Analysis of governance principles in the legislative frameworks for Low-income housing development in South Africa

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Abstract
South Africa has not been excluded from the impact and devastation of the COVID-19 pandemic. Not only has the pandemic manifested as a health problem but has aggravated difficulty of access to decent housing, mainly in the urban areas. This paper reviews the responsiveness of various regulatory frameworks and institutional arrangements that serve as governance mechanisms in the development of low-income housing within the South African context. The paper analyses the impact of legislative and policy prescripts which seek to promote governance principles including, participation, transparency and accountability in the low-income housing delivery processes. Institutional arguments are centred on institutions which structure action and constitute the interests and participation of actors without requiring authoritative intervention to achieve these regularities. The findings are that the legislative frameworks including the Constitution of South Africa and the Housing Act clearly articulate aspects of governance including citizen participation, accountability and transparency. However, the perspectives of the low-income housing beneficiaries through subsidized housing programmes demonstrate levels of dissatisfaction attributed to a lack of involvement, quality and other aspects. With the additional impact of the current pandemic, the study recommends that the housing policies need to take enforcement of governance principles into consideration.

Keywords  
Governance, legislative frameworks, institutional arrangements, low-income housing

1. Introduction
Globally, housing remains one of the unmet needs of citizens in various countries. Housing shortages have become a reality, while African countries are faced with various economic, social and political challenges affecting welfare of their citizens (Obioha 2021). Furthermore, Africa is the least urbanised continent with 11% of the global population, with a rapid growth in the cities projected to be at 1.2 billion by 2050, implying a 58% urbanisation rate (Ofori 2020). Additionally, rapid urbanisation is resulting in overcrowding which creates demand for decent housing, while
contributing to rise in the growth of informal settlements. One of the critiques is that the African interventions focus on providing housing but neglect other drivers of housing needs. A further perpetuating factor is that capital investment in infrastructure which is important in managing rapid urbanisation often gets developed after housing has been built and, in most cases, the informal settlements (Ofori 2020).

Chakwizira, Bikam and Adeboyejo (2018) describe South Africa as the most unequal society globally, with economic disparity prevalent in the cities and towns. Poor access to housing manifests through informal settlements, slums and backyard dwellings. Local and international migration as well as population growth are cited as the main contributing factors to low-income housing demand. Access to housing as a human right is directed by the country’s supreme law, the Constitution of South Africa and international legislative frameworks created by the United Nations and the World Bank (Hasniyati 2010). While the Constitution and other relevant legislative frameworks establish a strong commitment towards provision of housing to low-income groups, its delivery remains poor, fragmented and tainted with inefficiencies. For example, the National Treasury Report (2003) asserts that at times, housing delivery fails to meet other socio-economic needs beyond shelter. In this light, access to housing has been a priority of government since the dawn of democracy in South Africa and remains both an emotive and political issue. In line with the Constitution prescripts, several policy frameworks and housing programmes have been established to address the housing shortage which reportedly stands at 2.5 million in 2015 (Stats SA 2018).

Sobantu Zulu and Maphosa (2019) opine that the realisation of basic right to housing delivery is constrained by its disconnection from other related socio-economic rights. In recognition of the above, this paper contributes to understanding the role which governance principles play in the realisation of legislative and policy goals of low-income housing. Using available literature, the paper analyses the prescripts of the South African Constitution and Housing policy frameworks and their impact in promoting governance in low-income housing development. The analysis locates the importance of different role-players in promoting accountability, transparency and participation in achieving efficient delivery of low-income housing. This paper is developed at a time when South Africa and the globe have experienced the unprecedented pandemic of COVID-19 for a period of two years, with high uncertainty over its anticipated end. While this is largely a health problem, it has amplified issues relating to poor delivery of low-income housing.

1.1 Objectives
The objectives of this research are:
- To analyse governance principles in the context of legislative and policy frameworks for low-income housing development in South Africa
- To establish the responsiveness of legislation and policy to governance principles towards the development of low-income housing.

