



Reducing spatial inequalities through better regulation

South Africa is one of the most unequal and unevenly developed countries in the world. This is palpable in the spaces that we live and work in, reflecting the legacy of racial separation. HSRC experts assessed regulations that reinforce rather than reduce spatial divisions in a report to parliament.

Spatial inequality fosters deep resentment among many poor communities who feel left behind and with no stake in the country's progress. In many cities and towns, exclusive business precincts and upmarket suburbs with outstanding amenities are juxtaposed against overcrowded townships and squalid informal settlements. In rural areas, remote villages with mud schools and no electricity contrast with luxurious private game lodges and affluent country estates.

These disparities are a legacy of racial separation imposed under colonialism and then reinforced under apartheid through residential segregation, influx controls, forced removals, separate public administrations and differentiated education systems. Today, other factors reproduce spatial divisions, including powerful economic forces, unequal natural resource endowments and continuing disparities in institutional capacity, essential infrastructure and public services. Polarisation persists despite universal rights, uniform policy frameworks, common institutions, inter-regional fiscal transfers and national programmes to promote social justice, urban integration, rural development and township upliftment.

The HSRC report to the Motlanthe High Level Parliamentary Panel looked at how many people are physically marginalised from productive activity and how informal settlements and enterprises remain under-developed. It identified key legislation that inhibits equitable, integrated and affordable development, including state rules and procedures related to land-use planning, housing, environment, business licencing, building regulations and public procurement.

Separated from productive activity

There is a damaging spatial divide between where most people live and where jobs and resources are located. The economy is much more concentrated geographically than the population, resulting in extensive unemployment and poverty for people living on the periphery and imposing an extra cost on their mobility. Economic forces of agglomeration and institutional inertia tend to reproduce this pattern as commercial success breeds success and established strengths generate additional resources that get reinvested locally. This cumulative process has far-reaching implications for people's living standards and life chances in different places. Uneven economic performance also influences the tax revenues available to municipalities and their capacity to deliver decent public services.

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Access to opportunity

Affluent areas have superior public and private schools, nursery schools and healthcare, more reliable physical infrastructure, safer and more attractive public spaces, and a wider range of consumer services, shopping facilities and social amenities. These enabling environments improve people's living conditions and enhance their

prospects of achieving success in life. Conversely, poorer localities offer fewer economic opportunities, inferior social infrastructure and mediocre services. These communities experience greater insecurity, worse social and health problems, higher risks of disaster and more crime and violence, which makes it more difficult for people to realise their full potential and hampers their contribution to the economy.

Affordable housing

Most black South Africans are obliged to live in places where it is relatively inexpensive and easy to build accommodation, rather than in places with stronger economies and more jobs. In cities, national housing policies favour low-cost land, which pushes poor households into peripheral sites. State land-use and environmental controls are also more relaxed the further one is away from affluent suburbs and their protectionist mindsets. Outside cities, poorer municipalities are desperate for development, but rely on government grants to fund housing and social infrastructure. Housing is one of the few tangible benefits that politicians can deliver to hard-pressed communities, so it is often offered as a substitute for economic development.

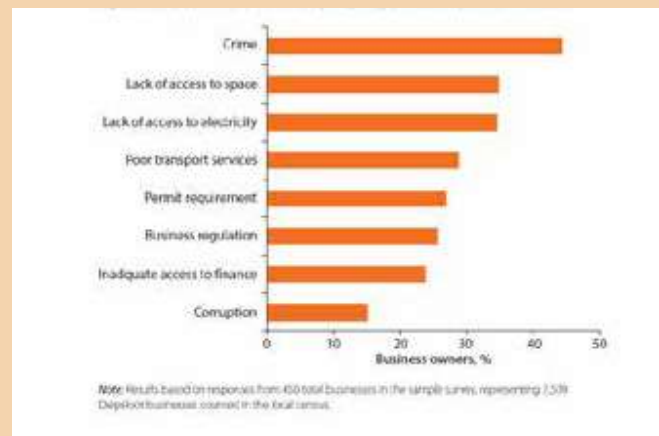
Held back by informality

The concentration of poverty in some localities and regions is also reflected in extensive informality and unauthorised activity. Poor people use their agency and ingenuity to improve their livelihoods and overcome adversity by engaging in simple income-generating activities and limiting their expenses by reverting to makeshift shelter. They often choose not to abide by official rules, legal procedures and by-laws because these are too onerous and unaffordable for their own improvised solutions. Yet, their informal status can hold them back and keep them vulnerable through lack of protection from legal safeguards and risks to their health and safety. Front-line officials can extort bribes by threatening to confiscate their goods or destroy their shacks.

Ambivalence

Many government policies are ambivalent about informality and state responses range from piecemeal 'pro-poor' projects to hard-hearted evictions and enforcement of by-laws under the guise of cutting crime. Rhetorical support for township economies is growing, but often without acknowledging the informal and unregulated character of township enterprises. Elsewhere, informal activities are regularly cleared from the inner cities to try and attract major private investment, tourism and affluent consumer spending, yet there are undoubtedly more inclusive and effective ways to reinvigorate such areas. This illustrates a dilemma in responding to spatial divides: should policy prioritise immediate needs, protect existing

Business constraints cited by Diepsloot Business Owners, 2012 (Source: World Bank, 2014)



A large survey of informal enterprises in Diepsloot found that nearly one in three owners listed formal permits and regulations as constraints (World Bank, 2014).

livelihoods and seek to upgrade low income activities incrementally, or impose 'world class' standards from the outset and clear space for brand new activities and commercial investment that promises dramatic physical transformation?

