: 28) describes support for democracy in South Africa as lukewarm and not yet substantially grown.

Buccus *et al.* (2007: 4) notes that the issue of public participation is being implemented in South Africa, by both government and by civil society. An example of this is the proposed health legislation that was returned by the Constitutional Court to Parliament for not having provided sufficient engagement opportunity with civil society. Another example is a ruling by the Constitutional Court that the re-demarcation of Matatiele from KwaZulu Natal to the Eastern Cape was improperly conducted due to lack of public participation.

Public participation has not been fully considered and the current policies, institutional mechanisms and programme interventions are not adequately fulfilling government's constitutional and legislation obligations. Furthermore, public participation in South Africa is limited to public consultation and lags behind legislation by a number of years (Buccus *et al.*, 2007: 10). The report by Good Governance Learning Network states that many of the previously disadvantaged communities are still marginalised in the municipal process. There is a need for a revised and more robust participatory system in order to allow for real, meaningful participation and to imbue a sense of ownership and social citizenship (Good Governance Network, 2011: 62).

According to Williams (2006: 197) participation exercises in post-apartheid South Africa are largely spectator politics, where ordinary people have mostly become endorsers of pre-designed planning programmes and are often the objects of administrative manipulation. The perception of the respondents regarding public participation was negative according to the research conducted by Buccus *et al.* (2007: 18). The feeling was that although public participation happens, it makes little or no difference to local governance. They further comment that in most cases the government use public participation to legitimise decisions already taken.

The following barriers for effective public participation planning were identified by the World Bank (Public Services Commission, 2008: 11):

- 1) Government unwillingness to adopt participatory approach.
- 2) Project officials not giving up control over project activities and directions.
- 3) Unskilled project staff to adopt a participatory approach.
- 4) Limited capacity of local level participation.
- 5) Participation starting too late.
- 6) Mistrust between government and communities.

When designing public participation initiatives, the above-mentioned barriers should be considered. Public participation should not be seen as merely compliance with the law. It is important that government sectors recognise the importance of community participation in issues that affect their own lives directly (Public Services Commission, 2008: 11).

3.11 CONCLUSION

The discussion thus far indicates that most South Africans do not have access to adequate housing due to a fragmented approach to the implementation of housing policies (Kothari, 2008: 2). The South African Human Rights Commission (2009: 131) also acknowledges that South African housing policies show a commitment to fulfilling both international and constitutional obligations, and there are signs of evolution in the housing policy that are directed to providing more sustainable and suitable housing solution; however, there is still a gap between policy and implementation. A concern was raised when the South African housing policy was first introduced that the policy will entrench and reinforce rather than reduce existing inequalities that are a legacy of apartheid (Laloo, 1999: 35). Despite all the critiques, Du Plessis and Landman (2002: 63) believe that South African policies in general are good and can compare with the best in the world.

CHAPTER 4

RESEARCH METHODOLOGY

4.1 INTRODUCTION

Every project requires a detailed research design in order to proceed. For the purpose of this study, a qualitative research design with suitable methods was used to test the hypothesis. Thus, qualitative techniques were used to gather and analyse data in order to draw conclusions and make generalisations about the realisation of the right to adequate housing in Joe Morolong municipality.

4.2 QUALITATIVE RESEARCH METHOD

Welman, Kruger and Mitchel (2001: 188) describe qualitative research as an approach rather than a particular design or set of techniques. Hancock (1998: 2) states that "qualitative research is concerned with developing explanations of social phenomena and aims to help us understand the world in which we live and why things are the way they are. It is concerned with the social aspects of our world and seeks to answer certain questions".

In the words of Meadows (2003: 464), "the aim of qualitative research is to help in the understanding of social phenomena in a natural rather than experimental setting with an emphasis on the meaning, experiences, attitudes and views of the participants rather than providing quantified answers to the research question. Data collected through qualitative method is usually in the form of words rather than numbers and these words are based on observation, interviews or documents. Qualitative research is aimed at determining 'why?' rather than 'how many?'. Meadows further states that "qualitative research can make a valuable and unique contribution by generating a conceptual framework for research that is grounded on information about how people actually feel and think". Qualitative research aims to:

- 1) enable the researchers to obtain a holistic overview of the context under study;
- 2) allow data gathering on the perceptions of respondents from the inside;
- 3) convert data into words; and

- 4) limit the use of standardised instrumentation.

4.3 RESEARCH DESIGN

Creswell (2007: 70) describes research design as a plan or strategy which moves from the underlying philosophical assumptions to specifying the selection of respondents, the data gathering techniques to be used and the data analyses to be done. This view is corroborated by Welman *et al.* (2005: 52) which describes research design as the plan according to which one identifies research participants and describes the research. In the research design the following are specified:

- 1) The number of groups that data will be collected from.
- 2) Whether the groups are going to be drawn randomly from the population involved and whether they should be assigned to groups.
- 3) Precisely what will be done with these groups in the case of experimental research.

4.3.1 Research population

Welman *et al.* (2005: 52) define "population" as the study object that consists of individuals, groups, organisations, human products and events or the conditions to which they are exposed. The authors also state that the research problem relates to a specific population and the population includes the total collection of all units of analysis of which the researcher intends to make a conclusion. The aspect of generalisability is considered to be extremely important. The results of the research only have meaning when they can be generalised from the sample to a population. In order to achieve generalisation, the sample must be representative (Welman *et al.* 2005: 55).

For the purpose of this research, the research population was drawn from Joe Morolong local municipality. Two populations were identified. The one population comprised six municipal officials, four ward councillors, two officials from COGHSTA and three representatives from the tribal office, while the other consisted of inhabitants of self-help houses and RDP houses. A stratified sample of inhabitants of self-help houses and RDP

houses were selected from four villages namely, Bothithong, Glen-red, Camden and Churchill.

4.3.2 Sampling

Welman *et al.* (2005: 57-59) describe a sampling frame as a complete list in which each unit of analysis is mentioned only once. When compiling a sampling frame the following should be considered:

- 1) whether the cases included in the sampling frame are relevant to your research topic;
- 2) whether the sampling frame is complete and includes all cases;
- 3) whether the checklist is correct; and
- 4) whether you will be able to establish and control exactly how the sample will be selected.

4.3.3 Sampling frame

Due to the low densities and vast distances, four villages that are typical of the area were selected and a sample of 120 households was determined.

Table 2: Stratification of sample

VILLAGE	TYPE OF DWELLING	SAMPLE SIZE (EQUAL ALLOCATION)
1. Bothithong	RDP houses	15
	Self-built houses	15
2. Glen-red	RDP houses	15
	Self-built houses	15
3. Camden	RDP houses	15
	Self-built houses	15
4. Churchill	RDP houses	15
	Self-built houses	15
		n= 120

4.3.4 Simple random sampling

Simple random sampling was used to determine which of the 15 households per type of dwelling would be interviewed. The mechanism that was used to draw the random sample was a pre-compiled table of random numbers. In order to draw a simple random sampling it is important to have a complete and up to date sample available. To be able to identify each element on the list, each population element should be numbered sequentially. The drawing of the sample includes the generation of a predetermined number and the sample size of random numbers. The population elements that correspond to these numbers formed the sample (Maree, 2005: 173). To determine the sample, the researcher placed a pencil randomly on the table and moved diagonally to the left.

4.3.5 Purposive sampling

Purposive sampling is said to be the most important type of non-probability sampling. When applying this method, the researchers depend on their past experiences and previous research findings to gather units of analysis in such a way that the sample they obtain represents the relevant population (Welman *et al.* 2005: 69). This method was used to select samples from municipal officials and politician who formed a focus group.

4.3.6 Sampling size

The probability sampling method is used to collect data when one intends to generalise about the population under study. Welman *et al.* (2005: 70) believe that the larger the sample size, the lower the chances of error in generalising. For the purpose of this study the sample size is a total of 135 people drawn from the municipality, residents, tribal authorities and councillors as follows:

- 1) The focus group consisted of the housing manager, technical manager, building inspectors, project managers and housing administrators.
- 2) Councillors responsible for the following villages Bithothong, Glen-red, Camden and Churchill.
- 3) Sixty residents of RDP houses and sixty dwellers of self-built houses.
- 4) From tribal office, the chief and his right hand men were interviewed.

4.4 DATA COLLECTION PROCEDURE

This section outlines the methods that were used to collect data from interviews with focus groups. Interviews resemble everyday conversation, although they are focused on the researchers' needs for data. The conversations were therefore more rigorously conducted in order to maximise reliability and validity (Patton and Cochran, 2002: 11).

4.4.1 Interviews

Terre *Blanche*, Durrheim and Painter (2006: 297) believe that interviews create a more natural platform for interaction and connecting with respondents than making them complete questionnaires and it fits with interpretative approach of the research. Personal

interviews give the researcher an opportunity to get to know people quite intimately so that we can really understand how they think and feel.

Semi-structured interviews were conducted with the population. Semi-structured interviews are often the sole data source for qualitative research projects and are usually scheduled in advance at a designated time and location outside of every day events. This type of interview is organised around a set of predetermined open-ended questions, with other questions emerging during the interview (DiCicco-Bloom and Crabtree, 2006: 315). The open-ended nature of the questions enables the interviewer to define the topic under investigation (Hancock, 2002: 9). By using semi-structured interviews the interviewer will have the freedom to exercise penetrating investigation regarding the topic, to add to the original statements by a respondent or to follow up on an inquiry introduced by the interviewee. Preparation for semi-structured interviews includes drafting a list of topics the interviewer intends to discuss (Hancock, Ockleford and Windridge, 2009: 16).

4.4.2 Group interview

Semi-structured interviews are considered the most popular kind of interview where the researcher develops a schedule prior to the interview. A group being interviewed is called the focus group. This group is not constituted as an existing social group but typically as a group of people who share a similar type of experience. When conducting this type of interview, purposive sampling is the most appropriate method to use since one will be looking for particular types of participants according to what one already knows about the field and in order to include a range of perspectives. The researcher will then request targeted individuals to participate in the focus group, and if necessary, provide some kind of incentives. Participants will be informed of what is expected of them both in terms of content and process of the group. Most focus groups consist of between 6 and 12 people. The four basic components of focus groups are: procedure, interaction, content and recording (Terre *Blanche et al.* 2006: 304).

Onwuegbuzie, Leech and Collins (2010: 711) reveal the following advantages of focus groups:

- 1) Because participants are interviewed in groups, the data collection is fast and usually at a lower cost to the researcher.
- 2) The number of participants in the study can be larger when using focus groups.
- 3) Conducting focus group interviews is a means of collecting social data in a social environment.
- 4) Often interaction amongst the participants is identified through the focus group.
- 5) Focus groups have high face validity.
- 6) Focus groups can create a safer environment than when conducting individual interviews.
- 7) Focus groups create a platform for participants to interact in such a way that personal issues and problems can potentially be solved.

For the purpose of this study mini-focus groups were used. Groups of three or four members were convened in order to get more in-depth information. The groups only met once.

4.5 DATA ANALYSIS

This section outlines the steps that were taken to analyse the data collected.

