Quiet Conflict:
Social Movements, Institutional Change, and Upgrading Informal Settlements in South Africa

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ABSTRACT

The South African government’s attempts to provide land and housing for the poor have been focused primarily on interventions at the policy level and within internal state bureaucracies. But experiences of social movements for land and housing have shown that significant opportunities for formal institutional change occur through relationships of both contestation and collaboration between such movements and state institutions, especially at the local level. Such a relatively underexplored mechanism of institutional reform enables us to understand exactly how such change processes gain legitimacy and potency. This thesis draws on case studies of two recent, formalized partnerships between grassroots social movements and local authorities in the metropolitan municipality of Cape Town and the municipality of Stellenbosch. The studies examine exactly how such relationships create the space for both conflict and collaboration between communities and city government. They are based on semi-structured interviews with government officials, community, and movement leaders, and participant observations of engagements between the movements and city authorities in January and June-August 2012. The evidence suggests that theories of the state and institutional change require much greater attention to the multiple ways in which social movements interact with the state in order to realize rights of access to land and housing. The contingent endowments of these actors allow them to be more or less able to trigger institutional reform processes. When change has occurred, collaboration has been essential. But these cases also highlight the value of a credible threat of conflict based on city-wide mobilization, no matter how quietly such a threat lurks in the background. Policy interventions in the urban land and housing sector in South Africa, pitched as rational bureaucratic recipes, are unlikely to realize such rights without institutionalized engagements, especially at the city level, with organized social movements of the landless urban poor that articulate both conflictual and collaborative tendencies.

Thesis supervisor: Prof. Balakrishnan Rajagopal
Thesis reader: Prof. Xavier de Souza Briggs
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“Tradition, tradition, tradition …, you bawl on the floor for the tree that loses its leaves, as if the leaf was the root! … Leave tradition alone, son, and watch the root …”

— Patrick Chamoiseau

*Solibo Magnificent*

Martinique, 1997
Chapter 1: The ends and “means of chicanery”

In 1913, Sol Tshekisho Plaatje traversed the cities, towns, and rural villages of South Africa, documenting the effects of a new piece of legislation passed by the country’s all-white Parliament called the Native’s Land Act. Three years later, Native Life In South Africa was published. It remains a searing indictment of the power of a government that, in a single legislative stroke, nullified long-standing claims of a majority black population to land, shelter, and economic self-sufficiency. He recounts the devastation that black families experienced as they were dispossessed of their lands, and their struggle to begin to organize a political voice that could speak to formal politicians and ordinary people throughout the country and the world. In part, the book is an account of the founding of the African National Congress (ANC), for which Plaatje served as the founding General Secretary, and over four score years later in 1994, would become the first democratically-elected party in South Africa.

Mid-way through the book, Plaatje’s narrative lingers on the case of a black man who is forced off a farm. The man responds by striking an informal deal with the new white landowner so that he may continue farming, even if it appears to violate the Native’s Land Act. Plaatje interrupts his description to ask a question. “Can a law be justified which forces the people to live only by means of chicanery?”

This thesis is inspired by Plaatje’s question. For the struggles of ordinary people for land and shelter are defined by the ways in which they organize to evade, confront, engage, and alter formal institutions of the state. We tend to think of conflict as a set of interactions that are overtly confrontational. And, indeed, the history of struggles for land and shelter in South Africa have a storied past of explicit conflict. The foreboding words of Australian journalist A. Pratt, written about the rapidly growing city of Johannesburg the same year as the passage of the Native’s Land Act, resonate to this day, though perhaps in ways that Pratt may not have intended:

Ancient Nineveh and Babylon have been revived. Johannesburg is their twentieth century prototype. It is a city of unbridled squander and unfathomable squalor. Living is more costly

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than one’s wildest dreams. All the necessities of life are impudently dear… The wages are
high indeed, but the price the workers pay for them is paid in suffering and blood.²

This thesis is concerned with making sense of the meaning of conflict as a means
through which institutions change. In fact, while conflict is sometimes overt, it is often
hidden in seemingly quiet, everyday relationships. Historical contingency lies in the ways and
means of conflict. While rational understandings of government may suggest that conflict
can ultimately be avoided, institutions of governance are never divorced from their histories
and the conflicts that define them. Even in the most rational-seeming institutional
relationships conflict may be hidden, but is never entirely non-existent. The reason for
focusing on the multiple meanings of conflict in governance is to understand how popular
politics fulfills both their material and intrinsic promise for reforming institutions through
reimagining citizenship.

The South African government’s attempts to provide land and housing for the poor
in the post-Apartheid era have been focused primarily on interventions at the policy level
and within internal state bureaucracies. Dominant approaches to reform processes within
such institutions have been pitched primarily as formalistic recipes or “design” interventions
that, despite a great deal of formal academic and political deliberation, have not been able to
conquer the vast inequalities of spatial distribution and material access to land and adequate
shelter in cities. Similarly, they have not been particularly effective in changing official
mindsets in order to implement policy changes that, in theory, would embrace incremental
informal settlement upgrading strategies and more meaningful participation of ordinary
communities. At the same time, the prevalent assumption around grassroots social
movements that have been involved in this sector is that they work primarily through highly
confrontational approaches. Most observers evaluate their achievements and shortcomings
in light of such approaches.

Why? In practice, government officials in South Africa are often wary of social
movements precisely because they see them as so singularly focused on confrontation, or as
incapable of being a meaningful partner for achieving policy implementation. Similarly,
professional activists and NGO workers either are unwilling to work with grassroots actors

² As quoted in Charles Van Onselen, Studies in the Social and Economic History of the Witwatersrand: 1886-
that embrace any kind of confrontational tactic, or, conversely, place demands akin to a sort of purity test of a movement based on their relative commitment to confrontation.

Are we really stuck in such a polarized world of understanding social movement politics? In fact, experiences of social movements for land and housing have shown that significant opportunities for formal institutional change occur through relationships of both contestation and collaboration between such movements and state institutions, especially at the city level. Such a relatively underexplored dynamic of institutional reform enables us to understand exactly how such change processes gain legitimacy and potency.

This thesis draws on case studies of two recent, formalized partnerships between grassroots social movements and local authorities in the metropolitan municipality of Cape Town and the municipality of Stellenbosch. The studies examine exactly how such relationships create the space for both conflict and collaboration between communities and city government. I place these examples within the broader histories of social movement politics in the sector, which dates far back into the struggle against Apartheid into the present democratic era, and those of urban policy, and especially housing policy, which has a similarly lengthy history.

Is the struggle for housing the struggle for democracy?

While generally grounded in the social sciences, “planning” distinguishes itself as a profession and methodology through an injunction to intervene to achieve some result different from the present status quo. But, despite persistent attempts to the contrary in South Africa and elsewhere, it is impossible to intervene without understanding the historical circumstances that have produced present conditions that we might deem ripe for intervention in the first place. The inherent contingency of all historical processes is a tension in planning precisely because the urge to intervene implies a claim to altering the contingent paths by which historical processes play out. If we are to intervene with humility, and, perhaps more to the point, with a hope of success, however we define it, then we must root ourselves in these self-same historical paths. For this reason, this thesis focuses in relatively equal measure on interpretation of past experiences of activity in grassroots politics and formal institutional structures, as well as present-day interactions.

The South African Constitution, produced through negotiations between a range of political parties in the three years leading up to the election, has been heralded around the world as a model for foregrounding both civil and socio-economic rights as the basis of
South Africa’s democratic dispensation. These rights would, in theory, chart the principles by which government institutions in post-Apartheid South Africa would govern.

E.P. Thompson put the terms of historical struggle in a way that resonates with the hopes embodied in this new constitutional order: “Every contradiction is a conflict of value as well as a conflict of interest; that inside every ‘need’ there is an affect, or ‘want,’ on its way to becoming an ‘ought’ (and vice versa); that every class struggle is at the same time a struggle over values.” Given the foundational history of dispossession from land that characterized the experience of non-whites under colonial and then Afrikaner nationalist rule, the significance of rights to land and housing were lost on very few. The “new” South Africa promised a fundamental shift in social values through its commitment to an expansive rights-based regime.

Segregated processes of urbanization have condemned primarily black, poor populations to lack of economic opportunity and adequate shelter for much of the past century. State policies have been the primary mode of intervention in the experience of exclusion that characterizes much of black urbanization in South African history. Policies and institutions for housing and upgrading in post-Apartheid South Africa have generally ignored and excluded the widespread informal practices, particularly by the poor, in low-income housing development. This includes: (1) the top-down, private contractor delivery of fully-serviced “top-structure” houses; (2) provision of land on peripheries of cities, and (3) confused responsibility for implementation between provincial government and local government for the house and the basic services, respectively.

This has been the case despite the promise of the extensive socio-economic rights guarantees of the new Constitution. Have these hopes been fulfilled? Formal unemployment is approximately 24%, and the rate of youth unemployment is double this figure. Half the population lives below the poverty line. 13.4% of South African households live in informal

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5 This has been documented in many volumes of history and politics over the past century, but perhaps the first and still most powerful evocation of this experience was Plaatje’s *Native Life in South Africa*.
8 Madlingozi, “Post-Apartheid Social Movements and the Quest for the Elusive ‘New’ South Africa,” 78.
settlements, on land that they do not officially own. In short, socio-economic opportunity has not yet become available to all, or even the majority of South Africans in the first two decades of the country’s rights-based democratic era.

With respect to the particular issues of access to land and housing, the numbers speak volumes. In 1994, there were approximately 300 informal settlements. In 2009, there were approximately 2,600. These settlements are home to somewhere between 1.1 and 1.4 million households. This is despite the fact that since 1994, the South African government has built approximately 3.2 million houses.

Amidst — and sometimes because of — these challenges of delivery, a range of interactions between social movements, government institutions, and the courts, have produced profound changes. These are changes in law, public policy, and implementation of arrangements to provide access to land and housing. This thesis draws on three broad theoretical debates in order to locate the puzzle of institutional reform for providing access to land and housing for the poor in South Africa: (1) that regarding state and society relations, and the more particular frame of this literature on “subaltern” politics, (2) social movements, and (3) institutional change. The logic behind bringing together these three different bodies of literature is to examine how conflict is much more multi-valent in processes of institutional change than we generally might perceive. By putting these three bodies of literature in conversation, I am able to stitch together a theoretical framework for examining the empirical evidence of grassroots social movement actors and their partnerships with local government institutions in Cape Town and South Africa. This is a relatively smooth framework that suggests why mixed strategies of conflict and collaboration between grassroots actors such as social movements and state institutions produce institutional reforms. Likewise, the case studies reveal, through their inherent incompleteness and particularity, the ways in which institutionalized engagements, especially at the city level, with organized social movements of the landless urban poor articulate both conflictual and collaborative tendencies. At the same time, these examples complicate the theoretical approaches in that they suggest how specific historical trajectories in each city have enabled

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still relatively nascent processes of institutional change. In contrast to conventional bureaucratic “design” interventions, such institutionalized reform processes are embedding locally-contingent processes for realizing the rights to land and housing.

**State and society relations**

The means by which a state gains legitimacy and functions is thoroughly tied to its relationship with society and how we understand what society actually is. Issues of land, shelter, and property are fundamental to both the need for and nature of governance. Even in the Athenian *demos*, representation was never universal. Only once you crossed the threshold of citizenship — to be land-owning and a male — then the democratic promises of political space and opportunity for voice became a reality.¹² The most conventional ways of understanding modern democracy and democratic states emerge from a Western tradition that harkens back to theorists such as John Locke and Jean-Jacques Rousseau.

Though notions of rights and the commons as understood over 400 years after John Locke wrote are not necessarily the same today, the linkages between citizenship and government provision of the necessities of life has a long history that is tied to modern notions of the state itself. Locke suggested that governmental sovereignty derives from the “state” of the individual. The state, therefore, is a reflection of the people it governs. Its role in provision of certain kinds of goods is bound to its being defined by the nature of the people it serves: “To understand political power right, and derive it from its original, we must consider what state all men are naturally in.”¹³ Locke wrote of the specific bonds that compel the state to protect property rights in order to enable productive labor on land. It is the “great art of government” to do so in order that men may access “acorns, water, and leaves or skins,” which are “our bread, drink, and clothing.”¹⁴

So we can see that struggles around access to land, basic services, and shelter in informal settlements in South Africa are, at their root, struggles around the conception of both state institutions and the role of citizens within these institutions. In essence, this is a lens for understanding how very specific practices implicate broad theoretical approaches to governance, and how we think about modern democratic statecraft in the post-colonial

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¹⁴ Locke, “Two Treatises of Government” and “A Letter Concerning Toleration,” 118.
context of South Africa. As a matter of theory of statecraft, institutional form has everything to do with the nature of citizenship. Rousseau, another early philosopher of modern state administration, put it clearly:

In the same way as an architect, before constructing a great building, studies and probes the soil to see whether it will bear the weight, the wise creator of institutions will not begin by drafting laws good in themselves, but will first consider whether the people for whom they are intended is capable of receiving them.\(^{15}\)

By aiming to utilize specifics of practice to begin to test new theoretical understandings, this thesis diverges fundamentally from Rousseau, who wrote to make the empirics fit his theory. As Albert Camus wrote of Rousseau, “The Social Contract is, primarily, an inquiry into the legitimacy of power. But it is a book about rights not about facts and at no time is it a collection of sociological observations.”\(^{16}\) Still, the significance of Rousseau’s work is that it provides a basic framework for conceiving of popular politics, as opposed to the politics of European monarchies mandated by religion. Again, Camus makes the case well: “Until Rousseau’s time, God created kings, who, in their turn, created peoples. After The Social Contract, peoples create themselves, before creating kings.”\(^{17}\)

Or such was the emancipatory promise of the modern roots of both democratic government and governance. In practice, modern statehood in the West has achieved something more complex and perhaps even less high-minded. Indeed, James Scott describes the turn of eighteenth and nineteenth century of Western states as that towards “authoritarian high modernism.”\(^{18}\) These were states that undertook “top-down” methods to attempt massive projects of social engineering in the name of good administrative performance on the part of a legitimate state. Modern democratic statehood, he argues, was forged in a

“supreme self-confidence about continued linear progress, the development of scientific and technical knowledge, the expansion of production, the rational design of social order, the growing satisfaction of human needs, and, not least, an increasing control over nature (including human nature) commensurate with scientific understanding of natural laws.”\(^{19}\)

\(^{17}\) Ibid, 85.
\(^{19}\) Ibid, 88.
We can make out clear linkages between the early conceptions of the state in Locke and Rousseau and the “high modernism” that Scott describes. Provision of basic services and welfare, in fact, became the raison d'être of modern Western states, as their success in this arena became the source of legitimacy for authority.

In a certain light, this approach is a strange twist on Locke’s argument that legitimacy is linked to the natural condition of man. For Locke, this was a move away from the extractive relationship between monarchies and their subjects. Indeed, we may describe the “authoritarian high modernist” state as more accurately preoccupied with engineering this natural form. Scott draws the connection between the old and new conceptions of the state in striking terms:

A state that improved its population’s skills, vigor, civic morals, and work habits would increase its tax base and field better armies; it was a policy than any enlightened sovereign might pursue. And yet, in the nineteenth century, the welfare of the population came increasingly to be seen, not merely as a means to national strength, but as an end in itself.20

The modern nation-state itself, then, becomes an arena for crafting citizens or “populations,” a term which has echoes in the post-colonial and subaltern studies conceptions of governance.

The modern democratic state, ostensibly of the people, has, in practice become something more clearly for the people. Emancipatory, popular politics, in the West where the impact of colonial rule is either non-existent, or of a wholly different nature than in the South, has, at best, an incomplete realization. Yet more recent observers of the state and its relationship with broader society see a more mutually-constitutive relationship than that which underpins the “authoritarian high modernism” of the 19th century, and, really, much of the 20th.

Peter Evans’ discussion of a “state-society synergy” in local government suggests that there are at least three basic areas where we can look for how governance and inclusiveness can be understood as both processes and outcomes. The first is in laws and official policies, where formal institutions — especially government — articulate expected modes of operation. The second is in the extent to which governmental actors can understand the needs and expectations of citizens. The third is the extent to which ordinary citizens are enabled (or disabled) by both laws and governmental undertakings on their own

20 Ibid, 91.
behalf to achieve “developmental” results. Taken together, these three elements constitute a large part of what we call governance. They also expose the traps of conflating government and governance. The interaction of these elements of “synergy” constitutes an opportunity for not only producing results at a single point in time, but also processes and outcomes of governance that can sustain an incremental, locally-driven practice of “development.”

For Evans, a key indicator of a successful inclusive process and outcome is the generation of “social capital.”²¹ If a project, program, or institution is able to nurture social capital, then it is more likely to activate a more embedded form of governance.²² Now it is unlikely that a project or program will ever have “generation of social capital” as the primary desired outcome. Still, such a variable is actually the lynchpin of success for governance. Indeed, it is the generation of social capital and embeddedness of state in society that is the mark of a governance approach that is known as “co-production.”²³ It is important to make this definition clear because co-production can sound like the jigsaw of decentralized relationships such as private-public partnership. Co-production, like that described by Evans, suggests a deeper relationship between the state and society — an “embeddedness” — that can be a defining characteristic of the broad political economy of states, as well as the everyday interactions within specific institutions.

Institutional processes can cut across long periods of time. The inclusive “synergy” that constitutes successful institutional reform is therefore rooted in actors who are bound by time to the places in which a range of interventions can occur. Citizens can be more or less active. Local governments can become stronger or weaker vis-à-vis other scales. Evans’ theoretical framework of synergistic institutions suggests a basic rationale for the value of inclusive governance. Government, and more especially, ordinary citizens, live with the consequences of a whole host “interventions” that constitute “development.” Evans’ discussion of the possibilities for constructing synergy implores us to consider the extent to

²² Another notable theorist of “social capital” is Ben Fine. He argues that the notion itself holds within it significant normative assumptions, which are constitutive of its potential for Evans’ conception of “embeddedness”: “Economic ‘capital’ is not a thing in the first place but is already social, global, exploitative, and embedded, to coin a phrase, in broader relations of which the state forms a part. The social can only be added to capital if it has been illegitimately excluded in the first place.” (“The Developmental State Is Dead — Long Live Social Capital?” Development and Change, Vol. 30 (1999), 16.)
which local knowledge and experience drives the success of development. He puts forth three elements of “constructability”: (1) the construction of social identities, (2) “spillover” effects of organizational design, and (3) redefinition of problems. In part, a major question of the case studies under examination here concerns the extent to which “constructability” has been possible due to actions from “the top” — formal state institutions — and from “the bottom” — social movement organizations.

Two approaches to Western re-thinking of democracy and governance resemble these multiple elements of “constructability.” The work of David and Louise Trubek on “new governance” evokes specific ways in which Western, and particularly American, state institutions have attempted to link organizations, firms, and groupings of society to make the institutions themselves more inclusive, responsive, and adaptable. They define “new governance” as follows:

Where regulatory goals have traditionally been sought exclusively through statutory enactments, administrative regulation, and judicial enforcement, we now see new processes emerging which range from informal consultation to highly formalized systems that seek to affect behavior but differ on many ways from traditional command and control regulation. These processes, which we will collectively label “new governance” may encourage experimentation; employ stakeholder participation to devise solutions; rely on broad framework agreements, flexible norms and revisable standards; and use benchmarks, indicators and peer review to ensure accountability.

They argue that law gets “transformed by its relationship with new governance,” in which there are four distinct processes: “a) law creates new governance procedures and mandates basic parameters,” “b) new governance solves problems; law provides a safety net,” “c) law provides general norms; new governance is used to make them concrete,” “d) law creates minimal standards; new governance is available for those who exceed the standards.”

This four-pronged typology suggests that law, the state institutions it constitutes, and the societal forms that interact with these institutions are in a profoundly dynamic relationship. There are some significant implications of this phenomenon in social movement literature, but at this point, it is worth noting some of the basic constitutive implications of “new governance” for thinking about state-society interactions. As Dietrich

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Ruschemeyer has described processes of social organization more broadly, “The shared interests of a set of people are not objective givens. They are defined in the very process of organization, and so it is the collectivity whose interests are being pursued.”26 Under the new governance rubric, formal tools of government, especially law, are a proving ground for generating relationships within and between the state and society.

New governance approaches imply a certain level of relationality between state and society that goes far beyond the early modern conceptions of a relatively static state as a reflection of “natural” man and society, as well as the “authoritarian high modernism” of the 19th century states in which state institutions remake society in their image. This relationality is even more clearly the basis of Mark Bevir’s framework of “democratic governance.” He critiques “new governance” models of networked governance for persisting in modernist, rational institutional approaches. His challenge is to move beyond “economic and sociological rationality” and to “conceive of social life in terms of more contingent forms of local reasoning.”27

Taken together, the tensions between “new governance” and “democratic governance” have two primary implications for the ways in which interactions between non-state groupings and the state produce social transformations outside of highly adversarial approaches. One way to begin to reconcile “new governance” and “democratic governance” is the possibility that the former in fact enables the latter to emerge through a relatively formal, legal framework. Indeed, as I have noted above, the assumptions of legal influence on society in the “new governance” framework assume a high level of mutually-constitutive relations between the state and society.

A further implication recalls Evans’ idea of embeddedness as a necessary means of co-production. Institutional changes can — and often do — occur as the result of lengthy engagements and learning that are not easily understood through snapshots in time. In fact, as this thesis will argue, non-state groupings like social movements have often utilized tactics of contestation that complement those of collaboration. This is very much like the way in which legal victories rarely have a one-to-one translation to transformative policy

outcomes\textsuperscript{28}. This leads us to the next parts of this theoretical framework, which concerns specific notions of “subaltern” politics and social movement theories.

But already we can be very clear that the traditional roles of formal political parties do not nearly encompass the kinds of interactions between the state and social formations that produce change. Indeed, it is telling that the “democratic governance” framework is rooted in a broad conception of social groupings, and not a narrow insistence that formal political parties are the sole and ultimate expression of social interests. Bevir argues that modern concepts of governmental accountability privileged both bureaucratic expertise and institutions of representative democracy and their organizations, namely, political parties. These parties could ensure “procedural accountability” of state agencies. “New governance” has provided a decentralized framework by which citizen-consumers can choose different government agencies and forms. This is a sort of “performance accountability,” in which “the problem was not to check on how [public officials] behaved, but rather to create a framework in which their interests were aligned with those on behalf of whom they acted.”\textsuperscript{29}

In the latter approach, it is easier to imagine how citizens might then articulate their interests to officials through organizations much more diverse than just formal political parties. But in each case, the “authoritarian high modernism” that Scott ascribes to 19\textsuperscript{th} century states persists. It is therefore worth quoting at some length, the way in which Bevir articulates the “democratic governance” line of questioning that might push beyond the modernist persistence in understanding relations between state and society:

\begin{quote}
Instead of modernist approaches to economic and sociological rationality, might we conceive of social life in terms of more contingent forms of local reasoning? Instead of moving from procedural to performance accountability, might we bolster procedural accountability, and, in doing so, make it less a matter of reacting to decisions that have already been made and more a matter of citizens holding people accountable during the processes of decision making? Such questions open up the possibility of more direct involvement and control by citizens throughout the formation and implementation of policies. They point toward more plural and participatory concepts of democracy.\textsuperscript{30}
\end{quote}

\textsuperscript{28} For example, Gerald Rosenberg argues that, in the United States, the courts have rarely produced the “significant social change” that they promise in a given decision, but do sometimes produce conditions whereby other mechanisms can achieve such reforms. Gerald Rosenberg, The Hollow Hope: Can Courts Bring About Social Change? (Chicago, IL: University of Chicago Press, 1991).

\textsuperscript{29} Bevir, Democratic Governance, 34-5.

\textsuperscript{30} Ibid, 37-8.
Not only do these questions have implications for future practice, but they also suggest new ways of theorizing from existing practices.

At first glance, it might appear as though the story of state-society relations in the era of modern democracy has been one of contingent pluralism being stuffed into “high authoritarian modernism” in its various guises. But the empirical evidence that underpins this thesis suggests a proverbial square peg that does not fit neatly into the prescribed round hole of such “rational” thinking about states and society. Robert Merton’s words from nearly 65 years ago are equally relevant today: “Sociological theory, if it is to advance significantly, must proceed on these interconnected planes: (1) by developing special theories from which to derive hypotheses that can be empirically investigated and (2) by evolving, not suddenly revealing, a progressively more general conceptual scheme that is adequate to consolidate groups of special theories.”

To this extent, Bevir’s questions imply that we may be missing the more contingent and relational aspects of state and society in governance already in our midst.

Subaltern politics: contending with governmentality

Thus far, the theories under examination have all but ignored perhaps the most significant global social experience of the past 500 years, namely, colonialism. There is a great deal to be said about relationships between state and society without addressing colonialism head on. But theories about colonial and post-colonial relationships illuminate the ways in which approaches to statecraft have been shaped by long-standing global flows of power and capital. For example, Achille Mbembe describes the post-colonial experience of Africa as made up of three interlinked historical processes: “First, the de-linking of Africa from formal international markets; second, the forms of its integration into the circuits of the parallel international economy and third, the fragmentation of public authority and emergence of multiple forms of private indirect government accompanying these two processes.” Particularly significant, for the purposes of this thesis, is to note the ways in which Mbembe’s articulation of the post-colonial experience ties together financial flows and political flows.

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So what is the nature of changing statecraft in this experience? Mbembe calls it “private indirect government,” but this is not a wholly encompassing description given my concern here with the nature of production of services in a post-colonial context. The notion of “governmentality,” first articulated by Michel Foucault, is particularly evocative. He described a process of “etatisation of society,” which, translated literally, means the “governmentalization of society.” As Aradhana Sharma and Akhil Gupta put it, this view of “governmentalization,” “enables us to examine the dispersed institutional and social networks through which rule is coordinated and consolidated, and the roles that ‘non-state’ institutions, communities, and individuals play in the mundane processes of governance.”

Partha Chatterjee gives the processes of governmentality a useful macro-historical framing:

The story of citizenship in the modern West moves from the institution of civic rights in civil society to political rights in the fully developed nation-state. Only then does one enter the relatively recent phase where “government from the social point of view” seems to take over. In countries of Asia and Africa, however, the chronological sequence is quite different. There the career of the modern state has been foreshortened. Technologies of governmentality often predate the nation-state, especially where there has been a relatively long experience of European colonial rule.

This narrative tracks well with the South African experience in informal settlement upgrading, with respect to both top-down institutional approaches and spatially segregated outcomes. The settler colonial state of the Apartheid era set the stage for the mechanisms by which the post-Apartheid state has established its legitimacy. Chatterjee, though primarily focused on the modern Indian state, could well be writing about South Africa: “A major characteristic of the contemporary regime of power is a certain ‘governmentalization of the state.’ This regime secures legitimacy not by the participation of citizens in matters of state but by claiming to provide for the well-being of the population.” This lens makes the developmental equation of managing access to land, shelter, and basic services plain. “Delivery” equals legitimacy.

Chatterjee’s vision of a “political society” suggests that the relatively rational, “authoritarian high modernist” institutions charged with these planning imperatives make

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social and political life in contexts such as South Africa a highly “governmentalized” social arena. The difference harkens back to the ages of Rosseau and Locke, as well as the more recent era of de-colonization. As Chatterjee argues,

Colonial rule did not recognize popular sovereignty. That was a concept that fired the imaginations of nationalist revolutionaries. Ideas of republican citizenship accompanied the politics of liberation. But without exception — and this is crucial for our story about politics in most of the world — they were overtaken by the developmental state which promised to end poverty and backwardness by adopting appropriate policies of economic growth and social reform.\(^\text{36}\)

It is useful to use Rosseau and Locke as touchstones for conceiving of popular sovereignty, precisely because they seem so relatively moderate today. They definitely do not feature in Chatterjee’s more “radical” outlook. Whereas Rousseau suggested that the people must ready to “receive” institutions of their government\(^\text{37}\), the governmentalized society only necessitates that “populations,” as Chatterjee puts it, be ready to “receive” the material outputs of these institutions.

This thesis will argue that there are particular ways in which institutions for informal settlement upgrading in contexts like South Africa have been part and parcel of this “governmentalized” phenomenon. We therefore will seek to understand the ways in which “populations” have responded. Doing so allows for a critical reading of Chatterjee’s theories of “political society,” as well as an empirical analysis of social pressures that impact the meaning of citizenship in accessing land, shelter, and basic services. Chatterjee’s “political society” allows us to understand grassroots action related to accessing land and housing as something other than just a simple binary of “popular sovereignty” and cooptation. A view of a more heterodox landscape of social activity is what Chatterjee calls “the politics of the governed.”

The practical question is what strategies and outcomes might best comprise a form of emancipation for peoples who have been excluded through the dispossession of colonialism. Boaventura de Sousa Santos and César Rodriguez-Garavito argue that the “victim’s perspective” is so central to “subaltern cosmopolitan politics and legality.” For example, courts are a fraught type of institution in this respect. Communities that experience poverty and exclusion sometimes seek redress through courts, but do so through institutions

\(^{36}\) Ibid, 37.

that are embedded in a web of institutional relationships that have excluded these communities in the first place. Sousa Santos and Rodriguez Garavito’s articulation of the inadequacy of “participatory exercises in institutional imagination” seems equally applicable in the legal sphere:

By default or design, those doing the imagining are the elites or members of the middle-class with the economic and cultural capital to count as ‘stakeholders.’ Either way, the process is a top-down one in which those at the bottom are either incorporated only once the institutional blueprint has been fully laid out or are not incorporated at all. This echoes Chatterjee’s articulation of the difference between the “political society” of the “populations” which the state governs, and the “civil society” of relatively elite groupings who parley with the state. The challenge with these approaches is that we can easily fall into the trap of ascribing one set of tactics to one sort of grouping, and another set to another grouping. In fact, as Chatterjee notes, by opening up this theoretical framework, we can make out an incredibly diverse set of tactics and strategies that develop between states and “subaltern” populations.