Importance of location

Location is crucial to the prospects of success for all businesses. The danger in South Africa's stringent regulatory framework is that emerging enterprises are obliged to trade in places that are easy and expedient to operate from, rather than in places with better infrastructure and support services, access to customers with greater spending power, and assets that facilitate the growth and development of the business. In cities, this is because business licences, trading permits, health and safety regulations, land-use controls and building regulations are enforced much more strictly in central business districts and suburbs than they are townships and informal settlements. Informal traders are disapproved of in town, but disregarded in the townships.

A pervasive status quo

Spatial inequalities within cities are widening rather than diminishing. This is partly because the peripheral location of mass housing built by the state is maintaining past divisions. The single-minded focus on large-scale delivery and a complex regulatory framework result in a preoccupation with dormitory settlements on the urban outskirts, rather than building more integrated and interesting cities and towns. Many regulations complicate the process of managing urban growth and promoting spatial transformation because of the focus on control and compliance, rather than enabling diverse actors and agencies to work together on more organic and incremental forms of development. Demanding standards

for infrastructure approval, including standards for plot size, building density and car parking, can prohibit low cost housing.

Lengthy regulatory procedures:



Researchers from Berrisford Associates sought to measure the financial costs and timescales required by several of the main regulations governing the provision of urban infrastructure and the development of land for housing and related purposes: (i) land-use planning and building controls, (ii) environmental regulations, (iii) procurement rules and procedures, and (iv) occupational health and safety regulations governing construction sites. The figure shows that three separate regulatory processes can each take over two years to complete. This is before any construction work can begin on site.

Delay

One of the adverse consequences of excessive red tape is serious delay. It takes years for development proposals to obtain approval before building work can commence. This adds substantial costs which are passed on to households and businesses, putting new housing out of reach of low-income groups. Convolved and costly rules also add uncertainty to the development process, which discourages smaller, more creative private investors and niche builders with original designs. They favour larger, standardised housing schemes, which are low risk and relatively predictable, but tend to create sterile, socially-homogeneous urban landscapes inaccessible to poorer households.

The way forward

A more pro-active and capable state is required for spatial transformation. The mindset of prescriptive controls and compliance needs to be replaced by a more developmental and iterative approach. This means relaxing rigid and inappropriate rules to permit more flexibility and responsiveness to diverse conditions on the ground. Regulations need to be more finely tuned to target the greatest risks of harm and reduce the compliance costs where risks are low. Cumbersome procedures that constrain initiative need to be replaced by more intelligent systems that encourage ingenuity and bolder experimentation.

State regulations also need to accommodate more external interaction and collaboration. A developmental approach means enabling and mobilising different actors in civil society and the private sector to play a stronger role, in conjunction with government. The state cannot force private investment into lagging areas or deliver well-located affordable housing at scale on its own. A stronger emphasis on working in partnership with other stakeholders is vital to break down barriers and encourage constructive dialogue and joint action.

One way forward may be to offer selective flexibilities to municipalities that have proved to be competent, efficient and prudent in their use of public resources. This would give them greater scope and autonomy to innovate around the urban development agenda, leading hopefully to a significant shift in the scale and nature of affordable housing provision. This discretion could go hand-in-hand with more effective partnership working to accelerate investment in property development. Such rewards would also provide an important incentive to other municipalities to improve their performance.

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Some specific recommendations

- (i) **Affordable land** - The Government Immovable Asset Management Act regulations should be used to insist that public entities formulate explicit plans for their surplus land that go beyond selling it to the highest bidder and recognise the wider social value of urban land. The starting point might be an audit of all well-located and under-used land to identify the opportunities for low- and middle-income housing development.
- (ii) **Reduced compliance costs** - Environmental impact assessments and water use licenses should be more discriminating about development proposals that pose the greatest threats and reduce the administrative burdens on proposals that pose little risk to surrounding communities and the natural environment.
- (iii) **Simpler procedures** - A single approval process to deal with matters such as environmental, water and planning authorisations would reduce duplication of consultation processes and speed-up decisions. Certain regulations and procedures such as land-use zoning, building regulations, business registration and public procurement need to be streamlined. A simpler arrangement for property registration through the Deeds Office would assist people living in informal settlements, backyard accommodation and inner-city buildings.

(iv) ***Simplifying the land-use management system*** - This will enable enterprises in townships to operate without the constant threat of being closed down or having their stock confiscated. Instead, moving towards a smarter, more pro-active, problem-solving culture will support the growth and development of informal enterprises. Simpler business licensing procedures would also help enterprises formalise their activities.

(v) ***Exemptions and fast-tracking*** - Special zones established in and around certain low-income townships and informal settlements could offer different management arrangements, infrastructure, financial incentives and relaxed regulations as an experiment to support investment, enterprise and job creation.

(vi) ***Creative approaches to mixed-income housing*** - The national department of human settlements should do more to support mixed-income housing projects. This includes a requirement that all private sector developments above a certain size should make provision for a specific proportion of the housing units to be within

an affordable price bracket. The policy should include proposals for public-private partnerships that will deliver practical solutions to the current residential segregation, and to limit gentrification and the displacement of low-income households from well-located neighbourhoods.

(vii) ***Encourage higher-density housing in well-located areas***

- The national department of human settlements should also formulate a policy to support higher-density housing in and around economic nodes and along public transport corridors. More flexibility in housing subsidies may be required as well as more explicit support for rental housing rather than ownership. Careful alignment with transport, education and land-use planning policies may be important on matters such as requirements for car parking, school playgrounds and floor area ratios. Land-use zoning schemes could also be relaxed in designated areas to permit second and third dwellings to be built on properties without permission.



An aerial view of informal housing erected near railway lines on the outskirts of the City of Johannesburg in Gauteng