Step 1: Familiarisation and immersion

Terre Blanche *et al.* (2006: 322) state that data gathering in interpretative research is not just a mindless technical exercise, but involves development of ideas and theories about the phenomena being studied. What you need to know now in the data analysis stage, is to take all your materials and immerse yourself in it again, this time working with texts rather than reality. For the purpose of this study, the researcher read through the text to familiarise herself with what could be found where and what was supported by data and what was not.

Step 2: Inducing themes

Welman *et al.* (2005: 211) consider theme identification as one of the most fundamental tasks in qualitative research. Themes are umbrella constructs which are usually identified by the researcher before, after and during data collection. Inducing themes means inferring general rules or classes from specific instances. The researcher identified themes based on the questionnaire before and after data collection.

Step 3: Elaborating

At this stage the researcher explored themes closely and got a chance to revise coding and place data under relevant themes.

Step: 4 Interpretation and coding

In this step the researcher put together her own interpretation using themes as sub-headings.

4.6 VERIFICATION OF DATA

At the end of the interviews and focus group discussions, raw data were submitted to participants for verification.

4.7 ETHICS

This research was guided by the following principles (Orb, Eisenhauer and Wynaden, 2002: 95):

- 1) **Autonomy:** Participants were informed about the study and allowed to decide whether or not to participate with the option to withdraw at any time without penalty.
- 2) **Beneficence:** The researcher treated the participants well and prevented harm.
- 3) **Justice:** The researcher avoided exploitation and abuse of participants.

CHAPTER 5

DATA ANALYSIS AND INTERPRETATION

5.1 INTRODUCTION

The purpose of this chapter is to establish meaning from the data collected and also to establish whether the findings support the hypothesis. The discussions first created some context by giving a brief overview of the municipality and then discussing the findings related to the various groups sampled before examining the general findings of the study. The chapter, and study, concludes with a brief discussion on areas for further research and some recommendations.

- 1) Group 1 focused on analysis and interpretation of data obtained from inhabitants of RDP houses and self-built houses.
- 2) Group 2 focused on analysis and interpretation of data collected from housing officials at Joe Morolong Local Municipality, JTGDM and COGHSTA.
- 3) Group 3 focused on analysis and interpretation of data collected from ward councillors.
- 4) Group 4 focused on analysis and interpretation of data obtained from members of the tribal council.

A total of 135 people, including inhabitants of RDP houses and self-built houses, municipal officials, officials from COGHSTA and ward councillors and traditional leaders were interviewed. The researcher managed to interview all 120 community members. Data were collected using semi-structured interviews. Well-trained field workers under the supervision of the researcher conducted door to door interviews with inhabitants of self-built and RDP houses. The research conducted focus group discussions with municipal and COGHSTA officials, councillors and members of the tribal council. Below is the analysis and interpretation of data collected.

5.2 Background of the municipality

The jurisdiction of Joe Morolong (JM) is in the JTG region. The municipal area is approximately 5 813 km² in size. The area is characterised by rural establishments made up of 185 villages of different sizes, and numerous scattered villages connected by gravel and dirt roads. JM has a population of 106 103, with 20 647 households, 152 schools, 3 police stations and 23 clinics, 1 mobile clinic. The extreme levels of unemployment and poverty in the JM municipal area is a serious cause of concern. The Joe Morolong local municipality experience the bulk of the population decline, with the population shrinking from 97 945 in 2001 to 75 579 in 2007 (a decline of 22.84%). The two major contributing factors to this are out-migration from this municipality to Kuruman town in Ga-Segonyana local municipality and Kathu town in Gamagara local municipality and the prevalence of HIV/AIDS in the area (John Taolo Gaetsewe District Municipality, 2012: 18). Basic available services are listed in the tables below:

Table 3 A: Access to piped water

Piped water (tap) inside dwelling	6 687
Piped water on communal stand	44 466
No access to piped water	7 512

Statistics SA: 2011

Table 3B: Households with electricity for cooking, lighting and heating

Cooking	45 063
Lighting	76 695
Heating	29 538

Statistics SA: 2011

Table 3C: Access to sanitation facilities

Flush toilet	903
Pit latrine (VIP)	37 605
Bucket toilets	1 740
None	6 582

Statistics SA: 2011

5.3 SECTION A: BACKGROUND INFORMATION (INHABITANTS OF SELF-BUILT AND RDP HOUSES)

Of the 120 people interviewed, 60 respondents were from self-built houses and 60 from RDP houses (15 in each of the four villages). The background information of respondents included: the reason why people stay in a particular village, how long they had lived there, who had built their houses, whether they were on a housing development waiting list and how long they had been on the waiting list, the size of their houses and the number of people per house. Graphs were used to illustrate the results of interviews with inhabitants of both self-built and RDP houses.

5.3.1 Reason for residence in the village

Figure 3: Reason for residence in the village

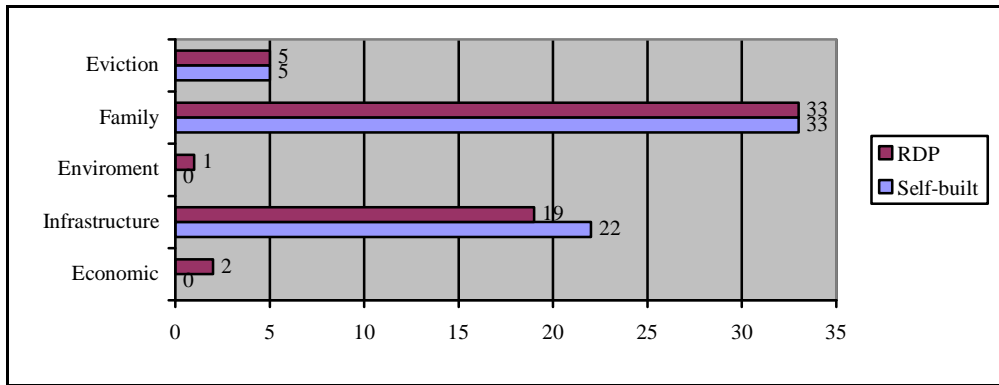
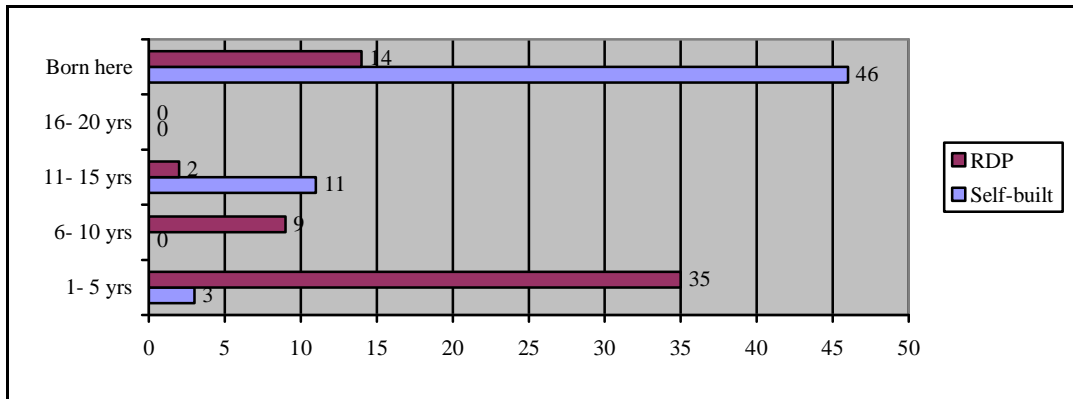


Figure 2 above shows that 33 (55%) of respondents from self-built housing stayed in their villages because their families and relatives also stayed here; 22 (36%) respondents indicated that they had moved to these villages for better infrastructure and services such as housing, health and education.. 5 (8%) of the respondents indicated that they were evicted from their villages during the apartheid era and they were relocated to this village. Economic and safety reasons were not given as reasons.

Of the respondents from the RDP housing group, 33 (55%) had moved to these villages because their families and relatives stay in these villages while 19 (32%) respondents indicated that they had moved to these villages for better infrastructure and services such as housing, health and education. 2 (3%) respondents indicated that they had moved to their villages for better economic circumstances, 1 (2%) for secure environment and 5 (8%) indicated that they had been evicted. The results illustrated in the graph indicate that majority of respondents from the self-built and RDP housing groups stay in their villages to be closer to their families.

5.3.2 Period of stay in the village

Figure 4: Period of stay in community



Of the self-built housing respondents interviewed, 46 (77%) indicated that they were born in these villages, while 11 (18%) respondents had been staying in their villages for a period ranging from 11 to 15 years. Only 3 (5%) respondents had been staying in the villages for less than six years. There were no respondents who had lived in the villages for between 16 and 20 years. The graph shows that 35 (59%) of the RDP dwellers had lived in their villages for a period between one and five years and 14 (23%) were born in their villages. Another 9 (15%) had lived in their villages for between six and ten years and 2 (3%) between eleven and fifteen years. These results show that most of people living in RDP houses had just recently moved to these villages while people living in self-built houses have been living in their villages all their lives. Usually people flock into areas where housing development happens.

5.3.3 Those that are on waiting list for RDP houses

Figure 5: Those that are on the waiting list for RDP houses

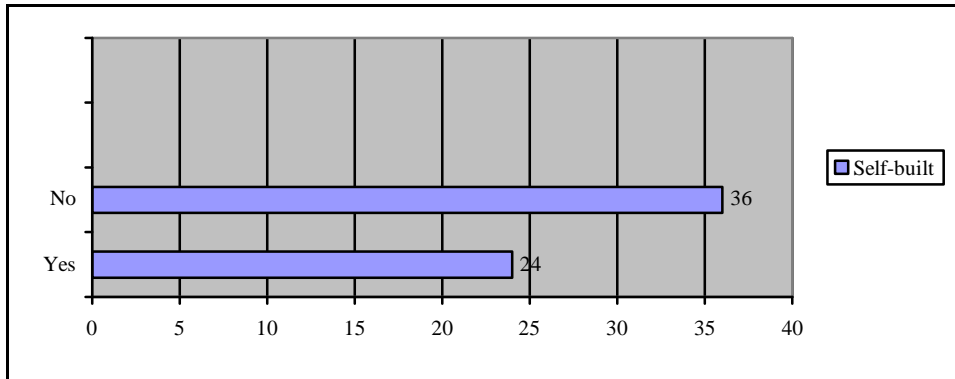
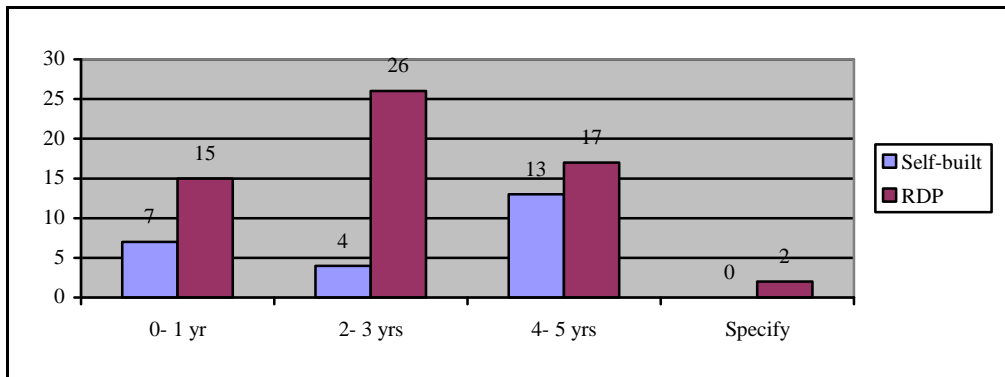


Figure 4 above indicates that 36 (60%) respondents of the self-built housing respondents were not on the waiting list for RDP houses while only 24 (40%) were on the waiting list. This might be a result of poor planning and lack of funding.

