The Impact of the Legislations Used to Regulate Spatial Planning and Land Use Management in South Africa

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Abstract

In most post-independence states in Africa, there is still a mixture of pre and postcolonial planning legislation. South Africa has put in place a myriad of planning legislations to make cities and towns great places to live. However, have these planning laws created great places or still perpetuated segregation, albeit of another kind? New laws such as spatial planning and land use management act have been put in place, but one wonders, is it just a repackaging of previous failed policies? This study therefore looks at the extent at which post-apartheid planning legislation have created great places in towns and cities in the Eastern Cape. Emerging findings point out that nothing much has changed, therefore what could be the way forward in creating spatially and economically integrated cities and towns.

Keywords: DFA, SPLUMA, Ordinance, Planning, Tribunals

1. INTRODUCTION

Spatial planning land use management as well as development are dynamic fields that change constantly. The challenges facing spatial planning and land use management are affecting either directly or indirectly on the feasibility of development projects. It also affects the socio-economic feasibility with specific reference to urban growth patterns, it affects the physical feasibility as it affects the legal requirement and it affects the financial feasibility due to time constraints. Cloete (1999).

The historical background of spatial planning in the South Africa is the most of the challenges facing land use management. Reference is here not only made to the Political and Physical history, but also the legislative history. Between 1910 and 1930 where British planning influence began, there was a strong provincial influence over land, together with a tendency to shape settlement pattern along ethnical and class lines. From 1930, which is Post-war reconstruction, the concept of an in wardly orientated neighborhood unit and the dominance of the motorcar. Cloete (1999:16-19)

From 1948, which is Grand apartheid era, featured the formulation and implementation of separate development of all aspects. From 1976, the Soweto uprising resulted inter alia in a rapid increase of informal settlements .From 1985, late apartheid reforms this is a stage where change was eminent due to internal and international opposition. National Development & Planning Commission (1999:45) Yogi & Aksum (2007:94) states that the urban development problems and land use management currently in most African

cities are rooted in historic, socio economic and physical development processes intertwined with ineffective urban development policies.

A major problem facing the newly elected government in 1994 was the distortion of urban space because of apartheid planning. Various measures have been put in place to address this. These measures include planning and developmental policies, and revisions to legislation. This process has been bedevilled by old-order legislation and policies, much of it fragmented and not uniformly applicable.

The purpose of this paper is determined if Town Planning Legislations used in Spatial Planning and Land Use Management in South Africa in post 1994 have created great cities to live using Lukhanji Local Municipality, in the Eastern Cape as an example. Lastly the paper assess if the new hyped legislation (Spatial Planning and land Use Management Act) will address the challenges facing spatial planning and land use management in the municipalities.

2. HISTORICAL BACKGROUND ON SPATIAL PLANNING AND LAND USE MANAGEMENT IN SOUTH AFRICA AND, COLONISED SUB SAHARAN COUNTRIES

Conventional formal urban planning practice in (Sub-Saharan) African countries was largely of British colonial origin and much of urban planning legislation in the region derived and evolved from the succession of British Town and Country planning legislations/Acts. Earlier British colonial town planning legislations with the general objective "to control urban expansion and provide for slum clearance and renewal" (Home, 1997) were enacted in British colonies with strong settler activities and potential for inter-communal conflicts. This included South Africa in the late 1920s.

The most fundamental and critical challenge faced by urban areas in most developing countries, particularly in (Sub-Saharan) African countries is the debilitating weak institutions of urban development planning and management. Municipal authorities are usually underfunded to meet their responsibilities. The institutional base and infrastructure for effective urban planning and urban development management is still largely very weak. Urban local governments are also characterised by a weak and unviable revenue base, inadequate technical and administrative skills and limited political will and commitment on the part of the central and other higher-level governments to let the local institutions and their instruments function. (Cheema 1987:149).As a result local authorities are crippled and find it difficult to redress the imbalances and improve the quality of life of its citizens.