2. Literature Review
Adding to the urbanisation and population growth highlighted above, the growing demand for low-income housing in South Africa is predominantly ascribed to the historical disadvantages of apartheid, migration, high levels of unemployment and social exclusion (Obioha, 2003). The impact of the COVID-19 pandemic with its essential non-pharmaceutical interventions has compelled the urban poor to comply with washing of hands without consideration of access to water. The restrictions have mandated social distancing and isolation without consideration of available household space and common overcrowding in informal settlements (De Groot and Lemanski 2021). Such complications are drawing attention to the responsiveness of legislative frameworks towards the important realisation of equal access to decent housing. One of the findings of the National Planning Commission Report focusing on housing achievements and shortcomings, is that the slow delivery of set goals was due to failure to implement policies and the lack of broad partnerships (National Planning Commission 2012). Additionally, academic literature on housing in South Africa has mainly focused on the role of national, provincial and local government delivery processes (Oldfield 2000). The current study therefore assesses the extent to which legislative frameworks and policies impacting on low-income housing delivery encompass the aspects of governance. Its starting point is to highlight the process of establishing laws in the South African context, demonstrating limited participation of stakeholders in the process (See Figure 1). Analysing literature gap, Seekings (2002) states that greater focus of urban research in South Africa has over the years been on public policy, further arguing that “housing policy is an area where the glass can be seen as either ‘half empty’ or ‘half full’, depending on one’s perspective” (p.835). Other critics of the housing policy
argue that it has been driven by ‘experts’ from the World Bank (Seekings, 2000). This section locates low-income housing delivery challenges in the context of governance as a knowledge contribution.

2.1. Theoretical Framework

Through reviewing existing literature, this study contributes theoretically to governance in the context of low-income housing infrastructure by amplifying legislative and policy enablers towards stakeholder participation, and accountability and transparency within the South African context. Governance is an important component underpinning the public sector system and can improve leadership, management, and oversight functions, thus recognize effective interventions (Radelet 2016). It is an interface between structures, processes and traditions which define how responsibilities and powers are implemented, decisions are made as well as how stakeholders get to have a say, and is about power, relationship and accountability (Graham 2003). In the context of broad socio-economic development, governance thinking about what used to be regarded as government’s responsibility has evolved into a societal obligation to deliver basic services such as housing (Bell and Hindmoor 2009). This paradigm shift highlights the role of different actors in responding to socio-economic problems; arguing that political institutions no longer claim dominance through top-down approaches (Nagi 2018). Prominent concepts in the current context of housing delivery include good urban governance, project governance and housing policy governance (Meyer and Auriacombe 2019; ul Musawir Abd-Karim and Mohd-Danuri 2020).

An alternative critical perspective on the application of governance was raised by Baird (2012), who argued that political scientists are inclines to confuse institutions and effects of governance infrastructure with democracy. On the other hand, is the economists’ perspective which combines institutional and effects of democracy into governance. Beer (2012) established that studies in this phenomenon highlighted popularity in the configuration of governance arrangements as opposed to government, advocating for the inclusion of the vulnerable citizens in their development initiatives. This highlights the diverse perspectives of the application of governance in the context of socio-economic development within the different discourses.
2.2. Locating Governance in Low-income Housing Development

Building from the theoretical framework, it is imperative to locate governance in the context of low-income housing development. Depending on the country, the role of governance in low-income housing development is commonly undertaken through co-operative housing initiatives (Flint and Kearns 2006). This approach takes into consideration instances where there is state withdrawal in the provision of affordable housing and is represented by the emergence of what is referred as societal governance (Flint and Kearns 2006; Lang and Roessl 2013). Lang and Roessl (2013) further highlight emergence of transformation in housing policy which contributes to a revolution in organisations. This manifests through partnership agreements in and between different governance spaces including neighbourhoods, cities and regions. Such contributes to “the demand for accountability and control of cooperative boards, not only to state bodies and for-profit organisations, but also other third sector providers” (Lang and Roessl 2013:9). While arguing for cooperative housing governance Lang and Roessl (2013) caution about the importance of enriching recognized spheres with external institutional perspective.