5.3.4 Number of years on waiting list

Figure 6: Number of years on the waiting list

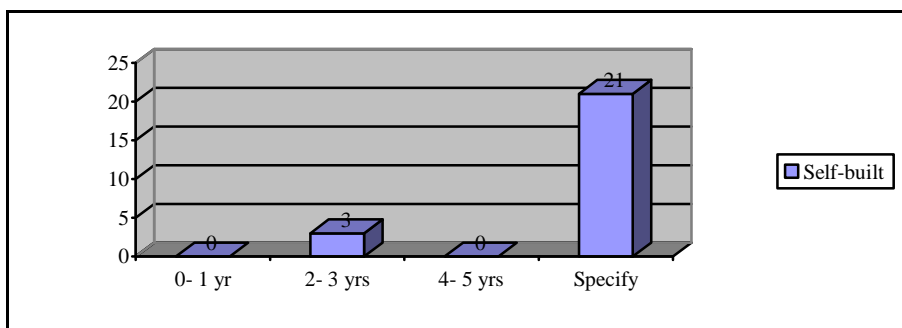


The above figure (5) shows that 13 (21%) self-built housing respondents had been on the waiting list for periods ranging from 4 to 5 years. 4 (7%) of the respondents had been on the waiting list for periods ranging from 2 to 3 years and other 7 (12%) respondents had been on the waiting list for less than a year. Of 60 the people interviewed, only 24 (40%) were on the waiting list.

According to Figure 5, 26 (44%) people living in RDP houses had been on the waiting list for a period of between two and three years and 17 (28%) for a period of between four and five years. 15 (25%) had been on the waiting list for less than a year which is not a long time. 2 (3%) had been on the waiting list for more than five years. The results for both inhabitants of self-built and RDP houses indicate that people wait for some time before they can be provided with adequate houses. The housing projects have not yet begun, meaning that those that are on waiting list might wait much longer before the houses can be built.

5.3.5 Period of waiting for houses promised by councillor

Figure 7: Period of waiting for councillor-promised houses



As illustrated in Figure 6 above, 21 (35%) respondents of the self-built housing respondents indicated that the councillors did not inform them when they would get the houses and 3 (5%) respondents indicated that they were promised houses about two to three years ago. This shows lack of communication and transparency by the councillors and constitutes evidence that there is no proper community involvement in the housing delivery process.

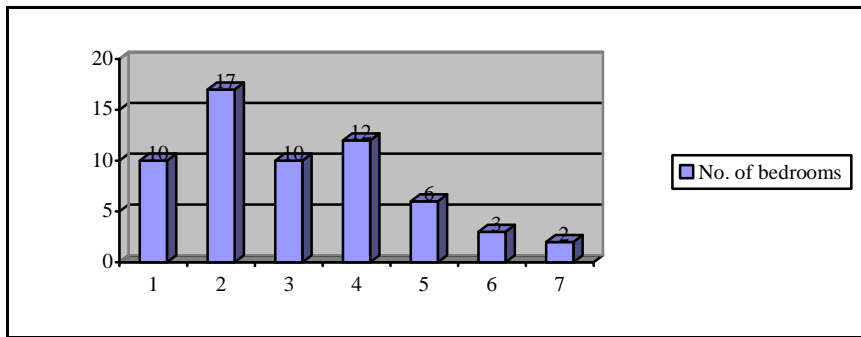
5.4 Size of the houses

The purpose of this section was to determine the size of the houses (e.g. number of bedrooms per house, whether the house has a kitchen and a bathroom). These houses are 40m² with two bedrooms and an open space which beneficiaries can use for a small kitchen and a living room. Only RDP houses built in Churchill have bathrooms with a

bath and small wash basin installed but no toilets. Although RDP houses in Churchill have bathrooms, the baths have no taps, meaning that people cannot use the bathrooms for their intended purpose.

5.4.1 Number of bedrooms per house

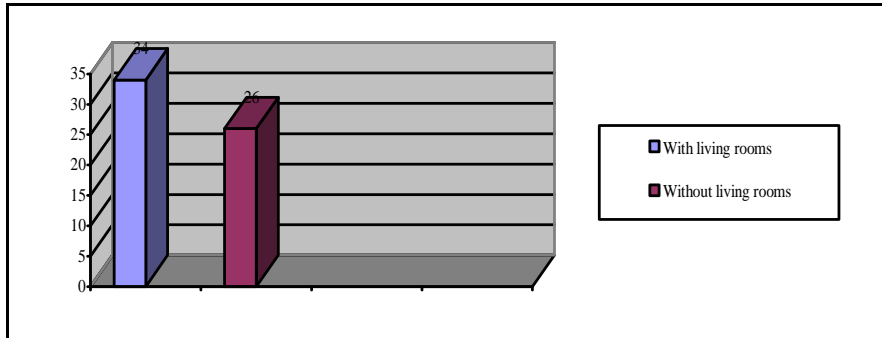
Figure 8: Self-built (number of bedrooms per house)



According to responses as illustrated in Figure 7, 10 (16%) respondents had only one room that they used as a bedroom and kitchen. The highest number of 17 (28%) respondents had houses with two bedrooms. Another 10 (16%) respondents indicated that they had three bedrooms, 12 (20%) respondents indicated that they had four bedrooms, 6 (10%) respondents said that they had five bedrooms, 3 (5%) respondents had six bedrooms and 2 (3%) respondents indicated that they had seven bedrooms. The respondents with less than four bedrooms complained that their houses were not big enough to accommodate the size of the household. Many houses are overcrowded and members of the families, males and females, including grandchildren, are forced to share bedrooms. Most families indicated that their children are not able to start their lives elsewhere or build their own houses because of scarcity of job opportunities in the country. Slow housing delivery is also a contributing factor to overcrowded households.

5.4.2 Households with living rooms

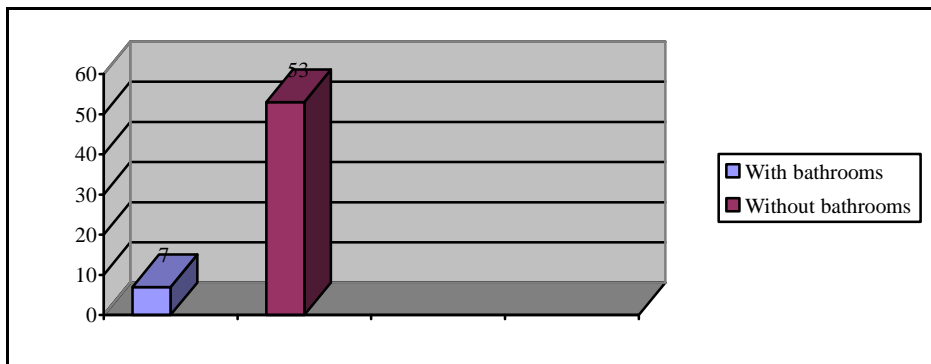
Figure 9: People who have living rooms in their house



As indicated in figure 8, 34 (57%) respondents had living room space in their houses while 26 (43%) respondents did not have living rooms. It is important for every household to have living room space where they can relax and interact with family members. A house without a living room cannot be considered habitable.

5.4.3 Households with bathrooms

Figure 10: Households with bathrooms

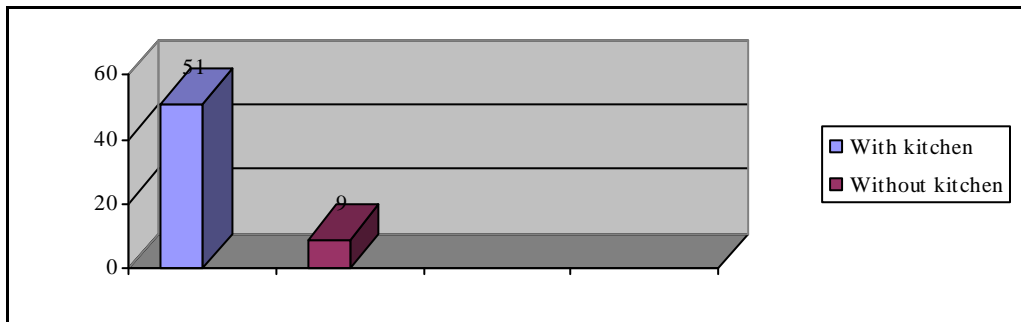


A majority of 53 (88%) respondents did not have bathrooms in their houses, meaning that people used their bedroom space also as a bathroom. 7 (12%) respondents who had bathrooms inside their houses complained that the scarcity of water in rural areas meant that they could not enjoy the privilege of having a bathroom as they still needed to use small plastic basins to bath. At night people used buckets that they bought from the local

store as toilets to avoid the danger of going to the toilet at night. Using bedrooms as bathrooms and toilets is very unhygienic bearing in mind that households are overcrowded.

5.4.4 Households with kitchen space

Figure 11: Households that have kitchen space



The findings depicted in the above figure (10) show that the majority of the respondents (85%) had kitchen space in their houses. However running water inside the house was not available. The respondents mentioned that they used buckets to store water for cooking, bathing and washing dishes. The remaining 9 (15%) respondents said that they did not have proper kitchens and used curtains to partition a room to create a space that they used as a kitchen. This also cannot be considered habitable considering the aspects of health and hygiene. Most self-built houses are more spacious than RDP houses and the size of the rooms are accordingly larger.

No. of people per household	Frequency		Percentage	
	Self- built	RDP	Self- built	RDP
0 - 2	5	4	8%	7%
3	6	3	10%	5%
4	13	14	22%	23%
5	7	6	12%	10%
6	4	12	7%	20%
7	7	9	12%	15%
8	1	8	2%	13%
9	2	1	3%	2%
10	3	0	5%	0%
11	2	3	3%	5%
12	5	0	8%	0%
Over 13	5	0	2%	0%
	60	60	100	100%

Table 4: Number of people per household

The results tabled above show that both self-built and RDP houses are overcrowded but RDP houses contain more household members than self-built houses. Respondents indicated that they stay with their children, grandchildren and even extended family

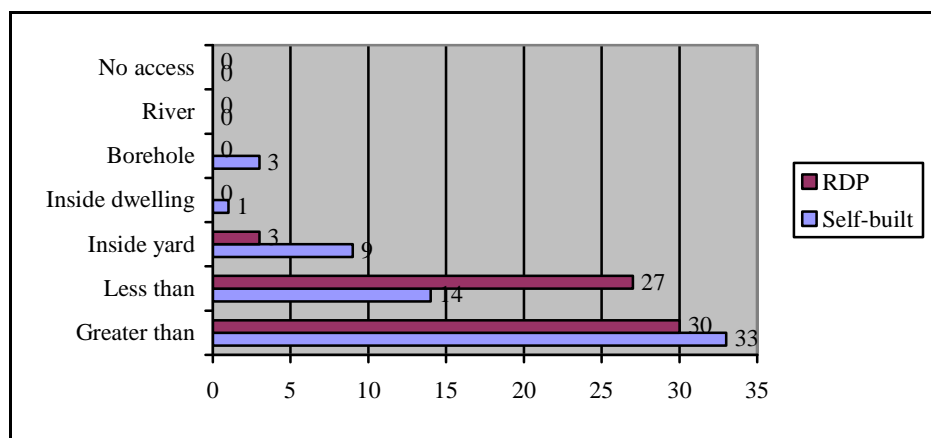
members who cannot afford to build their own houses. Overcrowded households do not provide a decent home and privacy to the inhabitants. Overcrowding can have detrimental social and psychological effects. Overcrowded households do not meet the criteria of adequate housing as they are not conducive to social and psychological health.