Planning is only as effective as the administrative system supporting it and the political philosophy, willingness and commitment of the state in which it operates allows it to be (McAuslan 1985). Most central and state governments in Africa are yet to promote institutional strengthening at the local level. The other challenge is poor governance, corruption, and waste of resources. From Nigeria, Kenya and Zaire, to several other African countries, the refrain is about how much the governing elites have taken out of the countries and invested all over the world, rather than in their own countries.

As summed up by Agbola (2005), who states that many cities in Africa are burdened by dramatic crises ranging from unemployment, environmental degradation, deficiencies in urban services and inadequate housing, deterioration of existing infrastructure, lack of access to key resources and to violence. The upshot of the foregoing challenges is that unless they are effectively addressed, the hope and quest for liveable places in urban areas will continue to be a figment of people's imagination.

While formal plans, codes, ordinances, or such other land-use control measures may not necessarily seem the most important factors influencing land-use patterns and their growth, in the current context of massive urbanization in Sub-Saharan Africa, they are still exceedingly important. It is through them that the relevant

public authorities' national, state, provincial, local government or planning agencies influence where and in what direction, for what and when urban growth will occur. Besides, effective land-use planning and its major land-use policy instrument, such as zoning are in essence a hazard prevention and mitigation exercise (Stren, 1992).Most African cities can therefore be likened to rat colonies from which it is not honest to expect order unless and until formal institutions of city planning and management are restored and strengthened to perform their functions of city planning and city building. This is a core challenge of these planning legislations in African countries.

Understanding the root cause of the challenges facing town planning is very important as it leads to citizens to seek desired solutions. This will assist town planners not to adopt plans that created the challenges that exist today.

3. EFFECT OF POST 1994 TOWN PLANNING LAWS IN SOUTH AFRICA

Old planning laws and the spatial legacy of apartheid as well as the high-level drive to change these in South Africa has been largely ineffective to alter land use planning and land development. Indeed the same laws that were used to implement apartheids grand plan of segregation and inequality are largely the same tools still being used by planners across the country to determine whether or not and on what conditions land development projects should proceed.

As highlighted above, laws designed to implement the urban plans of apartheid remain stubbornly in place. The only post- apartheid national land development law, the Development Facilitation Act, has been found to transgress the Constitutional powers of local government. With its demise, the country fell back entirely on pre-democratic planning legislation. Fundamental to effective planning law reform is a constitutional framework that clearly delineates the legislative powers to regulate planning and land use.

The planning system in South Africa, like the European models, reflects a hierarchical structure of national, provincial, and local plans. This approach centres on the notion that local policies are subordinate to provincial policies and those in turn, are subordinate to national policies. This is based on the assumption that national government is the first custodian of public interest in respect of spatial planning and land-use management.

Municipalities were instructed to establish separate African revenue accounts based on the income from fines, fees and rents exacted from 'natives' in the locations; this money was to be used for the upkeep and improvement of the locations. The critical function entrusted to the local authorities was, however, the administration of tougher Pass laws: Africans deemed surplus to the labour needs of White households, commerce and industry, or those leading an 'idle, dissolute, or disorderly life', could be deported to the reserves. In implementing the Act, local authorities were careful to consider the needs of industry. In Johannesburg, for instance, where industrialists made no bones about wanting a large pool of permanent standby labour, it was only intermittently applied until the end of the 1940s.

In 1951, in their objective to keep Black people permanently from the urban areas, the government introduced The Bantu Authorities Act, No 68 of 1951. The Bantu Authorities Act was one of the Acts that attempted to keep South African citizens apart on a racial and ethnic basis. The government introduced this Act by setting up Black ethnic governments known as "Homelands". The government used this Act to push Black people out of urban areas to stay in these homelands. These homelands were subsequently granted independent status by the central government. Homelands were under chiefs who were subordinate to their masters in Pretoria. The Inhabitants of these homelands would lose South African citizenship and all political rights including voting. They even had to have passports to enter South Africa. The Act commenced in 17 July 1951. It was repealed by section 69 of the Black Communities Development Act, Act No 4 of 1984. With these provisions, any African unlawfully resident on White-owned land could be

evicted; and Areas in White South Africa where Blacks owned land were declared "Black spots", and the state began to implement measures to remove the owners of this land to the reserves.