A recent commentary by Ajantha Subramanian on anthropological work on another social movement for land and housing in Durban, Abahlali baseMjondolo, makes clear the kinds of questions that we need to continue to pose in order to fill out this lens. Subramanian reads the movement in light of Chatterjee’s theories of the “politics of the governed” in order to suggest that the fundamental question for understanding grassroots action is the extent to which a society is governmentalized:

Why is [the South African democratic state’s] strategy vis-à-vis the urban poor one of exclusion and not incorporation? Why has the state abdicated pastoral care for the growing number of shack dwellers? Why does its legitimacy in the eyes of the urban poor no longer matter, especially given the proximity of share, late apartheid struggle and the existence of a large number of ANC members in the shack settlements?

While Subramanian poses this question in response to a claim that the South African state has somehow abdicated its developmental role vis-à-vis land and housing (this is the claim to which she is responding, so it is not questioned), my evidence will suggest that a sort

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39 Ajantha Subramanian, “Commentary on Kerry Chance, ‘Where there is fire, there is politics’: Ungovernability in Democratic South Africa,” Harvard Africa Workshop, 3 Dec 2012, unpublished remarks cited with permission through personal correspondence with the author.
“governmentalization index” is in fact quite high. Indeed, the South African state has been very active in this sector, much like the Indian examples that drive Chatterjee’s work. Rather, the South African state has been particularly ineffective in delivery, especially in terms of the spatial and socio-economic exclusion that continues to characterize land and housing planning for the poor in cities.

Another significant twist on thinking about governmentality and the room it affords for popular movement from below is Ananya Roy’s concept of civic governmentality. Like Chatterjee, she uses “civic governmentality” as a way to understand the different types of civil society and “uncivil society” that relate with the state in ways that do not always gain full articulation in more traditional views of state-society relations. For her, civic governmentality refers to “grassroots regimes of government that both resist and comply with what may be perceived to be top-down forms of rule, be it those emanating from the state or from international institutions.” Roy constructs this theory through an analysis of two different kinds of movements: Hezbollah in Lebanon and the “Alliance” of the National Slum Dwellers Federation and Mahila Milan (two mass-based urban poor social movements) and a small support NGO called the Society for the Promotion of Area Resource Centers (SPARC) in many cities throughout India. The central tension in the Indian Alliance, for Roy, is encapsulated in an epigraph to her paper attributed to SPARC director Sheela Patel: “We could have stormed the barricades… but we chose otherwise.” The Alliance is an attempt to marry the politics of protest with the politics of delivery. It works with communities to produce their own services such as toilets, water infrastructure and housing, as well as to negotiate with the state. This, Roy argues, produces new forms of “governable spaces and governable subjects.”

It is precisely this regime of “governmentality” that comes in for critique from Roy in the case of India and echoes those who accuse other groups linked to Shack/Slum Dwellers International (SDI) — such as the community networks in the case studies under examination in this thesis — of pursuing “collaborationist” tactics. Roy suggests that SPARC is pursuing an urban strategy that may yet be overtaken by “bourgeois environmentalism” and “brutal primitive violence” endemic to dominant development paradigms in cities such as Mumbai.

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41 Ibid, 159.
42 Ibid, 163.
as Mumbai. But given its urban poor mass base in the form of National Slum Dwellers Federation and Mahila Milan, the Alliance has a clear compulsion towards a mixed strategy. For, as Roy herself asks, “Will rebellious citizenship ensure the right to the production of space or will it leave them without access to the infrastructure of populist mediation and its regulated entitlements?” In a sense, she is posing the unspoken question in Chatterjee’s work. Are “political society” and “civil society” necessarily in opposition, or do they hold the possibility of a more synergistic relationship that produces a new kind of politics altogether? For both theorists, the extent of governmentality of society is an overriding concern for understanding informal and formal institutional action.

One way of understanding the possibility for a new kind of politics that might emerge within and between the divide of “popular” and “civil” society is what Arjun Appadurai calls “deep democracy.” Like Roy, he also uses the Indian Alliance of the National Slum Dwellers Federation, Mahila Milan, and SPARC, as a case study for examining such a politics. The challenge of engagement and collaboration — a hallmark of the Alliance strategy and central to Roy’s conception of “civic governmentality” — takes on a much different hue for Appadurai.

What is at stake here is all the energy that has been invested in setting precedents for partnership at all levels, from the ward to the world. The hoped-for payoff is that, once mobilized and empowered by such partnerships, the poor themselves will prove more capable than the usual candidates – the market, the state or the world of development funding – of scaling up and speeding up their own disappearance as a global category. In the end, this is a political wager on the relation between the circulation of knowledge and material equalization, and about the best ways to accelerate it.

The relationship between flows of “knowledge and material equalization” — the intrinsic and physical aspects of development — drives a different kind of rationality that grassroots actors such as the Indian Alliance are able to use within the political dimension of “urban governmentality.” For these three contemporary theorists of the impacts of governmentality and urban development — Chatterjee, Roy, and Appadurai — the danger of co-option in such a dimension looms large. But for Appadurai, there are a mixed set of implications of dealing with hegemonic interests such as the state, global institutions, and professional

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43 Ibid, 177.
44 Ibid, 176.
NGOs, which emerge through the perceived necessity of engagement. For Chatterjee and Roy, the space for navigating this tension is less, perhaps because their time frame for “success” is relatively short, and the benchmark for “success” is different. Chatterjee and Roy appear concerned with an overturning of the very nature of inequality and poverty itself. Appadurai lingers more on the successes of groups like the Indian Alliance in achieving incremental gains through its mixed, often collaborative strategy, and acceptance of the inherent tensions therein.

**Social movements**

This leads me to a consideration of the specific nature of social struggle in cities, in what are commonly referred to as “social movements.” Significantly, Merton’s injunction to a highly contextual and empirical basis for understanding a whole range of phenomena of social change, has a highly relevant application with respect to analyzing urban institutions through social movements. The words of Manuel Castells in his groundbreaking study on social movements from 30 years ago, *The City and the Grassroots*, might be just as applicable today:

> In the last 30 years, we have achieved substantial progress in the fields of spatial economy, land use planning, quantitative geography, regional development, environmental symbolism, and urban design. Such an impressive record has greatly contributed to our capacity to understand the built environment. Yet, we are still helpless when we wish to act on cities and regions, because we ignore the sources of their social change and fail to identify with sufficient accuracy the political processes underlying urban management.46

As implied by my earlier discussion of theories of state and society, and the role of “subaltern” peoples within and between the state and society, social movements are a useful formation to study to understand urban social processes because they define both the extremities and the interstices of the formal and informal, the civil and the political.

A key challenge in this thesis is to understand how social movements impact both practice in institutions of the local state that address challenges in informal settlements, as well as the ways in which social movement interactions with state institutions do — or do not — produce changes in policy and law. I utilize a few particular theoretical frames to understand how this has occurred. The first is the “political opportunity structures” that have a) catalyzed and limited the actions of social movements, and b) been generated by the

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actions of social movements. The second is the extent to which social movements’ actions in this arena have reinforced or countered the “hegemonic” presence of the state vis-à-vis ordinary citizens, understood through a Foucauldian notion of the state as an agent of “governmentality,” a bundle of technologies of power that extends beyond the state itself.

“Political opportunity structures” is a theoretical construct that suggests that policy, institutions and social organizations are involved in relationships bound by signals that emerge from their interactions. Public policy is therefore a framing device for understanding the nature of these “structures,” and, tellingly, the concept itself emerges from the field of political science. Sidney Tarrow suggests four different types of opportunity structures that fall within two broad categories: “proximate opportunity structures” and “state-centered opportunity structures.” The former category focuses on “signals that groups receive from their immediate policy environment or from changes in their resources or capacities.” Within this category there are “policy-specific opportunities” in which public policy telescopes the political priorities of collective action, and “group-specific opportunities” in which public policy enables or disables specific strategies of collective action. The latter category focuses on the kinds of state forms that catalyze certain kinds of social movement action. Within this category, Tarrow suggests a view of “cross-sectional statism” in which varying state forms enable different degrees of collective action within formal institutions. He also puts forth a view of “dynamic statism” in which “entire political systems undergo changes which modify the environment of social actors sufficiently to influence the initiation, forms, and outcomes of collective action.”

I therefore turn to the notion of hegemony and counter-hegemony to give a frame for understanding exactly what these forms and functions mean. In large part, this notion is rooted in alternative ideas about the relationship between the state and civil society, which has drawn special attention in the field of anthropology. As Sharma and Gupta argue, “Anthropology’s focus on particular branches and levels of state institutions enables a disaggregated view of ‘the state’ that shows the multilayered, pluri-centered, and fluid nature

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47 Sidney Tarrow, “States and opportunities: The political structuring of social movements,” in Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings, ed. Douglas McAdam, et al. (New York: Cambridge University Press, 1996), 42-5.
48 Diana Mitlin, “With and beyond the state — co-production as a route to political influence, power and transformation for grassroots organizations,” Environment and Urbanization, 20 (2008), 356.
49 Tarrow, “States and opportunities: The political structuring of social movements,” 42-5.
of this ensemble that congeals different contradictions. The anthropological project attempts to understand the conditions in which the state successfully represents itself as coherent and singular.\(^{50}\) Though political scientists have often constructed the state as distinctly separate from other elements of society, the alternative view suggests that this sense of coherence actually rests on particular discursive foundations: “Once we see that the boundary between the state and civil society is itself an effect of power, then we can begin to conceptualize ‘the state’ within (and not automatically distinct from) other institutional forms through which social relations are lived, such as the family, civil society, and the economy.”\(^{51}\)

My basic approach to understanding the role of hegemony in impacting social movement action in this thesis is essentially through understanding the extent of “governmentality” in the arena of land and housing in South Africa. In essence, we can understand governmentality as the technology of power that supports structures of hegemony. Such structures, in turn, legitimate and delimit the exercise of power. The concept of “hegemony” originates from Antonio Gramsci. James Scott describes the Gramscian approach in a way that resonates strongly within the highly governmentalized sphere of land and housing in South Africa:

First, [hegemonic ideology] must claim that the system of privilege, status, and property it defends operates in the interest not only of elites but also of subordinate groups whose compliance or support is being elicited. To do this it must, in effect, make implicit promises of benefits for subordinate groups that will serve as the stake which they too have in the prevailing social order. Second, as Gramsci realized, the dominant class must make good on at least a portion of these promises if it is to have the slightest hope gaining compliance. That is, hegemony is not just a symbolic bone tossed to subordinate groups; it requires some actual sacrifices or restraint by the dominant groups.\(^{52}\)

Scott’s intention in this interpretation is to bring out the extent of negotiation that hegemony implies. It is not merely imposed, but imposed through a latent set of understandings on the part of dominant classes and institutions, of what concessions might be made in the service of maintenance of power (hegemony itself).

But, as Scott argues, such a view also has profound ramifications for conceiving the goals and metrics for evaluating “counter-hegemonic” practices. The Gramscian view operates under the assumption that subaltern and/or working classes may adopt aspects of

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\(^{50}\) Sharma and Gupta, “Introduction: Rethinking Theories of the State in an Age of Globalization,” 9-10.

\(^{51}\) Ibid, 9.

\(^{52}\) James Scott, Weapons of the Weak, 337.
“false consciousness” that make them unable to lead revolutionary activity. Scott argues that the idea that revolutionary action must be fully conceptualized on the part of revolutionary actors is more or less “tautological.” Instead, he suggests that ends and means need not, and usually are not in equal measure when it comes to evaluating actions that produce social transformation.

“There is no necessary relationship between the small and limited demands typical of a “reformist” consciousness and the kinds of actions taken to achieve these demands. One may go still further and asserts with some assurance that the rank-and-file actors in most, if not all, revolutionary situations are in fact fighting for rather mundane, if vital, objectives that could in principle — but often not in practice — be accommodated within the prevailing social order.”

The point here is not to set the stage for arguing that social movements for land and housing in South Africa are necessarily trying to achieve a sort of revolution, nor am I gearing up to argue that any or all of them might be on their way to achieve this.

Rather, it is to refocus discussions of hegemony and counter-hegemony on social movement engagements with the “mundane.” For it is within the practices of the “mundane” that governmentality spreads and generates potency. And it is within the practices of the “mundane” that the everyday experiences of social movements themselves gain their richness, complexity, strength, and weakness. Significantly, Scott’s writing on hegemony and counter-hegemony is in the context of his groundbreaking studies of peasants in Malaysia. The urban poor, as Chatterjee and others have noted, often articulate demands in a more readily apparent manner. Still, the fulcrum of change hinges on the “mundane” technologies of hegemonic rule, the practices of power that constitute governmentality.

A particularly relevant and common social movement strategy is to focus on the law as the basis for counter-hegemonic struggle. Some social movements for land and housing in South Africa have dedicated significant resources and mobilizational strength to fighting court cases, which is discussed in the following chapter. This is significant because of the overall space for contestation — legal and otherwise — that socio-economic rights, like the right to housing, seem to offer in the South African context. For now, we need to note the challenges that overly legalistic approaches to overthrowing hegemony pose. As Balakrishnan Rajagopal has argued,

the pluralization of the normative space and the ability to contest seem to offer neither a

53 Ibid, 341.
guarantee of success for social movements that choose to engage law as part of their political mobilization nor propel law in the direction that is most helpful to movement goals. The outcomes of the dialectic between law and social movements seem to depend on a number of scripts that are both internal and external to law, and seem to depend on particular local and national contexts.  

The specific practices of governmentality at the national and even city level, therefore, are unavoidable considerations for counter-hegemonic struggle despite the space that a Constitutional framework opens up in theory. The right is clearly not useless. But the utilization of the right must often be more than just a legalistic engagement.

Further, this theoretical framework is also not to say that all social movement activity is only focused on the “mundane.” Violence is also a social movement strategy that has a long history, such as in the Maoist movement in India. However, the particular histories of the movements in South Africa in the last two decades has not focused on such forms of armed struggle, and this thesis is therefore focused on movements that are primarily non-violent in orientation.

One potential effect of such social movements, then, is to challenge the extent to which the state gains domain in these other “institutional forms” to which Sharma and Gupta refer. As the next chapter will demonstrate, there are a range of movements in South Africa with different social roots and activist strategies. Still, such collective groupings and the activities that they pursue do expose — if not always challenge — the notion of “the state as the ultimate seat of power.” In this sense, they are a practical social force that highlights the nature and extent of governmentalization in a society.

This is why I also draw on the concepts of hegemony and counter-hegemony for constructing a theoretical basis for my inquiry. As Rajni Kothari has put it, “The state in the Third World, despite some valiant efforts by dedicated leaders in a few countries, has degenerated into a technocratic machine serving a narrow power group that is kept in power by hordes of security men at the top and a regime of repression and terror at the bottom.”

One need not subscribe to extremities of this dystopian view to get a sense of the

ramifications of governmentalization. Rather, it allows us to get a sense of the kind of power structures that social movements engage, to varying degrees. They also engage these structures to varying degrees of contestation both as a matter of tactics and as a matter of desired outcome. The latter type of contestation is what I mean by counter-hegemony. That is, counter-hegemonic struggle is aimed at the furthering of what Kothari calls “grassroots politics” which are a vision of a “just society.” This refers to, “A decentralized order through which the masses are empowered, not decentralization in the sense of some territorial scheme of devolution of functions and resources to lower levels but decentralization in which the people are the center.”57

Taken together, the concepts of a political opportunity structure and hegemony suggest that we can analyze social movements through lenses that require us to:

a) consider the effect of strategies and tactics on further possibilities of social movement activity,

b) consider the ways in which social movements alter the “mundane processes of governance” that constitute the phenomenon of governmentalization,

c) consider the extent to which these first two factors amount to a counter-hegemonic process that brings both resources and decisions about these resources much closer to a people-centered order.

For the range of social movements, both varied strategies have yielded important successes, but also presented significant pitfalls.

I focus on two broad categories of strategies: contestation and collaboration. The claims that movements make are much less easily categorized, as they are caught up in the mix of strategies that nearly all movements employ. Such a mix of strategies itself echoes characteristics of a state that is anything but monolithic or even coherent. As AJ Bebbington, et al. put it, “South African movement organizations have to respond to multiple ideological and pragmatic faces of a state which, within and between different program areas, can be simultaneously neo-liberal and pro-market, developmentalist and redistributive, bureaucratic and regulatory, clientelist and self-interested.”58 Significantly, argue Bebbington, et al., both

57 Ibid, 74.

types of strategies exhibit tendencies that sometimes reinforce hegemonic governmentalization of society, and otherwise advance counter-hegemonic social change.

Collaborative tactics are sometimes overlooked in studies of counter-hegemonic social movements because they are seen as only reinforcing existing stratifications that exist within a governmentalized opportunity structure. It is worth considering contestation-based strategies in tandem with collaborative strategies in order to get a broader sense of the ways in which impacts on law and public policy actually occur through the full range of actions that social movements undertake.

Though there may be many more precise definitions, social movements are most significant as a popular form for producing social changes in cities. Castells utilized his initial studies of social movements for precisely this purpose; he tries to understand social change in cities and hence he studies social movements. He articulates the reason as follows: “We call urban social change the redefinition of urban meaning. We call urban planning the negotiated adaptation of urban functions to a shared urban meaning. We call urban design the symbolic attempt to express an accepted urban meaning in certain urban forms.”

Through a mix of contestation-based and collaborative tactics, social movement interactions with the state can produce new cultures both within the movement and the state. Nick Crossley describes the “collective behavior” theories of social movement action in a way that implies just such an interaction between the state and social movements:

Contemporary work on movements is only now rediscovering the important role of movement cultures, identity and the affective bonds which integrate social agents within them. Thus we find proliferation of works on 'movements and culture' or 'collective identity'… Protests and meetings generate a deep and corporeal sense of movement belonging (an esprit de corps), and exploring the role of narrative and ideology in lending both coherence and defence mechanisms to the intersubjective world of the movement.

A key contention of this thesis is that the relationships between social movements and state institutions, in fact, produce their own narratives and ideologies that should cause us to question the rigidity of ideologies assigned to any one actor. Much as the “world of the movement” is “intersubjective,” we need to understand how the broader politics of social movement interactions with institutions of the state are similarly relational. In this way, we can uncover the politics of urban change that underpin the equation that Castells articulates.

59 Castells, The City and the Grassroots, 304.
Institutional change

So having begun with the broad relationships of state and society, and then turned to the particular social forms that help produce new type of state-society relationships, we finally turn to the formal institutional sphere. The final set of theoretical literature that this thesis addresses is that concerning institutional change. Though a large part of the theoretical basis for this thesis concerns the ways in which interactions between different institutions and actors produce social transformations, we need to understand exactly how these processes within institutions are a combination of exogenous and endogenous factors.

The broader effects of globalization on institutional changes in organs of the state, and other social forces, are also intertwined with more incremental endogenous processes, which delimit the kinds of strategic decisions that actors within these institutions make. James Mahoney and Kathleen Thelen argue that there are four types of institutional change processes that fall under this rubric: 1) displacement, whereby “existing rules are replaced by new ones,” 2) layering, whereby “new rules are attached to existing ones, thereby changing the ways in which the original rules structure behavior,” 3) drift, whereby “rules remain formally the same but their impact changes as a result of shifts in external conditions,” and 4) conversion, whereby “rules remain formally the same but are interpreted and enacted in new ways.”

Thelen and Maloney’s historical view suggests a mix of historical processes, a constellation of institutional actors, and strategic choices within the constraints of these processes and constellations, that end up producing change. This approach vastly complicates the “punctuated equilibrium” view of institutional change in which distinct exogenous events are the prime mechanism through which institutions change. Rather, Thelen and Mahoney provide a heuristic for re-focusing on the significant impacts of incremental and contingent forces over history.

An analysis of bureaucracies would seemingly be the best lens with which to understand the state as an independent actor. A pure Weberian bureaucracy — if such a thing has ever actually existed — is an entirely rational institution that implements the goals set out for it. In reality, even if a Weberian ideal remains in the realm of the theoretical, the promise of bureaucracy remains to effectively implement the political priorities of the state.

through rational, institutionalized action. In this sense, bureaucracy is the manifestation of the state as an actor.

However, bureaucracies rarely undertake independent action. As James Wilson notes, situational imperatives of actors within bureaucratic institutions often determine the success or failure of the institution itself. Utilizing a range of examples including police, prison officers, and heads of varied government agencies, Wilson concludes that “the situation defines the outer limits of [a bureaucrat’s] freedom of action, and thus the limits of what will be determined by organizational goals or individual personality.”

In essence, his argument is that while the state does act through its bureaucratic institutions, forces external to the institutions delimit both their goals and actions.

Judith Tendler uses an in-depth study of health workers in the northeastern Brazilian province of Ceara to illuminate key lessons about how endogenous change processes are never truly autonomous, but utilize elements of relative institutional autonomy to achieve results. Still, the key is to make out the difference between focusing on outcomes in “interventions” as opposed to outcomes in “governance.” In fact, the program that led to a five-year decline of 36 percent in infant mortality, as well a 300 percent rise in vaccination coverage was never really designed to achieve such outcomes. It was an incredibly minor part of an emergency employment creation program in the wake of a periodic drought. Yet, the program ended up as an international example with respect to local health institutional design. Significantly, public health results were preventative in nature (drops in infant mortality and rise in vaccinations). But simple curative tasks and community-wide campaigns that para-professional health workers either initiated or championed were instrumental to building trust and support within communities for activities more directly about prevention.

Such an example foils dominant, one-dimensional, understandings of how to “get things done” through state institutions. This was not a simple case of identifying a problem and then directing bureaucracy and resources in one direction to solve the problem. In fact, a managed set of contestations and engagements between (a) national, state, and municipal

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64 Ibid, 38-42.
levels of government, (b) professional and para-professional health workers, and (c) para-professional health workers and ordinary citizens, combined to produce a program that led to impressive results in health, employment, and broader trust in local government.

An equally or more significant outcome, though even less forthrightly articulated at the outset of the program, was the generation of social capital and embeddedness so central to Evans’ description of “co-productive” governance. The raising of citizen expectations through publicity about public policy and the creation of a non-“expert” para-professional bureaucratic level created a synergistic atmosphere, which Tendler simply calls “trust.” “Trust” exists, like “synergy,” as a “latent possibility in most contexts, waiting to be brought to life by the institutional entrepreneurship.” Evans’ use of the term “entrepreneurship” is particularly intriguing in the context of discussing institutional design. For it suggests that the possibilities and lessons we can draw from failure may be equally productive for future success. At the same time, success — seen from the perspective of a single intervention — may hold little value when it comes to transferring lessons to other institutional contexts. For our purposes, the key is not to evaluate a single policy change as the sole mechanism through which an institution changes. Rather it is to take the institutional perspective and policy perspective in tandem, and to analyze how they reconstitute each other.

The processes that are set in motion by institutions can cut across long periods of time. The inclusive “synergy” that constitutes successful institutions is therefore rooted in actors who are bound by time to the places in which a range of interventions can occur. Citizens can be more or less active. Local governments can become stronger or weaker vis-à-vis other scales. But neither type of actor is ever fully absent. External “developmental” actors — international agencies, consultants, academics — come and go. Evans’ theoretical framework of synergistic institutions and Tendler’s empirical study of health workers in Brazil suggest a deep rationale for the value of inclusive governance. We return to Evans’ three elements of “constructability”: (1) the construction of social identities, (2) “spillover” effects of organizational design, and (3) redefinition of problems. Each element is process-oriented, which is difficult to fit into the frameworks that we may traditionally use to analyze

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65 Ibid, 27.
66 Ibid, 36.
68 Ibid, 44.
69 Ibid, 41.
discrete interventions. These elements require both time and accountability to local realities. The question is not about “getting things done,” but to design institutions that can “get things done” in order to then “get more things done.” In other words, to the extent that we can “design” institutions at all, it is to structure relationships both new and old amongst stakeholders that enable endogenous processes of change.

This chapter has laid out three types of theoretical literature that underpin the empirical investigations that follow in this thesis. Theories of state-society relations, and the specific nature of these relationships in light of the subaltern politics that must be considered in post-colonial, developing country settings such as South Africa, compel a consideration of the ways in which power is built on and altered through understandings of exclusion and oppression. By conceiving of how and amongst whom exclusion is experienced, the contours of conflict become most evident. Notably, the rise of modern and post-colonial states has perpetuated specific types of exclusion through the social ordering of “governmentality.” Social movements, then, have become a significant social form for engaging and redefining the politics that emerge from governmentalized arenas. Through a range of tactics that are oppositional, collaborative, and anywhere in between, they expose shortcomings of the state, seek to strengthen existing mandates of state institutions, and redefine the very nature of state and society relations even within a governmentalized sphere.

As a matter of planning action, the practical question concerns how formal and informal institutions change in order to leverage these macro-processes. The rationale here is to suggest that understanding the endogenous forces of institutional change, along with the relational questions of state and society, can provide practical tools for structuring engagements within and between state institutions and social movements to achieve reforms. For the kinds of institutions under examination in this thesis, my focus is on reform processes that implicate the notion that access to land and shelter is not merely or even primarily a question of material access, but also of rights of citizenship and inclusion. The key measure, then, is the extent to which social movements become embedded in the reforms of relevant institutions of the state, both through formal and informal engagements.

Reflecting on field work

The next chapters draw on empirical field work on two partnerships between the Informal Settlement Network (ISN), a social movement of shack dwellers, the Community Organisation Resource Centre (CORC), a professional support NGO to ISN, and local
institutions for upgrading informal settlements in the municipalities of Cape Town and Stellenbosch. I have been engaged in these partnerships as a participant-observer since late 2009, as an employee of the secretariat of SDI in Johannesburg, and, beginning in mid-2010, in Cape Town.

Once I began my master's studies in MIT’s Department of Urban Studies and Planning, I began to conceive of how I might draw on these experiences to focus my academic research and writing for this thesis. I knew and had worked with many of the people whose voices populate the rest of this work. But I had to figure out a way to reflect on their work, by bringing to together my past experiences with an alternative focus; not entirely detached, but rather focused on a set of analytical questions that are not the primary everyday considerations of these actors. The most concentrated period of field research was in June to August 2012, though a previous prolonged visit in CORC’s office throughout the month of January 2012, also involved a less structured engagement with the processes that are the focus of my research. My field methods included semi-structured interviews with 19 social movement leaders, community leaders, NGO professionals, academics, and officials in local government and national government. I also record my participant observations in numerous community meetings, and partnership meetings between ISN and local authorities in both municipalities.

My previous engagements with these actors likely enabled me to gain access for interviews, and assured informants that I had an established understanding of contextual issues that sometimes I forced to the fore in conversation, and sometimes left unsaid. For similar reasons, my participation in meetings was not so novel, and I suspect that there was less of a performative aspect in these meetings, than might have been had I been a total outsider.

**Seeing through the “social movement perspective”**

The rest of this thesis proceeds along lines that underscore what I will refer to as the “social movement perspective” on institutional change. What I mean by this is to say that in understanding the nature of social movement engagements with state authorities as mechanisms for institutional reforms, we have to see these processes through a lens that is focused on uncovering the practices and experiences of actors at the so-called “grassroots.” These are the informal relationships and organizational activities of the poor that are often ignored in understanding the more formal institutions that act in the name and service of the
poor. In a sense, such a perspective is in contradiction with the relatively formalized medium of an academic thesis. I do not claim to resolve this tension, but rather return to it as energy for propelling this narrative and analysis forward.

For this reason, we move next to chapter 2, which focuses on the specific histories and strategies of social movements for land and housing in South Africa. Here, I focus on the ways in which the constellation of movements that are part of the two case studies have formed and evolved in relation to formal institutional arrangements in the sector. Chapter 3 uncovers the histories of the ways in which these institutional arrangements have been structured, as well as reasons why attempts to reform these institutions have met with limited success. Chapter 4 draws on the two case studies to explain how each partnership — in Cape Town and Stellenbosch — exhibits both commonalities and differences that have enabled limited institutional reforms with perhaps much greater implications in light of the histories of institutional change with respect to land and housing for the poor. Finally, chapter 5 locates the evidence of these case studies within the theoretical framing that I have laid out in this introductory chapter. In particular, this chapter shows how the cases may hold lessons for broader policy-making and attempts at institutional reform. These cases implicate the structuring, and formalization of relationships of collaboration and conflict between local authorities and social movements more broadly than just these two cities. At the same time, the case studies uncover the extent to which the historical contingency of struggle is the unavoidable background for such relationships.
Chapter 2: A Search For Values

_Lineages of social movement action for land and housing_

Kas Maine was a sharecropper in the Transvaal region of South Africa who lived from 1894-1985. He lived much of his life as a relatively successful farmer, building relationships with other black farmers, as well as poor and rich white farmers, businessmen, and bureaucrats. Often such alliances were of a collective nature. For example, in the mid-1960s, Maine was part of a group of black farmers resisting a government ordered relocation. The faction called itself Sofasonke, which means, “we all die together.” More broadly speaking, these relationships, characterized by a mix of collaboration and conflict, action inside and outside of the strictures of the law, were necessary to navigate the complex ways in which Apartheid limited his social and economic life. In 2002, when contemporary social historian Charles Van Onselen wrote his exhaustive account of Maine’s life, he prefaced his story as follows:

> German historian Meinecke warned us more than half a century ago, that “behind the search for causalities there always lies, directly or indirectly, the search for values.” Contemporary South African values evoke hope and despair in equal measure. Perhaps there could be no other way for we are in the adolescence of our nationhood.\(^2\)

The “search” — indeed, the struggle — for values in the story of one man’s experience of dispossession at the hands of the Apartheid state, was similar to that at the forefront of the transition to democracy heralded by the country’s first democratic elections in 1994.