5.5 ACCESS AND DISTANCE TO BASIC SERVICES AND SOCIAL AMENITIES

This section determined whether people have access to basic services and the distance travelled to get to water and social amenities. All four villages do not have libraries, parks and economic facilities.

5.5.1 Access to water points

Figure 12: Access to water points



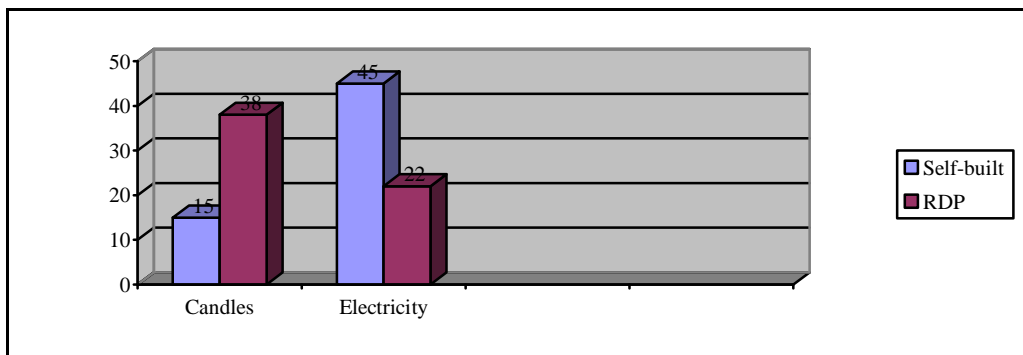
A majority of 33 (55%) self-built housing respondents walked more than 200m to obtain water and only 14 (23%) respondents had stand pipes less than 200m away from their houses. The other group of 9 (15%) people had water inside the yards, 1 (2%) person had taps installed inside the house and 3 (5%) people had boreholes.

The data show that 30 (50%) RDP residents walked long distances to collect water and only 27 (45%) had water points closer to their houses. Another 3 (5%) had water inside their yards.

It is evident that access and provision of water is still a problem in the JTG district. The respondents indicated that water was very scarce in the villages and stand pipes that were closer to their houses had dried up. In most cases villagers rely on one water point that served the whole village. The respondents mentioned that sometimes the water point where they got water was dry for days. Parents relied on children to collect water: boys used wheelbarrows to carry buckets filled with water and girls carried big buckets on their heads.

5.5.2 Source of energy for lighting

Figure 13: Source of energy for lighting



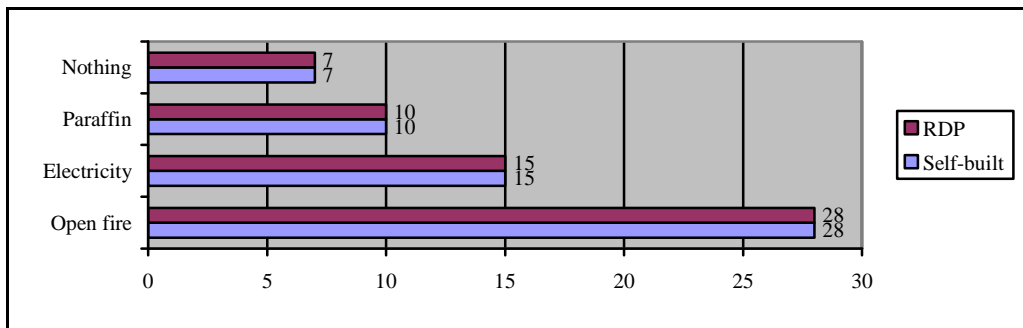
A group of 45 (75%) self-built housing residents had access to electricity and used electricity for lighting while 15 (25%) did not have access to electricity and used candles for lighting. Those that did not have electricity indicated that they had been waiting for a very long time for electricity.

The results indicated by the figure (12) above depict that 38 (63%) of the RDP respondents used candles for lighting while another 22 (36%) respondents had electricity. This indicates that delivery of electricity is happening at a very slow pace in JTG. Respondents mentioned that they had been living in their houses for more than three years without electricity and the councillors had been making empty promises that electricity would be installed but nothing had yet happened. Most, if not all, self-built

houses were electrified whereas RDP houses in Bothithong and Camden did not have access to electricity.

5.5.3 Source of energy for heating

Figure 14: What people use for heating



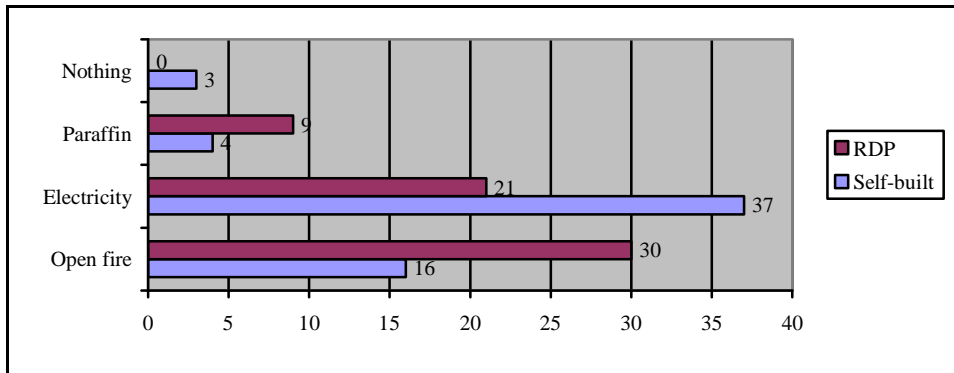
Of the self-built housing residents interviewed, 28 (46%) used an open fire for heating, 15 (25%) respondents used electricity while 10 (17%) respondents used paraffin and 7 (12%) relied on blankets for heating.

A group of 28 (46%) RDP respondents used open fires for cooking largely because not everyone has access to electricity. Although 15 (25%) used electricity for cooking, 10 (17%) of the respondents used paraffin because paraffin is cheaper and another group of 7 (12%) used nothing to keep warm.

Most respondents mentioned that they used firewood because they could not afford electricity. Open fires and paraffin can be very harmful to one's health. Burning wood and using paraffin within or near the house exposes occupants to dangerous emissions such as carbon monoxide. Indoor pollution from burning wood and paraffin is considered the one of the biggest causes of infant mortality in South Africa (Howells, Alfstad, Victor & Goldstein, 2005: 1855).

5.5.4 Source of energy for cooking

Figure 15: What people use for cooking

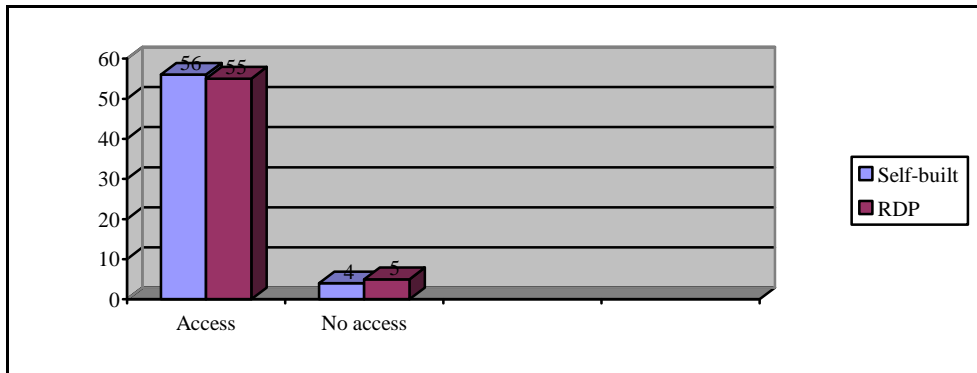


The majority of self-built housing respondents, 37 (61%), used electricity for cooking, 16 (27%) used an open fire; 4 (7%) respondents said they used paraffin because it is cheaper than using electricity while 3 (5%) said that they don't cook as they are too poor to afford to buy groceries and they rely on families and neighbours for food.

In the RDP group, 30 (50%) respondents indicated that they used open fires for cooking since they have no access to electricity, while 21 (35%) used electricity for cooking. 9 (15%) of respondents using paraffin indicated that they use it because it is cheaper than using electricity. Those who used fire for cooking also relied on children to collect wood from the veld. This poses danger to the lives of children and increases the chances of children being violated.

5.5.5 Access to sanitation

Figure 16: Access to sanitation



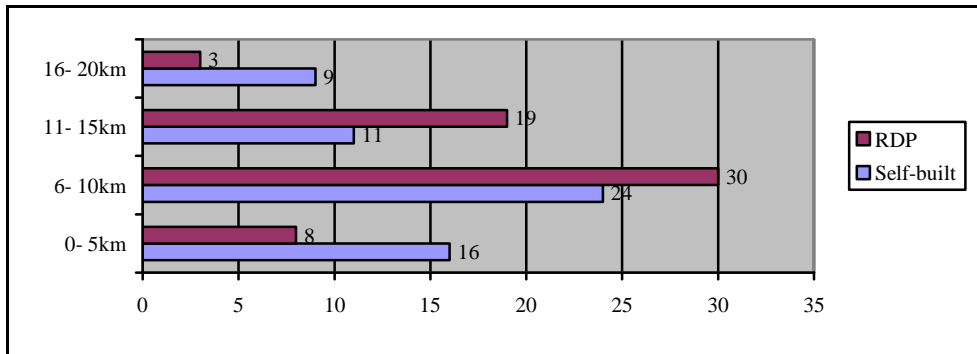
Of the self-built housing respondents interviewed, 56 (93%) had access to sanitation and only 4 (7%) had no access to sanitation. Those that did not have access to toilet facilities had built their own pit latrines. Figure 15 above depicts that 55 (92%) RDP residents had access to sanitation and only 5 (8%) had no access to sanitation. Those that did not have access to toilet facilities complained that it had been a long time since the councillors had promised to build toilets. Access to toilets is fundamental to the dignity of a human being.

5.6 DISTANCE TO SOCIAL AMENITIES

None of the four villages where the research was conducted had facilities such as libraries, parks or recreational facilities where children and youth could keep themselves busy. As three of the villages (Bothithong, Glen-red and Churchill) do not have high school facilities, children walk long distances to nearby villages where there are high schools. All four villages have primary schools.

5.6.1. Distance to primary school

Figure 17: Distance to primary schools



A group of 24 (40%) self-built housing residents stayed as far as 6-10km from primary schools and 9 (15%) walked a distance of 16- 20km. The other group of 11 (18%) walked 11-15km and 16 (27%) walked 0-5km. Children as young as 6 to 12 years of age walked long distances to school every day.