The history of the development of human settlements shows what the impact was of the various pieces of legislation used in different provinces and even within a province itself, different pieces of Town Planning Legislations were applicable. For instance, the Eastern Cape was divided into three, Former Transkei, Former Ciskei, and Republic of South Africa. Therefore, three pieces of legislations were applicable and still are which are: (Transkei Townships Ordinance 33 of 1934), Land Use Regulations of 1987 and Land Use Ordinance 15 of 1985.

These different pieces of legislation were employed to fragment settlement patterns that also resulted in uniquely different settlement components with distinctive features. However, Land Use Planning Ordinance 15 of 1985 was administered carefully whilst others were left out and difficult to administer. The institutional capacity that was made available to administer the different areas where the previous Cape Provincial Administration played a strong role in determining how planning procedures and decisions would be implemented in former Republic areas.

Town Planning legislation in former White areas focused on forward planning (structure plans) and land use management (zoning schemes).In contrast, the legislation applied in Bantustans and so-called Black Areas focused on land tenure, which in most cases was not a permanent right in law (although in reality it always was).

An interesting development in the realms of planning, especially with the dawn of democracy is the shift of the leading role in planning from the technocrats to the politicians. The decision-making processes regarding planning matters are increasingly intertwined in a web between politicians and planners. As with European experience, the influence of politicians has drastically increased over the last decade or so. Plans that are not accepted by politicians are often unsuccessful

The planning process, in general, including spatial planning, has gained another dimension in the form of the participatory approach. This is partly due to the mobilisation of environmental concerns in planning decisions. However, it has become commonplace for spatial plans to have the support of the public that it is intended for. It is generally acknowledged that public support for spatial plans has become an imperative for their success.

4. METHODOLOGY

Research Methodology can be defined as procedures used in making systematic observations or otherwise obtaining data, evidence, or information as part of a research project or study (Babbie 2010). Babbie (2010:89) suggests two approaches to data collection, namely: Quantitative and Qualitative approaches. For purpose of this study, we utilised a mixed research approach, because the study will be based on multiple realities, constructivism, and certain theory. The mixed methods were used because the study seeks to gather people's perceptions as well as the impact of town planning legislation. It is also an evaluatory research because the study assesses the impact of planning legislations in South Africa.

Methods

Questionnaires with open and closed questions and secondary data was used in this study. Fifteen questionnaires were distributed amongst town planning consultants, general applicants (public), and town planners in local, provincial or government departments. The questionnaires consisted of (yes/no) questions, which required respondents to explain or elicit further information. The first part of the questionnaire consisted of questions regarding the old town planning legislation (Table 1)

Table 1: Sample Questionnaire

No	Statement	YES	NO	EXPLAIN
1	Do you understand different town planning legislations applicable in Lukhanji Local Municipality			
2	The process of preparing town planning applications is transparent			
3	The turnaround time for determining the outcome of town planning applications is too long			.

The second part of the questioner consisted of question relating to SPLUMA. (Table 2)

No	Statement	Yes	No	Explanation
9	SPLUMA is promising to bring positive change than existing legislations in town planning	X		
9	Do you think SPLUMA will make it more complex for the determination of town planning applications	X		
10	Planning Tribunals will do better job than current committees taking decisions on town planning matters	X		
11	SPLUMA provides for better spatial planning than DFA	X		

Statistical and thematic analyses were employed in analysing the questionnaires. Secondary data was also utilised in the study and this was utilised to garner perceptions on town-planning legislations

APPLICABLE TOWN PLANNING LEGISLATIONS, THE CASE OF LUKHANJI LOCAL MUNICIPALITY

Old planning laws and the spatial legacy of apartheid as well as high level drive to change those laws South Africa has been unable to effect any major changes to the legal frameworks governing land use and land development. Indeed the same laws that were used to implement apartheids grand plan of segregation and inequality remained the tools used by planners across the country to control land use planning and management.