The battle to define the shift in institutional values of the democratic era persists into our present moment. This is a change in the institutions of government, and in the less formal social movement organizations that have emerged over the subsequent two decades. Informal Settlement Network Cape Town secretary Vuyani Mnyango describes such a struggle as a starting point for the movement with which he identifies as a member. “Starting from 2009, we used to have in our first engagements with the city. We used to have coordinating leaders that were shouting at the city officials around the empty promises by other officials that used to visit the informal settlements.”\(^3\)

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\(^2\) Ibid, vii.

\(^3\) Personal interview, 2 August 2012.
ISN with local government in Cape Town echo struggles that have occurred between ordinary people and formal authorities in South Africa for centuries.

The extensive socio-economic rights of the new Constitution held and, for many, continue to hold great promise. The campaign slogan of the ruling ANC—“a better life for all”—seems to sum up this hope. Amidst—and sometimes because of—these challenges of delivery, a range of interactions between social movements, government institutions, and the courts, have produced profound changes. These are changes in law, public policy, and implementation of arrangements to provide access to land and housing. In this chapter, I examine the types of movements, and the strategies that they have utilized to achieve these changes. In order to do so, I first lay out the basic metrics of evaluating social movement activity in this arena. This thesis does not necessarily purport to lay out a specific program of intervention in this sector, to the extent that it is concerned with analyzing multiple institutional actors and scales. However, evaluative metrics for each actor are relevant in order to understand how each contributes to the processes of change that are the overall concern of this thesis.

This chapter will utilize two basic theoretical frames through which to understand social movement activity in the arena of land and housing in South Africa: (1) “political opportunity structures” and (2) concepts of “hegemony” and “counter-hegemony.” The first is a basic frame for understanding the constraints in which social movements operate. This draws primarily on Sidney Tarrow’s conception of these structures, discussed in the previous chapter. They are significant insofar as they encourage social movement formation and activity, and that they delimit the ways in which social movements set goals and even measure their own success. The second is the basis for understanding the processes through which the political opportunity structures generate their potency, the concept of “hegemony,” first developed by Gramsci. The evidence under examination here does not suggest a totalized “false consciousness” of movements amongst the urban poor. Rather, it is a picture of both conflictual and collaborative tendencies on the part of such movements vis-à-vis formal state institutions that reflect an articulate counter-hegemonic vision, but also a strategic tension over the tactics to achieve this vision.

The lenses of “political opportunity structures” and “hegemony,” already in dialogue in the previous chapter, suggest a method of evaluating social movement activity along two parallel lines of questioning. These are categories that assume that overthrow of the modern
state order is not the primary task or goal, especially given the hegemonic strictures of governmentalized arenas such as that under examination here. In short, revolution is neither desired nor likely possible in the new democratic dispensation in South Africa. For now, at least, the State has made at least enough changes to elicit the sort of “compliance” that Scott draws out as essential to the Gramscian view of hegemony. First, we must ask, are the demands of a social movement about reorienting values of policy? Do they achieve changes in policy that reflect this change in values? Are they concerned with changing the ethics of practice? Do they achieve changes in policy that reflect this change in ethics? Secondly, what does social movement engagement with the practices of the “mundane” — in this case, primarily implementing agencies of municipal government — do to the social movement itself? Does the social movement build strength to further its necessarily incremental transformational capacity? And does it build strength — a self-emancipatory will — within its members to continuously challenge the contradictions of hegemony?

**A brief history of grassroots activity in land and housing struggles in the post-Apartheid era**

With this rubric in place, we turn to the key aspects of social movement and trade union history in the arena of land and housing in South Africa. Each state has its own particular dimensions and history that delimit political opportunity structures and define the boundaries of hegemony and counter-hegemony. In the case of South Africa, it is instructive to view the current democratic state as very much rooted in a social movement history that precedes its current formal structure: the United Democratic Front (UDF). The UDF was made up of civic organizations, trade unions, and other citizen associations as a broad front against the Apartheid regime. Jeremy Seekings asks whether the UDF was an “organization or a movement.” Given that it was not membership-based, and that linked organizations operated with a high degree of autonomy, he ultimately suggests that in its earlier formation from its inaugural conference in 1983 to 1986 was very much like that of a social movement:

The UDF was not a party, did not have branches, and never allowed for individual or personal membership… Having the form of a front facilitated effective activity over agreed, specific and discrete issues, whilst preserving the formal autonomy of affiliates. Organisations could affiliate even though they disagreed with other affiliates over broad ideals or even over the strategies they used in their individual activities. This loose form
represented a choice on the part of the UDF’s founders, an acknowledgment of the fragmentation, vulnerability and diversity of South Africa’s extra-state opposition.\textsuperscript{74} Yet by 1990, when the National Party-led government unbanned the ANC and began negotiations to end Apartheid, the UDF was subsumed. Most structures of the UDF quickly fell apart despite the argument from some quarters in the leadership that “whilst the ANC would assume ‘national political leadership,’ especially in negotiations with the government, the UDF should continue to coordinate socio-economic struggles, help to build the ANC, and pull the political ‘middle ground’ into support for the ANC.”\textsuperscript{75} As Tshepo Madlingozi has argued, “the hegemony of the ANC and its allies over the national liberation struggle had devastating consequences for ideological and organizational diversity represented by grassroots organizations affiliated to the UDF.”\textsuperscript{76} Significant features of this relationship of the ruling party to social movements and organizations have carried through to the democratic era.

This relationship brings out key components of the political opportunity structures in which social movements operate. These components help us to understand the particular nature of hegemony in this arena, and the ways in which social movements engage in counter-hegemonic practice. South Africa’s state institutions for land and housing exemplify quite well Foucault’s notion of “\textit{étatisation}.” Land and housing are both communal and individual in nature, closely tied to families, and fundamental social ties. In South Africa, the dominant institutions for delivery of housing for the poor, and methods of providing land to the poor are wrapped up in a neoliberal policy formula first introduced in 1996 called Growth Employment and Redistribution (GEAR). Sebastiana Etzo argues that GEAR exemplified the market-oriented underbelly of the redistributinal oratory of the ruling ANC: “While the rhetoric of ‘a better life for all’ reverberates in the ANC’s political discourse, GEAR expresses a market-driven vision of development that values efficiency and relies on growth as its driving force. Development is essentially understood as ‘delivering,’ while local government is the instrument employed to deliver.”\textsuperscript{77}

\textsuperscript{75} Ibid, 21.
\textsuperscript{76} Madlingozi, \textit{Post-Apartheid Social Movements and the Quest for the Elusive ‘New’ South Africa}, 85.
In fact, in the housing sector, we perceive the contours of dominant market-oriented institutional relations promoted throughout much of the developing world: decentralization of formal institutional responsibility, private-sector outsourcing of service provision, and diffuse lines of accountability. There are three main aspects of these arrangements that are relevant for the purposes of this discussion: (1) the top-down, private-contractor delivery of fully-serviced top-structure houses, (2) provision of land on peripheries of cities, and (3) mixed responsibility for implementation between provincial government (houses) and local government (basic services).  

There are many other characteristics of the institutional arrangements for housing delivery, and that critics of South Africa’s housing policy have enumerated. But these three characteristics are particularly notable for their relationship to the political opportunity structures that shape social movement action. The top-down delivery approach, whereby the state conceives and manages projects, and procures private contractors, is tied to a broader paradigm for service delivery in the country. The “poverty alleviation” discourse is tied closely to this approach. It is this rhetoric that comprises one angle of the opportunity structure, as such language seems to discount the role of social movements. As AJ Bebbington, et al. have argued, “most social movements say little, directly about poverty, and very few social movements emerge on the basis of a poverty discourse.”

The links between the key labor federation in South Africa, COSATU (Congress of South African Trade Unions), and grassroots movements do complicate this picture. The question of a worker alliance with other informal and formal organizations of progressive social forces has been at the heart of COSATU’s agenda since the days of its alliance with the UDF in the 1980s. This alliance saw broad-based terrain for struggle that extended far beyond the shop floor, as articulated in one of the aims in the UDF-COSATU National United Action campaign of 1987: “build organs of people’s power in the townships, factories, schools, universities, etc.” From at least the 1980s to this day, labor unionism in South Africa has rarely had a singular focus on workplace conditions. Indeed, the focus of “industrial relations” in countries like the United States, which has, to put it most broadly,

placed its emphasis on “the conditions responsible for conflict between employers and employees and possible remedies for such conflict,”\textsuperscript{81} has not held the same significance in a country like South Africa. Unions like COSATU, though very much engaged in the traditional industrial relationships contained within such a definition, have also explored quite deeply links with other organizations of the poor and throughout civil society as part of a broader social transformation project.

The challenge in this relationship surfaces with respect to the significant divergences between the formal working class and the often-poorer urban “underclass.” Chief among these is the relationship between informal employment and the over employment picture in the country. To a degree, South Africa exhibits characteristics not dissimilar from many developing countries in Africa with respect to having high formal unemployment and a significant informal working population. But there are also significant divergences, which challenge models for institutional relationships between workers, employers and the state. As David Jordhus-Lier suggests,

\begin{quote}
“Informality” has been the reality for millions of South Africa workers for a long time. In addition, the racially discriminatory legislation of apartheid meant that even if employment contracts and labour law were in place, they did not secure decent work conditions. But since the collapse of apartheid, South Africa has experienced an intensified process of informalization.\textsuperscript{82}
\end{quote}

There are consequently two notable features to draw from this particular history. The first is that informality has long characterized much of the struggles of the working poor in the context of their work and employment relations. The second is that these and related populations have been subject to globalized forces that are, in fact, resulting in increased “informalization” over the last approximately two decades.\textsuperscript{83}

\begin{footnotesize}
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\item \textsuperscript{81} Bruce Kaufman, \textit{The Origins and Evolution of the Field of Industrial Relations in the United States}, (Ithaca, New York: Industrial and Labor Relations Press, 1993), 3.
\item \textsuperscript{83} In the current period, major measures of industrial and economic performance have had great difficulty assessing the exact extent and nature of informality in South Africa. Despite this, the accepted general conclusion is that the informal sector is particularly “weak” in comparison to that of other developing countries in Africa. The two main measures come from the government’s Statistics SA (Stats SA) department, and Adcorp, an employment services company. The former utilizes a physical survey of households (n=30,000), and in 2011, concluded that there were 2.34 million people in some kind of informal employment. The latter uses econometric modeling, and concluded that in the same year there were 6.2 million employed informally. However, if we take the Stats SA figure and compare it to the agency’s unemployment count — approximately 4 million — then we can see that the informal sector is not absorbing a vast section of the formally
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This scenario challenges a trade union federation such as COSATU, which has long been dogged by accusations of other civil society actors of “workerist” tendencies. In essence, a federation whose members are formal workers — municipal workers, miners, textile workers, amongst the biggest and politically powerful unions within the federation — is taking on the mantle of leading a struggle for economic redistribution (and perhaps a broader redistribution of political voice). Yet this is a phenomenon that, to a significant degree, characterizes even more closely the experience of non-unionized and informal workers, whose interests are not represented within COSATU. The key open question, then, is well-put by Gunilla Andrae and Björn Beckman: “Is the failure to bridge the formal-informal divide suggesting that trade unions risk ending up as a ‘labour aristocracy’, catering for the interests of a privileged minority that finds itself in formal employment?”

COSATU has had a shifting relationship in the formal political sphere — increasingly allied to action in the formal arena — which has diminished its impact on grassroots movements. However, its initial policy activity that came out of the broad-based alliances of the anti-Apartheid struggle, have strong resonances for movements concerned with land and housing today. Most central to this understanding is COSATU’s formal alliance with the ANC, which has ruled South Africa since the country’s first democratic elections in 1994. Initially, COSATU, riding high on its leading role in the alliance with the UDF and in subsequent negotiations to end apartheid after the unbanning of the ANC, had a big role in policy making. The Reconstruction and Development Program (RDP), which instituted a range of social welfare initiatives, was, in large part, crafted in COSATU’s policy research wing. But two years later, in 1996, COSATU’s waning influence was in plain sight. The move to GEAR signaled a move away from the relatively more redistributive and labor-friendly policies of RDP in the name of “global competitiveness.” Instead, reduction of trade barriers and loosening labor regulations took on increasing policy prominence. As Pauline Dibben describes it, “Competitiveness and efficiency were achieved through training and

development, but also through industry restructuring and job cuts. By 2003, nearly 37 percent of African workers were unemployed.\textsuperscript{86}

Such policies make up what Tarrow has called the “proximate opportunity structure,” whereby social movements organize with respect to signals that their constituencies “receive from their immediate policy environment.”\textsuperscript{87} The poverty discourse characterizes this environment: a view that individuals will receive houses through the individual housing subsidy, first articulated in policy in RDP, and that land title will be similarly individualized. Social movement action is inherently collective, but is interacting with an individualized view of poverty in the land and housing sector: “Notwithstanding the fact that labour market dynamics continue to be the primary source of poverty and inequality in South Africa, these areas of collective consumption have drawn most movement activism.”\textsuperscript{88}

The wrinkle here is that not only are movements responding to the policy environment, but also the bureaucratic structures that implement policy. The dominant policy intervention — fully-serviced top-structure housing delivery — inhibits community-based collective action. The subsidies are administered through provincial government structures, with housing departments that plan housing developments through ward councilors that have little democratic accountability to their purported constituents. Local government is responsible for providing basic services for housing projects, but do not manage housing projects themselves. This is mixed bureaucratic management strategy of formal decentralization to the local level, but with significant competencies located at higher levels that reduce the potential for influential project planning at the city level, let alone the community level. The clientelist, and, in many cases, overtly corrupt relationships that emerge between ward councilors, local government and provincial government are, in part, a result of the lack of devolution of real decision making power to accountable community structures.\textsuperscript{89}


\textsuperscript{87} Tarrow, “States and Opportunities,” 42.


Further, the most recognized civic movement in formal circles, the South African National Civics Organization (SANCO), itself an outgrowth of UDF structures, is largely perceived to be unaccountable to communities. SANCO branches exist in a vast number of informal settlement communities and often validate the actions of ward councilors and higher up local officials. But Richard Pithouse, amongst others, has argued that SANCO’s historic relationship to state structures, and especially the ANC, make it an agent of top-down delivery rather than grassroots pressure: “When the ANC opened their offices in Johannesburg after they were unbanned in 1990, a huge banner in the foyer declared, ‘Occupy the Cities!’ ANC aligned settlement committees were expected to affiliate themselves to the SANCO and were thus brought under direct part control.”

Finally, the provision of land on the peripheries of cities reinforces structural exclusion of the poor through spatial divides. This means that not only are the poor often being moved from reasonably well-located land where they do not have title, do much less economically viable locations where they do have title. The logic of “banking the unbanked” or “titling the untitled” trumps a logic that would suggest a more holistic sense of inclusion in economic opportunities.

Taken together, these three features of the housing delivery apparatus — top-down, individualized delivery, peripheral land, and stratified relationships between scales of government — suggest the contours of the second type of Tarrow’s political opportunity structures: “state-centered opportunity structures.” Social movements have struggled to find space within formal institutions to access their claims, which we can ascribe to the specific brand of “cross-sectional statism” in the South African context. But what of the hegemonic “statisation” of society? It is difficult to elucidate this phenomenon without understanding the extent to which social movements have acted within a context of “dynamic statism,” in which specific political opportunities arise precisely because of the interaction between social movements and the state. We have seen the broad contours of state policy and bureaucratic directions and discourses. But the extent of hegemonic influence of Foucauldian

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93 Tarrow, “States and opportunities,” 43-4.
“governmentality” of land and housing in South Africa is, in many ways, best understood through the character, strategies and tactics of social movements acting in this arena.

“The dog doesn’t bite while it’s chewing”: social movement strategies and tactics

At meetings of the ISN, it is common for members to chant an isiZulu phrase: “ayilumi ma ihlafuna.” This translates into a strangely instructive euphemism: “the dog doesn’t bite while it’s chewing.” The slogan is meant to suggest to those participating in the ISN that politicians and officials do not have their proverbial “eye on the ball” and are susceptible to change if the movement is prepared for action. In a sense, the phrase encapsulates the notion of social movements acting within political opportunity structures, in order to achieve their goals. But for many movements, the ways in which to catch the government in an alternative, counter-hegemonic logic, manifests in both the strategies and the claims that movements make. Here, I focus on two broad categories of strategies: contestation and collaboration. The claims that movements make are much less easily categorized, as they are caught up in the mix of strategies that nearly all movements employ. Such variation of strategies echoes characteristics of a state that is anything but monolithic or even coherent. As Bebbington, et al. put it, “South African movement organizations have to respond to multiple ideological and pragmatic faces of a state which, within and between different program areas, can be simultaneously neo-liberal and pro-market, developmentalist and redistributive, bureaucratic and regulatory, clientelist and self-interested.” Significantly, both types of strategies appear to exhibit tendencies that sometimes reinforce hegemonic governmentalization of society and otherwise advance alternative counter-hegemonic social frameworks.

Nearly all social movements in this arena engage in some strategies of contestation. There are three main tactics that are involved in this strategy: street protests, land invasions, and battles in the courts. Street protests, often described in the popular press as “service delivery protests,” are increasingly common in South Africa. These are generally at the community level, sometimes through more widely-coordinated social movements and sometimes not. They often manifest through violent or spectacular displays of anger such as burning of tires, blocking roads, and sometimes destruction of property. The pace of these

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95 uTshani Buyakhuluma, Issue 1, February 2011.
protests has been on the rise since approximately 2004, when President Thabo Mbeki was elected to his second and final term. There were 35 such protests in 2005, but by July 2009, months after the election of current President Jacob Zuma, the number that year had already reach 21.97 The explanations for these protests have actually been rather diffuse, with some arguing that they are tied to localized political considerations, especially leading up to the local elections in 2010. But the sheer number of documented incidents underline that street protest is on the rise, if anything, even if organized social movements are not at the forefront of this trend. Street protest in 2012 accounts for 30% of all street protest since the year 2004. And a quarter of the protests took place in the Western Cape.98

The steady beat of street protest suggests that a deeper social spirit has emerged amongst the urban poor. Though some leading politicians claim that some protests in the Western Cape are linked to political opposition to the ruling Democratic Alliance99, this does not appear to be the primary focus for informal settlement communities where dire conditions remain unaddressed. The demands that surface are generally claim-making on an existing order: ending corruption in housing subsidy allocation, and wider demands that existing programs for delivering houses, services, and land perform better. This complicates a simple view of all protest as counter-hegemonic, for, the stated claims seem to uphold existing paradigms of “governmentality.” But the act of protest as a force for showing discontent with the state also has its own logic and power. As Sebastiana Etzo argues,

The growing popular discontent manifested in the past decade, which reached its peak a few months after Jacob Zuma was elected president of the country in 2009, is framed within the context of a country that successfully transitioned to democracy and built solid democratic institutions. However, the consolidation process is undermined by the tensions and contradictions of a neoliberal strategy that, while favouring the emergence of a black middle class, does not respond adequately to the increasing social and economic inequalities.100

The move to the streets over the past decade is full of mixed messages, many of which appear to uphold the basic logic of existing government programs. But the discontent is a broader challenge. With demands framed firmly within the existing “policy-specific opportunities” of the “proximate opportunity structure” that Tarrow describes, the

99 Peter Luhanga, Zille claims evidence ANCYL is behind violent protests, West Cape News, 19 August 2012.
communities in the streets may indeed be creating a space that generates much more fundamental contests over both power and resources.

Land invasions are a relatively more organized, though often underground form of protest, which are often tied to social movement organization, at least in the post-Apartheid context. Four of the largest and most well-known movements of the last two decades have engaged notably with this strategy: the Landless People’s Movement (LPM), Abahlali baseMjondolo (AbM), the Western Cape Anti-Eviction Campaign (AEC), and the South African Homeless People’s Federation (SAHPF), which is now known as the Federation of the Urban Poor (FEDUP).

We can characterize this tactic in a number of ways, and I want to focus on two, which are relatively complementary. First is what Marie Huchzermeyer has called “human needs-led development.”¹⁰¹ Of course, almost all informal settlements have a history rooted in some kind of land invasion, given that the land on which these settlements lie is not formally titled to the occupants. Land invasion in this frame is a key aspect of how the poor shift relationships that characterize city development. As Richard Pithouse has described the work of AbM in the context of Durban, “Urban planning has always emerged from the balance of power between city authorities and popular forces.”¹⁰² The notion of human-needs led development is therefore a response to the structural inequality that excludes the poor from formalized land and housing.¹⁰³ Such action is often part of a larger repertoire of direct actions undertaken by social movements, such as reconnecting cut-off water and electricity connections, and the street protests discussed above.¹⁰⁴ This is a “state-centered opportunity structure,” driven by the lack of legitimation by the state of the land occupancy of the poor.

Another way to view land invasion is as a way to drive institutional change through subsequent engagement with authorities. SAHPF, and its subsequent manifestation as FEDUP, have used the tactic of land invasion towards such ends to a large degree. In October 2000, People’s Dialogue, a NGO that worked closely with the FEDUP network, compiled a list of known land invasions undertaken by groups linked to the network. They had occurred in 21 settlements throughout the country, including, in their initial phases

¹⁰² Pithouse, “A Politics of the Poor,” 72.
(meaning prior to “formalization”), 8,045 families.\textsuperscript{105} No similar compilation of data on invasions exists for other movements, so it is worth examining the way in which it has occurred, as well as its potential for impacts on both law and policy.

The practice of extralegal invasion of land has been both an outside and inside game. By keeping open the option of invasion, like other social movements, the FEDUP network uses its methods of organization and housing development to challenge fundamental notions of ownership and property that the state has been unwilling to confront. Negotiation with state authorities on the one hand — a much more dominant strategy for this network — has both counterbalanced and been enabled by extralegal invasion. The oral account of Agrinette Hills, an informal settlement leader in Gauteng province, illuminates the experience of invasion:

“We started to plan to invade. On the 19th of March (1997), we had a meeting. I spoke to the people. By then there were 516 members. I asked them if we should wait. All the members said no, we should not wait. I asked the Federation leaders and People’s Dialogue. Mama asked me if I was scared. I said I was only scared of God. Then they said I should do it.

So on the night of the 20th (March) I moved onto the land. My boyfriend said that he should stay behind with the children. So it was just me and the plastic. I put up a plastic. This first night, there were three women and four children. Just us alone. The next day some others came. There were maybe 20 of us. The others, they were scared that the police would come with guns and dogs. Although there were many members they waited to see what would happen.

The council came to see us. They said we should get our things and go to Everton where they have sites. We said that we would not go there because the houses they are too small. Then I told them that I would not go back to a shack. My mother had died in a shack. There was a fire. All the shacks were burnt. I lost my family. Then they were silent. They had nothing to say.”\textsuperscript{106}

The story is instructive because it suggests the personal and communal anguish of ordinary people that accompanies this kind of action. Further, it suggests a complex relationship with formal authorities, in this case, at the local level. Negotiation and invasion


\textsuperscript{106} Ibid, 11-2.
are in constant interaction as a matter of tactics. Notably, the community did eventually gain tenure to the land and access formal subsidies to build houses.

Engagements between the FEDUP network, People’s Dialogue and the national Department of Land Affairs in the mid to late-1990s were an attempt to reform the fundamental institutions that governed land tenure, so as to make land ownership more flexible for — and accessible to — the poor. The network developed an internal 24-point strategic plan for accessing land, which included various legal and extralegal strategies. Land invasion was considered an option of last resort. This locates a tactic of contestation as part of a broader array of tactics that test the binary of contestation and collaboration, and indeed of hegemony and counter-hegemony.

Further, the Federation began to work with the Department of Land Affairs to test out alternative institutional mechanisms for coping with the lack of availability of tenured land for the poor. Between the years of 1996 and 1997, the FEDUP network and the Department of Land Affairs agreed to use 11 sites to test whether the existing bureaucratic mechanisms for obtaining land title were sufficient for the urban poor communities linked the FEDUP network to actually access tenure. This partnership did not yield many results, which Baumann et al, have described as being due to the persistent inaccessibility of the relevant institutional bureaucracies.107

Despite these shortcomings of individual actions by communities and social movements in the realm of land invasions, there have been significant policy changes that reflect the kinds of pressure these strategies have brought to bear. The next chapter unpacks their history of policy and institutional change in much greater detail, but major interventions deserve mention at this point. The most significant is the “Breaking New Ground” policy released by the Department of Housing in 2004. This policy was the first indication that formal institutions might be ready to shift from the dominant paradigms of housing delivery enumerated above — namely, fully-serviced top-structure houses built by private contractors often on peripheral land. Instead, a more incremental, “in situ” approach to providing land and shelter would be the order of the day.108

But until very recently there has been very little institutional support for implementing this policy. In fact, Huchzermeyer’s case study of municipalities in Gauteng

107 Ibid, 11.
province suggests that municipalities have often actively avoided proper implementation of the key Upgrading of Informal Settlements Program (UISP). She attributes this to the pervasiveness of the hegemonic logic of state craft, even and perhaps especially at the local level:

[Municipal officials] deal with informal settlements in the conventional project-linked subsidy approach (based on subsidy eligibility of individual households), resulting in relocation or at best disruptive ‘shack shifting’ or rollover upgrading, mostly with the displacement of non-qualifiers of the housing subsidy. Thus city officials consciously or unwittingly act as servants of orderly development, global competitiveness and the market, rather than as implementers of the transformative aspects of the Constitution and of progressive policy and legislation that has been developed to ensure the realisation of constitutional rights.109

It is significant that scholars such as Huchzermeyer have cast policy changes like Breaking New Ground in the rights-based framework, not only because the changes have quite clearly occurred in a country with a prevalent rights-based dispensation. It is also significant because the difficulties of implementation suggest limitations of the rights-based framework for counter-hegemonic struggle. In turn, this suggests that rights-based approaches may have to be re-conceptualized to take struggle and resistance seriously, much as Balakrishnan Rajagopal has argued in the context of international human rights law.110

**Social movements in the courts**

We therefore turn to the most clearly articulated site of rights-based struggle. The third contestation-oriented strategy that social movements for land and housing have used is the pursuit of legal challenges in the courts. South Africa’s rights-based constitution has provided great opportunity to social movements to bring cases that might challenge the type of policies that exist and the ways in which the policies get implemented. The first major challenge in the arena of housing is a Constitutional Court case from the year 2000 called *Government of the Republic of South Africa vs. Grootboom*. This case was brought by Irene Grootboom and about 900 other members of the Wallacedence informal settlement in Cape Town to challenge the municipality for access to land and housing. The case was premised on the key socio-economic rights provision in this arena: Chapter 2, Section 26. It states the following:

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(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of this right.

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

In the case, the Constitutional Court ruled that the municipality should provide temporary housing to children, based on Section 28 of Chapter 2, which includes the right of children to housing and that adult residents had the right to government plans for housing, to prove that government is achieving “progressive realization” of their rights. It was hailed as a great victory for organized communities that were able to bring their grievances to the court, while also criticized for its inadequacy from a human rights perspective. For example, as Huchzermeyer notes, the notion of “progressive realization” of the right to housing—that the state must commit the financial and institutional resources to achieve the articulated socio-economic rights over time—is hampered by the inadequacy of related rights: “The realisation of the right to housing, in particular the location of such housing, is inextricably tied to right to land, and is hampered by the constitutional protection of the extremely skewed existing property rights to land.” In the case of Grootboom, the reality of victory was rather limited. Grootboom herself died without a house.\textsuperscript{111}

So if the right to housing is often hamstrung by land management policies, what of rights more obviously related to land? A key legal provision that has been used by many communities and social movements to prevent eviction from land whose occupation is not formally recognized is the Prevention of Illegal Eviction Act of 1998. This act is often used to bring municipal governments to court for the routine relocations that characterize a significant aspect of the vulnerability of the urban poor in South Africa. In cases known as Alexandra and Bredell, both regarding informal settlement communities in Gauteng province, municipal justification for eviction was on grounds of health and safety. The so-called PIE act enabled communities to challenge the order on the basis that municipalities did not

\textsuperscript{111} Marie Huchzermeyer, “Housing rights in South Africa: invasions, evictions, the media and the courts in the cases of Grootboom, Alexandra and Bredell,” \textit{Urban Forum}, Vol. 14, No. 1 (2003), 82-4.
follow proper consultative procedures. The former case was settled out of court and the latter did not support the community’s claim.\(^{112}\)

However, later judgments have supported similar claims. A key case concerns that of the residents of Harry Gwala settlement in *Nokotyana and others v. Ekurhuleni municipality*. The settlement was linked to social movements such as the Landless People’s Movement and the Informal Settlement Network, and the case gained great publicity. This time the case was not about eviction per se, but linked eviction with informal settlement upgrading. The settlement was due to be removed because of geotechnical issues involved with the land that led it to be deemed unfit for human habitation. However, provisions for alternative accommodation were not nearby — an element of the PIE act — and the Constitutional Court ruled that in the meantime, the municipality would have to begin upgrading the settlement, first with provision of toilets.\(^{113}\)

In most legal cases, individual communities or people have been the primary plaintiff. A more recent case pitted a social movement directly against a provincial government: *Abahlali baseMjondolo v. Premier of KwaZulu-Natal* in 2009. This case challenged a 2007 law passed in the province of KwaZulu-Natal, which would have made it much easier for authorities to evict informal settlement dwellers. The law was struck down by the Constitutional Court on the grounds of both the PIE act and the right to housing, which includes a provision against eviction.\(^{114}\) Perhaps the greatest significance of this case is the fact that a social movement, and not just a community, was able to bring a case to challenge policy in such a direct manner. The Constitutional Court’s resounding decision in favor of AbM further validated the approach.