Cristofoli, Douglas, Torfing and Trivellato (2021) acknowledge that the value of collaborative governance is being recognized, yet highly debated. For instance, collaborative governance is welcomed by public and private sectors who realize that collaborating constructively with one another can often solve problems and tasks that none of them could solve alone. However, it is expected to be efficient, effective, legitimate, equitable, adaptive, accountable, sustainable to be truly valuable (Emerson and Nabatchi 2015; Huxham and Vangen 2013; Cristofoli, et al. 2021: 1582). While collaborative governance is progressively viewed as a strategic tool at the same level as hierarchy and markets, one of its criticisms is achievement of collaboration at the cost of legitimacy and accountability. Additionally, there is a view that legitimacy of collaborations is questioned owing to their shaky link to formal mandates and democratic oversight, and that accountability becomes difficult due to holding ‘the many hands’ that may be involved (Torfing and Sorensen 2014). Nevertheless, there are views that public services are inter-organizational processes and require the collaborative efforts of all involved in their delivery, including the users for generating value (Osborne, Radnor and Nasi 2013, cited in Blanco, Lowndes and Salazar 2021:2). Figure 2 demonstrates the types of collaborations necessary between government and non-government stakeholders. The figure demonstrates the importance of an active role of the communities, rather than a passive role of being the recipients of housing outcomes.
Clearly, the role of housing as an economic and social contributor to the lives of ordinary citizens is widely accepted. Housing is a key contributor to the health status of inhabitants, and the adoption of the 1948 Universal Declaration of Human Rights to adequate housing as an important standard of living, affirmed this (Willison 2017). For this reason, governments are making strides in legislative, policy and programmes provisions to ensure the realisation of this right (Zanganeh Shahraki, Ahmadifard, Farhadikhah, Mehrabani, Haydari, Abdali, Fallah, Farhadi, Cividino, Vinci and Salvati 2020). Although government has been instrumental in the planning design and implementation of low-income housing, governance is arguing for transformed role of state, market and communities (Deng 2017).

Accordingly, low-income housing policy is one of the key instruments governing its delivery globally. Onyekachi (2014) defines housing policy as “a set of guidelines provided by government aiming at meeting the people’s housing needs through a set of appropriate strategies, which involve fiscal, institutional, legal and regulating framework” (p.414). Thus, while housing policy is an instrument of government to ensure its delivery, the governance viewpoint is that “societal problems cannot be solved by the government alone, but it has to interact with other actors such as the private sector and civil society organisations. This interaction is essential because the quality of the problems that might arise could exceed the capacity of the state; hence, civil society can assist in ensuring that the problems are solved” (De Weijer and Kilnes 2012:2).

From an international perspective on housing policies, Pugh (2001) emphasized that the traditional regulatory measures have focused on price control, minimum physical standards, eradication of informal settlements and control of urban growth, however, they have not been successful in improving housing conditions of the poor. Other challenges to the effective delivery of housing identified from the literature are attributed to fragmented relationships with land policies, housing finance systems and the broader economic, social and institutional arrangements (Pugh 2001; Turner 2007).

3. **Methods**

The research adopted a qualitative method. Secondary data including journal articles, books and official documents to analyse the main legislations and policies which have impacted low-income housing development in South Africa, with specific focus on governance principles including participation, accountability and transparency.
4. Results and Discussion

4.1. Housing legislative and policy frameworks

The Constitution of South Africa is the supreme legislative framework founded on several socio-economic rights and one of them is that “everyone has the right to have access to adequate housing”. The state must “take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right” (Republic of South Africa 1996:26; Pottie 2003:607; Chenwi 2015:69). The White Paper on Housing (1994) was the post-apartheid policy instrument aimed at addressing inequalities through housing. According to Nyakala, Ramoroka and Ramdass (2021), the White Paper prioritized needs of the poor and promoted community participation and private sector involvement in the development of housing through the Department of Human Settlements. Its key objective was the facilitation and coordination of quality, integrated and sustainable human settlements and to improve the livelihood of communities. After this, the South African Housing Act of 1997 and its relevant amendment became and remain the main legal framework guiding housing development (Mackay 1999). However, literature analysis demonstrates a consistent messaging that, while the South African Constitution is acclaimed as one of the best in the world, its actual realisation in the lives of citizens is yet to manifest.