As highlighted above, laws designed to implement the urban plans of apartheid remain stubbornly in place. The only post- apartheid national land development law, the Development Facilitation Act, has been found to transgress the Constitutional powers of local government. With its demise, the country fell back entirely

on pre-democratic planning legislation. Fundamental to effective planning law reform is a constitutional framework that clearly delineates the legislative powers to regulate planning and land use.

Like many municipalities in South Africa, in the case of Lukhanji, the history of the development of human settlements shows the impact was of the various pieces of legislation used in different provinces and even within a province itself, different pieces of Town Planning Legislations were applicable. For instance, the Eastern Cape was divided into three, Former Transkei, Former Ciskei, and Republic of South Africa. Therefore, three pieces of legislations were applicable and still exist, which are: (Transkei Townships Ordinance 33 of 1934), Land Use Regulations of 1987 and Land Use Ordinance 15 of 1985.

These various pieces of legislation were employed to create a fragmented settlement pattern that resulted in uniquely different settlement components with distinctive features. However, Land Use Planning Ordinance 15 of 1985 was administered carefully whilst others were rather left out and difficult to administer. The institutional capacity that was made available to administer the different areas where the previous Cape Provincial Administration played a strong role in determining how planning procedures and decisions would be implemented in former Republic areas. In support of the mentioned statement, is that, development applications in terms of Land Use Ordinance 15 of 1985 which is applicable in former RSA areas is simple to administer and enforce, whereas other legislations that are applicable for former Ciskei and former Transkei areas are difficult and cumbersome to administer as municipal council only recommends to provincial department

Town Planning legislation in formerly White areas focused on forward planning (structure plans) and land use management (zoning schemes) and was based on planning and managing land use. In contrast, the legislation applied in Bantustans and so-called Black Areas often muddied the waters and also dealt with land tenure, the right to use a piece of land for a specific purpose came with a right to occupy that piece of land, which in most cases was not a permanent right in law (although in reality it always was).

An interesting development in the realms of planning, especially within the context of democratic rule, has been the shift of the leading role in planning from the technocrats to the politicians. The decision-making processes regarding planning matters are increasingly intertwined between politicians and planners. As with European experience, the influence of politicians has increased over the last decade or so. Plans that are not accepted by politicians more than often produce no results, as they will not be marketed. The role of the Town planners is to advise on issues of development, but it is often evident that advice given by town planners is never taken serious. Politicians as decision makers on planning matters, often expect town planners to implement their plans regardless of the advice given by town planners, which create a conflict and contradiction to available plans aimed at correcting the spatial imbalances of the past planning and to have effective land use management system.

The planning process, in general, including spatial planning, has gained another dimension in the form of the participatory approach. This is partly due to the mobilisation of environmental concerns in planning decisions. However, it has become commonplace for spatial plans to have the support of the public that it is intended for. It is generally acknowledged that public support for spatial plans has become an imperative for their success.

HOW APPLICABLE LEGISLATIONS IN THE CASE OF LUKHANJI

There are different regulations governing the use of land within a municipal area. Land use management in a municipal area is regulated in terms of the Scheme, which supports the control and management of development within a municipality in a form of Provincial Ordinances and Acts, which are Land Use Planning Ordinance 15 of 1985 (LUPO) for former Cape Province areas/ former Republic of South Africa,

Townships/Transkei Ordinance 33 of 1934 for urban areas of former Transkei and Land Use Regulations Act 15 of 1987 for the former Ciskei.