Unlike residents of self-built houses many RDP residents, (50%) stayed as far as 6-10km from primary schools and 19 (32%) walked between 11 and 15km. Another smaller group of children 8 (13%) walked less than 5km while 3 (5%) walked 16-20km. This is due to the poor location of RDP houses.

5.6.2 Distance to high schools

Figure 18: Distance to high schools

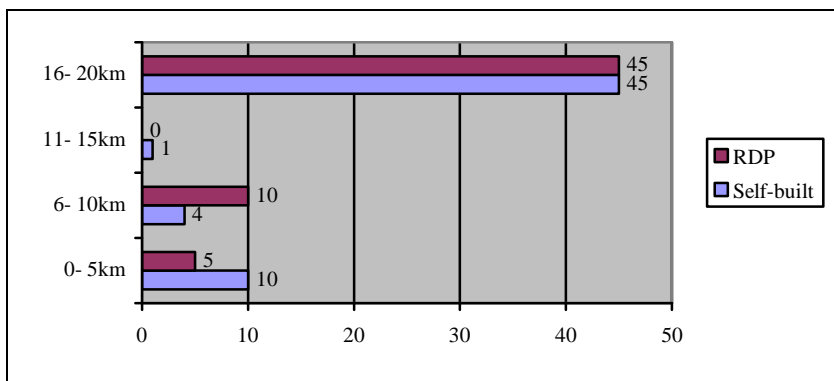
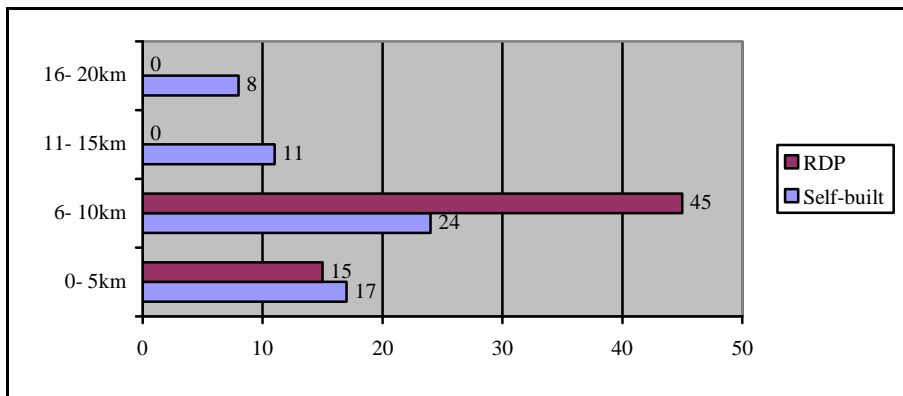


Figure 17 above depicts that 45 (75%) children from self-built houses walked very long distances (16-20km) to school and only 10 (17%) walked shorter distances (0- 5km) to school, 4 (7%) walked distances between 6 and 10km and 1 (2%) walked 11-15km.

The above figure illustrates that 45 (75%) children living in RDP houses walked very long distances to school and only 5 (8%) walked less than 5km. Other group of 10 (17%) respondents stays as far as 6-10km from school. The parents raised their concern about the safety of their children during the interviews. The parents also said the government had long promised to arrange transport for the children but nothing had happened. JTG district is a semi-arid region experiencing extremely hot summers and very cold winters that can affect the health of children. This has extremely negative implications for the welfare of the children and the economy of the region.

5.6.3 Distance to health facilities

Figure 19: Distance to health facilities

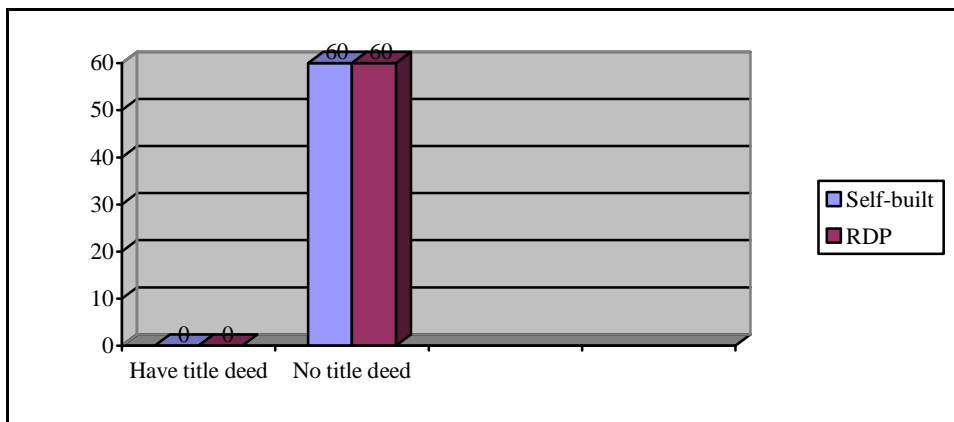


There are clinics in all four villages. Although the majority of self-built housing respondents, 40%, walked between 6 and 10km to clinics, 17 (28%) walked 0-5km, with 11 (18%) walking 11-15km and 8 (13%) walking 16-20km. Most elders complained that they walked long distances to clinics for routine check-ups of ailments such as hypertension and diabetes and this was very strenuous for them.

The majority of the RDP respondents, 75%, walked 6-10km to clinics and 15 (25%) of the respondents walked less than 5km. This means that the disabled, elders, pregnant women and women with babies walked very long distances to health facilities. The respondents said that sometimes they walked very long distances to the clinics and waited for a long time in long queues to find that there was no medication. Health facilities in rural areas are under-staffed with limited resources. Most inhabitants of RDP houses walked long distances to clinics because their houses are located on the outskirts of the villages.

5.6.4 Access to title deeds

Figure 20: Access to title deeds



No respondents possessed title to property. In rural areas (communal land) people get letters from the tribal authority as proof that they own a particular plot. This means that people in villages do not enjoy the same privileges as people in urban areas where they can use their properties as collateral when borrowing money from financial institutions. Furthermore this implies that housing in rural areas cannot be considered an asset that can generate capital in the long run. Housing in rural areas is mainly for shelter. The community members also view housing as a family asset not as an individual asset that can be sold. Of the 120 people interviewed, only 30 knew the importance of a title deed and what it means. These respondents emphasised that a title deed is important as it guarantees ownership. It is also evident that there is lack of information dissemination by

the municipality. Awareness sessions should be conducted to inform people about the value of their properties.

5.7. SECTION B: ESTABLISHING WHETHER PEOPLE ARE HAPPY ABOUT THEIR HOUSES

The purpose of section B was to establish whether people understand what is meant by adequate housing, whether they are satisfied with their houses, housing provision and basic services provided.

5.7.1 Understanding of adequate housing

None of the respondents knew the standard definition of adequate housing. They stated that in 1994 when the government promised to build houses for the people they expected the following:

- 1) Good quality houses.
- 2) A house with a bathroom (a bath and toilet installed).
- 3) A house built according to the needs of each household, e.g. a house spacious enough to accommodate big families.
- 4) Water installed inside the yard.

5.7.2 Involvement in the housing delivery process

Fourteen (14) members of self-built dwellings who are on waiting lists said that they were not involved in the housing delivery process. The only meeting that the councillors had convened was when they were informed about the proposed housing project. No meeting was held to inform people about the starting date of the project or to inform them of why the projects had been delayed. Of those that were on the waiting list, two people acknowledged that regular meetings were convened to inform people about the developments. The respondents that were not on the waiting list stated that they were not involved in the housing delivery process in their villages. They did not know the criteria used to select beneficiaries.

Of the 60 RDP residents interviewed, 38 acknowledged that councillors convened meetings where they were informed about the housing projects and the people who are going to benefit from the projects. However, they were not involved in the decision-making process and were not informed regarding the criteria used to select beneficiaries. The other 22 respondents said that they were not at all involved in the housing delivery process. They were not informed when the projects would be implemented: one day they would just see a truck off-loading building material at their stands.

This demonstrates that community involvement in the entire housing delivery process is not done adequately. There is a lack of transparency. Decisions are taken by the municipality and people are merely informed about the decision. This leads to dissatisfaction on the part of beneficiaries.

5.7.3 Satisfaction of community members about their current houses

Of the 60 self-built housing dwellers interviewed, forty two (42) respondents said that there was nothing good about their houses. 18 respondents said that they are satisfied with their houses because at least they had a place to sleep and keep their children safe. They also said that building houses for themselves give them pride since they are not employed and very poor, and furthermore that their houses were more spacious than the houses provided by the government. The respondents that were the least happy about their houses were those who lived in mud houses. Mud houses are normally one-roomed huts, partitioned with a curtain, one space used as a kitchen and the other one as bedroom. The respondents said that mud houses are not easy to maintain which is why they build small rooms.

Most RDP respondents (53) expressed satisfaction with the houses provided by the government by saying that at least they had a shelter and the houses were better than houses they used to live in. Only a small number of people (7) expressed their dissatisfaction, saying that they were not expecting the type of houses that the government is providing. They were expecting decent houses that would enable them to live their lives with dignity. From the discussion above, it is clear that most people are

content with the houses provided and view them as shelter. It is thus evident that the level of satisfaction regarding houses is higher amongst inhabitants of RDP houses than inhabitants of self-help houses.

5.7.4 Quality of housing structures

Of the 60 respondents from self-help houses, only 15 indicated that they were happy with the quality of their houses. 45 respondents mentioned that they were not happy with the quality of their houses. According to these respondents they built their houses with poor quality bricks made locally and poor quality sand they got for free from nearby quarries because they could not afford anything else due to lack of income. Other respondents said that they were unable to complete their houses because they had run out of the little money they had and the structure of the houses became old even before they could complete them. The respondents complained about the following structural defects:

- 1) Cracks in the walls large enough to see through.
- 2) Loose roofs that sometimes blow off in windy conditions.
- 3) Leaking roofs.
- 4) Big cracks in the floors.
- 5) Broken doors due to poor quality of material.

For housing to be considered adequate, it must provide adequate space, be physically safe, offer protection from cold, damp, rain, heat or other threats to health for all occupants and guarantee the physical safety of occupants. Most houses in the rural areas cannot be considered habitable as they do not meet the requirements for habitable shelter.

Fourteen RDP residents indicated that they were satisfied with the quality of their houses and 46 indicated that they were not happy with the structure of their houses and revealed the following structural defects:

- 1) Dust coming through big cracks in the walls.
- 2) Leaking roofs.
- 3) Loose roofs.

- 4) Water running into the houses through the doors when it is raining.
- 5) Damp walls.
- 6) Cracks in the floors.
- 7) Loose doors and window handles.

Common structural defects were reported by inhabitants of both self-help and RDP houses. According to the discussion above, these houses are not habitable and can pose a danger to the lives of the inhabitants. People can get sick from the dust coming into the houses and walls that are almost always damp. Roofs might blow off and walls collapse while people are inside the houses. The level of dissatisfaction is high in both groups.