The challenge of forced eviction, however, remains an everyday reality for informal settlement dwellers. The legal approach has primarily been used to mitigate the most extreme uses of policy to extend the hegemonic, market-based logic of the state in management of land and housing in cities. However, it has not changed the basic equation that continues to exclude the poor and subject them to oppressive and exclusionary rule, which manifests itself most violently in the form of evictions, which continue to take place. Contestation-based approaches have therefore provided important limits to state action, and

\(^{112}\) Ibid, 84-5.
\(^{114}\) Niren Tolsi, “Pooh-slinging Slums Act showdown at Con Court,” *Mail & Guardian* 16 May 2009.
defined the contours of “governmentalized” hegemonic rule. But the prospects of existing tactics in this strategic category do not, on their own, seem to exhibit the potential to counter this hegemony.

**Collaboration in and out of the boardroom**

We therefore examine the experience of collaboration as a social movement strategy to change law and policy in such an alternative direction. Such experiences take place against a backdrop where constitutional rights, like that for housing, can have either implicit or explicit coercive power to structure collaboration. This seems especially possible given the outcomes of court cases that center on the right to housing. We can describe collaborative tactics as primarily relationships with authorities to “co-produce” access to land, housing, and services, or what we might regard as “self-help” activities. The kinds of institutional changes that have occurred are the result of lengthy engagements and learning that are not easily understood through snapshots in time. This is very much like the way in which legal victories rarely have a one-to-one translation to transformative policy outcomes.

The FEDUP network is comprised of primarily women-led savings schemes in every province in the country. At its height in the mid-200s, it included approximately 80,000 active saving members. It now counts about 20,000 active members. Despite its smaller size, its public policy accomplishments and institutional relationships continue to make this a highly relevant movement in the study of social movements for land and housing in South Africa. This network is linked to a wider global network of slum dweller “federations” that also define membership through such savings schemes, called Shack/Slum Dwellers International (SDI), which is active in 33 countries in Africa, Asia and Latin America. The preponderance of emphasis for savings in the South African context has long been on housing, precisely because of the political salience of the right to housing in the specific opportunity structure of this country. Treasurers are elected from within the community to collect and manage money. The savings are collected daily, weekly, monthly, and at intervals in between. Each scheme opens its own bank account, with multiple signatories from within each scheme.

If we consider that three pillars of exclusion of the poor in cities lie in their inability to access financial power, planning and project implementation influence, and political voice, then we should evaluate the extent to which savings has been a tactic to change this equation. Such a “bootstraps” method is not merely self-help, even though it may appear as
such. In fact, it is the pillar of a redistributional and sometimes counter-hegemonic strategy. In 1994, not two months after the country’s first democratic election, Housing Minister Joe Slovo met with the FEDUP network and its NGO supporter called People’s Dialogue at a national conference on housing finance. At the meeting, he committed to provide R10 million to initiate a revolving fund to be managed by the Federation to develop scalable mechanisms for providing affordable housing finance to the poorest of the poor. This mechanism, known as the uTshani Fund was initially managed by staff of People’s Dialogue on a daily basis, but with all executive decision-making authority vested in a board made up of a majority of shack dwellers in the Federation. The principles of the uTshani Fund were described in internal documents as follows: “Finance should be made available directly to housing savings schemes and the ground work for the Fund should be undertaken at community level. According, uTshani Fund develops systems which fit with the systems evolved by the savings schemes and not the other way around.”

Though Slovo had made a firm and flexible commitment, bureaucratic delays held up the initial flow of money from the government to the uTshani Fund until January 1996. By this point, Slovo had passed away, and the top-down, contractor-driven mechanisms for “service delivery” had defined the institutions for providing low-income housing. Despite the delays, the Federation pressured uTshani Fund to begin dispersing the funds in order to begin building houses. This had been a major selling point of the Federation’s mobilization strategy in much of the country. But many pledged subsidy funds were not forthcoming. Of the R22,199,779 (approximately USD2.5 million) that had been repaid in loans to uTshani Fund in the year 200, only 51% had been accessed through government subsidy payments.

So the challenges of achieving redistributional change through the FEDUP network was significant, but remains a mixed picture. At the level of policy, the network’s approach of “self-build” housing delivery was one of the key initiatives that produced the People’s Housing Process (PHP). This is a program within the Ministry of Housing (now Ministry of Human Settlements) to funnel subsidy funds to community-based organizations like the Federation for building houses. This has been the only program to date in a formal institutional setting that has challenged the dominant private contractor-driven approach to

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housing delivery. To date, the Federation has built over 15,000 houses through such arrangements, which is the largest civil society initiative for house building in the country.\(^{117}\)

Still, bureaucratic challenges to mainstreaming PHP have persisted to this day. The nature of the specific \textit{etatist} regime in the housing sector is, in fact, elucidated in an early internal government document from 1997. It describes the challenges to mainstreaming PHP in five main areas: 1) “inability of the existing subsidy scheme procedures to disburse subsidies to beneficiaries in a simple and accountable manner,” 2) “lack of appropriate capacity (understanding, recognition, skills, and confidence) at both provincial and local government levels,” 3) “resistance by vested interest groups to supporting people’s housing processes,” 4) “insufficient support for skills acquisition and building of organizational capacity within community-based groups,” and 5) “general and widespread absence of trust and confidence by stakeholders in the ability of people to meet their housing needs.”\(^{118}\)

While bureaucratic opposition to devolving planning responsibility to ordinary people may explain at least part of the resistance to PHP, as well as a range of narrow political battles, an ideological opposition did emerge as well, though it is unclear to what extent this actually took hold. Patrick Bond made such an argument in the late 1990s, when evidence on the still-new program was not yet available. “As a delivery system, self-building undermines society’s broader attempts to spur macroeconomic growth, create formal sector jobs, and restructure apartheid urban geography, which have long-term economic costs not taken into account in current policy formulation.”\(^{119}\) More likely, the long-standing enthusiasm for private contractor focused models of housing construction has persisted in light of the legacy of GEAR, which was just getting underway when Bond was writing.

Mark Swilling argues that the approach of SDI affiliates like FEDUP in developing such partnerships is part of a broader program, which goes far beyond the critique that Bond articulates (and others have echoed).

The significance of the approach used by the SDI associated initiatives is that they have plaited together strands of developmental knowledge that are normally compartmentalized


into separate types of developmental practice: the key role of micro-finance in development; grassroots community organizing to build collective solidarities; technical innovations aimed at doing more with less; challenging existing inequities at the political level; pragmatic autonomism within civil society; the specificity of the city and in particular the socio-cultural context of the urban poor as a field of organizational practice; and subordinating professional knowledge and roles to the organized chaos of community leadership. Unsurprisingly, as with any kind of synthesis, it makes everyone who has not seen the synthesis unhappy.\footnote{In particular, it is worth noting that pitfalls of cooptation in the strict Gramscian approach are far more difficult to parse if we use the lens that Swilling articulates, which echoes Scott’s critique. In order to alter hegemonic institutions that themselves present many faces, counter-hegemonic movements themselves must operate by utilizing a range of tactics and strategies. The “synthesis,” as Swilling puts it, can only be evaluated through understanding the critique of these many faces of hegemony that a movement puts forth.}

FEDUP has, over time, experimented with a range of professional and grassroots alliances for exactly this reason. In order to move beyond the narrow strictures of a housing subsidy system that was clearly insufficient to meet the demands for both redistribution and political voice, the FEDUP network, beginning in 2008, worked to initiate a broader-based movement called the Informal Settlement Network (ISN). The ISN had a more open architecture than the membership-based FEDUP savings schemes, and included community leadership from informal settlements that came together at city level. Instead of subsidy-based housing development, the ISN worked with communities to put teeth in dormant policy documents like Breaking New Ground, which prioritized incremental, in situ development of informal settlements. In Cape Town, the ISN began a set of 20 pilot projects in partnership with the municipality to test such arrangements.\footnote{Joel Bolnick and Benjamin Bradlow, “Rather a Better Shack now than Wait Twenty Years for a Formal House” – Shack Dwellers International and Informal Settlement Upgrading in South Africa,” \textit{Trialog}, Vol. 104, No. 1 (2011), 39.}

Such a community-centered approach, which is central to the kinds of negotiations that the ISN pursues in partnership with local government authorities, is inherently collaborative. Significantly, as the Federation and its partners deepen their collaborations with government authorities, especially at the local level, they expose themselves to the ever-present dangers of co-optation and exclusion of other actors that represent the urban poor.

\footnote{120 Personal communication as quoted in Edgar Pieterse, \textit{CityFutures: Confronting the Crisis of Urban Development} (New York, NY: Zed Books, 2008), 119-20.}

\footnote{121 Joel Bolnick and Benjamin Bradlow, “Rather a Better Shack now than Wait Twenty Years for a Formal House” – Shack Dwellers International and Informal Settlement Upgrading in South Africa,” \textit{Trialog}, Vol. 104, No. 1 (2011), 39.}
At the same time, they may yet hold the potential to open up space for a more inclusionary order that can fundamentally alter the institutions that enable the exclusion that characterizes city development and planning in South Africa today.

Like most social movements, the ISN exhibits characteristics that respond to specific challenges of its context. Namely, it has a leadership and agenda that has changed over its five-year history in ways that reflect is genesis in the FEDUP network, as well as the specific challenges of governance and poor people’s organizations in its stronghold of Cape Town. The ISN began in five cities throughout South Africa — Johannesburg, Ekurhuleni, Ethekwini (Durban), Nelson Mandela Bay (Port Elizabeth), and Cape Town — in a series of dialogues in 2008 that were attended by informal settlement community leaders. Minutes from the early dialogues in each city reveal that the focus was on airing key areas of struggle in settlements, and identifying common elements. These generally centered around a range of issues related to land and shelter, particularly around the provision of basic services such as water, electricity, sanitation, and refuse removal, and an end to forced eviction. In most of the cities, the dialogues made way for activities known as “profiling,” whereby leaders appointed at the initial meetings began traveling to informal settlements around each city, meeting with settlement leaders, and collecting basic information on the settlements. Profiling data included the name of settlement, number of households, and basic demographic information. The idea was three-fold. First, to begin engaging and mobilizing with existing leadership around a developmental agenda contained within the data itself. Second, to begin creating the space for FEDUP to begin opening up women’s savings schemes. Third, to use the data as a bridge to formal authorities, especially at the municipal government level.

In Cape Town, the early dialogues gave way quickly to partnership with authorities. In March 2009, a fire in a major settlement called Joe Slovo, provided the opportunity for deeper engagement between ISN, CORC, an allied NGO called iKhayalami and a highly charismatic leadership already engaged in a Constitutional Court battle against the national government regarding development plans in the settlement. This engagement, which gets a more detailed examination in future chapters, cemented early relationships between the various actors in a specific project to rebuild the shacks in the area in a design — and with alternative materials — that would make the area more resistant by fire. The design process

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122 Internal minutes of ISN dialogues, 2008-9, kept by CORC staff.
ensured a deep mobilization of the residents, as they were involved in crafting the drawings, and negotiating the compromises of space that went into their implementation.

At this time, the leadership in the Cape Town ISN began to coalesce. Particularly notable is the extent to which crisis in one community had a major influence on the early definition of a city-wide process. A “co-chair” of the nascent national movement Mzwanele Zulu was delegated to the ISN by the Joe Slovo Task Team. His counterpart was Patrick Magebhula, a community leader in the community of Piesang River in the Ethekwini municipality, the long-standing President of FEDUP. Mnyango became the secretary of the ISN, which has led him to straddle the divide between community mobilization and engagement with formal authorities. It is worth quoting him at length to get a sense of how he came to be in this position:

Before I used to be involved with another social movement called Concerned Residents Movement [based in the settlement of Europe in Gugulethu]. It’s a movement that is looking at cleanliness of the area, at the youth around the leadership skills, HIV and AIDS, leadership in government, and other activities. They used to organize seminars, whereby they want most of the youth that are interested to come and have a two day seminar, sharing experiences around what they see and also being equipped around the community issues. By the time I was invited the ISN dialogue in Philippi, it’s whereby I was chosen to be part of the ISN coordinating team. Due to the fact that I was having a lot of activities they selected at the time be a secretary. And because in the ISN nobody was perfect in terms of trying to see how to find ways of working together. I tried to set up ways of all of the people that formed the team to — each and every one — have a responsibility. Everyone needs to be responsible. If you talked about enumeration, you need to know who is responsible. You talk about partnership, then profiling and the other activities. Then, I was specifically focusing on the partnerships. But, before it was two activities, which were enumeration and partnerships. This narrative demonstrates a common move amongst ISN leaders from community leadership to coordinating positions within a network. Further, the intentions of leadership are clear. While a charismatic chairmanship has its role, the key functional positions are the basis of leadership. For example, Mnyango has focused on engagement with government and, previously, on “enumeration,” the key practice within the Alliance of community-led socio-economic data collection.

123 This includes the city of Durban.
124 Personal interview, 2 August 2012.
In Stellenbosch, the ISN is much younger and has not developed a similar internal coherence of leadership structures. CORC and the municipality of Stellenbosch first began meeting in 2010, and, on the advice of the municipality began working with one of the largest settlements in the municipality, Langrug. Trevor Masiy, chair of the Langrug leadership, and a key actor in the nascent ISN in Stellenbosch, describes how he ascended to his role as a settlement leader:

I’m a committee member in Langrug. I’m the chair of Langrug network since two years ago. We’ve been elected on the general meeting. We’re about 18 members when we were elected. But after a long time where we never know where are we and where are standing. That’s when the engagement with the municipality began. To engage with the community, with ISN, CORC, and the Backyarders\textsuperscript{125}. So from then there was a number of people that came to the meetings. And then after we went for the exchange, not all of them came back. And then the leadership structure become where we end up only having the group of eight people. So then we start the enumeration. And when we did the enumeration we tried to engage other people which are interested in the community development and upgrading.\textsuperscript{126}

There are two related, significant aspects of this story for the purposes of this chapter. First, that the Cape Town ISN served as a sort of intermediary function to produce a more organized leadership in the community that was recognized by the municipality. The key was the enumeration, through which the community developed specific developmental priorities, and allocated leadership responsibilities both within and beyond its eight person core for these priorities. Secondly, interaction — what Masiy calls “exchange” — between Langrug leaders, Cape Town ISN, CORC, and the Stellenbosch municipality — produced relationships of trust within the community and between the community and the municipality. Masiy attributed this to the fundamental processes of organizing leadership within the community by 12 blocks. “I can say I’m accountable because after a long process when we called the community meetings, the structure was identified by the community. And then we find out there is some lack in other blocks. And then we came up with a strategy of having block committees. So the accountability is not only to me or someone else on the committee. But so that everyone is having the information going down to the block

\textsuperscript{125} The Backyarders are allied to the ISN. Whereas, the ISN draws from leadership in informal settlement communities, the Backyarders draw from leadership in backyard shack communities in formally-housed communities. The latter is particularly prevalent in Cape Town, and such a network does not exist in the other cities where ISN has a presence.

\textsuperscript{126} Personal interview, 26 July 2012.
committee to discuss whatever issues are going to be discussed.” Transparent accountability, for Masiy, is the foundation of trust in this set of relationships.

While the ISN has had a relatively long-standing coordinating structure in Cape Town, and a presence in the majority of the city’s informal settlements, Stellenbosch does not have a coordinated ISN of its own. Masiy argues that the need for this is urgent:

We are living in different settlements. But what is important is there is one thing that is common. We are living in shacks and we are all poor. How do we really ensure that we support each other as the informal settlements, as the poor communities? Like issues of fire disaster. If there is a fire disaster in one of the settlements, what help can we provide from the different informal settlements. Point number two is, if there is an eviction taking place in one of the informal settlements, the aim is to stand together as the poor communities and say, “No.” Now it is only about the municipality and Langrug, so it can’t happen. … You find out that in Cape Town the communities are supporting each other. That is the kind of support we need to have in our network.\footnote{Ibid.}

The set of distinctions that Masiy draws here suggest further lessons for understanding the difference between the Cape Town and Stellenbosch experiences, as well as the institutional possibility of ISN as a particular kind of social movement. He clearly articulates that the solidarity that a city-wide network produces is essential to being able to turn the terms of engagement with city officials towards terms that are more favorable to the poor. At the same time, his Langrug community has forged ahead with a partnership that has achieved important specific gains such as toilets, water points, and recognition of tenure security. Therefore, Langrug engages with the dual knowledge that a) there is a threat of some level of co-optation or weak claim-making without a strong ISN, and b) developmental gains and future construction of a local ISN are best achieved within the context of a partnership with the municipality.

Though the specifics of partnerships in both Cape Town and Stellenbosch are the subject of future chapters, it is worth noting now the kind of ambivalence that exists on both sides of the equation. The complex calculus that community leaders like Masiy articulate above is similarly so for local government bureaucrats. Gerry Adlard worked with the city of Cape Town’s informal settlements unit from near its inception in 2008 to 2011. By the time of the initial engagements between the city and ISN, he had worked for three decades in low-income housing issues in South Africa, and was well aware of the work of FEDUP and

\footnote{Ibid.}
its professional allies in People’s Dialogue: “CORC and ISN made it clear that their philosophy had changed over the years. I knew them partly as people who confronted government. Although I knew they had also created a liaison with government that got them those millions of bucks years ago. So it was kind of this ambivalent thing.”¹²⁸ This is not to say Adlard’s assessment was entirely accurate. In fact, for many of the actors within the South Africa Alliance, the strategies and tactics had only changed insofar as there was a greater focus on trying to work with local government, as opposed to provincial and national structures. But the mixed strategic orientation of the Alliance had clearly made an impression on actors in government, like that which Adlard articulates.

David Carolissen, manager of the Department of Informal Settlement Management, Stellenbosch Municipality, makes a similar assessment:

“So, the network, the partnerships that we have, does the work of an enabler. Facilitating us, assisting, guiding, you know. Also sometime teaching us. Poor people are, of course, very suspicious of government, of government officials. So, what the network, the federation can do and often does, because of their history, long history of working with poor people, mobilizing poor people — they can connect us with poor people in ways we can’t be connected.”¹²⁹

For both Adlard and Carolissen, it is the very tension of the history of contestation and collaboration embedded within ISN and its partners that make partnership such a potentially powerful proposition.

And by working through this tension, as opposed to sidestepping it, ISN and the broader Alliance are attempting to engage deep historical threads of social movement activity in the realm of land and housing in South Africa. Collaborative tactics are sometimes overlooked in studies of counter-hegemonic social movements because they are seen as only reinforcing existing stratifications that exist within a governmentalized “opportunity structure.” It is worth considering contestation-based strategies in tandem with collaborative strategies in order to get a broader sense of the ways in which impacts on law and public policy actually occur through the full range of actions that social movements undertake. The strategic approaches discussed in this chapter both yield a mixed picture.

Legal strategies have placed limits on the extent of hegemonic statecraft, by challenging state agencies to enforce existing policy. The opportunity structures of policy,

¹²⁸ Personal interview, 3 July 2012.
¹²⁹ Personal interview, 10 July 2012.
and especially the socio-economic rights contained within the Constitution have become important levers that social movements have used to both access political voice, and achieve outcomes that limit the more oppressive elements of heterogeneously hegemonic state. But still, the fundamental relationships of the state and citizen that characterize this hegemony have not come under sustained challenge through legal strategies. The demand is fundamentally about implementation of existing policy, not reorganization of relationships of government that concern access to land and housing. This is all the more so with respect to the street protests that have increased in scale over the last decade, with the caveat that the use of public space and articulation of grievances may yet hold the potential for a more transformative agenda.

The demands for delivery have not changed the basic equation that the state manages delivery from on high to a supplicant, waiting poor. This therefore calls into question the suggestion by Boaventura de Sousa Santos and César Rodriguez-Garavito that the “victim’s perspective” is so central to “subaltern cosmopolitan politics and legality.”

Taking on the challenges of poverty and structural exclusion in the courts articulates communities and social movements as victims seeking redress from a system that from the outset does not include them. Sousa Santos and Rodriguez Garavito’s articulation of the inadequacy of “participatory exercises in institutional imagination” seems equally applicable in the legal sphere:

> By default or design, those doing the imagining are the elites or members of the middle-class with the economic and cultural capital to count as ‘stakeholders.” Either way, the process is a top-down one in which those at the bottom are either incorporated only once the institutional blueprint has been fully laid out or are not incorporated at all.\(^{130}\)

The courts have, in fact, been sites where the poor — as individuals, as part of communities, and as part of social movements — have been stakeholders, able to challenge existing policy but not promote fundamental transformation. Indeed, the provisions of the Constitution, on their face, seem to provide a transformative tool. But the rights-based framework promotes access to the human need of housing, not the alternative political reality of self-determination in the way that a counter-hegemonic, non-governmentalized view conceives it. In turn, we can even argue that as social movements engage in legal battles they experience

the same kind of incorporation against which Sousa Santos and Rodriguez Garavito warn. The “victim’s perspective,” at least as articulated in the courts, is therefore insufficient to build the exact kind of “subaltern cosmopolitan legality” to which a counter-hegemonic process aspires.

What appears to hold great potential — and it is little wonder then that all major social movements in this arena have utilized this tactic — is land invasion. Given that land ownership is such a prevailing mode of governmentalized control in South Africa’s democratic dispensation, this tactic challenges the basic market logic of statecraft and “governmentality.” This is just an activist claim, but one with specific policy implications. As Huchzermeyer has argued, what we can just as well call “people-driven land acquisition” is a method of bringing bureaucratic action much closer to the policies that may yet hold out a more people-centered promise: incremental, in situ informal settlement upgrading. For Huchzermeyer, this tactic illuminates both the possibilities and challenges of implementing the alternative approaches to delivering land and housing contained within the government’s own Breaking New Ground policy.  

Though land invasion may appear a relatively extreme tactic, especially if we recall the fear and sacrifice that characterized Agrinette Hills’ experience of the tactic, it has much in common with the seemingly more moderate tactics associated with collaboration. For in both cases, the need to demonstrate alternative solutions is a first principle for social movements to utilize their position vis-à-vis the state, law, and public policy to change the nature of all three of these social forces. The “self-help” strategies of the FEDUP network have achieved new policies such as PHP, and appear to present the possibility for further realizing incremental upgrading policies at the local government level. However, the impact has not been fundamentally transformative, at least not yet. At the same time, this network has exposed itself to great dangers of co-optation even in pursuit of a transformative project.

The skeptical view of Sousa Santos and Rodriguez Garavito towards “bootstrapping” casts such activities as “pragmatist” and in the limited mold of “participation.” Yet their own articulation of “counter-hegemonic globalization” suggests that “bootstrapping,” at least in the institutionally-engaged mold of ISN and the Alliance may yet hold great potential. As they argue, “The challenge of institutional imagination, therefore, cannot be met but by privileging the excluded as actors and beneficiaries of new

forms of global politics and legality.”

It is not difficult to see the self-help activities of savings and self-building of houses as precisely such a model, given the small but significant policy outcomes that such a strategy has already achieved. The recent partnerships between city-wide ISN formations and local government seek to produce a more systematic and local institutional space for exactly this kind of “imagination” and learning.

This chapter has argued that social movements for land and housing in South Africa have played a large role in channeling popular aspirations for more inclusive access to cities. The strategies of contestation and collaboration have been utilized to varying degrees by different social movements, and have had impacts that are not simply defined through linear “a-to-b” progressions. Rather it is the constant interaction between social movements, law, and public policy that has produced ever-changing political opportunity structures, as well as broader possibilities for a more “people-centered,” counter-hegemonic order. For precisely this reason, it is particularly necessary to not take a snapshot of a social movement action and proclaim on its success or failure. The simultaneous and interlinked processes of statecraft, popular resistance, and generative popular alternatives belie such simple judgment. Experiences of success utilizing law to craft the limits of existing policy also have held the seeds of new policies. Forms of institutional engagement outside of the courts have also had similar impacts. Yet, in both types of experiences, the challenges of limited impact and dangers of co-optation have been equally apparent.

We do not yet have a full picture of how the local bureaucracies in question operate, how they have worked with social movements, and the policy and politics that surround those interactions. But the previous chapter established the basic proposition of this thesis that we cannot understand these broader arrangements of governance without first accepting that government itself is bound to the mandates — both explicit and implicit, both given and contested — that emerge from social organization from “below.” I have now established a history and theory of recent social movements concerned with land and housing for the urban poor in South Africa, and the specificities of one that is both new (ISN) and old (its progenitors in FEDUP and SAHPF). We therefore move to theory and practice of formal institutions for provision of land and housing in the democratic era.

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Chapter 3: Power in the mundane

Conflict and synergy in reforming formal institutions for housing delivery

Policy moves slowly. It is one thing to get words down on paper. It is an entirely other matter to give them meaning and translate them into action. Though policy debates around land and housing in South Africa are not resolved — such an arena of policy-making will likely always be a focus of intense contestation — some of the most “wicked problems” lie in the “politics of the mundane”. This is the world of bureaucratic interpretation of policy, flows of funds between bureaucratic institutions, and interactions between bureaucrats, communities, and developers. Policy on the books is, in fact, a small part of the real world of practice. “Getting things done” is matter of engaging the political economy of policy, for which the letter of the law is full of social and political discretion and re-interpretation. Here, our focus moves to the conflicts within society that produce institutions, and the conflicts within institutions that do — or do not — produce desired policy outcomes.

The motto of local and provincial government in South Africa is “batho pele.” This is a seSotho phrase that means “people first.” It is supposed to signify the values of participation and inclusion as intrinsic to the day-to-day tasks of government and development planning. Yet, as much as they may be normative values, they are also tools for effective institutional design. In fact, participation and inclusion, despite their rhetorical currency in South African local governance, are often a mirage in institutions that are supposed to deliver goods for collective consumption.

One of the key institutional mechanisms for generating grassroots participation is the Integrated Development Plan (IDP). It serves as the participatory basis for a number of policies and programs related to land and housing in South Africa, and is therefore mechanistic undercurrent of much of this chapter. David Carolissen, head of the informal settlements unit in the municipality of Stellenbosch evokes the real world difficulties of participation when it exists so beautifully on paper:

In the contract of public participation, we march everybody into a big hall in the town hall here and who will come for a meeting? Firstly, it’s the professors, university lecturers, business people. They are politically connected, economically favored. They’ll come to the meeting. And poor people will walk in from the squatter camp, from the farm. They are now required to participate and discuss things that are just flying over their heads and minds. And
the connection invariably occurs between government officials, the politicians, the friends from college. Then the poor people, of course, then are unable to influence the budget, to influence the way money gets spent and the way they spend it.133

Carolissen’s characterization in miniature echoes the fundamental divisions of power that underpin the theoretical approach of this thesis. In essence, struggles for land and housing are about re-orienting institutions to incorporate claims of citizenship and inclusion. Existing institutional structures that do not address the chasm these claims seek to bridge will never achieve the inclusion they purport to make fundamental to their mission. Indeed, it is primarily in “the mundane,” that batho pele remains but a dream.

As a matter of theory of statecraft, institutional form has everything to do with the nature of citizenship. Rousseau’s metaphor of an architect testing the soil “to see whether it will bear the weight,” 134 suggests that there is a mutually constitutive interplay between institutions of the state and citizens of the state. Echoing the gap between theory and practice of the nationwide governmental creed of batho pele, the slogan of the metropolitan municipality of Cape Town is “this city works for you.” For you. The slogan reduces the bonds of citizenship to those of a client, consumer, and beneficiary. Locke suggested that governmental sovereignty derives from the “state” of the individual: “To understand political power right, and derive it from its original, we must consider what state all men are naturally in.”135 This is, in fact, the basis of what we think of as “the social contract.” While Rousseau’s metaphor suggests fundamental relationality between citizen and state, the Cape Town slogan suggests something more unidirectional and linear. It formulates the citizen as an object. Water, toilets, electricity, shelter, land — fundamental physical outputs of informal settlement upgrading — are similarly reduced. They are no longer fundamental aspects of life, but a service to be provided to clients by something more closely representing a private company. Minimum requirements for service delivery make this an entirely quantitative calculation, when, in fact, the relationship of people to their shelter, land and dignity is only partially quantifiable. Indeed, it is the struggle for these things that affirms the “natural state” of humanity that so concerned the early theorists of the state, citizen and the “social contract.”

133 Personal interview, 10 July 2012.
135 Locke, 101.
Mzwandile Sokupa, head of the informal settlements unit in Cape Town, South Africa, highlighted his city’s slogan when describing the capacities of his staff upon taking control of the new unit in 2009: “We realized that we were strong in the technical capacity, but very weak in social capacity.”

This chapter will argue that policies and institutions for housing and upgrading in South Africa have generally ignored and excluded the widespread informal practices, particularly by the poor, in low-income housing development. This includes: (1) the top-down, private contractor delivery of fully-serviced “top-structure” houses; (2) provision of land on peripheries of cities, and (3) mixed responsibility for implementation between provincial government and local government for the house and the basic services, respectively. To a significant degree, this set of institutional orientations has historical roots in the spatial planning legacies of Apartheid, as well specific low-income urban housing policies and debates that were underway before the country’s first democratic elections.

In the last decade, there has been increasing recognition of the failures of the institutional arrangements outlined above. Two policy and institutional innovations have suggested a move away from fully-serviced, top-structure delivery of houses altogether in favor of a more incremental, “in situ” approach, whereby land and basic services are the priority of planning intervention in informal settlements. The first is the Breaking New Ground (BNG) policy issued by the Department of Housing in 2004. However, until very recently, there has been little institutional support for implementing this policy. A new initiative that may yet provide the support to local government institutions is the new National Upgrading Support Program (NUSP), which is housed in the national Department of Human Settlements (formerly Housing). These new policies and institutions suggest relationships that have not yet been fully realized, but have already created the space for city-wide community-based networks like ISN to have impact on both local government practice, and, potentially, policy.