Further, housing policy and its relevant amendments have over the years yielded concerns of poor quality of low-income housing outputs, characterized by inefficiencies and unsustainable housing delivery programmes (Khan and Thring 2003, Goebel 2007, Madzidzela 2009). This suggests a disparity between documented legislative and policy objectives and the actual processes or systems put in place for the realisation of set objectives. Such includes the involvement of different stakeholders’ understanding of the prescripts and holding those in power accountable for the actual realisation of Constitutional and policy objectives. Using the historical and discursive method, Mabin (2020:466), after conducting a century review of South Africa’s Housing Act concluded “that the notion that with some adjustment to practice the housing question will be soluble has proved resilient—but results have always proved to fall far short of the hope”. Other acknowledged legislative and policy shortcomings in the South African context are prioritization of fully subsidized, low-density, detached, freehold housing instead of other housing delivery options, tenure and accommodation choices. Another assessment is that the housing policy approach rather serves the interests of capitalists who benefit through the supply processes of low-income housing, at the expense of the poor citizens (Tissington 2010; Ojo-Aromokudu et al. 2020; Mabin 2020). Ojo-Aromokudu et al. (2020:465) further describe the subsidy programme as a vehicle which promotes “double-dipping into state resources, perpetuating dependency, instead of alleviating poverty”. While the legislative frameworks may correctly be articulated in terms of some of the governance principles, further emphasis is necessary on processes and systems to enforce the actual implementation.

4.3. Institutional Arrangements

Regarding institutional arrangements, literature analysis illustrates the housing policies’ inclination toward government or public sector institutions, implying limited accommodation of private sector and community-based organisations. This is in cognisance that South Africa is a constitutional democracy comprised of three spheres and an independent judiciary. Accordingly, the national, provincial and local levels of government have legislative and executive authority in their own spheres, and are defined in the Constitution as distinctive, interdependent and interrelate (Republic of South Africa 2019). In this regard, Simeon and Murray (2001) opine that the governance model adopted in South Africa follows the German one and it puts emphasis on “concurrency, provincial delivery of national policies and provincial representation at the centre” (p.66). Their view is that the implementation of the model has rather been difficult mainly due to weak political, administrative and fiscal capacities within the provincial and local government spheres. Structurally, the Parliament is the national legislative authority comprising of National Assembly and National Council of Provinces (NCOP). Perspectives from the literature demonstrate level of possible inconsistency in assigned institutional arrangements, and likelihood to impede achievement of housing delivery objectives.

A closer look at the provincial sphere shows that the provincial legislature is made up of the Provincial Executive Councils including the Premier and the Members of the Executive Council (MEC). The Judicial Authority serves as the vehicle for accountability and is made up various courts including the Constitutional Court, Supreme Court of Appeal, High courts and Magistrates courts. All judges are appointed by the Judicial Service Commission (JSC). Additionally, there are different state institutions with the main responsibility of holding government institutions to account. While the Constitution is clear on accountability which manifests through institutions such as the Public
Literature analysis further reveals that local government sphere is the closest sphere of government to the citizens, and that their main responsibility is to promote local economic development and delivery of basic services including housing. However, over the years this is reported to have remained an undertaking difficult to attain. In this regard Meyer and Venter (2013) advances that in order to for local government to meet their developmental goals, there is a need for appropriate institutional arrangements as local government is currently pressured by institutional capacities attributed to lack of skills, funding and appropriate policies. The issue of appropriate policies is very important in the debate around the role of governance as they form the foundation of what informs the operations of government institutions. This puts into light the question of the link between policies and effective service delivery. Moreover, it highlights a necessary debate around the key components that should inform and guide governance in order to ensure effective and efficient delivery of services, with specific reference to housing infrastructure. In taking these issues into consideration, it is also important to pay attention to contextual issues such as geographical location and socio-economic conditions as key influencers into the desired governance institutional arrangements.

