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Equity and sustainability in housing and human settlements in South Africa: A human rights perspective

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Abstract

This article explores the intersection between housing, human rights, equity and sustainability within the South African context. Acknowledging South Africa's unique socio-economic landscape, characterized by deep inequalities and historical injustices, the article seeks to assess the country's housing legislative and policy framework through a human rights lens. The primary objectives of this research are threefold: first, to evaluate the extent to which current housing laws and policies promote equitable access to adequate housing for all South Africans; second, to highlight the challenges of equity and sustainability in housing and human settlements; and third, to propose actionable, rights-based recommendations on how to address current challenges. To achieve these objectives, the paper begins with a review of the key concepts followed by a review of South Africa's legislative and policy framework. The paper then reviews the challenges of equity and inclusivity before suggesting recommendations to address these challenges including adopting a human rights-based approach which emphasises the core principles of equity, dignity, sustainability, participation, accountability, non-discrimination, empowerment of rights holders, and legality.

Keywords: Equity; Housing; Human Rights; Human Settlements; South Africa; Sustainability

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1. Introduction

Before 1994, inequality and discrimination were defining features of South African society. It is not surprising, therefore, that South Africa's housing landscape is deeply shaped by its complex socio-political history, notably the legacy of apartheid, which institutionalized spatial segregation and economic disparities. Despite transformative constitutional mandates post-1994, aimed at redressing historical injustices, significant challenges persist in achieving equitable and sustainable human settlements. Rapid urbanization, population growth, and economic inequality continue to exacerbate housing shortages, informal settlements, and service delivery backlogs, leaving millions of South Africans without access to adequate housing and basic services.

The intersection of housing, human rights, equity and sustainability within the South African context presents both opportunities and challenges in addressing these systemic issues. South Africa's Constitution enshrines the right to adequate housing (section 26), aligning with international human rights frameworks and the United Nations Sustainable Development Goals (SDGs), particularly Goal 11 which advocates for inclusive, safe, resilient, and sustainable cities. However, the implementation of housing laws and policies often falls short in bridging the gap between legal guarantees and the lived realities of marginalized communities, raising concerns about equity and sustainability in housing initiatives.

This article addresses the pressing problem of persistent deep inequalities and historical injustices within South Africa's housing sector. It critically evaluates the extent to which current housing laws and policies promote equity, assesses how sustainability principles are integrated into housing and human settlement initiatives, and proposes actionable, human rights-based strategies to foster more equitable and sustainable human settlements. The article advances the claim that persistent housing inequality in South Africa is not primarily a failure of legal recognition, but a failure of implementation, and that embedding a human rights-based approach within housing policy is essential to achieving both substantive equity and long-term sustainability. By recommending a human rights-based approach, this study seeks to contribute to the ongoing discourse on how South Africa can more effectively balance the imperatives of social justice, environmental sustainability, and economic development in its pursuit of equitable housing solutions.

2. Methodology

This article explores the intersection between housing, human rights, and sustainable development within the South African context. The primary objectives of this research are threefold: first, to evaluate the extent to which current housing policies promote equitable access to adequate housing for all South Africans; second, to highlight the challenges of equity and sustainability in housing and human settlements; and third, to propose actionable, rights-based recommendations on how to address current challenges. To achieve these objectives, the paper adopts a doctrinal research methodology. This methodology "primarily involves the study of existing legal materials, such as statutes, case law, regulations, and legal commentaries. It focuses on analysing, interpreting, and synthesising these sources to answer legal questions or develop legal theories" (Sepaha, 2023).