Schemes comprise of Scheme Regulations, Zoning Plans and a Zoning Register. The Scheme Regulations make provision for various zonings, each containing permitted use rights (as primary rights and by way of council's special consent) and development restrictions in terms of building height, coverage, building lines etc.

The preparation of the scheme follows procedures set out in the Ordinances. Municipal officials are required to administer land use and development control and keep scheme records up to date. Any proposed amendment to the scheme need to take the form of a formal application to the municipality, which is then processed and commented on by technical staff within the municipality. A final decision is made by the Council or if delegated powers are not with the municipality, Council makes recommendations to the respective Boards at provincial level. The final approval in such instances is issued by the MEC.

Municipal officials are obliged to ensure that land development is as permitted in terms of the scheme and must monitor compliance with the scheme. Any non-conforming land uses must be dealt with in line with stipulations of applicable regulations. The Scheme links to the SDF and IDP as it cannot be amended in a manner that is contrary to the proposals set out in the SDF, unless a strong argument in support of such deviation is presented and accepted by Council.

LAND USE PLANNING ORDINANCE 15 OF 1985

Land Use Planning Ordinance 15 of 1985 (LUPO), applicable in former Cape Province areas Applications are submitted to local authorities, advertised for public comment and circulated to various municipal sector departments for technical comments, before a decision is made. Applications in terms of LUPO can be approved by the municipal council.

TOWNSHIPS ORDINANCE 33 OF 1934

Townships Ordinance 33 of 1934 for urban areas of former Transkei Land Use Regulations Applications are submitted to local authorities, advertised for public comment and circulated to various municipal sector departments for technical comments, before a decision is made. Municipal council only make recommendations to the Province, an application must be approved at a Provincial level.

ACT 15 OF 1987 FOR THE FORMER CISKEI

Applications are submitted to local authorities, advertised for public comment, and circulated to various municipal sector departments for technical comments, before a decision is made. Municipality council only make recommendations to the Province, an application must be approved at a Provincial Level.

POST 1994 PLANNING LEGISLATION- DEVELOPMENT FACILITATION ACT

The imbalances left by the previous governance system of separate development are still visible, despite the progress made by the government. The DFA became necessary because the process of approving land use applications, under the control of municipal authorities across all property types, was painfully slow. Despite the promulgation of the DFA, housing delivery has not caught up with the growing population numbers of the targeted population sector. In the meantime, however commercial and high value residential developments accelerated at an unprecedented pace in one of the largest property booms in South Africa, to the dissatisfaction of the municipal managers.

When the DFA was enacted, the Ordinances were not repealed. The drafters at the time hoped that for the sake of meeting the promises made to the electorate, the two pieces would co-exist harmoniously side by side. The other reason for not repealing the Ordinance was that the target areas where the accelerated development was required did not have town-planning schemes, which the established suburbs had. On the other hand, DFA had time frames were incorporated in its provisions within which the municipalities were forced to have reached certain milestones in the application assessment process.

The DFA however ended up being used by commercial and luxury residential developers to circumvent the townships ordinance to get approval for their developments. Clearly, the target population could not benefit from the latter's developments. Even worse, these developments were perceived to be creating urban sprawl and bulk utility services were being rapidly depleted, to the detriment of the target communities. Such a state of affairs is not how the politicians wanted things to go, so the DFA had to go.

Never the less the DFA was a very effective piece of legislation. It has helped to facilitate one of the strongest property booms in South Africa. It did a good job of exposing the weaknesses inherent in the Ordinance.

In June 2010, the Constitutional Court declared chapters 5 and 6 of the Development Facilitation Act (DFA) that allowed the provincial sphere of government to set up development planning tribunals to decide on municipal planning matters unconstitutional. A number of municipalities and provinces relied on the DFA for making decisions regarding land use. The Constitutional Court gave government until 17 June 2012 to rectify the unconstitutional parts of the DFA or come up with new legislation that will be constitutionally sound.