I have chosen to divide a discussion about formal policies and institutions for land and housing by governmental scale. This is because linkages between scales — from the national to the individual settlement level — have been the underlying relationships at play in the political economy of these institutions. Therefore, I begin with national level policies,

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136 Personal interview, 3 August 2012.
the most prominent site of debate on land and housing practice and policy, both at the end of the Apartheid era and in the present democratic period.

“Homes, comfort, security for all”

The early days of national policy in the democratic era were marked by the views that were considered cutting-edge for the time, and even amongst many architects and planners today. In large part, they echoed the approaches espoused by architect John Turner in his now-classic texts, *Freedom to Build* and *Housing by the People*, both of which were rooted in his work in informal settlement upgrading during the 1950s, 1960s, and 1970s in Peru. These works also provided the intellectual foundation for the short-lived “sites-and-services programs” of the World Bank in the 1970s and 1980s. Self-help approaches to low-income housing date back to the colonial period in South Africa, and these approaches were often the basic thrust of periodic energy around low-income urban housing during or directly after periods of civil unrest in black townships. The non-governmental Urban Foundation also worked on “core housing” projects in townships in Durban (Inanda Newtown) and Cape Town (Khayelitsha) beginning in the early 1980s. As Pauline Adebayo notes, these projects, of 4000 and 5000 “shell houses” respectively, served as a model for future policy approaches. The Independent Development Trust (IDT), founded in 1991 as an implementing agent of the Urban Foundation’s policy approaches, worked on a pilot project in 1991 of 100,000 serviced sites. These were funded through capital grants on a one-time basis. Such projects are understood to have served as a major influence on the National Housing Forum’s deliberations on post-Apartheid housing policy in the period of 1992-4. Incremental approaches and a one-time capital subsidy were the primary ideas that persisted in the creation of the RDP housing subsidy.137

The debates at the National Housing Forum are worth considering in relative detail because they reflect a range of views at a time when there was a wholesale reconsideration of social policy throughout the country. Housing was a major pillar of this reconception of the relationship between state and citizen. Kate Tissington notes that the dominant view of the “left” representatives at the National Housing Forum advocated mass rental housing for the poor. Many business interests joined with this approach, though they tried to argue that the

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private sector should be brought in primarily as contractors and not as developers, so as to reduce exposure to risk. Opposing arguments that municipalities were unable and/or unwilling to collect rent at a massive scale won out.

The NHF concluded with the decision that the government would provide the framework for housing provision and facilitate delivery. The private sector would apply for subsidies on behalf of communities, identify and service land, and construct structures where possible. This approach was heavily criticised by many who believed that it would perpetuate a market-based housing system, failing to address the flaws endemic to the ‘racist capitalist housing market’. The debate about what housing would be delivered concerned the cost of addressing the housing backlog and different estimates of budgets, time-frames and standards. It was finally agreed that a once-off capital subsidy scheme would be adopted to benefit households with an income of less than R3500 per month and the government launched the Housing Subsidy Scheme (HSS). The ‘housing option’ available to a household – which could be a house, a flat or a serviced site (with or without a top structure) – would depend on the government subsidy it received and access to private funds. The subsidy was linked to individual ownership (as opposed to rental), and households effectively ‘bought’ a housing option with their subsidy.\textsuperscript{138}

This relative consensus played out in ensuing policies and legislation in the coming years, beginning with the White Paper on Housing shortly after the 1994 elections. This policy proposal was consolidated and given legislative backing through the Housing Act 107 of 1997, the Rental Housing Act 50 of 1999 and the National Housing Code in 2000.

Steve Topham, manager of NUSP, describes a discrete and quick shift within the mid-1990s that track closely, though not exactly, with the larger policy shifts between RDP and GEAR that I have already described: “In 1994, the housing program, nationally, was one thing that was focusing in on incremental development. So it was the idea that the state would provide a started unit, the household would incrementally improve. So a view of the state that is of an enabling state… Formal, informal, credit, microcredit, savings groups — to provide that string of income to finance households. You can take out loans to buy materials to build. That’s 1990-1994.”\textsuperscript{139} But, as the ANC-led democratic bureaucracy gained shape, policy moved swiftly towards a more “top-down” approach. As Topham describes it, “By 1995, this is the first flush of democracy. This is like, ‘We’re under new management,\textsuperscript{138} Kate Tissington, A Review of Housing Policy and Development in South Africa since 1994, Towards an SER Matrix: Monitoring the Progressive Realization of Socio-Economic Rights in South Africa, Paper prepared for the Studies in Poverty and Inequality Institute (2010), 34.
\textsuperscript{139} Personal interview, 31 July 2012.
we’ve got to be seen to be delivering [in a] high profile [way]… It will be homes, comfort, security for all.’ So an incrementally, credit-linked [approach] is abandoned, and it’s abandoned for two reasons: One, perceptions of low delivery and two, because the banks don’t come to the party, or have cheap enough products.”

This echoes the basic characteristics of governmentality that are so integral to the theoretical frameworks of both Chatterjee and Scott. For Chatterjee, delivery of services provides the mandate of governance and, hence, defines citizens as “populations.” Likewise, for Scott, the “authoritarian high modernism” of states through large welfare initiatives such as the building of houses, constitutes the modern “state-ness” of modern states. In other words, this shift to top-down delivery of houses constitutes a decisive shift to a governmentalized democratic era. Of course, Apartheid represented a different sort of highly-rationalized modernist approaches to planning. And, as we will see, surprising echoes of the Apartheid state’s approach to housing policy reverberate in later permutations in the democratic era.

Topham’s account tracks more or less with common academic accounts of this history. As Pauline Adebayo argues, the National Housing Forum was dominated by business interests that pushed the incremental approach, but the assumption that government could incentivize banks to deliver additional credit to supplement the RDP subsidy turned out not to be well-founded: “This outcome was attributable to a number of factors including the dubious collateral value of RDP properties, the absence of a secondary market in new RDP townships and the perceived instability of township environments, all of which convinced banks that they would have difficulties securing vacancy and offloading properties in default.” Further, the subsidy itself encouraged spatial exclusion, as it was not enough money to obtain well-located land, and the physical designs of RDP houses did not support the kind of mixed use that is generally a precondition for successful self-build housing consolidation.

But this approach to building a mandate in a democratic context through delivery of services was a decisive shift to double down on the governmentalizing impulses of the state. Or as Topham put it, “Big statement. New democracy. This is what democracy does for the

140 Ibid.
people. What that does — that places the subsidy centrally. The subsidy then becomes really important because the subsidy is then going to build these million houses.”

In this light, the initial enthusiasm by the Joe Slovo-led Department of Housing for the “self-build” approach of FEDUP, which morphed into the People’s Housing Process (PHP), is particularly notable. PHP is a hybrid that has never fit neatly into either of the approaches that have been the basis of government policy until at least the mid-2000s. While self-build approaches seem close to the Turner-inspired models, PHP has always been rooted in the subsidy system itself, which necessitates total consolidation of housing from the outset of the planning process. In essence, self-build is tied up in financial flows that are thoroughly disabling to the incremental nature of self-build processes. The impact, as we noted in the previous chapter, is that, although FEDUP was able to achieve policy innovation with respect to the institution of PHP, it was also forced to contend with a bureaucratic structure that was fundamentally opposed to incrementalism.

More broadly speaking, the bureaucratic processes of housing delivery in policy were not suited to the institutional architecture between the scales of government responsible for various aspects of implementing the policy. As Topham puts it,

> You’ve gone from a multi-partner or a multi-agency approach to state-centric provision. That happens really quick. It happens in less than a year from 1994 to 1995. So, straight away, the balance has changed. What then happens is that you start to roll out the program and you’re relying on the big construction companies to deliver a turnkey project. They can deliver it and they can deliver it quickly. But the instruments of the state are not geared up for this. Subsidy payments are slow, institutional architecture in the provinces is crap, especially the ones we’ve got in the former homelands. It’s them that create a new democratic structure.\textsuperscript{142}

Further, assumptions around mechanisms for delivery kept running up against reality, especially as large construction companies moved out of the low-income housing sector in the face of government policies that seemed to prefer small contractors (though not necessarily communities themselves).

> We’re going to package this into small contracts because it’s not just about housing, it’s going to be a boost to economic growth. The problem is that you don't have enough small contractors who are capable of doing a quite complicated contract like a house. You’ve got contractors who can do pipes, who can do trenches. You’ve got contractors who can do brick work. But the idea of having small and medium enterprises who available in enough

\textsuperscript{142} Ibid.
numbers to have the scale to deliver the numbers that you are committing to, it’s not realistic. So the plan, it fails.

Policy in the housing sector, was, in large part, divorced from the broader alignments of both civil society and business.

Such divisions between sectors of society and the state have a profound impact on the effectiveness of policy and especially the formal institutions that are supposed to implement policy. Peter Evans encapsulates this approach with his phrase “embedded autonomy.” He argues that it is not only the relationship between business groups and the state that builds effective institutions, but also relationships with other societal groupings, especially those that we commonly understand as “civil society.” The questions of institutional competence and efficacy are therefore not just about internal Weberian coherency, but also about institutional “connectedness,” which he describes as meaning “increased competence instead of capture.”

Patrick Heller makes a similar point in his study of social movements in the Indian state of Kerala. There, he argues, such constituencies have enabled redistributive policies and “created many of the social and institutional prerequisites (for example, human capital, civic associations, robust bureaucracies) for sustainable economic growth.”

Though he also discusses civil society groupings, Mauro Guillen focuses on the politics of capital and the state in Argentina, South Korea, and Spain. In these places, business groups have served as key allies for states to implement even “disciplining” policies such as those directed towards import-substitution or export-led growth. This is another side of the “connected” or “embedded” approach that Evans articulates, and such a view suggests that increased state efficacy through such political linkages is the result.

PHP has always been a bit of an orphan in housing policy, as discussed in the previous chapter. As Firoz Kahn and Edgar Pieterse note, in official circles, PHP became “narrowly equated with ‘sweat equity’, individualism and cost reduction rather than collective beneficiary planning, decision-making, and more productive housing delivery.” Still, it is a useful foil for making sense of the dominant policy for two reasons. First, it was a policy

146 Firoz Kahn and Edgar Pieterse, “The Homeless People’s Alliance: Purposive Creation and Ambiguated Realities,” 19.
space that has clear ties to social movement action by FEDUP that has redefined “political opportunity structures” for further action in the sector. Second, its relatively low-key impact exposes the reasons why and the processes through the dominant institutional approaches have, at best, ignored calls for incorporating local knowledge of informal settlement community groups in both planning and delivering houses for the poor.

And, coupled with this conceptual challenge, the institutional relationships within the spheres of government have a significant history that has primarily compounded the political contradictions enumerated above. Not coincidentally, they underline the extent to which the questions of political economy — the alignments of broader social forces with institutions, as well as between institutional scales — have not yet been subject to sufficient or effective responses. To this day, municipal boundaries continue to change, as a legacy of trying to unite vastly under-resourced black municipalities from the Apartheid era with the much better-resourced white neighbors. In 1994, there were almost 2000 municipalities. Currently, there about 200 municipalities. “So your main delivery vehicle is changing all the time,” Topham argued. “The provinces become more and more important. And the provinces become more important because they are now the source of finance, they now the source of planning and programs, and then they become the source of technical assistance. So they put together teams of engineers and planners to roll out these programs in municipalities. And in all this, I haven’t mentioned community once.” Topham’s characterization of the progression of institutional planning action in the low-income housing sector tracks closely with the theories of “embeddedness” and “connectedness.”

**Connecting space and delivery**

In fact, Evans’ theoretical construction of “embedded autonomy” includes alliances between grassroots formations, and the building of “social capital.” Indeed, a fundamental contention of this thesis is that the relatively new partnerships at the local government level in Cape Town and Stellenbosch are most revealing in the extent to which they produce more socially embedded institutional arrangements. At this point, then, it is worth defining and elaborating upon the two theoretical premises through which I am analyzing the case. Embeddedness, in Evans’ formulation, is a concept that most directly applies to the political economy of economic development planning. But, as is abundantly clear, the linkages between institutions for economic development, and institutions for housing delivery have
tracked closely to a significant extent, especially in the shifts from the Apartheid government to RDP and then to GEAR.

The point of convergence between economic development planning and housing delivery in South Africa, is with respect to their spatial synergies. Hence, we can evaluate bureaucratic effectiveness in both arenas through: a) the methods by which the success of development planning leverages synergies across spatial scales, and b) the methods by which development planning embeds socio-political constituencies to enable states to discipline key firms of capital interests. This discussion utilizes the work of theorists working in other parts of the world that have used these concepts with reference to the connection of spatial synergies and political embeddedness in the South African example.

The spatial elements of development planning are not often in the foreground of such a policy sphere. If we discuss “development” as more or less synonymous with “economic growth,” then a focus on industries and firms is a much more obvious place to start than the space in which these industries and firms operate. Nora Libertun de Duren’s story of development policy in Argentina makes a compelling case for how space and growth policy are interlinked, either by explicit design or by designated omission. For example, she argues that the Buenos Aires area grew because of specific industrial policies of the Peron regimes. In turn, the following dictatorial regime of the 1970s and 1980s tried to “target its industrial policies towards the dispersion of industry and labor out of the urban centers,” through policies such as subsidies and tax breaks.147 By foregrounding space as an analytical lens for assessing the political economy of development, Libertun de Duren implies a view of space as relational, whereby scales such as cities are not only subjects of political and economic trends at higher levels, but also affect these trends. Another example of such an approach is in China, where Lawrence Ma has argued that the relatively robust development of cities has been tied to “strong hierarchical power grids”148 in China’s economic landscape. City administration institutions respond to national policy, but have great leeway in terms of implementation. These institutional units are in dynamic relation with surrounding counties, at the same time that national policy has privileged the scale of

the city as an administrative and economic planning instrument. In both cases, with the particularly strong hand of national state intervention, the political flows across physical scales are apparent, and even exaggerated.

Tellingly, in South Africa, as the state consolidated municipal governance structures, provincial governments took hold of existing financial flows for housing delivery, and populations streamed into the cities. The population controls of the Apartheid era had mitigated both the speed and intensity of urban agglomeration. But, since the late 1980s, we have witnessed a resurgence in urban growth, to the point where, for the first time, South Africa’s population is more urban than rural. This period has also seen the primary urban population growth in the metropolitan municipal areas, as opposed to smaller cities. And while it is clear that much of this growth is due to migration of black South Africans from former Bantustan rural “homelands,” Ivan Turok argues that the pressure for provision of urban land, housing, and services only stands to grow further:

Although the cities are sometimes perceived by the dominant political party to be privileged and ‘white’, in reality Africans dominate their populations by a considerable and growing amount. This is important for electoral as well as developmental reasons, although there are very mixed attitudes towards continuing urbanisation within government. The lack of proactive planning and provision of land for low-income settlements often results in the poor occupying marginal, low-lying, poorly drained and environmentally fragile areas (such as floodplains, waste ground and dolomitic land vulnerable to subsidence), which endangers lives and local ecosystems. The large (and generally very poor) African population remaining in the former Bantustans is also notable. If the rate of migration to the cities was to accelerate, the additional burden in terms of the provision of infrastructure, services, housing and employment would be formidable.

Hence, the challenge of developing institutional alignments to anticipate the social and political impacts of changes in population underpins continued changes in allotting responsibilities to different institutional scales

However, the provinces have taken on a role that has diminished the capacity of municipal authorities to respond to conditions they witness on the ground, as well as the national policy and funding flows to support municipal governance. Basil Davidson, head of planning in the Stellenbosch city government, and previous head of housing in the Cape

149 Ibid, 480.
151 Ibid, 14.
Town city government, argues that the institutional alignments are what make greenfields, top-structure-only housing developments so persistent. This is especially the case when community-oriented approaches are not embedded in the institutional arrangements that produce the political will and financial capital for projects: “Paternalistic local authorities come up with a plan and submit it to [provincial government]. Province submits it to national according to a program and you pull out a greenfields project.”

In fact, even if the pipeline of projects that provincial governments submit to national level institutions is nominally subject to review ex post facto, it is clear that this has not been happening. For example, the current minister of human settlements, Tokyo Sexwale, has complained publicly that he cannot get reports from provinces on how they use their housing funds. And when these reports are forthcoming, many provinces report massive under-spends. “You give somebody all your money and now you say, ‘I’m going to tell you how you’re going to spend it.’ Well, you’ve given all your money away. You’ve got no control,” Topham argued. The role of the provincial government principal politician for housing — the Member of the Executive Committee or MEC — is almost all-powerful in managing the linkages between national programs and municipal project implementation. “It’s a big power base. Provincial MEC’s have relationships with their municipal counterparts. There’s a lot of money that gets allocated into housing that could be used to boost the votes for the majority part. Plenty of examples of that around the country.”

From the municipal point of view, even beyond the informal shadows of power that loom over the process, the formal channels of resource allocation are seen as impediments. Mzwandile Sokupa, head of informal settlements in Cape Town’s department of housing argues that current procedures and institutional links of accountability ensure that projects will be unnecessarily time consuming. “The planning regulations and statutory regulations are so tedious that from inception to having to give the first key to a house takes anything from five to eight years because of all the environmental impact assessments, your rezoning. Also, the procurement processes with regards to consultants, contractors.”

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152 Personal interview, 14 August 2012.
155 Personal interview, 31 July 2012.
156 Ibid.
And these processes are even more anathema to the kinds of processes that grassroots actors have tried to pilot and mainstream. “For an upgrading project on an existing settlement, it’s even lengthier. Because you now you also have to deal with community dynamics. You have to get consensus every time. Whereas with a greenfields development, you can develop there and then the beneficiation can be decided thereafter or even before,” Sokupa argued. But to try new approaches, especially in a partnership arrangement with non-governmental actors, is almost a bridge too far. For Sokupa, the partnership with ISN and CORC has, in fact, exposed the broader institutional challenges that persist between national policy and municipal project level action.

Within the partnership that we have now, it is difficult for the city to understand the program of re-blocking in the context of saying that it’s not a conventional process where you appoint a consultant, the consultant does the designs, you appoint a contractor, the contractor develops for the people. In this case, now, the designs are done by the people. The people open up space for themselves. Government is not geared in any way to work within a community-driven development. A major policy shift needs to be looked into.157

Like Sokupa, Davidson argued that the financial arrangements and supply chain management procedures are not connected to the policy and programmatic functions of government institutions from the national, provincial and municipal scales: “Finance in local government is a minefield. Because of all of the corruption, they’ve been tightening the legislation. The Municipal Finance Management Act is the most intricate and difficult procedures for unlocking finance and particular for procuring services. They have to go through supply chain management, which is separated from you line functions.” Though Davidson’s characterization should be understood as a personal experience of these instruments, which was echoed by many of the officials with whom I spoke. Notably, such an approach to supply chain management is firmly in line with dominant understandings of new public management and associated approaches to measuring processes and outcomes.

The impact of the extreme rigidity of the formal processes mandated from the top has a direct bearing on the level of discretion that municipal workers require to work effectively with communities. “When you come to informal settlements and you are working with the community and the community is saying, ‘Alright our priority at the moment is not the road, it’s not the houses there. We need to take the storm water channel down there

157 Personal interview, 3 August 2012.
because it’s flooding or doing XYZ.’ How do you work the funding through it? You know, it’s not the tender you are calling for in that. It needs funding flexibility.\(^\text{158}\)

**Change from the top**

So the big questions of political coalitions, especially those that include grassroots configurations, coincide with the “mundane” politics of institutional relationships. The rub is not just in the policies themselves, but in the financial flows and bureaucratic power that accompanies policy change. Whereas, on the one hand, we can get a relatively static picture of how these play out by parsing the levers of control between institutional scales in the South African government, we can get a sense of the dynamism of these pressure points by looking at policy changes and the resulting bureaucratic shifts. For the purposes of this thesis, I have chosen the most relevant national policy change, and potentially the most relevant national, formal institutional innovation in urban land and housing policy at the national level: Breaking New Ground (BNG) and the National Upgrading Support Program (NUSP), respectively.

The institutional policies in South Africa have changed, though only to a partial extent, to reflect the most basic implications of a networked “new governance” paradigm, but are still in the rational, modernist mode. Still, it is worth exploring how these changes have opened up spaces for a new kind of “logic of arguments”\(^\text{159}\) to guide policy and decision-making. Though its significance as a break with previous housing policy has been debated, a key innovation of Breaking New Ground was to recognize the need to refocus on *in situ* upgrading of informal settlements.\(^\text{160}\) The formal approach to *in situ* upgrading is delineated in the Upgrading of Informal Settlements Program, or UISP, which is contained within Chapter 3 of the National Housing Code. The National Housing Code “sets the underlying policy principles, guidelines and norms and standards which apply to Government’s various housing assistance programmes.”\(^\text{161}\)

Housing policy and practice up to the release of BNG in 2004 had clearly privileged a reinforcement of existing spatial segregation through relocations of the urban poor settlements to greenfields housing developments. But UISP held the promise of a more “in

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158 Personal interview, 14 August 2012.
159 Mark Bevir, *Democratic Governance*, 7.
situ” upgrading approach. As Huchzermeyer notes, UISP made in situ upgrading “possible with minimal disruption to residents’ lives.”\textsuperscript{162} Indeed, the first “policy intent” of UISP is with respect to tenure security. The goal is “to enhance the concept of citizenship, incorporating both rights and obligations, by recognizing and formalizing the tenure rights of residents within informal settlements.”\textsuperscript{163} But UISP has clearly not led to any kind of large-scale in situ upgrading of informal settlements. Huchzermeyer attributes this to a great deal of “reluctance” on the part of local government officials to implement the policy: “To date, the new programme is not necessarily the municipalities’ choice when intervening in an informal settlement.”\textsuperscript{164} Her interviews in Gauteng municipalities suggest that officials “are merely trying to make sense of contradictory instructions from above.” She therefore proposes that there is an “urgent need for sensitisation and re-skilling in the urban development sector, be it municipal and provincial managers and their officials or those of the implementing agencies who are increasingly tasked with carrying out housing development”\textsuperscript{165}

Huchzermeyer’s discussion of the impacts of the behavioral psychology of institutions and policies in this context are a significant concern. This critique implies a relatively rational approach to bureaucratic “design” interventions aimed at achieving institutional change. The scalar contradictions of institutions for housing delivery at national, provincial, and local levels, create a set of behavioral incentives that encourage willful ignorance of the more people-centered aspects of the UISP. This adds another significant dimension to the previous picture that Huchzermeyer paints of an “uncapacitated” bureaucracy. Indeed, as the above reflections from officials at both the national and local level, such as Topham, Davidson, and Sokupa, suggest, there are officials that are “sensitized” to appreciate the need for in situ, incremental approaches to upgrading.

Instead, while the UISP does provide a rationale for in situ upgrading, it does not represent a deviation from the basic nature of a housing policy that has single-minded focus on the physical house itself. Chapter 3 of the Housing Code makes this plain. Not explicitly, but through the contradictions that riddle the prescribed approaches for planners and

\textsuperscript{162} Marie Huchzermeyer, “The struggle for in situ upgrading of informal settlements: a reflection on cases in Gauteng.” 59.
\textsuperscript{163} National Housing Code, Part 3: Upgrading Informal Settlement, 13.
\textsuperscript{164} Marie Huchzermeyer, “The struggle for in situ upgrading of informal settlements: a reflection on cases in Gauteng.” 59.
\textsuperscript{165} Ibid, 59-60.
bureaucrats. The most glaring contradiction concerns the prescription for upgrading in phases:

Phases 1 to 3 focusses [sic] on community participation, supply of basic services and security for all residents. Phase 4 constitutes the Housing Consolidation Phase and access to the Government’s housing assistance programme undertaken in terms of the provisions of the specific programme opted for. Qualification for the benefits under phase 4 is determined by the beneficiary profile and residential property ownership status and/or record of the household.\(^{166}\)

On their face, the prior phases of the program do not, in and of themselves, require “housing consolidation,” which means moving from upgraded communal infrastructure, to provision of title and a house to individuals. But the phased approach has almost uniformly encouraged officials to view housing consolidation, and its attendant rigid standards and procedures, as the basis for even beginning to move on a UISP project. In essence, UISP does little more than repackage dominant modes of greenfields housing projects under the guise of “upgrading.”

Further, UISP made provision for community participation, but through the relatively formal, and often political ward committee structures. The responsibilities associated with community engagement by municipal authorities include: “socio-economic surveying of households, facilitating community participation, project information sharing and progress reporting, conflict resolution where applicable, and housing support services comprising: training and education on housing rights and obligations; capacity building of housing beneficiaries; assistance with the selection of housing options; management of building materials; relocation assistance.”\(^{167}\) Even from the community participation angle of the policy, this makes no progress in resolving the potential contradiction of housing as an individual good and upgrading as provision of communal goods. The linear phased approach, in fact, ends up only going in one direction: the individual house.

Therefore, it is not surprising that where there was discretion for using UISP funds, that discretion privileged the existing modes of delivery despite the intention of UISP to build in a more flexible and bottom-up approach. In practice, provincial governments took funds from the national UISP and put them almost exclusively towards greenfields housing developments. Topham argues that the main issue was not just a psychological inability to

\(^{166}\) National Housing Code, Part 3: Upgrading Informal Settlement, 27.

\(^{167}\) Ibid, 31.
understand policy, but, in large part, one of institutional arrangements: “Why did that happen? How can that situation arise where provinces can willfully, knowingly, take a subsidy from this for one purpose and apply it to another? It has to do with the amount of control over provinces that national has. It sets the framework. It provides the money. It basically says, ‘Please use this for the purpose it was given for.’ It doesn’t exercise its power to monitor the provincial budgets.’” But provinces are not merely flouting national guidelines because they can. There are broader incentives and messages, including from the national level that drive their incentives for planning action. “The argument back is that, if the national targets are to roll out housing, house the poor, give everybody a house, then we need this flexibility at provincial level to meet these objectives. So it all becomes self-fulfilling. The communities are completely squeezed out of it by now.” In this way, scalar contradictions and behavioral incentives collide to make the UISP much less than the sum of its parts.

NUSP is, in essence, a national level reaction to this phenomenon. In 2008, the Cities Alliance\(^{169}\) began working with the National Department of Housing on a review of its work in informal settlement upgrading. According to Topham, the review echoed findings of an internal ten-year review and Breaking New Ground, both in 2004. The fundamental principle to emerge was that informal settlement upgrading, as opposed to the dominant approaches to housing, needed to become a major component of the work of the department. In essence, this would be a policy level re-tooling of the bureaucratic structures that work on housing issues.

This review process coincided with some relatively unexpected pressures from outside of the Department of Housing. First, was the increasing amount of civil unrest in informal settlements, Topham said. “Whereas before it felt like informal settlement have almost been understood in a kind of academic way, in a distant way. Or they had been a bit of a playground for architectural urban designers, coming up with the new improved shack or the high-density house and all they needed was for government to pay for these things to be built and everybody’s problems would be solved.” Second, was the issue of health, and

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\(^{168}\) Personal interview, 31 July 2012.

\(^{169}\) The Cities Alliance is a “partnership” that includes a number of country-level aid agencies in the North, housing ministries in developing country governments, multilateral agencies, and two non-governmental, civil society networks (SDI and Habitat for Humanity). Until recently, its secretariat has been housed in the World Bank in Washington, DC.
especially the high rates of HIV incidence in informal settlements as a share of total prevalence of HIV in urban areas. Therefore, four cabinet “clusters” tabled the issue of informal settlement upgrading to the full cabinet agenda in January 2010: human settlements (formerly housing), health, security, and the presidency itself.

The new presidency of Jacob Zuma in 2009 promised to bring new levels of accountability to government, and the shift to upgrading integrated into these efforts. As part of the twelve development outcomes to which the full cabinet committed, “upgrading of 400,000 informal settlement households with access to basic services and secure tenure” became output 3 of outcome 8, which was the ambit of the human settlements cabinet cluster. Topham described the moment as fortuitous for moving forward an agenda around upgrading that had long been stalled. “You’ve got a team in the presidency who were aware of a lot of the issues and were looking for programming hooks into the development outcomes process. Second this is, we’d been doing work on it for two years before that time had come. So, we’d got an analysis and set of interventions and set of proposals already prepared. So it wasn’t that there would have to be a leading time about analyzing the program and so on. The stuff was already packaged and ready to go.”

But the existing institutional biases went straight to the top. Adlard, who worked with Cape Town’s informal settlements unit, was also a one-time consultant with NUSP. He said that even if the delivery agreement seemed to put a new, promising alternative on the table, the old ways of doing business seemed set to persist:

[The agreement] was then translated by the provincial MECs into 400,000 serviced sites, which implies proclaimed township again. So that just defeated the objective of the thing as far as I was concerned. And, taking it further, when President Zuma announced it, he couldn’t even bear — it’s a typical political problem — he couldn’t even bear to say “serviced sites.” He said 400,000 houses. And press reports all over the world said “400,000 houses.” When actually the text that he was reading from said 400,000 serviced sites.

So it was clear that rhetorical agreements, even designed to underline a shift in policy begun in earnest five years prior, would not be enough to actually enact such a shift. The politics of delivery to “populations,” as Chatterjee puts it, seemed insurmountable. The individual good of the house remained paramount as a political consideration.