This study applied doctrinal legal analysis by systematically examining South African housing legislation, policy instruments and judicial decisions to evaluate how equity and sustainability are embedded in the legal

framework governing housing and human settlements. Priority was given to section 26 of the Constitution, the Housing Act (107 of 1997), the Rental Housing Act (50 of 1999), the Social Housing Act (16 of 2008) and the Spatial Planning and Land Use Management Act (16 of 2013), as well as key policy documents such as the National Housing Code and the National Development Plan 2030. Judicial interpretation was analysed through leading Constitutional Court cases including *Government of the Republic of South Africa v Grootboom (2001 (1) SA 46 (CC), City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another* (2012 (2) SA 104 (CC), *Abahlali baseMjondolo Movement SA v Premier of KwaZulu-Natal* (2010 (2) BCLR 99 (CC), and *Minister of Public Works v Kyalami Ridge* (2001 (3) SA 1151 (CC). he analysis was guided by a human rights-based interpretive lens rooted in transformative constitutionalism and international housing rights standards. Concepts such as equity were operationalised as substantive equality and non-discrimination in access to housing, while sustainability was operationalised through environmental, social and economic durability criteria reflected in legislation and policy.

In addition to the doctrinal research methodology, this study predominantly utilizes desk-based and library-based research methods. This entails the systematic collection and analysis of information derived from both primary and secondary sources. In this study, primary sources included international human rights instruments, national legislation, and judicial decisions, while secondary sources comprised scholarly books, peer-reviewed articles, and academic publications accessed through online platforms. Statutes, cases and policy documents were selected on the basis of their constitutional relevance to section 26 of the Constitution, their demonstrated impact on housing delivery and access, and their prominence in South African housing jurisprudence and policy debates.

3. Key concepts

In order to have a clear understanding of the intersection between housing, human rights, equity and sustainability within the South African context, it is important to have, first of all, a contextual understanding of the relevant concepts. These concepts include adequate housing, sustainability in housing, equitable housing and a human rights-based approach to housing.

To begin with, all these concepts have to be understood in the general context of the term "housing" as it is the basic concept to which they all relate. According to Anita Henilane, "…housing is a building or part of a building where a household can live…and which meets certain statutory requirements, including also residential address" (Henilane, 2016). In that sense, housing refers to the physical structures and accommodations where people live, including houses, apartments, and other residential dwellings. Flowing from this, the term adequate housing means having a safe, affordable, and habitable home with access to services. It also means that the housing meets certain basic conditions which include being secure, affordable, habitable and accessible, among other things (OHCHR, 2009).

Sustainability in housing on the other hand, has to be understood in the context of the term "sustainability" generally, which means the practice of using resources in a way that ensures they can be maintained for the long term. In that sense, sustainability in housing refers to "homes that have been designed and constructed with the environment in mind" (Weise, 2023). According to Sebastian Weise, "these homes usually use renewable and sustainable materials throughout their construction process, feature energy-saving systems, recycle waste materials, and are built with minimal environmental impact" (Weise, 2023). Accordingly,

therefore, by sustainability in housing is meant the practice of building, maintaining, and operating homes in ways that reduce their environmental impact and ensures their durability (Bhanye et al., 2024). According to Alasdair Reid, when "the importance of sustainability requirements is neglected, a number of socio-economic and environmental challenges can surface" (Reid, 2023). This is particularly important considering the intersection between the right to adequate housing and the right to a clean and healthy environment.

The term "equity" usually refers to the idea that people should be treated fairly and justly. Accordingly, it has been defined as "fair treatment, access, opportunity, and advancement for all people, while at the same time striving to identify and eliminate barriers that have prevented the full participation of some groups" (Minow, 2021). That means that equity is associated with social justice, and it involves the fair and just treatment of all individuals. It also recognises that not everyone starts from the same place. In that sense, equitable housing refers to the idea that everyone should have fair and equal access to housing, regardless of their race, income, or other factors. This is particularly important in the South African context in light of the fact that those factors historically played an important role in the right of access to adequate housing.

The concept "human rights-based approach to housing" will be discussed in more detail further below, suffice here to say that it is an approach that takes into account and emphasizes human rights principles to ensure that everyone has access to adequate housing.

In summary, this section outlines three key dimensions of housing: adequacy, which ensures security, habitability, and accessibility; sustainability, which emphasizes environmentally conscious and durable housing practices; and equity, which highlights fairness and social justice in access to housing. Together, these concepts frame the foundation for a human rights-based approach to housing. It is against this understanding of the key concepts that we proceed to look at the legislative and policy framework governing housing in South Africa before discussing the challenges in achieving equity and sustainability in housing and the possible solutions to address them.