5.7.5 Satisfaction about sanitation system

The majority of self-help dwellers (41) indicated dissatisfaction with the current sanitation type while 19 respondents said that they were satisfied with the sanitation system they were provided with. Of the RDP group, 47 inhabitants also indicated that they were not happy about the toilet facilities and only a small number (13) were satisfied. Those that were not satisfied said that the toilets smelled so bad they could not use them. Instead they built their own pit latrines. Some respondents were satisfied, saying that ða gift does not have a priceö. The following complaints about the current sanitation provision were recorded:

- 1) The pits are very shallow and the toilets get full quickly.
- 2) The toilets are very unhygienic since owners have to maintain the toilets themselves by emptying the pit when the toilet is full.
- 3) Toilets were not built to accommodate disabled members of the family.
- 4) The toilets generate bad odours and attract flies.
- 5) Training was not provided on how to maintain and keep the toilets clean and odour free.
- 6) The toilet is too close to the house.

Nineteen years after democracy was introduced, and there are still people who cannot live their lives with dignity and still live with inadequate sanitation in the form of the apartheid bucket.

5.8 FOCUS GROUP DISCUSSION (WARD COUNCILLORS FROM THE MUNICIPALITY)

A focus group discussion was held with councillors from Joe Morolong municipality. All councillors from the villages where the research was undertaken were represented in the group. Below is the analysis and interpretation of data collected.

5.8.1 Period served as councillors

Ward councillors from Bothithong, Glen-red and Churchill started serving as councillors from the year 2011. The councillor representing Camden is in her third term as a councillor.

5.8.2 Involvement in the housing delivery process

The councillors indicated that they are responsible for identifying beneficiaries, visiting the projects during construction phase and for solving problems encountered during the implementation of the project. They indicated that they relied on ward committees and home-based care workers for information about people with special needs. There is no policy for people with special needs in the municipality. A housing allocation policy does exist but is not implemented. The policy was reviewed and taken to council for approval. When asked about the criteria stipulated in the policy for allocating houses, the councillors could not give an answer. They mentioned that they used their own criteria to choose beneficiaries and the following aspects were considered during the process in no specific order:

- 1) Overcrowded households.
- 2) The poorest of the poor.
- 3) People living in mud houses.
- 4) People with special needs.

5) Child-headed households.

It was also mentioned that recently a council resolution was taken that people living in mud houses would be given priority. Furthermore the councillors could not indicate how villages were prioritised when allocating housing projects. The discussion revealed that while the municipality relies completely on councillors to identify beneficiaries, the councillors do not use the legislated criteria. Thus this process might lead to nepotism and corruption in allocation of houses. The municipality should adopt standard selection criteria and while they are still in the process of establishing housing needs, they ought to register and train councillors.

5.8.3 The objective of councillors

All four councillors had a common goal: to eradicate mud houses and ensure that everyone has access to basic services.

5.8.4 Understanding of ‘access to housing’ and ‘access to adequate housing’

Access to housing was defined as simply providing shelter to communities. Access to adequate housing was defined as houses that that could be described as follows:

- 1) Quality houses.
- 2) Habitable houses.
- 3) Houses provided with basic services.
- 4) Housing suitable for elders, people with special needs and child-headed households.

5.8.5 Demand in the municipality

The councillors stated that the housing backlog was serious in Joe Morolong and could be estimated to be 70% of all households. They further mentioned that the exact demand was not known, but that the municipality was in the process of conducting a demand database survey and findings were being captured on spreadsheets. With this process the

municipality would be able to ascertain the demand, but the selection process of beneficiaries and prioritisation of villages would still lie with the councillors.

5.8.6 Catering for housing across all income levels

Currently the municipality is focusing on providing houses for poor people who qualify for state subsidised houses. The municipality is in the planning phase of a mixed development housing project that would cater for middle income households and rental housing.

5.8.7 Ownership of land

The municipality does not own any land as large portions of land are owned by the tribal authority. The councillors mentioned that there is enough land available in Joe Morolong and the tribal authority always makes land available for developments. The municipality has never attempted to acquire privately owned land since there is enough communal land available.

5.8.8 Problems with provision of basic services

The councillors mentioned the following problems with provision of basic services:

- 1) Not everyone has access to electricity in Joe Morolong because Eskom does not have enough capacity to provide every household with electricity.
- 2) There is a scarcity of water in the municipality and only few communal stand pipes in the villages. People are forced to walk long distances to collect water.
- 3) Sanitation systems provided are inadequate. In Bothithong toilets were rebuilt by community members.
- 4) There is still a shortage of schools in the district. Children walk very long distances to school and this result in children not completing their education.
- 5) There are too few clinics and those available are understaffed with limited resources.
- 6) There are no facilities such as libraries, parks and recreational facilities.

These discussions confirm that the residents' complaints regarding services and social amenities are still numerous and that service provision is inadequate.

5.8.9 Involvement of community members in the project

The councillors indicated that they involve the community members in housing delivery through community meetings and establish steering committees (e.g. a housing committee, a committee responsible for water etc.) that comprise community members, ward committees, members of the tribal council and the ward councillors. However, the councillors stated that people do not attend community meetings and do not want to form part of committees. This apathy regarding public involvement may be an indication that the people have lost hope in government. Nonetheless, this is a good attempt by the councillors to ensure transparency and community participation.

5.8.10 Problem on housing delivery

The councillors revealed the following shortcomings related to housing delivery:

- 1) There are no clear criteria in place to prioritise villages.
- 2) Over the years housing delivery has been very slow.
- 3) Regular site meetings are not held.
- 4) Poor performance of contractors leading to substandard work and leaving projects incomplete. In Camden there are houses that are not completed and because they have been standing unoccupied, people end up vandalising them.

5.9 Focus group discussion (officials)

The focus group consisted of officials from JTGDM, JM and COGHSTA. The officials are directly involved with housing delivery. They were employed by the municipality for periods ranging from one year and five years.

5.9.1 Involvement in the housing delivery process

Officials from JMLM are responsible for planning and implementing the housing projects, administration of the housing unit, subsidy administration and the monitoring of projects. COGHSTA is responsible for funding of the projects, housing subsidy system administration, verification of projects and quality assurance. The district municipality mainly provides support to the local municipality by attending site meetings, holding monthly meetings with the local municipalities to discuss challenges in housing subsidy

system administration, and quality assurance. The officials from the district municipality could not clearly define what support meant. In my observation there is duplication of work between the district municipality and COGHSTA. Furthermore, the line between the duties that are supposed to be performed by the provincial authority and the duties that are supposed to be performed by the district municipality is blurred.

5.9.2 Housing allocation process

According to respondents, housing allocation is mainly the responsibility of the local municipality. Identification or prioritisation of villages where developments will take place and selection of beneficiaries lies with the councillors. The officials are not in any way involved in the selection of beneficiaries.

5.9.3 Objective of the municipality

The following objectives were provided by different institutions:

- 1) The main objective of the local municipality is to eradicate mud houses.
- 2) The objective of the district municipality is to ensure that everyone has access to adequate housing.
- 3) The objective of COGHSTA is to facilitate, coordinate and manage integrated sustainable human settlements.

5.9.4 Understanding of access to housing and access to adequate housing

The respondents defined access to housing as provision of houses to community members and access to adequate housing as provision of integrated human settlements.

5.9.5 Knowledge of housing demand

The municipality relies on councillors and Statistics South Africa for such information. The actual demand, including those households with special needs, is not known in the local municipality. Thus the municipality will not be able to plan or to prioritise properly. Over the years the municipality has mainly focused on the provision of low-cost housing. For the municipality to ensure that everyone has access to adequate housing, the demand should be known across all income levels.

5.9.6 Challenges encountered in the provision of basic services

The officials revealed the following challenges:

- 1) The vastness of the municipal area makes provision of services difficult.
- 2) Scarcity of water.
- 3) Eskom is unable to provide electricity to everyone.
- 4) Provision of waterborne toilets is not possible due to lack of water.
- 5) Poor condition of the roads in the district.
- 6) Poor performance of contractors.
- 7) Limited capacity to provide services.
- 8) Lack of funds to provide and maintain current services.

From the discussion with officials, the impression is that provision of services in JMLM is still a challenge as not everyone has access to basic services and those services that are provided are inadequate.

5.9.7 Capacity within the municipality

The municipality has only two officials responsible for housing. One official is responsible for quality assurance and administration of the unit while the other is responsible for housing subsidy systems. The district municipality also does not have enough capacity to support all local municipalities in the district. The municipality relies on service providers for project management, compilation of business plans and conducting studies such as environmental impact assessment and geotechnical reports. With such limited capacity, the municipality will not be able to meet its objectives or eradicate the housing backlog.

5.9.8 Involvement of community members in housing delivery process

Respondents indicated that community members are involved in the projects through IDP road shows, and meetings are convened before project implementation. From the discussion with the municipal official, it is evident that the involvement of community in projects is limited.

5.9.9 Challenges encountered during the housing delivery

The officials revealed the following challenges:

- 1) Limited capacity to provide services.
- 2) Poor performance by contractors resulting in construction of poor quality houses and delays in projects.
- 3) Because of the vastness of the area, delivery of building materials to site becomes expensive and sometimes suppliers refuse to drive long distances on gravel roads.
- 4) The subsidy is not sufficient because of the dynamics of the rural areas.

Furthermore, people wait a very long time for houses and end up signing the -happy letters although they are not satisfied about the houses. The officials from COGHSTA indicated that poor performance by the municipalities affects their performance and they end up with under-expenditure of their capital budget.

5.9.10 Resolving challenges

Most of the time challenges continue without being resolved and although solutions are often provided, these challenges reoccur. For example, contractors continue to build poor quality houses and delivery of houses is still very slow. Projects stall because suppliers are reluctant to deliver materials to rural areas and contractors continue experience cash flow problems even though they are provided in advance.

The officials indicated that the current contract signed between the municipality and the service providers contain loopholes, making it difficult for the municipality to penalise the service provider. From the discussion above, it is clear that the challenges have not been resolved. Though problems are discussed, it appears that permanent solutions and contingency plans are not put in place to ensure smooth running of projects. It is also evident that follow-ups are not made to ensure that what was resolved during the site meetings has been implemented.

5.10 MEMBERS OF TRIBAL COUNCIL

Members of the tribal council from each village were interviewed. Individuals interviewed indicated that they were born in the villages. Below is what transpired during the interviews.

5.10.1 Understanding of adequate housing

The respondents did not really know what is meant by adequate housing. The common understanding they had is adequate housing simply means shelter without further elaboration.

5.10.2 Involvement in housing allocation process

According to the respondents the tribal authority is not in any way involved in the housing allocation process; housing allocation is done by someone else, not usö. The respondents expressed their feelings by saying that there is no cooperation between the municipality and tribal council. The municipality takes the decisions without involving the tribal council and later informs them about what has been decided. They believe that community members are also not involved in the housing delivery process. It was indicated that a housing backlog is prevalent but the actual demand is not known. The respondents said that there was a backlog of social amenities such as schools, clinics, libraries and sports facilities for young people.

The members of tribal council further indicated that if they were actively involved in issues of housing, they would prioritise youth because young people are not employed and cannot afford to build themselves houses. According to observations by the researcher, the problem with allocating houses to young people is that most of those in rural villages are not employed and they cannot afford to maintain themselves. This leads to houses being left unoccupied. This also means that other groups such as the vulnerable indigent will not be given priority.