170 National Department of Performance Monitoring and Evaluation, Delivery Agreements, Annexure A for Output 8: Sustainable Human Settlements and Improved Quality of Life, 2010, 8.
Still, NUSP was positioned to have real control over resource flows, which would begin to deal with the intergovernmental institutional contradictions that have long bedeviled the housing sector. The key, for NUSP, was to empower municipalities vis-à-vis other scales of government involved in housing delivery. Huchzermeyer has already made a general claim about municipal bureaucrats and their seeming unwillingness to implement incremental upgrading programs in earnest. This claim does not diverge so much from the claims of institutional effectiveness or ineffectiveness that have driven traditional evaluations of government action in this sector. Topham argued that, in this case, the drive to empower municipalities was driven by the basic “principle of subsidiarity.” The idea was for NUSP to “accredit” municipalities to receive funds from the National Treasury, bypassing provincial authorities. Two grants were established to be the vehicles for distributing these funds — an Urban Settlements Development Grant (USDG) and a fund issued through the National Treasury called the City Support Programme (CSP). Phased release of these grants would ensure that the national level would have more oversight over how funds were used. In a sense, Topham argued, it was a way to bypass existing housing development processes altogether: “Every participating municipality has to produce a built environment performance plan. That is reviewed and has to be approved before USDG is released.” By releasing funds for the grant in four separate tranches, work done under the grant is subject to periodic review by the national department of human settlements. “They [the municipalities] know what they’re going to get, they know when the tranches are going to come through. With performance measure and with a clear indication this has to facilitate informal settlement upgrading. So it’s reducing the power of provinces to control through their program where and what type of projects take place in municipalities.” However, there is no mechanism through which the USDG can be ensured to focus on the poor who live in informal settlements. Instead, the advantage of its flexibility is also a disadvantage, as municipalities can use it for highly visible infrastructure projects, such as public transport that does not reach informal settlements.

Though they come from the worlds of academia and government, respectively, Huchzermeyer’s analytical framework is not necessarily so different from that which Topham proposes. They both propose a programmatic intervention. If the priorities are enforceable from a top-down institutional perspective then the projects should fall into line. Yet, embedded in Topham’s articulation of the NUSP agenda is an implicit — or at least
potential — acknowledgment that a much greater degree of conflict lies beneath the seemingly technocratic intervention. He underlines the traditional argument that decentralized control at the municipal level can open up space for community involvement but also notes that this is not a *fait accompli*.

The role of grassroots interaction with local government institutions can no longer be proposed with any level of plausibility as a purely technocratic element of a linear process. Rather, the key is managing the relationality — and conflict — inherent in the interactions between communities and authorities. However, as Topham notes, the current climate has bred a great deal of fear into perception of these conflicts:

> It’s no longer seen as a government serving the people. It’s about government stopping the loud and noisy members of the public who, actually, if they sat down and behaved, it will help people to get their jobs done and get their houses much quicker. Which is probably not true. So, from my perspective, if you really get down to it, the issue is not, “have we got the instruments, have we got the finance, have we got the capital and all the rest?” The biggest challenge is going to be, “Have we got the right attitude and mindset towards the poor about working with the poor?”

Again, we come back to the question of the behavioral psychology of officials. At the same time, we should be clear that there are two different ways to approach this. Is it a question of how officials think about upgrading and policy? Or is it a question of how officials think about the processes and discretion that they exercise within the institutional structure?

Where Huchzermeyer recommends “re-training” of officials as a response to the issue of mindset change, she does not say explicitly how this training might look. Firoz Kahn presents a compelling portrait of the ways in which official mindsets are fundamentally set against developing the capacity to implement policy in a relational framework: “The elite — who see *efficient* delivery as the overriding objective — recruit the services of the old (and ‘newish’) technocratic elite to implement policies through municipal institutions that previously lacked any culture of community development,” he argues. “Newly elected councils in some cases thwart or block the development of more participatory approaches or assume the ‘normative’ role of their predecessors, a trend accentuated by fiscal squeeze and the pressure to accelerate delivery at all costs.”

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171 Personal interview, 31 July 2012.
In this way, we can make out the contradictions of “participation” — with respect to engagement with actors outside of government — and “capacity” or “coherence” — between institutional scales within government. In both cases, the ability to articulate and then manage conflict are the measure of “well-designed” institutional arrangements. But in the South African case, the onus is almost entirely on managing the conflict, without letting it drive a sense of institutional possibilities, experimentation, and experiential learning.

This is a matter of embeddedness, as Evans puts it. But it is also a matter of understanding what the nature of citizenship in the still-new democracy of South Africa really means. For the promise of delivery is not democracy. Rather, it is the consolidation of the institutions through which citizens continuously mandate and drive the implementation of the developmental activities taken out in their name. The batho pele creed has run hand-in-hand with campaign slogans of all political parties that promise a broad-based popular agenda, such as the ANC’s ubiquitous call for “a better life for all,” and, more recently, “working together we can do more.” Kahn argues that this “let’s-join-hands paradigm of transition” has, in fact, obscured the divisions of society that still need a profound articulation to use developmental policy-making and institution-building to consolidate democratic citizenship: “The effect of adopting this consensual model of society as one’s point of departure is that it permits contradictory goals to be accommodated within policy frameworks, thus obscuring or eliminating the need to examine or meaningfully engage with conflict.”

The building of institutions emerges through the articulation of conflict. And, unlike the all too prevalent fallacy of mainstream policy-making in the housing sector, conflict is not actually one-size-fits-all. This overview of the institutions and policies that comprise the broad formal outlines of the trajectory of the state housing sector in the past two decades are the backdrop in which the rest of this thesis plays out. The extent to which mixed strategies of politics “from below” impact a more relational form of governance in the formal realm, “from above,” and the historically contingent ways in which they do so, are where we turn next.

Chapter 4: Where there’s no smoke, is there fire?

**Partnerships between community networks and local government in Cape Town and Stellenbosch**

The city told us to not put shacks in here. But we insisted on putting shacks. They came to count our shacks and then they said, “No more shacks. Otherwise, we will demolish.” But that never happened.

— Nokhwezi Klaas, community leader, Mshini Wam informal settlement

*Cape Town, 13 August 2012*

For some observers, South Africa is burning. At the end of August 2012, these “fires from below” smoldered in the mines of the “platinum belt” in and around Rustenburg, amongst the one thousand newly homeless victims of an eviction in Marlboro near Johannesburg, and in the informal settlements that line the N2 freeway in Cape Town. But beneath the fire, both figurative and literal, which remain so exciting to the media and politicians, the reality of urban change incorporates other kinds of activity which is much more quiet, but perhaps even more consequential.

An everyday struggle for survival, a piece of land, a shelter, dignity, is taking place amongst ordinary women and men, children and parents. At the same time, the municipal officials and institutions operating within the policy framework and related changes discussed in the previous chapter, work to complete a mandate that the persistent and growing informality calls into question. If struggles for land and housing raise the question of finding citizens amidst “populations,” they also raise the question of finding systems of governance within and outside of the government.

This chapter looks into two examples of the furnaces of practice, where informal settlement communities linked to the South African Alliance are developing partnerships with local authorities in the municipalities of Cape Town and Stellenbosch. These partnerships provide concrete challenges to the existing bureaucratic relationships and policy frameworks, discussed in the previous chapter, with respect to land, services, and housing for the poor. While these partnerships quite clearly have not — yet, at any rate — achieved widespread access to such amenities, they point to an alternative mode of governance that can alter fundamental assumptions around the “delivery” or “production” of services.

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174 This eviction was not particularly unusual, but its chronology dovetailed with similar conflicts between the state and the poor at that moment time.
In presenting these two examples, this chapter will argue that each partnership has exhibited certain characteristics of institutional “design” — in each element of the partnership — that have determined their potential and limitations. These elements include: (a) the nature of internal formal bureaucratic change that led to partnership, (b) the nature of the grassroots and civil society partner in each city, (c) the political will within local government to support the bureaucratic elements of the partnership. Though these cities differ widely in terms of scale, economic, and political influence, it is worth stating up front some key elements of commonality between the two cities. In the last five years, both have established dedicated Informal Settlements Units within their respective Departments of Housing, which have more recently been renamed as Human Settlements. And in each city, a municipal government structure has signed a Memorandum of Understanding (MoU) with CORC and/or other actors within the South African SDI Alliance. This chapter begins with the Cape Town example and follows with that in Stellenbosch. In doing so, I will argue that the most significant impact of these partnerships has been to create the space for new articulation of the implied conflict in the political economy of governance of land and housing for the poor. At the same time, such institutional “design” interventions have taken place against a backdrop of specific historical experiences and institutional endowments in each city and local institutional arena. And these interventions exhibit capacity for sustainable reform processes relative to the extent that they are rooted in their local, contextual histories.

“Upgrading where we are”: The Cape Town partnership

The establishment of the informal settlements unit (ISU) within the Cape Town municipality’s department of human settlements was a way to institutionalize an agenda that, according to Mzwandile Sokupa, current head of the Cape Town ISU, was previously part of the city’s engineering department. Unsurprisingly, then, the goal of the department was to focus exclusively on specific physical infrastructure issues: “The challenges of informality were always dealt with as challenges of services. Water, taps, toilets. When this department was formed in 2007, I was appointed the head and I was expected to drive vigorously the ‘taps and toilets’ mandate which I was given,” Sokupa said. His description indicates a highly rational approach, a small scale analogue of Scott’s “authoritarian high modernism.”

The struggle that Sokupa and his colleagues describe as occurring even within the department itself, reflects an attempt to inject a degree of relationality into the operations of
the unit, pushing back against the uniformly material approach the predominated. This underlined the more intrinsic nature of informality to a form of urban citizenship:

The city was not accepting that the people living in the informal settlements are actually going to be there for a long time. I needed to drill this down to my principals that informality is here to stay. I first needed to convince that we needed to deal with informality not in the short term, but in the long term. Also, I think one of my strategies was to get the administration to acknowledge and accept that people who build shacks do so out of desperation and this practice of building shacks must be seen as the first step towards people housing themselves. We must recognize that this is an initiative and an investment by the family to house themselves, and we must recognize that. Now we’re talking of incremental upgrading of informal settlements.¹⁷⁵

particularly notable is that Sokupa articulates the project management principle of incrementalism in opposition to the “taps and toilets” rationality that he feels was his initial mandate. On the other hand, Gerry Adlard recalled that Sokupa was hamstrung by his primary principal in the department at the time, an executive director who more in line with the material, civil engineering approach: “[The Executive Director] was never into [incremental upgrading]. His was a very deterministic, top-down, construction management approach. Informal settlements were just one of his responsibilities,” Adlard said. “Informal settlements was only part of his remit, and also the most problematic, and the most uncomfortable. So, for him, he just needed to get it sorted.”¹⁷⁶

The creation of an informal settlements unit within the city government was by no means a step towards articulating a more relational approach to dealing with infrastructure provision for the poor. In fact, it was precisely the opposite. If anything, the shift that the creation of this unit embodied was to underline the sense of urgency around informal settlements within the city government. Basil Davidson, current head of planning in the Stellenbosch municipality, and former head of housing in Cape Town, claimed some credit for the concept: “I lobbied for the creation of an informal settlement department there dedicated to working with informal settlements. Essentially, what they were doing was, while they were rolling out a slow housing program, people were left to fester in informal settlements in terrible conditions. So we started an informal settlement unit there and started the idea of how it could be done.”¹⁷⁷ Sokupa puts a finer edge on the exact purpose of the

¹⁷⁵ Personal interview, 13 August 2012.
¹⁷⁶ Personal interview, 3 July 2012.
¹⁷⁷ Personal interview, 14 August 2012.
department: “It keeps the focus on most of our programs that are geared at informal settlements, to ensure that they are actually programs that seek to alleviate poverty… We all know that there are pressures to any administration and sometimes those who are voiceless are not necessarily heard every time. If you’ve got a targeted department or unit, then that voice is always being heard on the part of the administration.”

So if the issue of voice, achieving articulations of the concerns of the poor, was the underlying goal of the unit, at least for its principal officer, the question remained — and remains — whether such voices would actually make it into the halls of power. Nokhwezi Klaas, a leader in the informal settlement settlement of Mshini Wam, near the formal low-income developments of Marconi Beam and Joe Slovo, and the formal suburb of Milnerton, described a typical set of experiences with the city authorities: “We used to go to the city here, toyi-toyi[a] a lot, with placards. They normally take our complaints and maybe file them or throw them away, but we never had any response.”

Sokupa’s informal settlements unit was established in a context where building voice, and addressing the broader tensions of informality with city development were just not the way the city government was operating.

At about the same time, ISN was holding its first dialogues in the city and mobilizing communities. CORC, which had, by virtue of its historic roots in People’s Dialogue and the uTshani Fund, been primarily working on housing developments through the PHP model with FEDUP, saw incremental upgrading as going hand-in-hand with a city-wide mobilization strategy. But as a matter of both internal and external politics it needed to begin moving from theory to practice. For FEDUP, Cape Town was a relatively difficult city for mobilization, as the city was home to the major part of the rump contingent of the South African Homeless People’s Federation that split off in the early 2000s.

The dialogues that ISN began in 2008 and 2009 were the first step towards building an institutional apparatus at the grassroots level that could begin to interface with, and challenge the institutional shifts in the formal local government arena. In the second chapter, we understood these dialogues in terms of the broader building of the movement. Now we revisit them as the beginning of a series of projects through which the ISN has tried to pursue activist strategies through partnerships with the city authorities, first at the project

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178 Personal interview, 13 August 2012.
179 Common South African term for street protest and dance.
180 Personal interview, 15 August 2012.
level. At the dialogues, communities voice a range of concerns about access to land, housing, and basic services. They also used these spaces to begin strategizing for how to understand and change the political equations that determined this lack of access. These dialogues served as the means for identifying and drawing together community leadership that had previously rarely linked with each other.

At the same time that the ISN was holding the dialogues and building a city-wide platform for informal settlement communities, two processes were underway — one of which was controlled by ISN and the other outside of it. Outside of the ISN process, other movement have been involved in highly confrontational activities. These are a significant part of the broader social movement ecosystem that has both buttressed and challenged the strategic orientation of the ISN. These include the Western Cape Anti-Eviction Campaign, Abahlali baseMjondolo’s Western Cape branch, Mandela Park backyarders, Democratic Left Front (DLF), and the ANC Youth League. Further, individual communities have also engaged in confrontational “service delivery protests.” Further, two of the most important Constitutional Court cases on housing rights have concerned informal areas in Cape Town: Grootboom and Joe Slovo, which is described below.

Actions in two key settlements in the first two years of the Cape Town ISN provided the basis for beginning to put the agenda of the network into practice. The first is in Joe Slovo informal settlement in Langa, along the N2 Highway. The N2 has been the focus of the N2 Gateway project, a long-standing national priority housing project for the shack dwellers in the settlements that line the highway on either side. These settlements are the first sight for all travelers to the downtown area of Cape Town from Cape Town International Airport. The Joe Slovo Task team had worked to bring its high profile case against eviction related to a large housing development in the settlement, a flagship of the N2 Gateway project. The Task Team engaged iKhayalami, a small alternative housing technologies NGO linked to the SA SDI Alliance, after a large fire broke out in the settlement in March 2009. iKhayalami worked with the affected residents of the community to redesign the destroyed area in to clusters and rows of shacks that could help prevent spreading of fire in the future.

This led to the first engagement between local authorities in the Informal Settlements Unit in the city government and the Alliance. Adlard is clear that the engagement had elements of opportunism. He had been aware of FEDUP and actors in the
SDI network more broadly since a 1984 meeting with Father Jorge Anzorena, an itinerant Jesuit priest and architect. Anzorena is responsible for bringing together professional and grassroots housing activists from Asian countries to form the Asian Coalition for Housing Rights (ACHR) in the 1980s, and later bringing together actors in ACHR to join the original People’s Dialogue in Broederstroom, South Africa in 1991. Andy Bolnick, the principal of iKhayalami, called Adlard, now a consultant in the Informal Settlements Unit, during the response to the Joe Slovo fire, to request assistance with the effort, called “re-blocking.” Though upgrading in the settlement was a provincial responsibility due to the unique prioritization given to the settlement as part of the N2 Gateway. But Joe Slovo Task Team chair and ISN leader Mzwanele Zulu, iKhayalami and CORC’s Andy Bolnick, CORC, and Joel Bolnick, manager of the SDI secretariat and founder of People’s Dialogue and CORC, came back and requested to meet with the city anyway. Said Adlard: “I think it was Joel [Bolnick] who came back and said, ‘Well, we’d be interested in talking with you anyway.’ So I put together a meeting for them — the CORC team — with Joel and Mzwanele to meet with Zwai and his team. And both sides said that they would like to work in partnership.”

Sokupa remembered it slightly differently: “While they were [in Joe Slovo], we were also there. We inquired as to what they are doing and how they do it. From there, we began talking. So it wasn’t an organized contact as such. It was coincidental. But when we started engaging them, we found that they were a very constructive and progressive group that is well-organized.”

The Joe Slovo Task Team, led by Zulu, while actively involve in the Constitutional Court case on the one hand, also pushed forward the “re-blocking” effort on the other. It provided an organized structure for forging ISN organizational development in practice, as well as for building trust with a generally estranged local authority. In ways both positive and negative, this was a telling engagement on which to build a partnership. A fire in January 2005 had served as a pretext for an early relocation of residents to the Temporary Relocation Areas of the faraway Delft township. FEDUP had tried to establish savings schemes in the settlement in October 2007, but met with resistance in much of the settlement. One scheme of about 20 members was formed in the eastern edge of the settlement, Zone 30. A fire in this area, in February 2008, led to the first engagements between iKhayalami and the Joe

181 Personal interview, 3 July 2012
182 Personal interview, 13 August 2012.
Slovo Task Team, when iKhayalami agreed to work with the Task team on building a community hall. The notion of “re-blocking” was discussed at the time, but the advice of lawyers working on the Constitutional Court case was to refrain from moving structures or building anything while the case was pending. In December 2008, the community agreed to go ahead with the community hall anyway. The fire in January 2009, led to the re-building of 512 shacks in the “re-blocked” format.\textsuperscript{183}

In 2011, the Constitutional Court case of \textit{Residents of Joe Slovo Community v Thubelisha Homes}, was decided in profound ambiguity. While the state, in the form of parastatal housing developer Thubelisha Homes, was ensured that many residents would have to move to relocation areas further away from the city center to make way for development, the case mandated a murky “meaningful engagement” between authorities and residents.\textsuperscript{184} By 2009, about half of the residents of the settlement had already agreed to relocate. The settlement had become a flash point in urban development in the city both at the provincial and local level, though the province had responsibility for the specific project. But even before the ambiguous resolution of the court case, the proverbial “hot potato” of development in the settlement, made authorities anxious to find a reliable partner with which to negotiate. In this sense, the encounter of city officials, ISN and CORC at the “re-blocked” site, was both outside of the legal proceedings, but firmly within its broader context.

By 2010, the Alliance was undertaking a project that was more difficult from the perspective of \textit{in situ} slum upgrading design and implementation: re-blocking and upgrading a settlement on a road reserve in the nearby township suburb of Philippi called Sheffield Road. This involved a community-determined redesign of the settlement around common clusters of 15 shacks in order to open up space for the city to install water taps and flush toilets. Getting the city to agree to this approach was a major breakthrough, as the project was being undertaken on land where residents did not have title or any secure tenure. The land was due to be cleared for a road expansion, according to official plans.

Collaboration and contention simultaneously characterized this pivotal time in the partnership. The Informal Settlement Unit of the city government worked with the community and the SA SDI Alliance under the radar of the rest of the city government. The

\textsuperscript{183} Andrea Bolnick, “From the politics of protest to the politics of redress: The planning of a sanitation unit in a South African slum,” \textit{SA SDI Alliance}, undated, 1-2.

\textsuperscript{184} \textit{Residents of Joe Slovo Community, Western Cape v Thebelisha Homes and Others (CCT 22/08) [2011] ZACC 8; 2011 (7) BCLR 723 (CC) (31 March 2011)}
goal was to experiment with the modalities of partnership. Sokupa said the department was focused on “making quick wins and making quick gains, learning to understand each other and each other’s mandate.” But this is not to say that the two parties were in agreement on the modalities from the outset. Bunita Kohler, manager of CORC, describes that the two parties had two entirely different sets of criteria for priority settlements in selecting five pilots to test the partnership:

The City said, “we want to have projects in spaces where it’s on city land, where there’s no flooding, that it’s not on a road reserve, they brought out a whole list. When we brought out our list, we chose exactly the ones that they said they were not interested in. One of them was a road reserve [Sheffield Road], one prone to flooding. [We chose them] because those were the ones most at risk.”

Two features of this early dialogue deserve scrutiny. First, measures of vulnerability emerged from the ISN dialogues. In this way, a grassroots agenda can cohere through the informal, institutional vehicle of the ISN as a social movement. Second, and related, is the extent to which this agenda directly contradicted the formal, city government agenda. The measures of vulnerability — eg. lack of secure tenure, flood risk — came up against measures of formal capacity — eg. easily “regularized,” not vulnerable. To a significant degree, the formal measures seemed unable to absorb the demands of the informal measures of vulnerability that the ISN was presenting.

So regular project and partnership meetings were held in rotating locations, an equal number in the offices of CORC, the Informal Settlements Unit, and in the first “re-blocked” courtyard in Sheffield Road. “The Sheffield Road re-blocking wasn’t sanctioned by the city,” Sokupa said. “The city found out much later that we were involved in the re-blocking of Sheffield Road. Had we been known before, we would have been stopped. I know that for a fact.” In a sense, the interaction with the ISN compelled the Informal Settlements Unit to choose to overlook some of its institutional biases with respect to prioritizing upgrading projects.

The key, especially beginning with the slightly more structured engagement in the case of Sheffield Road, was to begin to build institutional up-take of an approach that was anathema to the policies and institutional approaches that had taken root with respect to “management” of informal settlements. “We were not structured to work together,” Sokupa

185 Personal interview, 24 July 2012.
186 Personal interview, 13 August 2012.
said. “We had to force our officials lower down in the department to start engaging, attending meetings, working together.” Anton Terblanche is a Principal Field Officer (PFO), the official in the Informal Settlements Unit, closest to the ground level. Initially, when the PFOs were asked to begin working with settlement leadership linked to the ISN, he recalled that his main concern was how it would fit in with his existing workload. “Once I saw Sheffield Road and what they did there, I said, ‘Look, this is a workable solution. This can work.’”\(^{187}\)

But even if the partnership seemed workable in theory, and, in certain instances, in practice, in general it moved too slowly to make any significant kind of impact on the traditional measures of “service delivery” in the city. Kohler summarized the frustration as being due to a lack of high-level political will to move a slow bureaucracy to the take up that Terblanche experienced:

> The focus of those partnership meetings was mostly around improving informal settlements’ basic services. Better access to toilets, more access to taps, general and solid waste management. And that happened for another year or two. The problem with that was that you could not get all the utilities departments to attend. So there were many cases, which were very frustrating, because the issues that communities wanted to discuss, nobody could give them answers because that department was not there. So the whole issue of not having the political backing became something that the partnership started discussing.\(^{188}\)

In 2011, after a bitter local election campaign that saw the DA retain its hold on Cape Town by surprising margins, new mayor Patricia De Lille took office. In August, the SA SDI Alliance and officials from the Informal Settlements Unit met with De Lille to present on their work, which had previously been kept relatively quiet. By September, Kohler received word that De Lille was ready to sign a MoU. But further movement was stopped. According to Kohler, the rumor was that politicians at both the provincial and city level — both controlled by the DA — were concerned that ISN might be a “front for the ANC.”\(^{189}\) All partnership-related activities ceased.

It is worth noting here that the experience of social movements such as ISN is not entirely divorced from the proceedings of formal politics. In fact, the Cape Town and Stellenbosch experience are relatively unique from this perspective in comparison to the vast majority of municipalities in the country, which are ruled by the ANC, with the DA usually

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\(^{187}\) Personal interview, 13 July 2012.

\(^{188}\) Personal interview, 24 July 2012.

\(^{189}\) Ibid.
the main opposition party. As noted above, the nature of social movement-based conflict in informal settlements in Cape Town has an occasional, though likely exaggerated, link to formal political opposition, especially in the form of the ANC. However, both the ANC and DA-rulled municipalities talk of a “third force” in “service delivery protests.” This thesis is not oblivious to the linkages between social movement activity and formal politics, but this thesis is focused on the bureaucratic linkages of social movements and state institutions, and therefore does not linger on the formal political realm.

Given the divergence — even outright contradiction — of priorities when the partnership first began, it is perhaps not so surprising that large gaps remained in understanding the significance of the projects that had been undertaken. Even so, the hiring of a new executive director of housing in the city seemed to open up new possibilities for moving forward with the partnership. Kohler recalled that Zulu and two leaders in Sheffield Road made a presentation to a number of government officials during a visit by the Ministerial Task Team on Sanitation from the National Department of Human Settlements. National ISN Chair and FEDUP President Patrick Magebhula, a member of the task team, which also included Parliamentarian and anti-Apartheid struggle icon Winnie Madikizela-Mandela, had arranged the visit. Also in attendance was Deputy Minister of Human Settlements Zou Kota-Fredricks. During the meeting, the Executive Director for Housing in Cape Town, argued that “they cannot provide services because there was no land.” But ISN and CORC countered, publicly, that, “Why do you complain about land? This is why blocking out could be such an opportunity because it creates those spaces for you to put in your services,” Kohler remembered. “And I think that’s where the whole turnaround came… The city came and said, ‘We want to adopt this blocking out project as a pilot, but let this be the real partnership.’” The key, she argued, is that “it was an important phase of communities having the space to say, “These are our reasons. This is how we think we can improve it.” Soon afterwards, a memorandum of understanding was signed by the mayor, ISN and CORC. It is a short one-page document that agrees to work in partnership to roll out “re-blocking” projects across the city, in order to open up space for the delivery of services.

The City’s Informal Settlements Unit, backed by a new, more supportive Executive Director of Housing in the city government, and the SA SDI Alliance agreed on over 20

\[190\] Ibid.
pilot projects under the remit of the now-codified partnership. And the changes in mind-shift trickled down to some of the “street level bureaucrats,” as they continued to be exposed to the work that had been done in settlements like Sheffield Road, as well as the formal validation of these projects. Of all the PFOs, Terblanche has most clearly taken up the partnership at the ground level. And informants from both CORC and ISN attribute the success of the flagship project of this partnership at Mshini Wam, near Cape Town’s Milnerton suburb, to Terblanche’s willingness to move outside of the letter of the bureaucratic strictures that govern his work. Sikhulile Nkhoma, the program manager of CORC from 2010 to 2012 described him as “in the back end corner of the community … He wants to do this. He is involved and he is committed.”

**From intentions to implementation: the case of Mshini Wam**

But what does this mean in practice? The challenge remains that despite good intentions on the part of individuals, the policies and institutions are just fundamentally not geared towards an approach that allows for communities to influence their own development. The project in Mshini Wam has therefore become a crucible for taking the partnership forward. I witnessed the development of the project over a series of meetings between the community and city government, as well as on regular visits to the settlement outside of official meetings, during July and August 2012. During this time, the first approximately 50 shacks were re-blocked. The first step in upgrading was for the community to work with ISN and CORC to come up with a redesigning of the highly congested settlement to open up space for access roads, and installation of basic service infrastructure. The design that they came up with is clusters of about 10-15 shacks around common courtyards. The vast majority of the households are also upgrading their shacks by accessing new fireproof materials through CORC. This is financed through an 80% subsidy by CORC and 20% of savings at the household level. The total cost is approximately $150, depending on the size of the shack.

The design process uncovered a great deal of tension within the community of Mshini Wam, but did so in a way that has provided key lessons for developmental community mobilization. The leadership began with a settlement-wide “enumeration,” a long-standing tool of FEDUP and ISN to mobilize communities by identifying

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191 Personal interview, 11 July 2012.
developmental priorities. The enumeration led to a count and mapping of all basic services in the settlement, which confirmed that the need around water taps and toilets was greatest. However, city officials had claimed that the settlement was too densely-packed to provide such services. After visiting with the community in Sheffield Road, through an exchange that ISN and CORC facilitated, the leadership presented the idea of re-blocking to the community, while CORC and ISN brought in Sokupa and Terblanche to consider the concept from the City government’s perspective.

Klaas noted that the re-blocking process challenged her leadership committee’s mandate within the community. Early on, this was particularly so in negotiating with all of the residents to re-arrange their shacks, which sometimes meant losing one or two square feet of previous floor space, even though the general principle was that every household would keep the same amount of floor space in a new arrangement. “We were worried. Everybody,” she said, describing negotiations with one particular family. “Then we heard these talks with them wanting to change the committee.” The negotiation set an important precedent that eased the willingness of other families in the settlement to be more agreeable to small changes in the name of achieving collective goods of basic services for the whole community. “At first, it was ‘don’t touch my hokkie’. It stays like this. I wasted money and my time, my energy. So I don’t want it to be touched,” Klaas said in reference to the attitude of one shack owner. She noted that she and other leaders reduced the size of their shacks in the re-organization with the specific intent of leading through example.193

In fact, the leadership, in addition to periodic votes on their mandate, are able to measure the deepness of mobilization for individual projects through savings at the household level, which are required as a sort of “monetization of social capital” for development. “You can see the savings,” said Noncoba Vaphi, another leader on the Mshini Wam committee.194

A further element of the process was the mediating role of the ISN leadership in the project. Klaas explained that Mnyango and Zulu were among the key leaders to help the specific project-level mobilization within the community: “We used to call Vuyani [Mnyango] and Nkokheli [Ncambele, another ISN city-wide leader] to come and stand up

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192 Local Cape Town term for a shack.
193 Personal interview, 15 August 2012.
194 Personal interview, 15 August 2012.
for us to explain to the people what is happening. They have come here, I think four to five times already,” she said. “Then [Mzwanele] was here, singing the same songs. So that was happening and people were starting to change.”