INTRODUCTION OF SPATIAL PLANNING AND LAND USE MANAGEMENT ACT

The Constitutional judgement against chapter 5 and 6 of DFA imposed a new "worldview" on the planning system in South Africa that breaks with past norms and has required some complex processes to be developed in SPLUMA to deal with the issue of constitutionality. There is an argument to be made, that the Court took an overly deterministic view of the matter without regard to the subtleties in a co-operative governance approach to spatial planning.

Before 1994, the planning regulatory framework was designed to serve communities based on racial segregation as part of the grand scheme of apartheid. Due to the incoherent and inefficient planning system, government identified the need for new planning legislation that would address the apartheid spatial planning legacy and deal with:

- Multiple laws and multiple institutions regulating development planning
- Rationalization of fragmented planning laws that applied to certain areas based on the old boundaries of the then four (4) provincial administrations, homelands, and Self-Governing Territories (SGT);
- The repeal of the Development Facilitation Act, 1995 (Act No. 67 of 1995) as it was promulgated as an interim measure to deal with the apartheid planning legacy.

A process to put new legislation in place was therefore initiated and saw the introduction of the Green paper (1999) and White Paper (2001) on Spatial Planning and Land Use Management. The current Bill is therefore

a product of a process that was initiated in 1999 and given impetus as a result of the June 2010 Constitutional Court ruling on the Development Facilitation Act.

Due to the court judgement against chapters of DFA, Government was granted twenty-four months to come up with a new legislation to repeal DFA. The Department of Rural Development and Land Reform then initiated a process of developing new legislation that will repeal the DFA and other old order legislation and subsequently published the first draft of the Spatial Planning and Land Use Management Bill (SPLUMA) on 6 May 2011. The Department of Rural Development and Land Reform published the revised version of the Spatial Planning and Land Use Management Bill and called for further comments on the revised Bill. President Jacob Zuma signed the Bill into an Act on August 2013.

WHAT IS ENVISAGED BY SPLUMA

SPLUMA attempts to follow the requirements of the Constitutional Court ruling by locating the full responsibility for spatial planning and land use management at the municipal level, which is the level that has least capacity to fulfil this role in SA at present. As such, it brings into being complex procedures and arrangements that may well take considerable time to be fully understood and applied correctly.

It brings into being new institutional arrangements that will prove challenging to establish and to administer and run correctly within the ambit of the law. However, if (once?) land use regulators are up-skilled and apply the SPLUMA approach rigorously, the potential exists to streamline processes.

INCLUSION OF RURAL AREAS IN LAND USE MANAGEMENT PROCESS

Informal land use management takes place on communally owned land, which is governed by the local chief or traditional leaders. They determine what land can be used for and who may use the land. Communal land lacks cadastral definitions and land use rights are often linked to individuals. Where land is defined, it is usually an informal sketch plan. Use of land is determined through verbal agreements between chiefs or traditional leaders and community members. There might be cases where this is confirmed in writing Umhlaba (2013:21)

The system of Permission to Occupy (PTO's) which were issued by local Magistrates in the past on communal land has fallen away and in many cases, PTO's issued in the past have been destroyed or not updated. This system did allow for some measure of control and record keeping.

In terms of SPLUMA, it is said that rural town planning schemes will be developed to manage land development in rural areas.

Rural areas should not be seen as unique or exempt from the overall society. They are part of the continuum of land use planning and management as they have unique conditions and socio-cultural dimensions, and consequently form part of the land resources of SA. As much as land owners/land users in urban areas have limits to the rights of use regardless of their ownership status, so too should rural settlements be administered in a way to ensure that wise land use prevails within the parameters of their unique situations.

POTENTIAL CHAOS

It is evident that rural leaders have not been properly consulted about SPLUMA. Rural areas are used to developing their areas without consulting the municipality, in a form of submitting a building plan or development application. If a person from rural area wants to operate business, they do not submit any application to seek permission from the municipality.