5.10.3 Problems encountered during housing delivery process

The respondents said that though they were not involved in housing delivery, it was evident that there were challenges. They revealed the following as challenges:

- 1) There are houses that are left unoccupied and vandalised yet there are people that need houses.
- 2) People steal doors and window frames from houses that are not occupied.
- 3) Houses are built without electricity and water nearby.
- 4) Houses are located far from social amenities.
- 5) Proper consultation is not done during implementation of the projects.

CHAPTER 6

SYNTHESIS AND RECOMMENDATIONS

6.1 SYNTHESIS

The purpose of this study was to evaluate the constitutional right to access adequate housing in Joe Morolong Local Municipality. The literature review derived from various journals, scholarly articles, legislative and policy materials revealed that housing is an important element in people's lives and also that adequate services and infrastructure improves the quality of life of most people. Joe Morolong Municipality has a critical role in ensuring that its citizens have access to adequate housing and to ensure that everyone has access to basic services and infrastructure.

6.1.1 Elements of adequate housing

Housing is not merely a matter of having a roof over one's head. There are elements of adequate housing that should be taken into consideration when determining whether a house constitutes 'adequate housing'. Below is the interpretation of seven key elements of adequate housing as revealed by the ICESCR (Chenwi, 2007: 238-239).

1) Legal security of tenure

All the people should have some form of security of tenure that guarantees legal protection against forced evictions, harassment and other threats. South Africa's current housing strategy, Breaking New Ground, recognises housing as an asset and includes it as part of the new vision: 'ensuring property can be accessed by all as an asset for wealth creation and empowerment' (Department of Housing, 2004: 1). By granting legal title to property, people will gain entry into the world of formal banking that permits them to use their capital assets as collateral (Gilbert, 2002: 4).

Housing in rural areas cannot be considered as an asset that can generate capital or income in the long run. Housing in rural areas is mainly for shelter. The community members also view housing as a family asset not as an individual asset that can be sold. No respondents possess titles to property. In rural areas (communal land) people get

letters from the tribal authority as proof that they own a particular plot. This means that people in villages do not enjoy the same privileges as people in urban areas where they can use their properties as collateral when borrowing money from financial institutions.

2) Availability of services, materials, facilities and infrastructure

Housing must have facilities essential for health, security, comfort and nutrition. People who benefit from housing should therefore have access to drinkable water, sanitation, energy for cooking, heating and lighting, food storage, refuse disposal, drainage and emergency services.

Transformation through provision of infrastructure and basic services is happening at a very slow pace in the municipality. 19 years into democracy, and poor people in JM are still struggling with day to day survival. The quality of lives of those living in rural areas is under pressure due to the provision of inadequate services and infrastructure. The villages constitute degraded living environments with inadequate infrastructure, poor and lack of social and recreational facilities. Below is a picture of pregnant woman collecting water and how the water is stored. Storage of water increases the risk of water being contaminated.



Figure 21: A pregnant woman collecting water

Some community members in JM use cow dung and fire woods for cooking. Below are pictures of women collecting cow dung and fire wood. The use of these sources can cause be hazardous to human beings.



Figure 22: Alternative energy source used for cooking

Access to adequate sanitation is said to be fundamental to personal dignity, social and psychological well-being, public health, poverty reduction, gender equality, economic development and environmental sustainability (Tissington, 2011: 68). The sanitation type provided in JM is not conducive to the healthy lives of the residents. The owners have to empty the pits themselves and this could have negative impacts on the health of the individuals. The odour and flies generated by the toilets can also have an effect on the health of the individuals. Scarcity of water in JM is also a problem that results in a burden

on women and children who are forced to travel long distance to collect water. There are houses that are not electrified in the municipal area. People still use candles for lighting, and firewood for cooking and for heating. RDP houses in Bothithong and Camden were built four years ago and the houses are still not electrified. RDP houses in Glen-red were also built four years ago and were only electrified in 2012. Protests that occurred early in 2013 in JM were around the issues of poor service delivery. Central to the protest was the issue of poor conditions of gravel roads that are rarely maintained. During the protests children were forbidden to go to schools and some schools were burnt.

3) Affordability

Housing must be affordable. People must not be deprived of other basic needs to pay for their housing. Furthermore, government must make housing subsidies and finance available and must protect people from unreasonably high or sudden rent increases. Currently, the municipality does not provide housing for middle income people. This group has built their own houses and some rent backrooms.

4) Habitability

For housing to be considered adequate, it must provide adequate space, be physically safe, offer protection from cold, damp, rain, heat or other threats to health for all occupants and guarantee the physical safety of occupants. Considerable numbers of people in JM still live in mud houses and poorly constructed cement and brick houses. During the interviews, those that benefited houses from the government severely criticised the quality of the houses. The size of the houses was also heavily criticised. The findings revealed that both RDP and self-built houses are overcrowded. Overcrowded houses results in lack of privacy for the inhabitants and further reduces the quality of life. Slow delivery and poor quality of houses is the result of lack of capacity in the municipality to ensure regular monitoring of the projects. Below are the pictures showing quality of the houses.



Figure 23: Poorly constructed bricks and cement house



Figure 24: Mud house



Most houses are adequate in terms of size to accommodate families but these are the conditions inside (see below pictures)





Figure 25: Quality of the houses

5) Accessibility

Housing must be accessible to all. Legislation and policy must especially cover the housing needs of the homeless, the poor, the elderly, single mothers, people living with disabilities, people who are mentally ill, people living with HIV/AIDS and other vulnerable groups. The reality is that there is a substantial housing backlog in the municipality and provision of housing is not keeping up with demand. One example is a project for the construction of a thousand RDP units that has been running since 2011, yet by the end of 2013 the project had still not been completed. With slow-paced delivery, community members are on the housing waiting list for many years. High levels of dissatisfaction amongst respondents were identified from people who had built their own houses. A special needs policy to prioritise vulnerable groups does not exist in the municipality.

6) Location

Housing must be in areas that allow easy access to places of work and potential economic opportunities, schooling, child care centres, health care services and recreational facilities. Housing should also be provided in a safe and healthy environment.

Due to low density in villages and poorly located RDP houses, social amenities are not located within close proximity to residential areas. RDP houses in three villages where the research was conducted are located on the peripheries of the villages, far from social amenities. Children who walk very long distances to school end up demoralised and quit school. This is one of the reasons why illiteracy is common in villages.

7) Cultural adequacy

The way houses are built and the type of materials used must enable people living there to express their cultural identity. Activities geared towards development or modernisation in the housing sphere should ensure that they do not sacrifice their cultural identity.

6.1.2 Prioritisation process

There is a lack of transparency in housing allocation processes. There is no clear criterion that guides the allocation of houses and prioritisation of villages. The credibility of the existing housing policy may be questioned since the policy does not spell out the criteria for selection of beneficiaries and the prioritisation criteria for villages. The housing allocation process in JM is completely opaque and top-down. Selection of beneficiaries is solely the responsibility of councillors and lack of a standard allocation procedure and participation of community members may lead to corruption and nepotism.

6.1.3 Community involvement

Community engagement and communication is limited in housing projects. There is a lack of communication and information as to why housing projects are slow and extremely clumsy. People are put on waiting lists indefinitely without being informed about when the projects will start. People are excluded from decision-making processes regarding how the waiting list will be determined. Communities were not involved in the

process of formulating the housing allocation and housing development policy and therefore were not in a position to give any inputs into something that affects them directly. People in rural areas are not aware of what is happening regarding housing developments and allocation of houses. Traditional leaders and ward councillors have not developed a strong relationship and members of traditional councils are not well informed about the issues of housing in their areas of jurisdiction.

6.2 Hypothesis

It is evident from the above discussion that the right to adequate housing in JMLM is not realised. Most of the elements that constitute adequate housing are not met by the municipality. The municipality will not be able to minimise, let alone eradicate the housing backlog with the current capacity and non-adherence to policies. Strategies are not formulated to prevent problems from recurring during the implementation of projects.

6.3 RECOMMENDATIONS

6.3.1 Elements of adequate housing

1. Title deeds

Security of tenure is not a problem rural JM. The respondents view their houses as family asset not as an asset that can generate them money. Most respondents did not know what a title deed is.

2. Availability of services, materials, facilities and infrastructure

2.1 Water

The municipality must ensure that water sources are as close as possible to households and also ensure that water is available at all times. To achieve this, the maintenance plan for the existing infrastructure should be developed.

2.2 Sanitation

The management and maintenance plan for the current sanitation system should be developed. The residents should be trained on how to maintain the toilets. Alternatively

the current sanitation system should be replaced with suitable and hygienic sanitation model.

2.3 Energy

The municipality should ensure that each and every household have access to electricity. Solar power can be used as an alternative energy source. This type of energy source will be beneficial for those that can not afford to buy electricity.

2.4 Social amenities

Social amenities must be considered during early stage of housing development or every new housing project. The housing plans should incorporate status quo of social amenities and implementation plan. To ensure provision of social amenities, the housing sector plan of the municipality should be aligned with development plans of other sector departments. It is imperative that the municipalities work together with other sector departments to create sustainable human settlements.

3. Affordability

The extent of unemployment in the District poses a major challenge. The government should support self help housing in rural areas and also encourage and support manufacturing of building materials locally. The government should introduce affordable alternative building materials in rural communities. This will assist those that are able to save money to build, renovate and complete their own houses. This will also encourage people to take responsibility in developing their own houses. These structures have been standing incomplete for over five years.



Figure 26: Incomplete structures

4. Habitability

Most self-built houses in JM jurisdiction are of poor quality. These houses are built without building plans and building standards. To ensure that people build themselves good quality houses, municipalities and NHBRC should offer them technical support. Local builders should be trained and every housing development should be monitored. The picture below shows the quality of bricks that are normally used.



Figure 27: Poor quality bricks and plastering

5. Accessibility

To realize the right to access adequate housing, the municipality must:

- É Capacitate communities to take a leading role in planning their settlements and delivery of housing.
- É Determine housing backlog and establish housing need register.
- É Compile a housing strategy across all income levels.
- É Develop a housing allocation policy that outlines criteria for identifying beneficiaries, criteria for identifying villages etc.
- É Prioritises the most vulnerable residents.
- É Increase human capacity within housing unit.
- É Implement housing consumer education programmes.

6. Location

The municipality should work together with tribal authorities in identification of well located land and in development of compact settlements. High density settlements will make provision of services easy.

7. Cultural adequacy

Beneficiaries should be given a choice to houses that represent their cultural preference.

6.3.2 Capacitating housing units

The municipality needs to augment its housing unit with workforce that will ensure the development of sustainable human settlements and aid the eradication of housing backlog. The municipality also needs capacity to; draft business plans, maintain and update the housing needs register, ensure housing, ensure that the subsidy system administration is done properly, conduct housing consumer education on a regular basis and ensure proper project management and monitoring (building inspectors to monitor quality compliance). By collaborating with other departments such as the Department of Education, Department of Health etc., the municipality will be able to develop sustainable human settlements.