4. Analysis

4.1. South Africa's housing landscape: Legislative and policy framework

As mentioned earlier, South Africa's housing landscape has to be understood in the context of the enduring legacy of apartheid, which was characterised by inequality and discrimination, among other things. During that oppressive regime, black South Africans were systematically confined to residing in townships or impoverished rural areas, effectively marginalizing them from equitable access to adequate housing. The advent of democracy in 1994 brought about the constitutional recognition of the right of access to housing, intrinsically linking it to redressing the historical injustice by prioritizing the needs of impoverished and vulnerable populations. Accordingly, the South African Constitution (1996) provides a strong human rights foundation that informs and provides a basis for the country's legislative and policy framework governing housing. The Constitution does this by enshrining this right in Section 26. It states as follows:

- 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.

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

This constitutional provision places four distinct duties on the state: to respect, protect, promote, and fulfil the right to housing. The duty to respect requires the state to refrain from any direct or indirect interference with the enjoyment of this right. In practice, this means that the state may not enact laws or adopt policies that undermine or contradict the protection of housing rights (Ssenyonjo, 2009). The duty to protect, by contrast, obliges the state to shield individuals from violations by private actors. This involves adopting legislative and regulatory frameworks that ensure private entities such as landlords, property developers, and corporations comply with human rights standards. To discharge this responsibility, the state must put in place robust policy, legislative, regulatory, judicial, inspection, and enforcement mechanisms designed to prevent infringements by non-state actors (Qureshi, 2018).

The duty to promote the right to housing requires the state to cultivate awareness of this right through education, advocacy, and information dissemination, recognising that rights must be widely understood in order to be effectively realised. Lastly, the duty to fulfil calls for proactive measures by the state to secure the full enjoyment of the right. This entails adopting legislative, administrative, budgetary, judicial, and promotional measures, with a deliberate emphasis on addressing the needs of vulnerable and marginalised groups.

Owing largely to constitutional imperatives, South Africa has a wide range of laws and policies governing housing. Section 26(2) of the Constitution provides that the state "must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right." In line with this obligation, Parliament enacted the Housing Act 107 of 1997. The Act seeks, among other objectives, to "facilitate a sustainable housing development process" (Long Title). It sets out general principles guiding housing development, delineates the responsibilities of the different spheres of government, and assigns specific roles to national, provincial, and local authorities. Moreover, it places emphasis on sustainable housing development while giving priority to low-income households. Collectively, these provisions establish the legal framework for housing development in South Africa. While the Housing Act establishes important institutional mechanisms for delivery, its equity impact is constrained by implementation gaps, and its approach to sustainability remains largely procedural rather than environmentally substantive.

The other relevant legislation is in the form of the Rental Housing Act (50 of 1999) which was enacted to "define the responsibility of Government in respect of rental housing property… to promote access to adequate housing through creating mechanisms to ensure the proper functioning of the rental housing market; … to lay down general principles governing conflict resolution in the rental housing sector; to provide for the facilitation of sound relations between tenants and landlords and for this purpose to lay down general requirements relating to leases" (Long title of the Act). The importance and relevance of this statute is its role in regulating landlord-tenant relationships, protecting tenants' rights and promoting fair rental practices. Although the Rental Housing Act advances equity by strengthening tenant protections and access to the rental market for vulnerable groups, it engages only marginally with environmental or long-term sustainability considerations.

Also important and relevant is the Social Housing Act (16 of 2008) which was enacted to "establish and promote a sustainable social housing environment" (Long title of the Act). The Act was aimed at encouraging affordable rental housing for low- to middle-income households. In addition to outlining the roles of national,

provincial, and local governments in social housing, the Act established the Social Housing Regulatory Authority to oversee social housing institutions. The Social Housing Act contributes positively to equity by promoting affordable, integrated rental housing, yet its sustainability impact is uneven due to limited explicit requirements for environmental performance and climate resilience. Mention should also be made of the Housing Consumers Protection Measures Act (95 of 1998) which was enacted to monitor the quality of houses of new homeowners and the Home Loan and Mortgage Disclosure Act (63 of 2000) which was enacted to ensure that banks lend money to communities for housing purposes without unreasonable rejections.