Mnyango argued that the role of ISN in Mshini Wam has been to facilitate learning at two levels: (a) between clusters within the settlement, and (b) between leadership in Mshini Wam and leadership in Sheffield Road. He contrasted this to a typical formal field officer approach to monitoring community activities: “That is a lesson that people need to learn. Not to just go there and take a walk and have pictures of nice structures. No. When you got to your settlement you will find totally different challenges and issues. That is why you need to that point of knowing how to do it. Why do you do it this way? What do [residents of given shack cluster] mean when they say that they are ready? When to start [the project] and where?”

The context of the partnership has also provided the space for experimentation that would have otherwise been particularly unlikely. This is especially so in the case of Mshini Wam. “[The City], they said re-blocking cannot happen in Mshini Wam. They were using an aerial photograph. Then we told ourselves that we would do the groundwork with community. We take what is in the design to the ground,” recalled Mnyango. From the side of the city, Sokupa noted that the key aspect was proving that a community-driven process could open up space to achieve the delivery priorities of his unit: “The example is in Mshini Wam where people have provided spaces to an extent where we can provide services on a one-on-one basis. One toilet and one tap for each family, and a courtyard. A decent environment. I think that was a strategic shift.”

The question remains as to the contribution of the City to the project. Is this just self-help, which lets the state “off the hook” or is it something that creates new sense of will around such approaches to upgrading? The City has provided earthworks — dirt and ground compactors — to raise and level the ground where shacks are "re-blocked" so as to reduce flooding. It has agreed to provide flush toilets for every shack, which has been part of the design. Sokupa noted that each of these elements were being funded the Urban Settlements Development Grant, one of two new slum upgrading financing instruments that NUSP supports. At the early stages of the Mshini Wam project, which I witnessed in July and

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195 Personal interview, 15 August 2012.
196 Personal interview, 2 August 2012.
197 Ibid.
198 Personal interview, 13 August 2012.
August, the City agreed, in principle but not yet in practice, to use a national Extended Public Works Program (EPWP) to pay community members who work on the re-blocking, as it is all community labor. By September, the bureaucratic hurdles had been overcome and community members were getting paid through the program. However, part of the mobilization campaign had been based on payment for labor, and CORC had agreed, without guarantee of repayment, to pre-finance the costs.

The case of Mshini Wam has generated a “learning center” in which other nearby communities in the Milnerton area of the city, and elsewhere, have begun mobilizing around similar “re-blocking” programs. ISN and CORC facilitate exchanges among these settlements, especially to Mshini Wam, with the goal of improving the gaps and systems for implementation in each successive project, while maintaining the dynamism that the early projects with the City have established. The challenge was and remains speed. CORC and ISN were not able to scale up the Mshini Wam approach to other settlements, especially without a much greater investment by the City’s Informal Settlements Unit to unlock bureaucratic hurdles to funding and approvals. The Mshini Wam project involved near-daily phone calls between staff of CORC, ISN leaders, and engineers and surveyors in the City government who questioned the viability of the community’s plans and earthworks operations (using City equipment). Further, there is a sense that the technical assistance offered by architects in CORC is a job that should be taken up by the City, which has a distinct lack of engineering and planning capacity. Both Adlard and Aditya Kumar, an architect and planner with CORC, echoed this reflection. Kumar argued that the procurement processes may actually inhibit the partnership the most: “They should just work with the city on relaxing supply-chain management policies. I think if they just relaxed those policies, service delivery will improve already a hundred times.”

The key here, he said, is that all resources are ultimately controlled by the City. CORC uses its resources, such as in the case of EPWP, or financing new top structure shack materials for reblocking, in order to try to prod the City to shoulder such costs in the future. But this stands in sharp contrast to a more integrated resource management arrangement in the partnership that the Alliance has with the Stellenbosch municipality.

Stellenbosch

199 Personal interview, 18 July 2012.
Stellenbosch might seem like an unlikely place for seemingly risky institutional experiments in informal settlement upgrading. Home to wealthy bankers and financiers, the town and its university were once ground zero for the *broederbond*, the informal network of Afrikaner elites who masterminded the Apartheid intellectual apparatus. But here, the strange story of a wealthy landowner bringing the city to court for property damages became a pretext for just such daring experimentation. Whereas Cape Town is a metropolitan municipality that is home to approximately 3 million people, Stellenbosch is a relatively small municipality of 200,000, incorporating the formerly independent towns of Stellenbosch, Franschoek and Pniel. But its recent history of institutional change in the low-income housing sector bears some striking resemblances, while the divergences provide a useful counterpoint for parsing where the most significant institutional innovations have occurred in partnerships with many of the same actors in the South African Alliance.

We begin, like in Cape Town, with the establishment of an Informal Settlements Unit in the Department of Housing. All actors in Stellenbosch with whom I spoke agreed universally that David Carolissen has been a key actor in the changes in the approach of the municipal authorities to informal settlements. Originally appointed as the deputy director of housing by an ANC-led government, he struggled to find a place in the bureaucracy once the DA took over in 2010. To a degree, this is representative of the quasi-politicization of much of the top level bureaucratic posts at the municipal level, even though they are nominally insulated from politics. “I don’t blame them. You know it happens in America and all over the world, that the incoming administration doesn’t necessarily trust those who they inherited from the previous administration. And I had a very prominent political profile in this place,” Carolissen recalled. “So I was here and they didn’t know what to do with me. So they created this informal settlement department. It was essentially a way of dumping somebody. In local government, it’s not a sexy department. It’s something where you just dump someone and it’s a dead end.”

Informal settlements were not just “not a sexy department,” but a limited part of the overall housing strategy of the municipality. Johru Robyn, a project coordinator in the informal settlements unit, argued that the issue was to “manage” informal settlements. “Managing of informal settlements, in a nutshell, basically is to see how many of those

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201 Personal interview, 10 July 2012.
people were on the waiting list and can be accommodated in informal housing.” In this sense, the dominant approaches to housing delivery crowded out institutional will for alternative approaches to upgrading, especially in situ. It was becoming clear, as Carolissen’s department got off the ground, that formally housing the poor in the municipality, at the current rate of 300 housing subsidies allocated by provincial government per year to the province, would take between 60 to 100 years, depending on the projection of informal settlement population growth from current levels. So Carolissen began to look for ways to make an impact on poverty in informal settlements, a context with which he often noted his personal familiarity. He himself had grown up in a backyard shack elsewhere in the Western Cape.

He underlined his familiarity with SDI’s work for a number of years through various published materials. According to his telling, he decided to seek out the SA SDI Alliance. “I went to them and they almost fell on their backs. They couldn’t believe because I told them that ‘I want to partner with you.’ They couldn’t believe a government official wants to do that.”

The goal was then to use the partnership to give a broad mandate in place of essentially none at all. “I grew up in the backyards in a kind of slum. So I was then absolutely excited to come and work in this department which was created totally by default. It was never intended to be an agency of transformation for lives of poor people.” The relative blank slate gave Carolissen the space to utilize an outside partner to help him set a new agenda. “There were no established protocols administrative principles, bureaucratic attitudes… Here we connected with these guys who have, of course, many many years of experience, who have established rituals and protocols. So whilst we started building this department, they could essentially take us by the hand,” he said.

Notably, though, Davidson was Carolissen’s principal in the housing department. His experience in the Cape Town city government advocating for an informal settlements unit there had provided a basic rationale for establishing the unit in Stellenbosch. Similarly,

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202 Personal interview, 8 August 2012.
203 This is a number presented by Carolissen and Davidson in various community meetings, and also repeated by Robyn in a personal interview, 8 August 2012.
204 Personal interview, 10 July 2012.
the goal was to move beyond the highly formalistic, top-down housing delivery paradigm to incremental upgrading.\textsuperscript{205}

Carolissen used what he perceived as a still relatively blank slate to build his own rationale for the work that built on the basics that underpinned the creation of his unit in the first place. The initial engagement with the SA SDI Alliance and CORC was central to this. “It convinced us that cooperation between the poor people, their organizations and their movements, and ourselves. Which is fundamental. That, of course, introduced the kind of success we now have where we are so much more open for suggestions, for cooperation with the poor people and their movements. That’s something you won’t find easily in other local governments.”\textsuperscript{206}

The partnership began to take hold at the institutional level after the international SDI secretariat facilitated an exchange with members of the Cape Town ISN who had been working on the partnership with the Cape Town city government, Carolissen and his staff. This took the South African delegation to cities in Uganda, where the Ugandan National Slum Dwellers Federation, the local SDI Affiliate, have been building city level partnerships with local authorities, supported the National Ministry of Lands, Housing, and Urban Development. The South Africans returned to the Cape eager to begin piloting such an approach in practice in Stellenbosch.\textsuperscript{207}

**Upgrading, but different: The case of Langrug**

But the engagement would necessarily be different. A city-wide ISN did not exist in the municipality. Circumstances intervened to drive the Cape Town ISN leadership, CORC, and the local government to prioritize one of the largest settlements in the municipal boundaries. In 2010, a rich landowner in Franschoek threatened to sue the municipality for the polluted run-off coming from Langrug settlement onto his property. The rich were making the claim in this case. But it is the poor who have gained attention from the claim. The municipality had long tried to provide services to Langrug through ad hoc, top-down methods. These previous attempts had been met by vandalism and destruction, as the community felt that there was no consultation about needs or priorities of the settlement.

\textsuperscript{205} Personal interview, 14 August 2012.
\textsuperscript{206} Personal interview, 10 July 2012.
\textsuperscript{207} Ibid.
The settlement is home to 1858 households with a population of 4,088, according to a community-led household survey, or “enumeration,” in 2011. The settlement had gone with approximately 83 functional toilets (49 people per toilet).\textsuperscript{208} Trevor Masiy, a leader on the settlement’s leadership committee recalled that the community undertook two near-simultaneous processes, after the SA SDI Alliance began engaging with the local government in the settlement. The first was forming a leadership committee that would have an actionable mandate, and second was to conduct an enumeration. Alfred Khatane, another member of the leadership committee, described the process for choosing a leadership. He argued that “developmental” leadership could only emerge after local elections in 2009, when political patronage dominated community politics. The entrance of the SA SDI Alliance threatened the fragile political balance. “It was a hectic time because they were campaigning for a new councilor. So they were afraid of a new political party emerging,” he said. “That’s why the negotiations with the municipality and the community were not fruitful at that time.”\textsuperscript{209} As Masiy described, the promise of new beginnings in the relationship with the municipality, as well as the entrance of community-based actors in the Cape Town ISN instigated the formation of the committee as it currently stands. Now the committee has developed approximately 14 lower-level block committees to deepen leadership accountability and manage projects. “It’s just clear,” Masiy explained. “It’s only people on the block committees who really know. We are trying to make everything a community-driven process, whereby the community understands their data in each block and what are their issues.” Specific projects have involved in the construction of drainage pipes to manage greywater run-off, toilets, internal relocations (within the settlement) to avoid flood risk, and expansion of water tap availability.

In addition to support from the municipality, for which these projects have served as tests for further institutionalization, the community has engaged multiple academic institutions through its link with the SA SDI Alliance. One major engagement was in late 2011 with undergraduate students from Worcester Polytechnic Institute in Massachusetts, USA whereby committee leaders became “co-researchers” with students to learn how to manage technical aspects of upgrading.\textsuperscript{210} A second engagement was in early 2012 with

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\textsuperscript{209} Personal interview, 13 July 2012.
\textsuperscript{210} Personal interview with Aditya Kumar, 18 July 2012.
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master’s planning students at the University of Cape Town, who worked with the
community to develop both design and policy strategies for accessing the benefits of UISP
through the municipal framework. Tanja Winkler, the professor at University of Cape Town
who led this studio, reflected that the specific nature of Carolissen’s department has enabled
the kinds of collaborations that the Langrug case has come to represent: “David has a small
team of folks and everyone is aware of what’s going on. I think that’s what makes the
Langrug project unique, different, successful, if you want to label it as such.”

The unanimous view is that between 2010 and 2012, both the community and low-
level bureaucrats have changed. The bureaucrats visit the community much more often and
sit in joint meetings with community leaders to plan improvements for the settlement.
According to Carolissen, in conjunction with the establishment of the partnership, he has
structured his department so that field officers visit each of the 15 informal settlements in
the city on a weekly basis. The city has also begun employing community members who
work on upgrading projects through the short-term public works program EPWP. The two
key issues in the partnership over the past two years concern the extent and nature of
institutionalization, and the extent and nature of grassroots mobilization in other
settlements.

Institutionalizing something “unique”

In December 2011, CORC and the Stellenbosch Municipality signed a Memorandum
of Understanding to codify the partnership that had been developing informally through the
pilot in Langrug. The 27-page partnership, as articulated in the memorandum, is a much
more detailed document than the single page that governs the Cape Town partnership. The
signatories are the municipal manager of Stellenbosch and the manager of CORC. It further
recognizes both ISN and FEDUP as national social movements that are to facilitate the local
partnership. Carolissen argued that alliance with the movements is implied by the nature of
the partnership. “At the legal, technical level Stellenbosch municipality has signed an
agreement with CORC. But, of course, CORC is part of this broader network of SDI, of the
federation of movements, international and national. So our partner is the movement and
that’s how I understand it.”

211 Personal interview with Tanja Winkler, 5 July 2012.
212 Personal interview, 10 July 2012.
Perhaps most relevant to the question of how the institutionalization of this partnership implicates both practice and policy is that the memorandum provides a framework for joint management of funds for informal settlement upgrading between CORC and the informal settlements department. In this sense, the partnership is much more than the model of service provider orientation of most traditional public-private partnerships. Basil Davidson noted that the primary technical difference is that CORC does not go through a procurement process to engage with the municipality on upgrading projects. According to Carolissen, the financial arrangement has allowed the municipality to run around the inevitable perceived inefficiencies of the traditional service provider mode. He made this argument by way of a comparative example:

Let us say I want to build this pipeline of maybe a kilometer. I, in our kind of financial management system, must appoint a contractor. And this contractor, he is required to use some local laboring. But, of course, he will have to do it on his own. His contract really obligated him to finish the pipeline. But in this system now, this partnership that we have, I can confidently hand over to the SDI the construction of that pipe. Supervised by my engineer in my department. My planner here. Your architect. Your planner. And the beauty of it is we can use a hundred percent local labor now. Hundred percent local labor because the contractor is totally out of the procurement system. So that is — in a very real way — the benefits.

The ability to work around procurement guidelines through such a partnership, allows for the kind of flexibility for incremental upgrading of informal settlements that most agree is impossible under traditional financing arrangement. It is therefore not surprising that in August 2012, the municipality was working towards a plan for consolidated housing in the settlement, long after two years of upgrading work had already been conducted. According to Kumar, this will make the project likely one of the only true UISP projects to reach that stage nation-wide. While, in theory, this appears to leave open the challenge of corruption, at least until now, there are no reports of such issues, both formally or informally. Rather, the partnership is able to serve as a testing ground for streamlined procurement by locating much of the financial management in CORC itself.

Perhaps the greatest challenge in the Stellenbosch partnership is related to the basic difference with the Cape Town partnership in regards to the institutional alignment between the actors. In Cape Town, the partnership emerged through an engagement with a city-wide

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213 Personal interview, 14 August 2012.
214 Personal interview, 10 July 2012.
ISN, with a mixed history of conflictual and collaborative tactics vis-à-vis the city government. In Stellenbosch, such as well-organized city-wide grassroots structure does not exist. In that sense, the “movement” pressure is brought to bear through the wider networks of, first, ISN as a nation-wide structure, CORC, as a nation-wide NGO, and SDI, with its international profile and grassroots mobilization.

But this is clearly not the most clear-cut sort of “pressure from below.” In Stellenbosch, there has been a much clearer reliance on the prospect of “constructability” for building the partnership between a grassroots formation and formal government authorities. Conversely, in Cape Town, the partnership has a history of networking amongst informal settlement communities, city-wide mobilization and identity-building. Formal action towards “constructing” an institutionalized partnership only began once these processes were well underway at the grassroots level.

Community-based actors in Stellenbosch have therefore found the institutionalized partnership between the municipality and CORC to be both enabling and constraining in establishing a city-wide voice. Masiy has been one of the leading voices calling for such a structure.

It is only about the municipality and Langrug, so it can’t happen. Last year there was a [removal] of toilets in Meerlust, which they could protest because they were alone. But if the network was there, we could have jumped and gone and said, ‘No. Even if you are on private land, you need to have a toilet, you need to have water to drink because water is life. So in trying to build up this network, the aim is to stand together. Not only people on private land.’

My interview with Masiy was a week after a meeting facilitated by the municipality’s informal settlements department. This meeting invited representatives of every informal settlement in the municipal boundaries. CORC staff and Langrug leaders had been involved in profiling each of these settlements, making initial links with leaders in each of the settlements. The profiles included basic data on each settlement, including population and basic service access. Prior to the meeting, CORC staff and Langrug leaders expressed the hope that this would be a moment where a call for a ISN in Stellenbosch could be made. But during the two-day meeting, the municipality presented an agenda to upgrade each settlement based on one-to-one interactions between municipal field officers and the individual settlements. The reflection of participants was that this shut off a more

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215 Personal interview, 26 July 2012.
community-led discussion around networking and developing a community-based agenda for city-wide upgrading.

It is worth highlighting this meeting not because it necessarily means that the partnership was meaningless. Indeed, in the aftermath of this meeting, clarifying discussions ensued, and by the end of August, a large-scale, city-sanctioned, community-led enumeration was underway in Enkanini, the largest settlement in the municipality. It was being undertaken with the assistance of enumerators from Langrug, as the intention was to build cross-city solidarity through the transference of learning. But what the meeting does reveal is the ways in which, even in the context of partnership, mobilization at the grassroots remains an implicit challenge. Currently, an ISN structure at the city-wide level in Stellenbosch has not yet appeared.

**A flash in the pan?**

Both Cape Town and Stellenbosch have utilized similar institutional forms in the vehicle of an informal settlements “unit” or “department” to begin experiments in community engagement that were previously impossible. Both have operated from a realization that both the existing policies and standard institutional operating procedures are insufficient to fulfill their mandate to deliver. But they have worked with grassroots partners that, while sharing a name and even funding, operate in relatively different ways in the two cities. This suggests that institutional designs and forms do make a difference in these cases, both at the local government and grassroots levels.

Still, social struggle may sometimes appear through intense flashes of visibility, but it is built over lengthy periods of time. Similarly, institutional changes are not the result of single actions or just a few individuals. The next chapter examines the larger sweep of these partnerships and why they implicate broader processes of change in practice and policy in the arena of land and housing sectors in South Africa. In essence, we move from descriptive analysis to an approach that is necessarily more normative. What does all of this mean for the values that are so basic to struggles for urban land and housing in this new democracy?
Chapter 5: “The Seed Is Mine”

**Quiet conflict, social movements, and institutional reform**

If the search for history is the search for values, then the search to understand the nature of upgrading of infrastructure is in fact the search to understand the deeper value that people place on this infrastructure. Kas Maine, the South African sharecropper, described his lived theory of the interstices of law and power amid institutionalized segregation and economic exclusion: “The seed is mine. The ploughshares are mine. The span of oxen is mine. Everything is mine. Only the land is theirs.”\(^{216}\) In South Africa’s cities, land, housing, and infrastructure may be governed to varying degree through the state and the market, but the social and economic “seed” is intrinsic to citizens. Such is the central tension of urban development, land and housing, in post-Apartheid South Africa.

This chapter zooms out from the case studies of the previous chapter, as well the specific institutional histories of social movements and formal bureaucracy in the land and housing arena. Here, I argue that the institutional changes in this sector are tied inextricably to grassroots struggles to realize and “materialize” citizenship. More specifically, I argue that the evidence presented throughout this thesis substantiates the notion that conflict within and between formal and informal institutions has been the driving force behind institutional innovation. This may seem surprising given that the case studies in the previous chapter were nominally about “partnerships.” By applying a social movement lens to these relationships between the South African Alliance and local government institutions in Cape Town and Stellenbosch, we can see that these collaborations, in fact, generate the space for a sort of generative conflict. Such conflict exists within the partnerships themselves, and the ways in which the partnership engage the broader ecosystem of collaborative and conflictual tactics of social movements in these cities. This kind of conflict is “generative” in two senses of the word. First, these collaborations generate innovations in physical upgrading of informal settlements that would have otherwise been impossible. Second, these collaborations generate “civic capacities” amongst both formal and informal actors, through the varying levels of conflict in the persistent negotiation between these actors in each respective city, that are a renewing source of institutional innovation. I will argue here that the more fully realized spectrum of conflict and collaboration through the existence of a

citywide grassroots network in Cape Town, has exhibited and continues to suggest greater potential for such innovation.

The generative potential of these partnerships demonstrates concurrently the disjunctures that exist between practice, policy, and law in a formally rights-based democratic order. But, in doing so, they expose the ways in which a social movement view of institutional relationships built through practice and not explicitly through law (and rights) shows that, in fact, law and practice are mutually constitutive. Precisely because these partnerships generate space for more relational approaches to governance, they also suggest ways in which the law itself is constituted through the relationality. This goes far beyond the relative legal formalism that a more narrow articulation of a rights-based agenda might suggest.

There are four ways in which collaborative linkages between state institutions and social movements have generated institutional changes that tie the production of land, housing, and basic services, for the poor to their intrinsic value in materializing citizenship. First, these linkages produce spaces for inter- and intra-institutional learning that allow them to be more adaptive to the challenges of upgrading in situ, a conceptual first principle for upgrading to affirm citizenship through rights to land, housing, and the city. Second, these linkages produce the space for “quiet” struggle in which grassroots actors assert their claims of citizenship through bargaining, negotiation, and co-production of land, services, and housing. Third, these linkages produce spaces for reconceiving the commons within and between communities, which, in turn allow for cooperative and relational logics of governance to replace (or at least compete with) existing hierarchical modalities. Fourth, these linkages produce spaces for acknowledging processes of norm-making, and law-making that affirm and operationalize more plural notions of citizenship. Taken together, such partnerships between local authorities and grassroots movements are mechanisms by which more relational forms of governance change institutions to achieve aims of producing land, housing, and basic services for the poor while also generating and affirming the urban citizenship of the poor.

Breaching the wall: delivery through “civic capacity”

Thus far, I have painted a relatively rosy portrait of the promise of these partnerships. But these partnerships are new and are both a product of — and a move against or beyond — significant histories of institutional change in the arena of land and
housing. Therefore, I want to introduce the concept of “civic capacity” as a way of understanding the gains that have occurred, as well as the extent to which the partnerships under examination produce unintended consequences for realizing citizenship. Civic capacity is a concept that is especially relevant in a context such as South Africa. Here, the transition to democracy — the basic principle of one person, one vote — has been reified to such an extent that no further mandate for government, and the broader governmentalized condition, is necessary. Civic capacity gives us a qualitative metric by which to evaluate the partnerships under examination, by asking whether the partnerships (a) generate civic capacity, and (b) if this civic capacity achieves the four types of generative outcomes that I outline in the introduction to this chapter. It also provides an alternative way of thinking about formal “capacity building” measures that often tend to be little more than bureaucratic “design” interventions.

The first way to evaluate whether these partnerships generate “civic capacity” is to return to the notions of relational governance laid out in Chapter 1. Mark Bevir criticizes approaches to governance that remain rooted in “economic and sociological rationality,” which perpetuate the “authoritarian high modernist” impulses of the state even in the face of more diffuse models such as “new governance”:

Instead of moving from procedural to performance accountability, might we bolster procedural accountability, and, in doing so, make it less a matter of reacting to decisions that already have been made and more a matter of citizens holding people accountable during the processes of decision making? Such question open up the possibility of more direct involvement and control by citizens throughout the formation and implementation of policies. They point toward more plural and participatory concepts of democracy.217

His proposal, general as it may be, is best tested through empirical case studies such as the partnerships in Cape Town and Stellenbosch.

Civic capacity, then, can be understood as the extent to which ordinary people are able to engage in the space to which Bevir refers. Xavier de Souza Briggs defines civic capacity along two dimensions. The first is whether communities are “capable of collective action on public problems (the resource dimensions), given the norms and institutional arenas for local action.” The second is whether communities “choose to apply such capability (the dimension of effort, will and choice, or ‘agency’).” The interplay between these dimensions is what determines the possibility for grassroots action to impact at formal

217 Mark Bevir, Democratic Governance, 38.
institutional levels. For Briggs, this is a way of both distinguishing and bringing together “will” and “way” in an evaluative framework.\footnote{218}{Xavier de Souza Briggs, Democracy as Problem Solving: Civic Capacity in Communities Across the Globe, (Cambridge, MA: The MIT Press, 2008), 13.}

“Civic capacity” has a distinctly American ring to it. Briggs articulates the concept as being borne out of the line of inquiry that has driven other thinkers on democracy and social life in the United States, especially John Dewey\footnote{219}{Ibid, 8.} and Robert Putnam\footnote{220}{Ibid, 11.}. Its applicability to the South African context holds to the extent that it provides a way for thinking about the ways in which specific types of conflict and collaboration generate such capacity.

The challenge is identifying the constraints to communities becoming “capable of collective action” and then choosing “to apply such capability.” In the particular arena of land and housing in South Africa, law and policy have had a dual effect. The “right” to housing has clearly generated a great deal of claim-based social movement activity, some more organized than others. Some of the key aspects of early South African jurisprudence are indeed centered around grassroots claims based on this right. But the policies designed to effectuate this right have demobilized society. The policies have made an alternative claim of “authoritarian high modernist” government as the only mode of governance. Briggs studies a number of social movements for land and housing in Cape Town in the mid-2000s to set out the stakes of this tension between increasingly intense rights-based claims, and consolidation of local government power in the name of service delivery. “Much of this new vigor on the left is limited to pro-poor pressure politics,” he argues. “Without a more focused agenda of change, sustained coalitions, and flexible engagement with government, the risk is that new pressure will be heat without light.”\footnote{221}{Ibid, 265.} The Constitutional right to housing has provided the means for generating the “heat” by creating a significant component of the “political opportunity structure” for social movement pressure to bear on formal authorities. Civic capacity, then, is to give “light” to the “heat,” as it is a force that enables social movement actors to be more effective in partnerships with authorities that may otherwise have been of little value.

The partnerships in both Cape Town and Stellenbosch provide a more formal institutional basis for channeling this sort of civic capacity. The relative strengths of each
partnership for doing so lie in their ability to engage, either implicitly or explicitly, the broader ecosystem of social movement activity that is also outside of this formalized arena. First, there is a risk that formalized partnerships between local government and only one sort of social movement formation may prevent the emergence of broader solidaristic action amongst social movements at the city-wide scale. The significant aspect of especially the Cape Town partnership is the way in which the ISN maintains a relatively open architecture that does not preclude those who participate in ISN structures to also participate in other kinds of social movement activities. It is generally understood that these kinds of linkages happen on a regular basis. In Stellenbosch, the formalized partnerships, which tend to work in practice between local authorities and individual settlements, may keep a tighter rein on the links that leaders can build with other organizations and movements that employ more conflictual tactics. Therefore, the generative aspect of conflict is engaged through the conflict that happens within the context of the formal partnership and the implied, but credible threat of broader ecosystem of social movement organizations and tactics that buttress the activities of the ISN in the formal arena.

**Learning: from “delivery” to “production”**

The language of “service delivery” is the language of Scott’s “high modernism.” If it is not “authoritarian” in the explicit orientation of the state, it is in terms of the extent and nature of governmentalization that it perpetuates. Indeed, the myriad mandated consultation processes at the local government level — ward committees and IDPs being two universal and common examples — would seem to be the institutional orientation of a participatory state. But formalistic approaches to institutional “design,” have made these relatively hollow tools. Unsurprisingly, then, state agencies have deployed the language of “delivery” to support a formalistic intervention in the housing sector.

Isaiah Berlin describes the theoretical alternative to “progress” as “a mere purposeless succession of events, caused by a mixture of material factors and the play of random selection, a tale full of sound and fury signifying nothing.”222 Yet, for planners, this theoretical construct is overly reductive. In the examples in South Africa, just because “progress” in addressing challenges of urban poverty in the built environment was subjective, did not mean that it was indecipherable. There were problems that could be

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identified as priorities, but only some — in this case, housing — achieved such recognition. The inflexibility of the institutions that emerged from a false, normative goal for dealing with these problems was a matter of institutional design.

A normative view of progress leads to “top-down” institutional design and learning. This assumes that the normative goals of an institution should be privileged above the process by which they are achieved. Top-down planning puts the state in the position to assume sufficient legitimacy for its own notions of “progress,” often at the expense of others who will actually determine the success or failure of a project. Municipal officials in cities such as Cape Town and Stellenbosch have all told me stories of how attempts to install electricity, water or toilets in informal settlements were met with vandalism and rejection by communities. Plans concocted in fancy office buildings and boardrooms, no matter how “progressive” or “rational,” appeared anything but “progressive” from the ground level. Communities did not accept the legitimacy of the decisions that city governments made to impact their lives, because they had no say. For example, in many cases, city governments would decide to install high-mast lighting as a safety measure. Communities argued that these lights were not actually the most pressing need in the community — toilets were — and then destroy the lights, and burn tires in the street in protest. The normative “progressiveness” of the state actually became a negative force for development.

In the arena of land and housing in South Africa, this phenomenon is pervasive. Bishwapriya Sanyal writes that “development from below” is a “myth,” yet even he acknowledges that “development does not trickle down from the top.” Learning within the “top” — the formal institutions of government — seems much less meaningful when we understand that this level are not oriented to deal with the pervasive, alternative understandings of “progress” that are illegible as possible institutional goals. We can understand this most clearly in the struggle to redefine informal settlement upgrading as something other than the provision of a fully-serviced, titled, top-structure house. Despite the reformulation of policy in BNG and its accompanying UISP, beginning in 2004, housing remains the dominant paradigm within almost all formal institutions. While the Constitutional right to housing may not require such an approach, these mechanisms of top-

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down delivery have persisted despite evidence of the contradictions that they expose in the Constitutional Court cases that hinge on this right.