Another example is the Department of Performance, Monitoring and Evaluation (DPME) established and mandated with oversight role on the service delivery goals by the national, provincial and local spheres of government. This in essence was one of the strategies to infuse accountability in the public sector. It is reported that since its inception, the Department has developed and published several frameworks aimed at promoting efficiency of service delivery among the spheres of government. At provincial level, the DPME issued guidelines on ‘generic roles and organisational design consideration for Monitoring and Evaluation (M&E) components in provincial departments. The framework stipulates that the provincial departments must establish relationships with these stakeholders (Department of Planning, Monitoring and Evaluation). However, what is significantly absent is the existence of guidelines determining the when and how these relationships are established, and their meaningful contribution towards the delivery of basic needs such as housing to the citizens. Of note is that the guidelines are embedded in the function of monitoring and evaluation. Thus, as much as it is an important instrument to ensure achievement of government goals, the monitoring and evaluation function seems to be inward-focused. Overall, the analysis demonstrates silence of the guidelines about the role of the stakeholders with which the departments are expected to establish relationships. Furthermore, ambiguity around the function of monitoring and evaluation guidelines is that the said function is assigned to a particular unit within the department, thus implying a vacuum in terms of this monitoring and evaluation function at a national and provincial level.

5. Discussion

From the literature analysis, South Africa does not lack legislative and policy frameworks promoting housing development. Furthermore, these frameworks encompass governance principles such participation, accountability and transparency. A vacuum is however identified in the actual realisation of the legislative and policy prescripts. With specific reference to the post 1994 Housing Policy, Munzhedzi (2021) argues that it focused on the private sector driven approach of the delivery of low-income housing. Furthermore, concerns are raised pertaining to the size of the houses and the overall quality of low-income housing outputs. In seeking to address the concerns, there was a policy shift through the Housing Act of 1997, wherein local government was empowered through the process of the Integrated Development Plan (IDP) (Pottie 2003). The main aim of the IDPs was to empower municipalities to “take all reasonable steps within the housing framework to ensure that inhabitants of its areas of jurisdiction have access to adequate services and housing” (Tomlison 2011:420). The IDP legislative processes are embedded in promoting community participation and inclusive citizenship through decentralisation. However, these are hampered by continuous failures due to “insufficient checks and balances” (Patel 2016). The participation of communities is highlighted as one of the critical success factors in the delivery of housing, including decision making (Orkim 1995; Bredenoord, van Lindert and Smets 2014; Patel 2016).

Furthermore, from a transport planning perspective, a disturbing pattern in South Africa is that high-density low-income housing is in the periphery, while low density high-income housing is in accessible economic areas. The influence of increased rural-to-urban migration and the demand for formal housing has historically surpassed supply, which has contributed to the increased growth of informal settlements (Tamuka Moyo, Zuidgeest, van Delden 2021:2). While this is the case, literature further demonstrates contrasting views about the significance of informal settlements
in urban areas. A rather non-progressive view advocates that informal settlements uplift communities from poverty by providing access to the labour market and economic opportunities for their livelihood. Whereas a contrasting perspective defines informal settlements as perpetrators of poverty as they are often located in the urban periphery, with limited access to basic services (Turok 2015; Misselhorn, 2008 in Tamuka Moyo et al 2021). Debates around accessibility and low-income housing thus highlight the scope that housing policy must encompass in order to be responsive to the challenges of enabling realization of Constitutional right of access to decent housing by all citizens.