The most recent legislation is in the form of the Housing Consumer Protection Act (25 of 2024). Signed into law in January 2025, the Act seeks to provide better protection for housing consumers while promoting opportunities for new entrants in the homebuilding industry. This legislation addresses shortcomings identified by the Department of Human Settlements and the National Home Builders Registration Council (NHBRC) in the implementation of the Housing Consumers Protection Measures Act (95 of 1998). Although it has not yet come into force, the new law aims to provide comprehensive consumer protection and robust regulation of the homebuilding industry through several key measures including strengthening regulatory mechanisms, enhancing consumer protections, introducing effective enforcement tools, and establishing appropriate penalties and sanctions to deter non-compliance by homebuilders.

In addition to the above, there are some other statutes which have an indirect but important bearing on South Africa's housing landscape. The Development Facilitation Act (67 of 1995) is one example. Although it was repealed, it is historically significant because it streamlined land development processes to accelerate housing delivery, particularly for low-income groups. Another example is the Spatial Planning and Land Use Management Act (16 of 2013) which integrates spatial planning and land use to promote inclusive and sustainable development. It also aims to rectify spatial injustices from apartheid urban planning. Finally, the Municipal Systems Act (32 of 2000) assigns municipalities the responsibility to plan and provide housing within their jurisdictions and emphasises community participation in housing development. Mention should also be made of the Spatial Planning and Land Use Management Act (16 of 2013) which integrates spatial planning and land use to promote inclusive and sustainable development. It also aims to rectify spatial injustices from apartheid urban planning. The Act has strong potential to advance both equity and sustainability by promoting spatial justice and integrated planning, although persistent capacity constraints at municipal level limit its transformative impact in practice.

In so far as the policy framework is concerned, the first port of call is the National Development Plan 2030 (NDP). Chapter 8 of the NDP focuses on transforming human settlements and the space economy. According to the NDP, "despite reforms, colonial and apartheid legacies still structure space across urban and rural areas" (National Planning Commission, 2012). Accordingly, the NDP "proposes a strategy to create the conditions for more humane – and environmentally sustainable – living and working environments" (National Planning Commission, 2012). It makes recommendations regarding measures required to reconfigure South Africa's cities, towns and rural settlements and the enabling of spatial planning, among other things. Essentially, The NDP articulates an ambitious vision for equitable and sustainable human settlements, but its impact has been weakened by weak coordination, limited fiscal commitment and slow implementation.

Another important policy is the National Housing Code (2009). It consolidates housing policy into practical guidelines and introduces programmes like the Breaking New Ground (BNG) strategy to replace apartheid-era housing with integrated, sustainable settlements. It aims to improve housing delivery and eradicate informal

settlements. The National Housing Code advances equity by prioritising low-income households, though its sustainability footprint is constrained by limited enforcement of green building, energy efficiency and climate-resilient design standards. Also important are two other policies, namely, the Upgrading of Informal Settlements Programme (UISP) which focuses on providing basic services and tenure security to informal settlement residents and the Finance Linked Individual Subsidy Programme (FLISP) which provides financial support to low- to middle-income earners to access homeownership. The UISP has strong equity potential through in situ upgrading and tenure security, but its sustainability outcomes are often undermined by inadequate infrastructure, environmental risk exposure and funding shortfalls. The FLISP on the other hand, promotes equity by widening access to homeownership for lower-income earners, yet it contributes minimally to sustainability due to its limited influence on housing location, energy efficiency and environmental performance.

There are other policies which do not deal directly with housing but are relevant because they were aimed at rectifying historical injustices including housing injustices. Such policies include the Reconstruction and Development Programme (RDP), and the Growth, Employment, and Redistribution (GEAR). While the RDP embodied a strong equity orientation through its redistributive vision, it paid comparatively limited attention to long-term environmental sustainability in housing development. Similarly, while GEAR supported macroeconomic stability, it indirectly weakened equity and sustainability in housing by reducing the fiscal space available for social housing and environmentally sustainable urban development.