Outside of the “top” level of national and municipal governments, communities linked to the South African Alliance have been organizing around their own view of progress. And in doing so, they produce opportunities for learning that build the capacity within both formal institutions of the state and at the grassroots level to generate acceptance of a view of “progress” that goes beyond “delivery.” Such work at the “bottom” was dynamic, but limited by similar constraints of only having an intra-institutional vision of “progress.” Like in the formal state institutions, learning occurred at the grassroots level. For example, the communities in Cape Town generated their ISN by first holding dialogues at the city-wide level to learn from each other, trade ideas, and build confidence that they could actually generate an alternative vision of “progress.”

But it has been through practice, that communities have begun to operationalize this vision. The initial projects in Joe Slovo, and then in Sheffield Road, built centers for learning that opened up imaginative space for reconceiving the goals of upgrading in ways that made sense from the “bottom-up” perspective. The ISN’s idea of “progress” went beyond the single-minded view of fully-serviced, top-structure housing. It was through a process of learning collectively as a network that communities could clarify the ways in which “progress” could be understood for an individual neighborhood.

The interaction of city governments, grassroots networks, and individual communities in South Africa makes a strong case that the way to draw on the individual institutional strengths is to understand the kind of learning that happens through the interaction of institutions. Hence, there are two arguments that underpin this approach: (1) Each institution has its own view of “progress,” which may, in fact, contradict that of another institution. (2) When an institution restricts its learning to an internal process designed to achieve its singular view of “progress,” it does not resolve the contradiction. Therefore, the challenge has been — and continues to be to enable all actors — from the very bottom to the very top — to learn. Sometimes this means that communities and institutions have to learn amongst themselves. But ultimately, they have to learn together in order to take the rich experiences of bottom-up approaches to the much larger scales at which state institutions operate.
In South Africa, the learning interactions between the new grassroots networks and city governments proved to be a groundbreaking innovation in achieving “progressive” outcomes in poor areas of the cities of Cape Town and Stellenbosch. A precondition for achieving these relationships has been recognizing the inherent contradictions that the top-down approach exposed. The Informal Settlement Unit within the City of Cape Town’s Department of Housing began to work with the ISN in a few settlements to try an alternative approach. The early partnership achieved some strategies that had never been tried before in informal settlements in South Africa. For example, the “re-blocking” of shacks at a settlement called Sheffield Road allowed the City to install toilets where community members told them would be most convenient. Mnyango described a dichotomy between “policy” and “community”. The partnership-based projects have moved the city to focus more directly on the latter type of approach. “If the city can be fair in terms of not focusing that much into policies, I think we can succeed in the projects. The projects are focusing mostly in the communities.”

With the benefit of a highly discretionary sort of practice orientation, the partnership has moved to the stage of becoming institutionalized.

In Stellenbosch, the incremental approaches in Langrug have produced another kind of synergy of innovation through practice. The community-designed steps for small-scale upgrading have now generated one of the few consolidated housing plans through UISP in the history of the program. This has been done by working outside of traditional approaches to implementing policy, though not necessarily outside of policy itself. Johru Robyn describes a high level of flexibility within the municipality required to achieve this outcome. “[Policy] is basically a guide to how things should be done, not how they must be done. Our motto is basically, ‘As long as it’s within the law, we’ll try it and expand and stretch wherever we can.”

While the strategies for upgrading actually multiplied, as the institutional levels interacted and learned together, the process by which these strategies emerged came into focus. In fact, despite the contradictions of a normative view of “progressive” outcomes, a normative view of “progressive” process makes a lot of sense. This recalls the centrality of understanding power relations to building institutions. Communities that were generally marginalized and excluded from both economies and politics in their cities worked together

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224 Personal interview, 2 August 2012.
225 Personal interview, 8 August 2012.
with their local governments. In doing so, they acknowledged the lessons that they learned, and they both actually changed the way that they designed the key informal and formal institutions involved in planning the built environment of slum areas. This meant that the outcomes determined by such “co-learning” processes were “co-produced.”

**Quiet struggle: “hidden” conflict in institutional change**

Rational institutional forms, by definition, should reduce conflict. But, as this thesis has shown, the processes of institutional change in informal settlement upgrading in Cape Town and Stellenbosch exhibit significant elements that call into question rational modes of institutional “design.” In fact, the partnerships in each of these cities, though more so in Cape Town, suggest that, though their stated intent is collaborative, they have also produced productive spaces for conflict within and between the state and the grassroots institutional forms, such as social movements. What is less easy to discern is where and why conflict is “productive” for the aims of the urban poor groups trying to not only make claims on the state, but to change the way the state operates.

While social movement literature tends to focus on overt conflict, the nature of the state in contexts such as administration of urban land and housing in South Africa, suggests that other types of conflict may be more relevant. One way of thinking about this is to consider Asef Bayat’s formulation of “quiet encroachment” as a strategy of urban poor individuals and families in the face of intensified marginalization with respect to the global flows on finance and politics that dominate urbanization: “Quiet encroachment refers to non-collective but prolonged direct action by individuals and families to acquire the basic necessities of their lives (land for shelter, urban collective consumption, informal jobs, business opportunities and public space) in a quiet and unassuming illegal fashion.”

In a sense, “quiet encroachment” can be understood as an examination of a specific strategic approach to operationalizing Partha Chatterjee’s “political society.”

However, the cases under examination here are, in fact, concerned with collective action, and not the individualized approach that is Bayat’s concern. Diana Mitlin and David Satterthwaite argue that social movements, especially those with histories of women leadership, do not embrace open confrontation for two reasons. First, “contention provokes an antagonistic reaction from the state as it involves a challenge to the legitimacy of the state

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(ie. their right to make decisions) as well as a challenge to the content of state decision-making.” Second, “the negative response of the state makes it harder for a pro-poor movement to go to scale as it reduces the participation of the most vulnerable groups who cannot afford the risks associated with such antagonism.”227 Mitlin and Satterthwaite’s description of the ways in which some social movements avoid overt conflict so as to put themselves in a position to consolidate institutional gains echo the strategies under examination in the two case studies here. As Mitlin and Satterthwaite put it, “co-production is used in part to contest the dangers of institutionalism weakening the strength of social movements that Castells (1983) warned against. Co-production requires active citizens and as they engage, the building of additional capabilities in residents’ associations organizing at the local level.”228

But, over the course of my research, I witnessed many moments of confrontation within what we would otherwise understand as collaborative spaces. A particular point of confrontation was unlocking the use of EPWP funds for labor in the Mshini Wam project in Cape Town. Flare-ups of protest occurred at the settlement, as did small marches to the municipal offices in the center of the city. Even at a ceremony with municipal officials celebrating the first three “re-blocked” clusters in the settlement, there were tense discussions between ISN and CORC leaders and city officials on the issue.

The key here is to understand why some types of conflict might generate threats of retaliation and others types of conflict might avoid the kind of blowback that the movements were trying to avoid. Sanyal and Vinit Mukhija write of the benefits of “unforeseen conflict” in a government project involving SPARC, Mahila Milan, and the National Slum Dwellers Federation, the SDI-linked Indian Alliance in Mumbai. They describe the under-recognized benefits of the conflicts that arose because of the “institutional pluralism” that guided the planning of relocations and housing delivery in this project:

For one, the institutions in conflict began to learn about each other as a result of the conflicts; they also learned about their own vulnerabilities. This institutional learning was most significant for SPARC, although the other institutions involved — and that includes both government agencies and community groups — learn too about their strengths and

227 Diana Mitlin and David Satterthwaite, “Understanding pro-poor politics and pro-poor transformation,” in Reducing Urban Poverty, (to be published in 2013 by Routledge, used by permission of the authors).
228 Ibid.
weaknesses. The clearest evidence of this institutional learning was the creation of [the Slum Rehabilitation Authority] as the government realized the need for a conflict resolution mechanism if housing delivery is to continue to involve multiple institutions.\(^1\)

The cases in both Cape Town and Stellenbosch bear a great deal of resemblance to the “unforeseen conflicts” in Mumbai. This is especially so in terms of the ways in which institutionally pluralistic approaches to “delivery” produce both conflict and changes to the all of the institutions — both in and outside of the state — themselves.

In the city of Cape Town in particular, the partnership, though only formally codified through a one page memorandum, appears to have strong staying power. This is evidence through precisely such moments of “unforeseen conflict.” Key staff in the informal settlements unit that do not allow the partnership to flourish have, in fact, been kicked off projects. My field research period coincided with changeover in the overall project manager post due to persistent complaints from community leaders that the old project manager was not moving fast enough for the projects they were trying to get off the ground. Conversely, in Stellenbosch, such clear evidence of conflict was not in evidence.

In CORC, much like SPARC, challenges of project delivery, create a tension with the grassroots support orientation of the organization. CORC has a mission of supporting grassroots organization and building links with institutions of the state. Yet, as the partnerships in both cities have progressed it has been forced to show that it can also deliver at larger and larger scales. In fact, its technical capacity has become a major selling point within the partnerships with state institutions in both cities. Sokupa underlined this, while Adlard also expressed reservations that without expanding technical capacity in CORC, the entire SDI Alliance would lose its viability as a partner for the city. “To have CORC as a little pimple on the side is not going to help the upgrading momentum very much. I think CORC needs to be technically stronger, more technical staff in CORC that it has. It’s very thin. That really concerns me.”\(^2\) So while it has taken on more technical staff, with particular expertise on issues of architecture and site planning, it risks losing its edge in advocacy. Nkhoma argued that this is persistent and inevitable tension: “It’s something that we just need to continuously guard against. It’s very easy to do a project. Anyone, any organization can do a project. But to do a city-wide process that has impact, very few people


\(^2\) Personal interview, 3 July 2012.
can and this organization is geared towards having that kind of impact on policies. We cannot do that without these projects."\textsuperscript{231}

For the ISN, there have also been risks and changes brought on by the focus on projects, as opposed to a pure mobilization and advocacy agenda. Mnyango is an example of a key member of the ISN city-wide leadership in Cape Town, who has had to take on a different role as the projects have accelerated. During my field research period, he was often on-site in Mshini Wam, mediating disputes within the community and serving as a liaison to Terblanche and other city officials. As one of the key disputes within the community concerned the issue of payment of labor through EPWP funds, he also had to navigate city bureaucracy to try to unlock these funds.

From a broader organizational point of view, the focus of ISN has become less about consistent city-wide mobilization, but about deepening mobilization in the communities where projects are underway. The focus has shifted to using projects as the means for further mobilization. This does appear to be a promising strategy. For example, leaders in Mshini Wam reported that nearby settlements were beginning to form their own savings schemes in order to begin work on similar types of “re-blocking” projects. Some of these settlements had already been marked by the city-Alliance partnership as upcoming project sites, but some had not. Mnyango argued that such approaches to mobilization are likely to promote deeper and more sustainable organization within communities, as opposed to more fleeting efforts at pure advocacy: “It’s very good if a community goes to another community. They always say, ‘If you want to catch a thief, you must send a thief.’”\textsuperscript{232}

The promise here, according to ISN and CORC leaders, is that this may build pressure on arrangements in the formal institutions to change in order to scale up the partnership, which is still in a relative pilot stage. At the same time, there are fears that the focus on “depth” instead of “breadth” may concentrate leadership in the hands of a few, and that ISN will lose its “edge” as a movement able to bring compelling pressure on the state, as it has done — rarely, but strategically.

From the perspective of the state institutions, in both Cape Town and Stellenbosch, “quiet” conflict with the South African Alliance has enabled key officials to make the case for institutional changes primarily around procurement procedures and, more broadly,

\textsuperscript{231} Personal interview, 11 July 2012.
\textsuperscript{232} Personal interview, 2 August 2012.
interpretation of “incremental” approaches to housing contained in the UISP. Street level bureaucrats make policy through implementation, argued Michael Lipsky in his now-classic *Street Level Bureaucrats*. “When taken together the individual decisions of these [street-level] workers become, or add up to, agency policy.”

Similarly, it was the discretionary actions of low-level health workers that Judith Tendler witnessed in the northeastern Brazilian state of Ceara that are the source of policy learning today:

> The [health] agents saw their clients not only as subjects whose behavior they wanted to change, but as people from whom they actually wanted and needed respect. It is these kinds of relations of mutual trust between workers and their clients — and, more broadly, between governments and the social networks in the larger society outside them — that are now receiving attention in the recent attempts of scholars to explain successful developmental states, public programs, and large private firms.

By opening up the realm of street level bureaucracy, I suggest that both policy-making and policy implementation become more open. The cases in Cape Town and Stellenbosch suggest how this process, though incomplete, is taking place in terms of policy and practice for land and housing for the poor in South Africa. Mnyango articulates this as a specific intent of the ISN engagement with the city of Cape Town:

> The policies are also a problem because even to tap into the existing budgets, it’s not easy. It’s a difficult situation because, for example, we design a layout and we do everything — the costing, a project implementation plan. But then, you see, the policies are going to be a stumbling block for us to tap into the existing budget. Then I believe that if we can have a way of unlocking these policies, especially when a community has done a lot of work on the ground like collecting information, designing the layout, getting to the stage of project implementation. Then, I believe, if the city can be far in terms of not focusing that much into the policies, I think we can succeed in the projects.

The “conflict” inherent in the creation of collaborative spaces plays out in the realm of practice, as Mnyango describes it. The pressure from the grassroots emerges from the “work on the ground.” Here lies the generation of what Briggs calls “civic capacity” to first build collective know-how, and then to use that collective know-how as the basis for more equal relationships with formal institutions.

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235 Personal interview, 2 August 2012.
Conflict and the commons

The changes in institutional behavior that “quiet” conflict in collaborative spaces suggests that there may be new ways of thinking about how social movements and institutions of the state can interact in this sector. In particular, “quiet” conflict is implicating notions of the commons, through the collaborative spaces in which such conflict exists. Indeed, the commons are implicated here precisely because so much for the struggle for land and housing, actually concerns collective goods of consumption. As Bebbington, et al. have argued, it is a specific category of social movement that focuses on goods of collective consumption, for the precise reason of changing the nature of governance of the commons.\(^\text{236}\) The lack of connection between policy and practice with respect to incremental upgrading suggests that the notion of collective goods in provision of basic services has been overlooked. But the partnerships under the microscope here have re-centered interventions on basic services first, and hence, on the collective side of the land and housing equation.

Elinor Ostrom’s notion of “nested” institutions\(^\text{237}\) in management of the commons suggest that social movements may become informal institutions that at once are both nested in and alter the writ of formal institutions. This is especially so in the case of the Cape Town Informal Settlements Unit, which has, through the partnership begun to generate an informal mandate to link other parts of the local government bureaucracy more directly to the effort to upgrade informal settlements. Sokupa describes a significant change in this regard compared to before the partnership: “Other departments, initially — solid waste, sanitation, roads — they were not involved at all. Therefore, it was difficult for a single department to represent all these areas without proper capacity on its own. Therefore, we relied on mercies from other officials who would ask for favors for people to go install toilets, taps, open up some access roads, and so on.”\(^\text{238}\) The key impetus for change is the extent to which the partnership has now become recognized at the mayoral level and institutionalized.

While David Harvey has suggested that the nested institutional model does not have much “radical” potential, we must be careful to understand the incomplete processes by which we analyze such efforts. He writes that, “all [Ostrom] does is gesture hopefully to the


\(^{238}\) Personal interview, 13 August 2012.
idea that "when a common-pool resource is closely connected to a larger social-ecological system, governance activities are organized in multiple nested layers; but without resort, she insists, to any monocentric hierarchical structure." In the cases in Cape Town and Stellenbosch, the partnerships are still new, but they appear to put paid to the notion that "nested" institutional arrangements are not the wolf of "monocentric" hierarchies in "polycentric" sheep's clothing. And, as I argued in Chapter 1 that Trubek and Lobel's "new governance" is in play in the Cape Town and Stellenbosch partnerships, I want to be clear now that it is within the "new governance" paradigm that action from below may very well be forcing the "monocentric" hierarchies further down into "nested" polycentrism. Once we view these partnerships through the lens of "quiet" conflict, the social movement perspective allows us to have a different evaluative framework. This is one in which both real, material gains for the constituencies of social movements are, by necessity, mutually constitutive of higher-level goals of institutional change.

A further issue concerns the extent to which these "nested" institutions are "constructed" from above, or "pushed" from below. Peter Evans argues that "constructability" of "social capital" in state-society synergies is possible, but he does not suggest exactly how. Here, we have two examples that can shed light on the ways in which "constructability" might be understood as a matter of practice, and, furthermore, the extent to which "synergy" between institutions might be the same as what Evans called "embeddedness" and what Ostrom calls "nesting." In Cape Town, the South African Alliance most clearly pushed the partnership by finding willing allies within the city government, with whom to craft, over time, a relationship that could get broader support at the mayoral level.

In Stellenbosch, the attempts at constructing a partnership from the perspective of Carolissen and his informal settlements department are different. This is more clearly an example of trying to "construct" from above. He referred to this as "inversion":

You come in and speak against the organization, against your own organization, on behalf of poor people. That’s it. It’s your fundamental process. You don’t find it very often in particular in local governments and in governments in general. It’s where somebody is prepared then to be an agent of inversion where essentially you unwind the bureaucracy, their...

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attitudes, their systems, from the inside, on behalf of poor people. That is what I have been able to do. And again, it doesn’t fall from the sky.²⁴¹ Such an “inversion” is to take agency within departments to “construct” from above, in order to enable a process from below, outside the formal institution. In turn, the mobilization from below can continue to back up the unilateral actions of “inversion” within the institution. This appears to be a relatively weak basis for sustaining a kind of relational process of social movement partnership with local government. In particular, it relies on the goodwill of individual civil servants in particular positions, and is not based on a deeper view of institutional change. And this can lead us to see how we cannot ignore Harvey’s critique of Ostrom. “Nesting” of institutions needs to be clearly defined as part of an institutional process that does not reinforce the primacy of existing hierarchical models and even individual actors.

Though it is premature to proclaim definitively one way or the other, we can note some of the initial trends in this respect. In Cape Town, the partnership has been enabled through action more clearly from below, and hence a more organized city-wide social movement structure has been able to develop. The key advantage here, also recognized by community-based actors in Stellenbosch, is that it creates a credible threat of conflict that is able to spur partnership-based approaches. Further, the city-wide ISN exists in a context where more overtly conflict-based movements have a well-established presence. However, there is still a relative reluctance on the part of many actors the city government actors to take full advantage of their discretionary prerogatives, and some remain actively hostile to the partnership-based approach. In Stellenbosch, where the partnership is more clearly “constructed” from above, the latent conflict-based “threat” of the ISN does not exist at nearly the same level as it does in Cape Town. The fact that Stellenbosch municipal officials have worked to construct the partnership from above has not been as successful in constructing social movements as the means of “social capital.” But the mobilization in Langrug suggests that when the formal institutional architecture is geared towards supporting community mobilization, it can achieve institutional innovations that have otherwise proven impossible. The primary evidence for this is the way in which a community-directed upgrading strategy, supported by the municipality, has made a consolidated housing process through UISP — a much more formal process — possible.

²⁴¹ Personal interview, 10 July 2012.
the same time, the non-emergence of a strong city-wide ISN in Stellenbosch leaves the basis of the partnership on shaky ground. If key individual actors leave or fall afoul of broader institutional politics, such innovations may not be able to taken to a larger scale. The table below sketches out some of the key early endowments of each city partnership that appear to determine the prospects of the partnerships in both cities.

<table>
<thead>
<tr>
<th></th>
<th>Cape Town</th>
<th>Stellenbosch</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Government</strong></td>
<td>Moved to partnership through engagement with city-wide community network</td>
<td>A priori desire for institutionalized partnership with community network on the part of key officials</td>
</tr>
<tr>
<td><strong>Social movement</strong></td>
<td>Communities networked at city-wide scale, and prior history of both collaboration and conflict with city government</td>
<td>Individual settlement organization history, but no city-wide networking</td>
</tr>
</tbody>
</table>

Ultimately, the political valence of upgrading has shifted through forms of institutional collaboration that acknowledge the collective nature of upgrading. The “nested,” or at least “nesting” institutional relationships in both Cape Town and Stellenbosch have enabled reinterpretations of existing policy, while also enabling institutional forms at the grassroots level that can continue to strengthen the formal institutional hand to make these reinterpretations. These interpretations have been geared towards a more commons-based approach to governance, both in terms of the institutional relationships, and in terms of the mechanisms for “delivery” in practice.

**Histories, citizenship, and the law**

Thus far, I have established in this chapter that partnerships do exhibit significant, if incomplete, lessons about how inter-institutional relationships — especially those that acknowledge and incorporate social movement action — enable new discretionary approaches to the implementing law and policy. But the fact that these gains are discretionary makes them tenuous and not at all universal. It is in changing policy and the law that such gains may be consolidated, at least in a rational mode of governance.
The key issue for achieving legal change in the South African context is to understand that place of these discretionary changes in the context of a rights-based framework. This is a framework, as established in Chapter 2, that not only articulates the struggles for land and housing in the Constitution, but has also been the framework by which such struggles have played out in the other predominant institutional space in this sector: the Constitutional Court. We can therefore compare the approach taken by the South African Alliance to perhaps the most successful case of socio-economic rights court action in the democratic era, the Treatment Action Campaign (TAC) for access to anti-retroviral drugs for people infected with HIV. Of particular interest to the case of TAC was the right to health in Section 27 of the Constitution. This Section became the focus of TAC’s litigation strategy, and, more recently, spawned a NGO linked to TAC named after Section 27 to further advocacy on the basis of socio-economic rights. As noted previously, the socio-economic rights provisions of the Constitution have been used for significant wins inside the courts, but the effects have been much less immediate than the initial rush of victory, with the Grootboom case being a prime example. The challenge in the sphere of socio-economic rights has been that most of these are generally thought to be only realized “progressively.” These cases are significant because they illuminate an emerging critique of the ways in which we understand socio-economic rights, as opposed to civil and political rights. Rajagopal argues that human rights activism and discourse has traditionally emphasized civil and political rights, “partly due to the dominance of western scholars and NGOs.” In turn, socio-economic rights like health, housing, or education have been subject to a legal standard of “progressive realization.” This has meant that in most cases socio-economic rights have not been tied to developmental goals in the same way as civil and political rights.242

So why are economic and social rights so difficult to realize, even “progressively”? As Arjun Sengupta notes, there are often resource constraints, from financial, physical and institutional perspectives.243 The TAC approach was to force the state to articulate the resource trade-offs that lead state institutions to decide to deliver and to whom. They appealed to what the former Chief Justice Pius Langa has called a “culture of justification”

regarding institutional decisions for implementing policies that pertain to Constitutionally-sanctioned rights.\(^{244}\)

In a sense, what is still missing from the partnerships in Cape Town and Stellenbosch is precisely a “culture of justification.” A national change in law, and even lower-level policy may come later because it is in practice that such a “culture of justification” must emerge. This may also argue for a different way of conceiving of rights, in which they are involved in a more dialectical relationship with agents of implementation. Their instrumentality, and their articulation, in fact, may go hand in hand. Indeed, the reflections of key officials in the formal institutions in both cities suggest that the relatively discretionary actions of their departments are rooted in a “culture of justification” that could be articulated in the future. Sokupa argued that this is, in fact, the key lesson of the partnership: “This is an opportunity to say that it’s not only the conventional tender procurement process that can work. The community process has to be recognized and has to be regulated and be amended and mainstreamed to become one of the options of the process for development.”\(^{245}\) The difference between this claim and the experience of PHP is that the partnership — from the outset — has been about driving an incremental approach to housing and accessing land. Such an approach has reimagined the “right to housing” through incremental principles of architectural design as well as land use planning. Conversely, PHP operated through the much more rational principles of fully-serviced, “top structure” house delivery.

This “culture” is that of active citizenship and service “production,” as opposed to the culture of mere electoral mandates and service “delivery.” I have already noted the rational, “high modern authoritarian” aspects of delivery. The most compelling theoretical notions of grassroots action in the governmentalized context are limited, and often individualized actions. This is true whether we look at the “civic governmentality” of Ananya Roy, the “politics of the governed” of Partha Chatterjee, or the “quiet rebels” of Asef Bayat. In each of these conceptions, struggle is relatively individual. These are Chatterjee’s “populations,” conceived against the more organizational realm of social movements.

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\(^{245}\) Personal interview, 13 August 2012.
A significant innovation of these partnerships is that they may breathe new life into thinking about organized, collective social movement activity. Housing and land in cities are realms for which the more recent theorists appear to be skeptical about overly organized collective institutions. While acknowledging the contributions of the Constitutional Court in South Africa in rendering decisions on issues of socio-economic rights that articulate government action that is unacceptable, Briggs notes that the courts have declined to get involved deeply in issues of implementation: “Without such mechanisms or bolder forays into the politics of policy and implementation, one wonders if social and economic rights will, in fact, be more than directive principles.” But this is an argument that, in effect, leads to a reconsideration of institutional relationships that require collective action from below to be effective. “Collective problem solving for significant social progress calls for extraordinarily robust accountability, which … may call for new institutions to handle learning and bargaining, new roles for existing institutions, new relationships among them, or all of these.”

By building capacity from below, regardless of whether they are somehow “constructed” from above, the social movement networks in the South African Alliance are experimenting with these kinds of relationships. Briggs points to the role of FEDUP in the late 1990s and early 2000s in doing exactly this. The work now by ISN, in concert with FEDUP and the professional organizations in the South African Alliance, builds on both the failures and gains of those earlier processes.

Ultimately, if this is a question of acknowledging both the “rights” of citizenship and the pluralistic organizational forms through which citizens attempt to realize these “rights,” then this is a question of history. For just as the search for history is the search for values, so is the search for crafting law and government institutions. In the cases of the partnerships in Cape Town and Stellenbosch, the development of institutionalized collaboration has provided space for conflict between grassroots actors and institutions of the local state. But these are not conflicts that have led to destruction or overthrow. Rather, these are conflicts that have forced each party to search for and articulate the values that they bring to processes of physical “delivery” of services.

In this sense, it is perhaps more relevant to refer to this process as that of “production” of services. In doing so, we recognize the centrality to this process of an

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247 Ibid, 289.
articulation of grievances, of history, and of alternative approaches to both material design and institutional organization. It is a quiet conflict that is generating the “production” of services through these partnerships. This is occurring through the production of spaces for (a) “learning” between institutions, (b) using an expansive understanding of conflict as the basis for “co-producing” material outcomes, (c) reimagining the conception and relevance of the commons to these planning interventions, and (d) articulating the pluralistic values through which new norms, and, potentially, policies and laws, can change to acknowledge the claims of citizenship that grassroots movements are making in practice.

**Conclusion**

We end by returning to Plaatje’s question. The sheer breadth and depth of informal settlement in South Africa’s cities has increased at a significant magnitude since the dawn of democracy. By dint of their exclusion from land, services and shelter, these urban residents are “forced to live by means of chicanery.” Social movements that have emerged from amongst these settlements have begun working to not just evade formal authority, but to alter it. In this sense, the “means of chicanery” are turned towards the ends of institutional reform.

This thesis has told a story of institutional changes. These are incomplete changes, and each actor does not fit easily into theoretical boxes that might allow us to conceptualize such changes more simply. These are changes that have their roots both on the street and in the government boardroom. Resistance and struggle have been so loud and vocal in South Africa’s history. But now we can make out a slightly different terrain of struggle, which also has deep historical roots. This is the terrain of Plaatje’s “means of chicanery.” This is the terrain of quiet conflict.

The specific histories of social movements like the ISN and FEDUP, as well as those of the local government institutions with which they have partnered in Cape Town and Stellenbosch have been a proving ground for the extent to which grassroots mobilization can impact local governance through collaborative engagements. Unsurprisingly, then, the contingent endowments of these actors allow them to be more or less able to trigger institutional reform processes. When change has occurred, collaboration has been essential. But these cases also highlight the value of a credible threat of conflict based on city-wide mobilization, no matter how quietly such a threat lurks in the background.
Further, an understanding of the interplay between collaboration and conflict in these partnerships is the basis of real capacity building in local governance. Like much of the developing world in recent decades, the push for “capacity building” in South Africa has often meant little more than short training modules for bureaucratic officials in order that they can understand policy as it is written on paper. I have argued that the empirical case studies in this thesis illuminate significant synthesis and inconsistencies in theoretical approaches to thinking about institutional change. An implication for practice is that they suggest an alternative focus for actually building institutional capacity to deliver both material and intrinsic results.

Building “capacity” is not a rational institutional “design” enterprise, whereby formal officials must merely be “sensitized” to implement policy “better.” Rather, it requires building a sensibility to being able to authorize and expect relationships with social movement actors that produce both collaborative and conflictual experiences. “Capacity building” is not just about adding to hard skills for implementation according to existing guidelines. Rather, it is about rethinking the whole approach of what it means to be a local government official. The challenge is to be able to “design” not necessarily the program itself, but the relationships between formal institutions and social movements, and the bureaucratic functions around them such as procurement. Such an approach to institutional “design” then is to enable relationships that can leverage the inevitable and necessary ambiguity and conflict that defines such embedded linkages between local government and social movement actors. These relationships must be structured in order to enable perpetual processes of experiential learning in future program and projects design and implementation.

History, Meinecke wrote, “is the search for values.” The extent to which these processes continue to engage their historical foundations — through both conflict and collaboration — will likely be the crucible of their staying power.
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