6.3.3 Policies, legislation and municipal strategic documents

Housing policies and legislations should be implemented to ensure realization of the right to adequate housing. The housing sector plan aligned with the IDP should be reviewed yearly and the housing needs register should be incorporated into the housing sector plan. The housing allocation policy also needs to be revisited to ensure transparent and smooth housing allocation processes. Furthermore, the municipality needs to develop a risk management and contingency plan that will address problems that reoccur during housing implementation process. Policies and legislation that guide community involvement also need to be implemented to strengthen community participation and engagement in housing projects.

6.3.4 Local contractors

The municipality should capacitate emerging contractors.

6.4 Future research

I strongly suggest that future research on provision of basic and social infrastructure in sparsely populated areas is required. Below are examples of topics for research:

- How does one provide accessibility and affordable education for the children of such areas?
- What forms of sanitation exist, other than waterborne sewerage systems, and which are unsustainable?

6.5 Conclusion

The findings of this research clearly indicate that while some aspects of the rights to adequate housing have been met, others have not.

1) Legal security of tenure

Although community member do not have title deeds, this does not appear to be a serious concern to the residents as they view housing as a family asset.

2) Availability of services, materials, facilities and infrastructure

- Many houses in Joe Morolong do not meet this criterion. Access to water is a problem in terms of distance to water sources and the reliability of water. Compared to Stats SA data from the 2012, only 6 687 households have piped water in their homes.
- Sanitation is also a problem. Households either use pit latrines or a bucket system. According to residents the pit latrines are inadequate. Water borne sewerage is not an option for most families due to water shortage.
- Some households have electricity but many find it too costly to use.
- While primary schools are provided, there are no high schools. The low densities and the vast distances of this arid area result in social services being thinly spread out with long walking distances to schools and clinics.

The clinics are also understaffed and poorly resourced. There are no libraries and recreational facilities.

3) Affordability

This is not the focus of municipal service delivery, but definitely in terms of national policy.

4) Habitability

In many cases the habitability of the houses is poor with structural defects that can lead to poor health (dust and damp) but also possible collapse. Over crowding is also a problem.

5) Accessibility

As the Municipality's focus is on eliminating mud houses there is no coherent policy of providing for those with special needs, or in overcrowded housing.

6) Location

The remote locations of the villages in the municipality result in limited access to opportunities and social services.

According to the discussion above, the right to adequate housing is not realized in the Joe Morolong Local Municipality.

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APPENDIX A
UNSTRUCTURED INTERVIEW QUESTIONNAIRE
(INHABITANTS OF SELF-BUILT HOUSES)

**AN EVALUATION OF THE RIGHT TO ACCESS OF ADEQUATE
HOUSING IN JOE MOROLONG LOCAL MUNICIPALITY. SOUTH
AFRICA**

Community		Housing type	
		Self-help	RDP
1. Bothithong			
2. Glen-red			
3. Camden			
4. Churchill			

SECTION A:**1. Why did you choose to live in this community? (Please tick)**

1. Better economic circumstances (Job, income, and land for product ect.)	
2. Better infrastructure & services (housing, health, education, plot ect.)	
3. Better and more secure environment (less violence, crime quality of life ect.)	
4. Family\ kin related	
5. Eviction\ removal	

2. For how long have you lived in this community?

.....

3. Are you on a waiting list for RDP house? (Please tick √)

Yes

☐

No

☐**4. How long have you been on the waiting list? State years\ months (Please tick).**

A. 0- 1	
B. 2- 3	
C. 4- 5	
D. If more specify	

5. When did the municipality councilor say the houses will be built? State years and months

A. 0- 1	
B. 2- 3	
C. 4- 5	
D. If more specify	

6. How many bedrooms does your house have?

.....

7.1 Does your house have a living room?

Yes ☐

No ☐

7.2 Does you house have a bathroom? If yes how many?

.....

7.3 Does your house have a kitchen space?

Yes ☐

No ☐

8. How many people live in this house? (Please tick ✓).

A. 1	
B. 2	
C. 3	
D. 4	
E. 5	
F. 6.	
G. If more specify	

9. Where do you get your water? (Please tick ✓)

1. No access to piped (tap) water	
2. Piped (tap) water on community stand: Distance greater than 200m from dwelling	
3. Piped (tap) water on community stand: Distance less than 200m from dwelling	
4. Piped (tap) water inside yard	
5. Piped (tap) water inside dwelling	
6. Bore hole	
7. From the river	

10. What do you use for (Please specify):

1. Lighting (candle, electricity ect.),	
2. Heating (open fire, electric heater, paraffin heater, nothing)	
7. Cooking (open fire, electric stove, paraffin stove, nothing)	

11. Does the household have access to toilet facility?

Yes ☐

No ☐

12. How long does it take you to travel to the following social amenities? (Please tick ✓).

Primary school	✓
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

High school	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

Nearest clinic	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

Nearest library	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

Nearest park	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

Economic facilities	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

13. Do you have a title to property? (Please tick √).

Yes ☐

No ☐

SECTION B:

14. What do you believe is adequate housing?

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15. In what way were you involved housing delivery process?

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16. What is good about your house?

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17. Do you think the structure of your house is strong. Please elaborate.

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18. Are you happy about the type of toilet facility that you use?

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19. What does it mean to have a title deed to a property?

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20. Do you have any comments?

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THANK YOU!

APPENDIX B

UNSTRUCTURED INTERVIEW QUESTIONNAIRE (INHABITANTS OF RDP HOUSES)

**AN EVALUATION OF THE RIGHT TO ACCESS OF ADEQUATE
HOUSING IN JOE MOROLONG LOCAL MUNICIPALITY. SOUTH
AFRICA**

Community		Housing type	
		Self-help	RDP
1. Bothithong			
2. Glen-red			
3. Camden			
4. Churchill			

SECTION A:**1. Why did you choose to live in this community? (Please tick)**

1. Better economic circumstances (Job, income, and land for product ect.)	
2. Better infrastructure & services (housing, health, education, plot ect.)	
3. Better and more secure environment (less violence, crime quality of life ect.)	
4. Family\ kin related	
5. Eviction\ removal	

2. For how long have you lived in this community?

.....

3. How long were you on the RDP waiting list before you house was built? Please tick.

0-1	
2- 3	
4- 5	
If more specify	

4. How many bedrooms does your house have?

.....

5.1 Does your house have a living room?

Yes

☐

No

☐

5.2 Does your house have a bathroom? If yes how many?

.....

5.3 Does your house have a kitchen space?

Yes

☐

No

☐

5. How many people live in this house? (Please tick ✓).

A. 1	
B. 2	
C. 3	

D. 4	
E. 5	
F. 6.	
G. If more specify	

6. Where do you get your water? (Please tick ✓)

1. No access to piped (tap) water	
2. Piped (tap) water on community stand: Distance greater than 200m from dwelling	
3. Piped (tap) water on community stand: Distance less than 200m from dwelling	
4. Piped (tap) water inside yard	
5. Piped (tap) water inside dwelling	
6. Bore hole	
7. From the river	

7. What do you use for (Please specify):

1. Lighting (candle, electricity ect.),	
2. Heating (open fire, electric heater, paraffin heater, nothing)	

8. Cooking (open fire, electric stove, paraffin stove, nothing)	
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8. Does the household have access to toilet facility?

Yes ☐

No ☐

9. How long does it take you to travel to the following social amenities?

(Please tick ✓).

Primary school	✓
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

High school	✓
1. 0- 5 km	
2. 6- 10 km	

3. 11- 15 km	
4. 16- 20 km	

Nearest clinic	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

Nearest library	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

Nearest park	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	

4. 16- 20 km	
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Economic facilities	√
1. 0- 5 km	
2. 6- 10 km	
3. 11- 15 km	
4. 16- 20 km	

10. Do you have a title to property? (Please tick √).

Yes ☐

No ☐

SECTION B:

11. What do you believe is adequate housing?

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12. In what way were you involved housing delivery process?

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13. What is good about your house?

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14. Do you think the structure of your house is strong. Please elaborate.

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15. Are you happy about the type of toilet facility that you use?

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16. What does it mean to have a title deed to a property?

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17. Do you have any comments?

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THANK YOU!

APPENDIX C

UNSTRUCTURED INTERVIEW QUESTIONNAIRE

**(MUNICIPAL OFFICIALS AND DEPARTMENT OF HUMAN
SETTLEMENTS OFFICIALS).**

1. Which municipality or department do you work for?

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2. How long have you been working for your institution?

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3. In what way are you involved in housing delivery process?

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4. What guides housing allocation process in you municipality?

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5. What are the objectives of your unit?

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6. How do you define ‘access to housing’ and access to ‘adequate housing’?

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7. Is there a policy for Special Needs Housing available in your municipality?

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8. How do you determine who has special needs?

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9. Do you know housing demand in your municipality?

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10. If no, how did you determine the demand?

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11. How do you prioritize beneficiaries when allocating houses?

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12. What do you look at when allocating housing projects?

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13. Does the municipality cater across all income level individuals?

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14. What is the municipality's housing allocation policy?

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15. Does the municipality own enough suitable land for housing development?

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16. Have the municipality ever made efforts to acquire suitable land that is privately owned? If no, why not?

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17. Does the municipality encounter any problems with provision of basic services and social amenities? Please elaborate.

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18. Do you think the municipality has got enough capacity to carry out housing projects from planning phase to implementation phase? Please elaborate.

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19. How do you involve the community in the housing delivery process?

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20. In what way is the community involved in the issues related to adequate housing and development of sustainable human settlements?

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21. What problems do you encounter during housing delivery process?

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22. How have you dealt with these problems?

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23. Do you have any comments?

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THANK YOU!

APPENDIX D

UNSTRUCTURED INTERVIEW QUESTIONNAIRE

(WARD COUNCILLORS AND MEMBERS OF TRIBAL COUNCIL).

**AN EVALUATION OF THE RIGHT TO ACCESS OF ADEQUATE
HOUSING IN JOHN TAOLO GAETSEWE DISTRICT
MUNICIPALITY. SOUTH AFRICA**

1. How long have you been serving in the council?

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2. In what way are you involved in housing delivery process?

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3. What guides housing allocation process in you municipality?

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4. As a councilor what do you want to achieve regarding housing?

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5. How do you define ‘access to housing’ and access to ‘adequate housing’?

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6. Is there a policy for Special Needs Housing available in your municipality?

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7. How do you determine who has special needs?

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8. Do you know housing demand in your municipality?

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9. If no, how did you determine the demand?

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10. How do you prioritize beneficiaries when allocating houses?

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11. What do you look at when allocating housing projects?

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1. Does the municipality cater across all income level individuals?

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2. What is the municipality's housing allocation policy?

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3. Does the municipality own enough suitable land for housing development?

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4. Have the municipality ever made efforts to acquire suitable land that is privately owned? If no, why not?

.....

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5. Does the municipality encounter any problems with provision of basic services and social facilities? Please elaborate.

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6. Do you think the municipality has got enough capacity to carry out housing projects from planning phase to implementation phase? Please elaborate.

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7. How do you involve the community in the housing delivery process?

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8. In what way is the community involved in the issues related to adequate housing and development of sustainable human settlements?

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9. What problems do you encounter during housing delivery process?

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10. How have you dealt with these problems?

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11. Do you have any comments?

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THANK YOU!