The legal and policy framework discussed above seeks to address South Africa's housing backlog, promote equitable access, and create sustainable, integrated human settlements. However, the discussion would not be complete without taking a brief look at how the judiciary – particularly the Constitutional Court – has interpreted and enforced the law as it pertains to the right to housing and housing development.

The *locus classicus* on the right to housing in South Africa is *Government of the Republic of South Africa v Grootboom* (2001 (1) SA 46 (CC). This landmark case addressed the state's obligation to ensure adequate housing under Section 26 of the Constitution. The Constitutional Court held that the government must implement reasonable legislative and other measures to progressively fulfill the right to adequate housing. The Court underscored the state's obligation to address the needs of individuals facing severe poverty, homelessness, or inadequate living conditions.

The case of *Minister of Public Works v Kyalami Ridge Environmental Association* (2001 (3) SA 1151 (CC) involved the government's decision to establish a temporary transit camp for flood victims on state-owned land without prior consultation with local residents. The Constitutional Court held that the government, as a landowner, has the right to use its property to fulfil its constitutional obligations, including providing temporary housing in emergency situations. The court emphasized that such actions must align with constitutional mandates and respect the rights of affected parties.

In *Abahlali baseMjondolo Movement SA v Premier of KwaZulu-Natal* (2010 (2) BCLR 99 (CC), the constitutionality of the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act (6 of 2007), which aimed to facilitate the eviction of unlawful occupiers and eliminate slums, was challenged. The Constitutional Court found that certain provisions of the Act were inconsistent with the Constitution, as they could lead to unjust evictions without proper consideration of the rights to adequate housing. The court struck down the problematic sections, reinforcing protections against arbitrary evictions.

Finally, *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another* (2012 (2) SA 104 (CC) dealt with the eviction of unlawful occupiers from private property and the municipality's obligation to provide alternative accommodation. The Constitutional Court held that, where an eviction would lead to homelessness, the municipality must provide temporary housing, even if the occupation was on private land. The ruling balanced property rights with the occupiers' right to housing, underscoring the state's duty to prevent homelessness.

These are but a few examples of cases that collectively demonstrate the Constitutional Court's important role in interpreting housing rights and ensuring that both state and private actions align with constitutional mandates to protect individuals' access to adequate housing. They also demonstrate the fact that much as there is no shortage of laws and policies governing housing in South Africa, there is also no shortage of judicial interpretation of those laws and policies. Taken together, these cases establish a coherent constitutional theme: housing rights are immediately justiciable, evictions must be tempered by considerations of dignity and vulnerability, and the state bears a positive obligation to prevent homelessness through reasonable, rights-sensitive measures. Collectively, the jurisprudence shifts housing from a policy aspiration to a legally enforceable standard, deepening the connection between equity, sustainability and state accountability in housing governance. Despite the existence of a comprehensive legal and policy framework and extensive and innovative judicial interventions, however, significant equity and sustainability challenges in housing and human settlements remain. It is to that aspect that we now turn our attention.

4.2. Challenges in achieving equity and sustainability

There are a number of factors that have an important bearing on the achievement of equity and sustainability in housing and human settlements in South Africa. These include, but are not limited to, historical, economic, social, and environmental factors. To begin with, and as mentioned earlier, the history of South Africa "was characterized by gross violations of human rights, institutionalized racism, denial of access to social and economic resources and inequality" (Mubangizi, 2008). Apartheid policies entrenched racial segregation, leaving a legacy of spatial inequality. According to the OHCHR, "the scars of apartheid run deep, leaving a legacy of segregation, discrimination and inequality. This is evidenced by the stark economic disparities in the country" (OHCHR, 2024). Today, many marginalized communities still live far from economic hubs, making access to jobs, services, and infrastructure difficult. Land ownership and distribution remain unequal, with historical dispossession contributing to current housing inequities.

The role and significance of South Africa's history of apartheid in the achievement of equity and sustainability in housing cannot be overemphasised. This has been highlighted by many authors and commentators. Cloete, for example, highlighted the great difficulties and enormous backlogs faced by the present government because of the apartheid legacy (Cloete, 1997). And according to Malpass "the apartheid state's lack of investment in housing created an unprecedented housing shortage and resulted in the proliferation of squatter camps" (Malpass, 1990). This legacy remains visible in townships such as Soweto in Johannesburg and Khayelitsha in Cape Town, where residents continue to face long commuting distances, limited economic opportunities and inadequate housing infrastructure.