The research output of Williams, Charlton, Coelho, Mahadevia and Meth (2021) provides analysis of the impact of resettlement of low-income housing in the context of India and South Africa. Referencing to Patel (2016) Williams et al (2021:2) reveals that government legislative frameworks promise to deliver housing, infrastructure and services that are in line with the universal standards of decency and sustainable human settlements. Furthermore, the aim is to replace informal tenure arrangements, services and governance with legitimate and governable urban environments. While this is the primary objective of housing policy frameworks, the concern is that “the move to formal housing, much of which is being developed on the edges of cities, can also differentially expose residents to new financial risks, spatial dislocation, and the disruption of jobs and livelihoods” (William et al 2021:2). Additionally, William et al (2021) argue that there is a knowledge gap about the distinctive role of low-income housing projects in re-shaping the urban periphery. Their findings demonstrate that families moved to the periphery as part of informal settlement upgrading are likely to face social and economic mobility, as they are moved away from their relatives and access to economic centres. Such highlights the importance of governance principles as it demonstrates lack of participation of housing beneficiaries in decision making.

Determination of the impact of housing policy on the perceptions of low-income housing beneficiaries in Kliptown, Gauteng Province found that such provision still did not meet their expectations (Aigbavboa and Thwala (2013). Linked to this was the fact that most houses had construction defects which owners could not afford to repair. Such demonstrates unintended consequences of policy objectives, where housing outcomes rather become an economic burden to the beneficiaries. This highlights the importance of policy objectives which should balance the achievement of both quantity and quality in the delivery of low-income housing. Additionally, the views of beneficiaries in the realization of their housing needs must be considered in the planning and implementation of low-income housing projects.

A recent research output by Amoah, van Schalkwyk and Kajimo-Shakantu (2021) based on survey and observation conducted with households residing on government provided housing in Bloemfontein, Free State Province demonstrates poor housing quality. Their findings include observation of visibly low-quality housing products associated with poor building material quality, dilapidated structural frames and finishes. Corresponding to the Gauteng province case study, the beneficiaries registered their dissatisfaction with certain aspects of their houses including plastering, door frames built into walls and uneven floor finishes (Amoah, van Schalkwyk and Kajimo-Shakantu 2021). In line with the principles of governance Tshishonga (2019) analysed the role of communities in the Cornubia Housing project within the eThekwini Metropolitan municipality and concludes that the involvement of community beneficiaries in all decision-making processes including planning, implementation, monitoring and evaluation of low-income housing projects. Moreover, that communities should realise other benefits such as employment and skills development in the processes of housing delivery.

6. Conclusion
This paper discusses various governance frameworks and institutional arrangements that seek to promote the delivery of low-income housing within the South African context. The paper is underpinned by the governance theory which locates participation, transparency and accountability as principles for effective delivery of services. Literature analysis demonstrates that a number of legislative and policy frameworks exist to promote development of low-income housing. These are fortified by the Constitution of South Africa, serving as the supreme legislation. One of the main findings is that the different legislative and policy frameworks guiding housing development put emphasis on citizens’ participation in their development, and to hold government institutions accountable. However, it is not clear as to processes establishes for the realisation of such, as well as how citizens are capacitated to assume the said responsibilities. Additionally, the frameworks prescribe that government institutions should be transparent and accountable to citizens. The main form of promoting such transparency is through publicly making official documents available, however, the extent to which the public do access these has not been researched. Thus, it is difficult to measure their impact. Furthermore, various pieces of legislation and policies, including their amendments have been developed but the impact of the institutional arrangements has also not been established. Thus, the low-income backlog
remains high, and an area of concern for the government. The recommendation is that the legislations and policies seeking to promote efficiency in the delivery of low-income housing must take monitoring and evaluation into consideration so as to determine the extent of applicability of prescribed governance processes. Additionally, building capacity of citizens on their role in the governance of their socio-economic development must be regulated. Further research should establish necessary processes and guidelines to enable the actual implementation of legislative and policy prescripts in the development of low-income housing, with specific reference to principles of governance including participation, accountability and transparency.

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