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Constitutional Court judgement dealing with the DFA and with a major property development in the Western Cape called Lagoon Bay, have confirmed the proper interpretation of the Constitution which identifies the local government level as the principle sphere of government responsible for land-use planning. Only in that way will we all be able to sit in the shade.

5. DISCUSSION

The findings revealed that a little is known by ordinary people who are applicants who don't have any town planning knowledge and also understand the need for them to apply for permission through land use applications to municipalities in order to comply with legislations governing town planning. The origins of different legislations in one municipal area as the case of the municipalities in South Africa remains a huge confusion and has negatively affected the previously disadvantaged spatially and socio-economically. Consequently there is legislation and policy confusion

Concerning DFA, the study reveals that the DFA was never intended to be definitive legislation and was designed to be an interim tool to enable planners and planning authorities to deal with situations requiring a more modern, normative (principle-led) approach than the existing "old order" laws. The constitutional court judgement came as a surprise as DFA was doing very well in speeding up development. An overwhelming majority of 75% percent of the respondents have a clear understanding of the existing and old legislation before SPLUMA. It is argued that process before SPLUMA are well defined; however, challenges relating to prolonged turnaround times (18 months) can hinder development. Moreover, some applications find the town-planning scheme restrictive in terms of promoting developments. SPLUMA does away with conflicting provisions regarding LDOs and dovetails with the Municipal Systems Act provisions for SDFs and adds detail to how the overall planning system is envisaged to function.

The complexities of establishing and administering Tribunals under SPLUMA will prove onerous. Seventy percent of the respondents agree that SPLUMA is a well thought out legislation however, 60% agree that it will be very difficult to implement. There are teething problems to be expected as the mode of operation is outside most Local Municipalities and District Municipalities sphere of experience. Land use regulators will require lots of training and logistical support to get things right. Moreover, coordination of SPLUMA will most likely prove cumbersome as various government departments currently prepare their own land use plans. As a result coordination all these spatial plans is not well envisaged with SPLUMA. SPLUMA is a well thought out document however, it does not spell out how the challenges of spatial coordination are to be solved. This has been the case with most South African policies and laws. Perhaps it is also a key factor in why most legislation has not fared well in creating great places to live and work in. Moreover, it appears that spatial arrangements under apartheid continue to persist as inequality and poverty continues to rise. Therefore, one raise the questions are these new laws and legislation such as SPLUMA "old wine in a new bottle".

Few municipalities have the necessary skills and experience to implement SPLUMA and other related provincial legislation. Therefore, provincial governments, local governments, the private sector, and civil society will all need to work together if SPLUMA's noble aims are to be achieved.

Most people welcome inclusion of rural areas by SPLUMA in land use management system though conflicts might arise as there is no clear indication of consulting traditional authorities regarding inclusion of rural areas.

6. CONCLUDING REMARKS

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Due to the complex nature of the cadastre and property rights, colonial land administration laws and regulations remain entrenched in many countries still to this day in Africa (United Nations 1997). In a number of countries, such as Uganda, Ghana, Namibia, Mozambique and South Africa, new land registration laws have been or are being introduced and discussed. These laws are an attempt to move away from colonial forms of land administration on the one hand, but also to develop land administration systems and laws that more closely reflect the social land tenures on the ground (customary and/or informal).

I a case of South Africa, DFA played a huge role trying to turn around the situation inherited from apartheid spatial planning. Constitutional court judgment against DFA chapter 5 and 6 paralyzed effectiveness of DFA. This came as shock and concern for development, but also assisted in pushing government to promulgate Land Use Management Bill into law, which will repeal DFA and all planning ordinances that were inherited from apartheid planning. It will only be good for South Africa to have one legislation governing spatial planning and land use management. The implementation of SPLUMA is likely to prove challenging and may well be challenged legally once the full implications of what it provides for are grasped.

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