Related to the above, is the challenge of economic constraints. Many South Africans cannot afford market-rate housing, while government-subsidized housing programs struggle to meet demand. This is compounded

by high levels of unemployment and poverty which limit people's ability to invest in or maintain adequate housing. These constraints are sometimes referred to as economic variables. According to Marutlulle, "poverty, unemployment, affordability and poor access to housing finance are the general factors that, when combined, make up the economic variables" (Marutlulle, 2021). These economic constraints have a significant impact, not only on access to adequate housing, but also on equity and sustainability. For example, subsidised housing developments in areas such as Orange Farm (Gauteng) and Delft (Western Cape) have struggled to meet demand, with waiting lists extending over several years and overcrowding becoming more acute.

Urbanisation is another important challenge. All the major cities in South Africa face increasing pressure as people migrate from rural areas in search of opportunities in the cities, leading to informal settlements. This is consistent with the global trend of population shifting toward urban living, surpassing rural dwellers. According to Silva et al. (2024), "over half of the world's population resides in urban areas, within progressively more crowded cities." Indeed, urbanisation is inevitably accompanied by "unprecedented proliferation of slums and informal settlements and a chronic lack of adequate housing" (Marutlulle, 2021). As opined by Mathiyane et al, "the speed and scale of urbanisation brings challenges, including meeting accelerated demand for affordable housing, well-connected transport systems and other infrastructure, basic services as well as jobs" (Mthiyane, 2022). Indeed, these areas often lack basic services like water, sanitation, and electricity, posing challenges to sustainability and equity. The rapid expansion of informal settlements such as Diepsloot in Johannesburg, Kennedy Road in Durban and Khayelitsha in Cape Town illustrates how urbanisation has outpaced formal housing delivery, resulting in densely populated settlements with limited basic services.

It should be mentioned that informal settlements are usually located in flood-prone or environmentally hazardous areas, making them susceptible to the effects of climate change. Moreover, many housing units in informal settlements are not designed with energy efficiency in mind, leading to high electricity costs and environmental impact. This raises the issue of environmental sustainability. Environmental sustainability in housing refers to the approach of designing, constructing, and maintaining homes with the goal of minimizing their negative impact on the environment (Moghayedi, 2023). It is about using "sustainable building methods, sustainable building technologies and components, and the promotion of greener principles in living a sustainable life" (Moghayedi, 2023). The challenge is that resources and construction materials are often scarce or expensive, limiting sustainable housing initiatives. In settlements such as Quarry Road West in Durban and parts of Alexandra in Johannesburg, residents are regularly exposed to flooding, fire risks and poor drainage, illustrating the intersection between environmental risk and housing precarity.

South Africa faces numerous societal challenges, including crime, unemployment, poverty, gender-based violence, inequality, slow economic growth, inadequate housing, and corruption. Among these, corruption poses the greatest threat as it intersects with and exacerbates the severity of all the others in various ways. In the specific context of housing, corruption certainly has a significant impact on the achievement of equity and sustainability. It has been opined that in "regard to inadequate housing, corruption is both a cause and an effect [because]…inadequate housing both breeds and is bred by corruption" (Marutlulle, 2021). Indeed, corruption in housing can take many forms including bribery for access to housing, nepotism in the allocation of houses, and misuse of government funds meant for housing projects. Moreover, corruption is usually coupled with other factors such as lack of capacity, inefficiencies, maladministration, poor governance and mismanagement of housing programs leading to delays in progress and undermining public trust. Highly publicised governance

failures, including the Free State asbestos housing project scandal and irregularities in housing allocation in parts of Gauteng and KwaZulu-Natal, illustrate how corruption undermines equitable and sustainable housing delivery.

Mention was made earlier of the policy framework governing housing in South Africa. There are those who argue that the policy framework may be a challenge in itself. According to Anthea Jeffery, for example, policies such as the Reconstruction and Development Programme (RDP), Growth, Employment, and Redistribution (GEAR), and the National Development Plan (NDP) were primarily designed to create an environment conducive to economic growth. However, this focus often resulted in a reduction of resources allocated to addressing social needs, including housing (Jeffery, 2010). Moreover, it has been argued, existing housing policies "have not successfully solved the housing problem, because housing targets have not been met. People still to this day do not have access to adequate housing" (Tagg, 2012).

A major challenge in achieving equity and sustainability is limited funding and lack of financing for housing. According to Alisdair Reid, "affordable housing provision is a top policy concern in many countries across the world" (Reid, 2023). This is particularly pertinent to low- to middle-income families who are unable to access affordable home loans due to factors like poor credit history, inconsistent income, and stringent bank requirements, resulting in a large housing backlog and limited access to formal housing for a significant portion of the population. This is aggravated by the fact that government housing programmes are often underfunded and unable to meet the scale of demand. Additionally, private developers are often reluctant to invest in affordable housing due to perceived lower returns. For instance, the slow delivery of affordable housing in inner-city Johannesburg and Cape Town reflects both funding constraints and the limited incentives for private developers to invest in low-return housing markets.

The foregoing discussion highlights the main challenges in achieving equity and sustainability in housing and human settlements in South Africa. What follows is a review of the possible solutions to those challenges together with recommendations on how equity and sustainability can be achieved.

4.3. Towards equity and sustainability

Achieving equity and sustainability in housing and human settlements in South Africa requires, among other things, addressing the challenges that have been highlighted above. First and foremost, in order to achieve equity, there is a need to address historical land dispossession by ensuring equitable land redistribution and security of tenure, particularly for marginalized communities. This requires strengthening land redistribution policies and involving communities in decision-making to ensure housing developments meet local needs and cultural considerations (Petunia, 2020). Secondly, the legal and policy frameworks have to be aligned with the Constitution which guarantees the right to access adequate housing (section 26). International human rights standards like the UN Sustainable Development Goals 11 which focuses on sustainable cities and communities, should also be integrated in the domestic legal and policy frameworks.

Achieving equity in housing access requires prioritising vulnerable groups such as women, children, people with disabilities, and those in extreme poverty. It also requires addressing systemic discrimination in housing allocation and access to credit for homeownership. In practical terms, equity in South African housing must address the disproportionate exclusion of women-headed households, persons with disabilities, and residents of informal settlements, who face structural barriers in accessing housing subsidies, serviced land, and secure

tenure. For example, women in informal settlements often experience discriminatory allocation practices and heightened tenure insecurity, while persons with disabilities encounter inaccessible housing designs and limited priority in state housing programmes.

Related to this is the issue affordability. As mentioned earlier, affordability is a big challenge as many South Africans cannot afford market-rate housing. The possible solutions to this challenge include expanding government subsidies for low-income households to access adequate housing, promoting mixed-income developments to reduce spatial inequalities and foster integration, and implementing rent-to-own models to enable low-income families to transition into homeownership. According to Turok et al,

> *"Government subsidies are necessary to sustain low rentals and ensure that the housing providers remain viable. This enables poor households to access better quality and more secure accommodation than they could otherwise afford, which benefits their health and well-being"* (Turok et al., 2022).

Related to the challenge of affordability is that of economic constraints. The possible solutions to this challenge include job creation and skills development. This can be done by supporting small and medium enterprises (SMEs) in construction and green technologies to create employment and by providing training in sustainable building techniques and urban agriculture to empower local communities. Another possible solution is expanding access to microfinance for housing improvements and small-scale construction projects.

Sustainability in housing and human settlements extends beyond environmentally friendly building materials to include resilience to climate risks, efficient use of water and energy resources, proximity to economic opportunities, and the long-term viability of urban infrastructure. In the South African context, sustainable housing must be understood as housing that both minimises environmental harm and enhances social and economic inclusion. Informal settlements, often located in flood-prone or environmentally degraded areas, face heightened risks from climate change, heat stress, and water scarcity. The failure to integrate sustainability into housing planning therefore undermines the durability of housing interventions and reproduces cycles of vulnerability.

From a human rights perspective, sustainability is inseparable from the right to housing, as intergenerational equity and environmental protection are necessary conditions for the enduring enjoyment of housing rights. Hence, the most appropriate solution to the challenges of equity and sustainability is adopting a human rights-based approach (HRBA) to housing and human settlements. The human rights-based approach is usually defined in various ways depending on the matter to which the approach is intended to be adopted. Generically, it has been defined by the Scottish Human Rights Commission as follows:

> *"A human rights-based approach is about empowering people to know and claim their rights and increasing the ability and accountability of individuals and institutions who are responsible for respecting, protecting and fulfilling rights … It is about ensuring that both the standards and the principles of human rights are integrated into policymaking as well as the day to day running of organisations"* (SHRC, Undated).

Flowing from this definition, it could be said that a human rights-based approach (HRBA) to housing and human settlements is a way of delivering housing that adheres to human rights principles. It aims to ensure that everyone has access to adequate housing, and that their rights are respected.

It should also be pointed out that "a human rights-based approach is underpinned by five key human rights principles, namely, participation; accountability and transparency; non-discrimination and equality; empowerment of rights holders; and legality" (ENNHRI, Undated). In so far as the principle of participation is concerned, everyone should actively participate in decision-making processes which affect their right of access to housing. Moreover, local communities should be involved in decision-making processes for housing and settlement projects. As for accountability, there should be clear accountability systems to monitor housing programs and funding allocation. In this regard, the role of civil society organizations in advocating for housing rights is critical.

In the context of housing and human settlements, the principle of equality and non-discrimination is particularly important. It requires that all forms of discrimination in accessing housing must be prohibited and avoided. As for the principle of empowerment, mention was earlier made of the need for job creation and skills development as possible solutions to the challenge of affordability and economic constraints. All these principles should be reinforced by the principle of legality, which requires that all interventions, policies, and measures addressing equity and sustainability challenges align with the legal rights established under international and domestic law.

In practice, applying a human rights-based approach to South African housing policy requires transparent, publicly accessible housing allocation systems, meaningful community participation in informal settlement upgrading, and judicially enforceable standards for the provision of basic services. It also demands that municipalities prioritise vulnerable groups in budget allocations, integrate climate resilience into housing design, and establish independent oversight mechanisms to ensure accountability for failures in housing delivery.

5. Conclusion

Achieving equity and sustainability in housing and human settlements remains a critical challenge in South Africa. This article has contextualized the interconnected concepts of equity, sustainability, and housing rights within the framework of South Africa's constitutional and human rights obligations. While the legislative and policy landscape appears to be comprehensive and progressive, it has struggled to overcome historical inequalities, structural inefficiencies, and resource constraints that perpetuate housing disparities.

The challenges to equity and sustainability in housing are deeply entrenched, arising from a combination of systemic inequities inherited from apartheid, urbanization pressures, inadequate infrastructure, and climate vulnerabilities. While South Africa's housing policies aim to meet the needs of its population, they often fall short in implementation, failing to address the diverse realities of marginalized communities or fully align with the principles of sustainable development.

To bridge this gap, this article has highlighted the challenges of equity and sustainability and suggested possible solutions to address these challenges. It has emphasized the need to adopt a human rights-based approach to housing and human settlements, ensuring that key principles such as participation, accountability,

transparency, non-discrimination, equality, empowerment of rights holders, and legality are prioritized. It also emphasizes inclusivity and alignment with international human rights standards to ensure that housing solutions address the needs of the most vulnerable while promoting environmental and economic sustainability. By embracing a human rights-based approach, South Africa can build housing systems and settlements that not only redress past injustices but also lay a foundation for a more equitable and sustainable future.

In addition to a human rights-based approach, this article therefore advances three priority recommendations: the introduction of legally enforceable minimum standards for equitable housing allocation, the mandatory integration of climate-resilient and resource-efficient design in all state-supported housing, and the establishment of independent oversight mechanisms to strengthen accountability in housing governance.

Conflict of interest declaration

The author declares no conflicts of interest related to this study.

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